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TIFFANY KEAHEY, an individual, CAROL HAYES,
an individual, ELSIE HURD and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF EL DORADO

KALEY DUNBAR, an individual,
TIFFANY KEAHEY, an individual,
CAROL HAYES, an individual, ELSIE
HURD, an individual and on behalf of all
others similarly situated,

Plaintiffs,

v.

MARSHALL MEDICAL CENTER, a
Nonprofit California Corporation; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 25CV0074

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

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

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$35,000.00]

1 Plaintiffs KALEY DUNBAR, TIFFANY KEAHEY, CAROL HAYES, ELSIE HURD, on
2 behalf of Plaintiffs and all others similarly situated and aggrieved, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against
6 MARSHALL MEDICAL CENTER, and any of its respective subsidiaries or affiliated companies
7 within the State of California (“MARSHALL MEDICAL”); and DOES 1 through 100, as further
8 defined below, “Defendants”) on behalf of Plaintiffs and all other current and former non-exempt
9 California employees employed by or formerly employed by Defendants (“Class Members”).

10 2. This is also a representative action, pursuant to the Labor Code Private Attorneys
11 General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”), against Defendants, and
12 any of their respective subsidiaries or affiliated companies within the State of California, as a proxy
13 of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of
14 Plaintiff in connection with the alleged claims for failure to comply with Labor Code sections 96,
15 98.6, 200, 201, 201.5, 201.7, 202, 203, 203.5, 204, 204a, 205, 205.5, 210, 212, 221, 222, 223, 222.5,
16 226, 226.3, 227.3, 232, 232.5, 245, 246, 432, 432.3, 432.5, 432.7, 432.8, 1102.5, 1197.5, 1198, 1198.5,
17 1527, 3366, 3457, and 8397.4. Employee seeks to represent all employees of Marshall Medical
18 Center, and each of them, as well as their parents, subsidiaries, and affiliates (hereinafter, collectively,
19 “Employer”). On all other claims mentioned herein, Employee seeks to represent only non-exempt
20 employees of MARSHALL MEDICAL CENTER.

21 **PARTIES**

22 **A. Plaintiffs**

23
24 3. Plaintiff Kaley Dunbar is a resident of the State of California. At all relevant times herein,
25 Plaintiff Dunbar is informed and believes, and based thereon alleges, that Defendants employed
26 Plaintiff Dunbar as a non-exempt employee, with duties that included, but were not limited to, acting
27 as a medical assistant. Plaintiff Dunbar is informed and believes, and based thereon alleges, that
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1 Plaintiff Kaley Dunbar worked for Defendants from approximately April of 2022 through
2 approximately January of 2023.

3
4 4. Plaintiff Tiffany Keahey is a resident of the State of California. At all relevant times
5 herein, Plaintiff Keahey is informed and believes, and based thereon alleges, that Defendants
6 employed Plaintiff Keahey as a non-exempt employee, with duties that included, but were not limited
7 to, acting as a phlebotomist. Plaintiff Keahey is informed and believes, and based thereon alleges, that
8 Plaintiff Tiffany Keahey worked for Defendants from approximately December 2023 through June of
9 2024.

10 5. Plaintiff Carol Hayes is a resident of the State of California. At all relevant times
11 herein, Plaintiff Hayes is informed and believes, and based thereon alleges, that Defendants employed
12 Plaintiff Hayes as a non-exempt employee, with duties that included, but were not limited to, acting
13 as a charge nurse. Plaintiff Hayes is informed and believes, and based thereon alleges, that Plaintiff
14 Hayes worked for Defendants from approximately March of 2008 through approximately April of
15 2021.

16 6. Plaintiff Elsie Hurd is a resident of the State of California. At all relevant times
17 herein, Plaintiff Hurd is informed and believes, and based thereon alleges, that Defendants employed
18 Plaintiff Hurd as a non-exempt employee, with duties that included, but were not limited to, patient
19 registration. Plaintiff Hurd is informed and believes, and based thereon alleges, that Plaintiff Hurd
20 worked for Defendants from approximately November of 2020 through the present.

21 **B. Defendants**

22 7. Plaintiffs are informed, believe, and based thereon allege that Defendant MARSHALL
23 MEDICAL is, and at all times relevant hereto was, a corporation organized and existing under and by
24 virtue of the laws of the State of California and doing business in the County of El Dorado, State of
25 California.

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

12 **JOINT LIABILITY ALLEGATIONS**

13 9. Plaintiffs are informed and believe and based thereon alleges that all the times
14 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
15 representative, joint venture or co-conspirator of each of the other defendants, either actually or
16 ostensibly, and in doing the things alleged herein acted within the course and scope of such agency,
17 employment, joint venture, and conspiracy.

18 10. All of the acts and conduct described herein of each, and every corporate defendant
19 was duly authorized, ordered, and directed by the respective and collective Defendant corporate
20 employers, and the officers and management-level employees of said corporate employers. In addition
21 thereto, said corporate employers participated in the aforementioned acts and conduct of their said
22 employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts
23 and conduct of said corporate employees, agents, and representatives, the Defendant corporation
24 respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced,
25 authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned
26 corporate employees, agents and representatives.

27 11. Plaintiffs are informed and believe, and based thereon allege, that there exists such a
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1 unity of interest and ownership between Defendants, and each of them, that their individuality and
2 separateness have ceased to exist.

3 12. Plaintiffs are informed and believe, and based thereon alleges that despite the
4 formation of the purported corporate existence of MARSHALL MEDICAL, and DOES 1 through 50,
5 inclusive (the “Alter Ego Defendants”), they, and each of them, are one and the same with DOES 51
6 through 100 (“Individual Defendants”), and each of them, due to, but not limited to, the following
7 reasons:

- 8 A. The Alter Ego Defendants are completely dominated and controlled by the Individual
9 Defendants who personally committed the wrongful and illegal acts and violated the
10 laws as set forth in this Complaint, and who has hidden and currently hide behind the
11 Alter Ego Defendants to perpetrate frauds, circumvent statutes, or accomplish some
12 other wrongful or inequitable purpose;
- 13 B. The Individual Defendants derive actual and significant monetary benefits by and
14 through the Alter Ego Defendants’ unlawful conduct, and by using the Alter Ego
15 Defendants as the funding source for the Individual Defendants’ own personal
16 expenditures;
- 17 C. Plaintiffs are informed and believe and thereon alleges that the Individual Defendants
18 and the Alter Ego Defendants, while really one and the same, were segregated to appear
19 as though separate and distinct for purposes of perpetrating a fraud, circumventing a
20 statute, or accomplishing some other wrongful or inequitable purpose;
- 21 D. Plaintiffs are informed and believe and thereon alleges that the business affairs of the
22 Individual Defendants and the Alter Ego Defendants are, and at all relevant times
23 mentioned herein were, so mixed and intermingled that the same cannot reasonably be
24 segregated, and the same are inextricable confusion. The Alter Ego Defendants are,
25 and at all relevant times mentioned herein were, used by the Individual Defendants as
26 mere shells and conduits for the conduct of certain of their, and each of their
27 affairs. The Alter Ego Defendants are, and at all relevant times mentioned herein were,

1 the alter egos of the Individual Defendants;

2 E. The recognition of the separate existence of the Individual Defendants and the Alter
3 Ego Defendants would promote injustice insofar that it would permit defendants to
4 insulate themselves from liability to Plaintiffs for violations of the Civil Code, Labor
5 Code, and other statutory violations. The corporate existence of these defendants
6 should thus be disregarded in equity and for the ends of justice because such disregard
7 is necessary to avoid fraud and injustice to Plaintiffs herein;

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

11 13. As a result of the aforementioned facts, Plaintiffs are informed and believe, and based
12 thereon alleges that Defendants, and each of them, are joint employers.

13 **JURISDICTION**

14 14. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of
15 Civil Procedure section 410.10.

16 15. Venue is proper in El Dorado County, California pursuant to Code of Civil Procedure
17 sections 392, *et seq.* because, among other things, El Dorado County is where the causes of action
18 complained of herein arose; the county in which the employment relationship began; the county in
19 which performance of the employment contract, or part of it, between Plaintiffs and Defendants was
20 due to be performed; the county in which the employment contract, or part of it, between Plaintiffs
21 and Defendants was actually performed; and the county in which Defendants, or some of them, reside.
22 Moreover, the unlawful acts alleged herein have a direct effect on Plaintiffs and Class Members in El
23 Dorado County, and because Defendants employ numerous Class Members in El Dorado County.

24 **FACTUAL BACKGROUND**

25 16. Plaintiffs are “aggrieved employees” under PAGA, as Plaintiffs were employed by
26 Defendants during the applicable statutory period and suffered one or more of the Labor Code
27 violations set forth herein. Accordingly, Plaintiffs seek to recover civil penalties, as the term “civil
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1 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code
2 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
3 reasonable attorneys’ fees and costs, for Plaintiffs and all other aggrieved current and former
4 employees of Defendants during the Civil Penalty Period.

5 17. Specifically, Plaintiffs seek to recover PAGA civil penalties through a representative
6 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
7 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
8 PAGA allegations described herein is not required.

9 18. During the period beginning one (1) year preceding the provision of notice to the
10 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
11 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 210, 226,
12 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197,
13 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.3, and 2810.5, among others.

14 19. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
15 such as Plaintiffs, on behalf of Plaintiffs and all other aggrieved current and former employees within
16 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures
17 specified in Labor Code section 2699.3.

18 20. On or around February 11, 2025, Plaintiffs provided written notice pursuant to Labor
19 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’
20 violations of various, including the herein-described provisions of the Labor Code, to the LWDA, as
21 well as by certified mail, with return receipt requested to Defendants, and each of them.

22 21. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
23 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
24 calendar days of the February 11, 2025, postmarked date of the herein-described notice sent by
25 Plaintiffs to the LWDA and Defendants.

26 22. For at least four (4) years prior to the filing of this action and continuing to the present,
27 Defendants have, at times, failed to pay overtime wages to Plaintiffs and Class Members, or some of
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1 them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiffs
2 and Class Members working over eight (8) hours per day, forty (40) hours per week, and seven
3 consecutive work days in a work week without being properly compensated for hours worked in
4 excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours
5 worked on the seventh consecutive work day in a work week by, among other things, failing to
6 accurately track and/or pay for all minutes actually worked at the proper overtime rate of pay;
7 engaging, suffering, or permitting employees to work off the clock, including, without limitation, by
8 requiring Plaintiffs and Class Members: to come early to work and leave late for work without being
9 able to clock in for all that time, to suffer under Defendants' control due to long lines for clocking in,
10 to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for
11 meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or
12 safety equipment off the clock, to attend company meetings off the clock, to make phone calls off the
13 clock, to drive off the clock, and/or go through security screenings and/or temperature checks off the
14 clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive
15 pay, meal allowances, mask allowances, gift cards and other forms of remuneration into the regular
16 rate of pay for the pay periods where overtime was worked and the additional compensation was
17 earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time
18 entries, editing and/or manipulation of time entries; and by attempting but failing to properly
19 implement an alternative workweek schedule ("AWS") (including, without limitation, by failing to
20 implement a written agreement designating the regularly scheduled alternative workweek in which
21 the specified number of work days and work hours are regularly recurring; failing to adopt the AWS
22 in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the
23 affected employees in the work unit; failing to follow the notice/disclosures procedures prior to any
24 AWS election; and/or failing to register an AWS election with the State of California, as required by
25 Labor Code section 511 and applicable Wage Orders)] to the detriment of Plaintiffs and Class
26 Members.

27 23. For at least four (4) years prior to the filing of this Action and continuing to the present,
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1 Defendants have, at times, failed to pay minimum wages to Plaintiffs and Class Members, or some of
2 them, in violation of California state wage and hour laws as a result of, among other things, at times,
3 failing to accurately track and/or pay for all hours actually worked at their regular rate of pay that is
4 above the minimum wage; engaging, suffering, or permitting employees to work off the clock,
5 including, without limitation, by requiring Plaintiffs and Class Members: to come early to work and
6 leave late for work without being able to clock in for all that time, to suffer under Defendants' control
7 due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks
8 after clocking out, to clock out for meal periods and continue working, to clock out for rest periods,
9 to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the
10 clock, to make phone calls off the clock; to drive off the clock; detrimental rounding of employee time
11 entries; editing and/or manipulation of time entries to show less hours than actually worked; failing
12 to pay split shift premiums; and failing to pay reporting time pay reporting time to the detriment of
13 Plaintiffs and Class Members.

14 24. For at least four (4) years prior to the filing of this Action and continuing to the present,
15 Defendants have, at times, failed to provide Plaintiffs and Class Members, or some of them, full,
16 timely thirty (30) minute uninterrupted meal period for days on which they worked more than five (5)
17 hours in a work day and a second thirty (30) minute uninterrupted meal period for days on which they
18 worked in excess of ten (10) hours in a work day, and failing to provide compensation for such
19 unprovided meal periods as required by California wage and hour laws.

20 25. For at least four (4) years prior to the filing of this action and continuing to the present,
21 Defendants have, at times, failed to authorize and permit Plaintiffs and Class Members, or some of
22 them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major fraction
23 thereof and failed to provide compensation for such unprovided rest periods as required by California
24 wage and hour laws.

25 26. For at least three (3) years prior to the filing of this action and continuing to the present,
26 Defendants have, at times, failed to pay Plaintiffs and Class Members, or some of them, the full
27 amount of their wages owed to them upon termination and/or resignation as required by Labor Code
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1 sections 201 and 202, including for, without limitation, failing to pay overtime wages, minimum
2 wages, premium wages, and vacation pay pursuant to Labor Code section 227.3.

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

10 28. For at least one (1) year prior to the filing of this action and continuing to the present,
11 Defendants have, at times, failed to pay Plaintiffs and Class Members, or some of them, the full
12 amount of their wages for labor performed in a timely fashion as required under Labor Code section
13 204.

14 29. For at least three (3) years prior to the filing of this action and continuing to the present,
15 Defendants have, at times, failed to indemnify Class Members, or some of them, for the costs incurred
16 in using cellular phones for work-related purposes.

17 30. For at least (4) years prior to the filing of this action and continuing to the present,
18 Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated
19 employees or former employees within the State of California with compensation at their final rate of
20 pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

21 31. For at least four (4) years prior to the filing of this action and continuing to the present,
22 Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated
23 employees or former employees within the State of California with the rights provided to them under
24 the Healthy Workplace Healthy Families Act of 2014, codified at Labor Code section 245, *et seq.*

25 32. Plaintiffs, on their own behalf and on behalf of Class Members, brings this action
26 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
27 227.3, 245, *et seq.*, 510, 512, 558.1, 1194, 1194.2, 1197, 2802, and California Code of Regulations,
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1 Title 8, section 11040, seeking overtime wages, minimum wages, payment of premium wages for
2 missed meal and rest periods, failure to pay timely wages, waiting time penalties, wage statement
3 penalties, failure to indemnify work-related expenses, failing to pay vested vacation time at the proper
4 rate of pay, other such provisions of California law, and reasonable attorneys' fees and costs.

5 33. Plaintiffs, on Plaintiffs' own behalf and on behalf of Class Members, pursuant to
6 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
7 prohibiting Defendants from further violating the Labor Code and requiring the establishment of
8 appropriate and effective means to prevent further violations, as well as all monies owed but withheld
9 and retained by Defendants to which Plaintiffs and Class Members are entitled, as well as restitution
10 of amounts owed.

11 34. At all relevant times mentioned herein, Defendants had and have a policy or practice
12 of failing to comply with Labor Code section 226, subdivision (a) by intentionally failing to furnish
13 Plaintiffs and other Aggrieved Employees with documents signed to obtain or hold employment under
14 Labor Code section 432, personnel records under Labor Code section 1198.5, and time records under
15 Labor Code section 1174, making it difficult for Plaintiffs and other Aggrieved Employees to calculate
16 their unpaid wages and/or premium payments, to the detriment of Plaintiffs and other Aggrieved
17 Employees.

18 35. At all relevant times mentioned herein, Defendants have had a policy or practice of
19 failing to pay Plaintiffs and Aggrieved Employees their wages in accordance with Labor Code section
20 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar
21 month shall be paid for between the 16th and 26th day of the month during which the labor was
22 performed, and labor performed between the 16th and the last day, inclusive of any calendar month,
23 shall be paid for between the 1st and 10th day of the following month."

24 36. At all relevant times mentioned herein, Defendants had and have a policy or practice
25 of preventing Plaintiffs and/or Aggrieved Employees from using or disclosing the skills, knowledge
26 and experience they obtained at Defendants for purposes of competing with Defendants, including,
27 without limitation, preventing Employees from disclosing their wages in negotiating a new job with
28 a prospective employer, and from disclosing who else works at Defendants and under what

1 circumstances that they might be receptive to an offer from a rival employer. Plaintiffs are informed
2 and believe that this policy and/or practice violates Business and Professions Code sections 17200,
3 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code
4 sections 232, 232.5, and 1197.5, subdivision (k).

5 37. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
6 Aggrieved Employees from disclosing violations of state and federal law, either within Defendants to
7 their managers or outside to private attorneys or government officials, among others, in violation of
8 Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5.
9 In addition, Plaintiffs are informed and believe that Defendants' herein-described policies and/or
10 practices prevent Plaintiffs and/or other Aggrieved Employees from disclosing information about
11 unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor
12 Code section 232 and 232.5.

13 38. Defendants had and have a policy or practice of preventing Plaintiffs and/or other
14 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state
15 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,
16 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision
17 (k). Plaintiffs are informed and believe that this lawful conduct includes the exercise of Plaintiffs'
18 and/or other Aggrieved Employee's constitutional rights of freedom of speech and economic liberty.

18 **CLASS ACTION ALLEGATIONS**

19 39. Plaintiffs bring this action on behalf of Plaintiffs and Class Members as a class action
20 pursuant to Code of Civil Procedure section 382. Plaintiffs seek to represent a class of all current and
21 former non-exempt employees of Defendants within the State of California at any time commencing
22 four (4) years preceding the filing of Plaintiffs' complaint up until the time that notice of the class
23 action is provided to the class (collectively referred to as "Class Members").

24 40. Plaintiffs reserve the right under California Rule of Court rule 3.765, subdivision (b)
25 to amend or modify the class description with greater specificity, further divide the defined class into
26 subclasses, and to further specify or limit the issues for which certification is sought.

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

3 **A. Numerosity**

4 42. The potential Class Members as defined are so numerous that joinder of all the
5 members of the Class is impracticable. While the precise number of Class Members has not been
6 determined yet, Plaintiffs are informed and believe that there are over seventy-five (75) Class
7 Members employed by Defendants within the State of California.

8 43. Accounting for employee turnover during the relevant periods necessarily increases
9 this number. Plaintiffs allege Defendants' employment records would provide information as to the
10 number and location of all Class Members. Joinder of all members of the proposed Class is not
11 practicable.

12 **B. Commonality**

13 44. There are questions of law and fact common to Class Members. These common
14 questions include, but are not limited to:

- 15 A. Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours
16 worked at a proper overtime rate of pay?
 - 17 B. Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay for
18 all other time worked at the employee's regular rate of pay and a rate of pay that is
19 greater than the applicable minimum wage?
 - 20 C. Did Defendants violate Labor Code section 512 by not authorizing or permitting Class
21 Members to take compliant meal periods?
 - 22 D. Did Defendants violate Labor Code section 226.7 by not providing Class Members
23 with additional wages for missed or interrupted meal periods?
 - 24 E. Did Defendants violate applicable Wage Orders by not authorizing or permitting Class
25 Members to take compliant rest periods?
 - 26 F. Did Defendants violate Labor Code section 226.7 by not providing Class Members
27 with additional wages for missed rest periods?
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- 1 G. Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class
2 Members upon termination or resignation all wages earned?
- 3 H. Are Defendants liable to Class Members for waiting time penalties under Labor Code
4 section 203?
- 5 I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing
6 Class Members with accurate wage statements?
- 7 J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor
8 Code section 204?
- 9 K. Did Defendants fail to indemnify Class Members for all necessary expenditures or
10 losses incurred in direct consequence of the discharge of their duties or by obedience
11 to the directions of Defendants as required under Labor Code section 2802?
- 12 L. Did Defendants fail to return deposits made by Class Members with accrued interest
13 thereon as required under Labor Code section 404?
- 14 M. Did Defendants violate Labor Code section 227.3 by not providing Class Members
15 with compensation at their final rate of pay for vested paid vacation time?
- 16 N. Did Defendants violate the Unfair Competition Law, Business and Professions Code
17 section 17200, *et seq.*, by their unlawful practices as alleged herein?
- 18 O. Are Class Members entitled to restitution of wages under Business and Professions
19 Code section 17203?
- 20 P. Are Class Members entitled to costs and attorneys' fees?
- 21 Q. Are Class Members entitled to interest?

22 **C. Typicality**

23 45. The claims of Plaintiffs herein alleged are typical of those claims which could be
24 alleged by any Class Members, and the relief sought is typical of the relief which would be sought by
25 each Class Member in separate actions. Plaintiffs and Class Members sustained injuries and damages
26 arising out of and caused by Defendants' common course of conduct in violation of laws and
27 regulations that have the force and effect of law and statutes as alleged herein.
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1 “[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice
2 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh
3 day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay.”

4 53. Four (4) years prior to the filing of the Complaint in this Action through the present,
5 Plaintiffs and Class Members, at times, worked for Defendants during shifts that consisted of more
6 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)
7 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a
8 result of, including but not limited to, Defendants failing to accurately track and/or pay for all hours
9 actually worked at the proper overtime rate of pay; engaging, suffering, or permitting employees to
10 work off the clock, including, without limitation, by requiring Plaintiffs and Class Members: to come
11 early to work and leave late for work without being able to clock in for all that time, to suffer under
12 Defendants’ control due to long lines for clocking in, to complete pre-shift tasks before clocking in
13 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
14 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company
15 meetings off the clock, to make phone calls off the clock, to drive off the clock, and/or go through
16 security screenings and/or temperature checks off the clock; failing to include all forms of
17 remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask
18 allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods
19 where overtime was worked and the additional compensation was earned for the purpose of
20 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or
21 manipulation of time entries; and by attempting but failing to properly implement an alternative
22 workweek schedule (“AWS”) (including, without limitation, by failing to implement a written
23 agreement designating the regularly scheduled alternative workweek in which the specified number
24 of work days and work hours are regularly recurring; failing to adopt the AWS in a secret ballot
25 election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees
26 in the work unit; failing to follow the notice/disclosures procedures prior to any AWS election; and/or
27 failing to register an AWS election with the State of California, as required by Labor Code section
28

1 511 and applicable Wage Orders)] to the detriment of Plaintiffs and Class Members.

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

7 55. As a result of the unlawful acts of Defendants, Plaintiffs and Class Members have been
8 deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery, plus
9 interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194 and
10 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

11 **SECOND CAUSE OF ACTION**

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

13 56. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
14 preceding paragraphs as though fully set forth herein.

15 57. At all relevant times, Plaintiffs and Class Members were employees or former
16 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

17 58. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiffs and Class
18 Members were entitled to receive minimum wages for all hours worked or otherwise under
19 Defendants' control.

20 59. For four (4) years prior to the filing of the Complaint in this Action through the present,
21 Defendants failed, at times, to accurately track and/or pay for all hours actually worked at their regular
22 rate of pay that is above the minimum wage; engaged, suffered, or permitted employees to work off
23 the clock, including, without limitation, by requiring Plaintiffs and Class Members: to come early to
24 work and leave late for work without being able to clock in for all that time, to suffer under
25 Defendants' control due to long lines for clocking in, to complete pre-shift tasks before clocking in
26 and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock
27 out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company
28

1 meetings off the clock, to make phone calls off the clock; to drive off the clock; detrimental rounding
2 of employee time entries; editing and/or manipulation of time entries to show less hours than actually
3 worked; failing to pay split shift premiums; and failing to pay reporting time pay] to the detriment of
4 Plaintiffs and Class Members.

5 60. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
6 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for
7 all hours worked or otherwise due.

8 61. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure sections
9 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
10 the full amount of unpaid minimum wages, interest, and penalties thereon, liquidated damages,
11 reasonable attorneys' fees, and costs of suit.

12 **THIRD CAUSE OF ACTION**

13 **(Failure to Provide Meal Periods – Against All Defendants)**

14 62. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
15 preceding paragraphs as though fully set forth herein.

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

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

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

66. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiffs and Class Members were, at times, not provided complete, timely 30-minute, duty-free uninterrupted meal periods every five hours of work without waiving the right to take them, as permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's regular rate of compensation on the occasions that Class Members were not provided compliant meal periods.

67. By their failure to provide Plaintiffs and Class Members compliant meal periods as contemplated by Labor Code section 512, among other California authorities, and failing, at times, to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 512 and applicable Wage Orders.

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

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

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods – Against All Defendants)

70. Plaintiffs reallege and incorporate by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

71. At all relevant times, Plaintiffs and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

72. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts

1 of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest
2 period, and employees who work shifts of more than ten (10) hours must be provided thirty (30)
3 minutes of paid rest period.

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

8 74. For four (4) years prior to the filing of the Complaint in this Action through the present,
9 Plaintiffs and Class Members were, at times, not authorized or permitted to take complete, timely 10-
10 minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof.
11 Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class Member's
12 regular rate of compensation on the occasions that Class Members were not authorized or permitted
13 to take compliant rest periods.

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

18 76. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
19 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed
20 for rest periods that they were not authorized or permitted to take.

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

25 **FIFTH CAUSE OF ACTION**

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

27 78. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
28

preceding paragraphs as though fully set forth herein.

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

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

81. Plaintiffs are informed and believe, and based thereon alleges, that in the three (3) years before the filing of the Complaint in this Action through the present, Defendants, due to the failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiffs and Class Members all wages earned prior to resignation or termination in accordance with Labor Code sections 201 or 202.

82. Plaintiffs are informed and believe Defendants' failure, at times, to pay Plaintiffs and Class Members all wages earned prior to termination or resignation in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiffs and Class Members at the time of termination in accordance with Labor Code sections 201 and 202 but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination or resignation.

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

84. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned

1 prior to termination or resignation.

2 85. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
3 1021.5 and 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
4 waiting time penalties, interest, and their costs of suit, as well.

5 **SIXTH CAUSE OF ACTION**

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

7 86. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
8 preceding paragraphs as though fully set forth herein.

9 87. At all relevant times, Plaintiffs and Class Members were employees or former
10 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

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

16 89. Plaintiffs are informed and believe, and based thereon alleges, that in the one (1) year
17 before the filing of the Complaint in this Action through the present, Defendants failed to comply with
18 Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their
19 failure, at times, to furnish Plaintiffs and Class Members with accurate itemized statements that
20 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned; all
21 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
22 at each hourly rate; among other things.

23 90. Defendants' failure to, at times, provide Plaintiffs and Class Members with accurate
24 wage statements was knowing, intentional, and willful. Defendants had the ability to provide
25 Plaintiffs and the other Class Members with accurate wage statements, but, at times, willfully provided
26 wage statements that Defendants knew were not accurate.

27 91. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
28

1 suffered injury. The absence of accurate information on Class Members' wage statements at times
2 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and
3 mathematical computations to determine the amount of wages owed; causes difficulty and expense in
4 attempting to reconstruct time and pay records; and led to submission of inaccurate information about
5 wages and amounts deducted from wages to state and federal governmental agencies, among other
6 things.

7 92. Pursuant to Labor Code section 226, subdivision (e), Plaintiffs and Class Members are
8 entitled to recover \$50 for the initial pay period during the period in which violation of Labor Code
9 section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent pay
10 period, not to exceed an aggregate \$4,000.00 per employee.

11 93. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil Procedure
12 section 1032, Civil Code section 3287, Plaintiffs and Class Members are entitled to recover the full
13 amount of penalties due under Labor Code section 226, subdivision (e), reasonable attorneys' fees,
14 and costs of suit.

15 **SEVENTH CAUSE OF ACTION**

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

17 94. Plaintiffs reallege each and every allegation set forth in the preceding paragraphs and
18 incorporate each by reference as though fully set forth herein.

19 95. At all relevant times, Plaintiffs and Class Members were employees or former
20 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

21 96. Labor Code section 204 provides that "[l]abor performed between the 1st and 15th days,
22 inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during
23 which the labor was performed, and labor performed between the 16th and the last day, inclusive, of
24 any calendar month, shall be paid for between the 1st and 10th day of the following month."

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

5 98. Plaintiffs are informed and believe, and based thereon alleges, that in the one (1) year
6 before the filing of the Complaint in this Action through the present, Defendants employed policies
7 and practices that resulted in, at times, not paying Plaintiffs and Class Members in accordance with
8 Labor Code section 204.

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

14 100. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
15 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recovery of penalties,
16 interest, and their costs of suit, as well.

17 **EIGHTH CAUSE OF ACTION**

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

19 101. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
20 preceding paragraphs as though fully set forth herein.

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

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

26 104. For three (3) years prior to the filing of the Complaint in this Action through the
27 present, Defendants required Plaintiffs and Class Members, or some of them, to incur, at times,
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1 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
2 obedience to the directions of Defendants that included, without limitation: using cellular phones for
3 work-related purposes.

4 105. During that time period, plaintiffs are informed and believe, and based thereon alleges
5 that Defendants failed and refused, and still fail and refuse, at times, to reimburse plaintiffs' and
6 Class Members for those losses and/or expenditures, including, but not limited to remote work costs
7 associated with electricity, personal cell phone, internet and equipment costs.

8 106. As a result of Defendants' unlawful conduct, Plaintiffs and Class Members have
9 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the herein-
10 described losses and/or expenditures.

11 107. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
12 1032, and Civil Code section 3287, Plaintiffs and Class Members are entitled to recover
13 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys' fees, and
14 costs of suit.

15 **NINTH CAUSE OF ACTION**

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

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18 108. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
19 preceding paragraphs as though fully set forth herein. At all relevant times, Plaintiffs and Class
20 Members were employees or former employees of Defendants covered by Labor Code sections 400
21 through 410.

22 109. Pursuant to Labor Code section 404, Defendants were required to immediately return
23 amounts deposited for uniforms with accrued interest when Plaintiffs and Class Members returned the
24 required uniforms to Defendants.

25 110. Plaintiffs are informed and believe and based thereon alleges that for three (3) years
26 prior to the filing of this Action through the present, due to policies and practices adopted by
27 Defendants, Defendants violated Labor Code section 404 by failing to, at times, immediately return
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1 accrued interest on deposits made by Plaintiffs and Class Members upon their returning their uniforms
2 to Defendants.

3 111. As a result of Defendants' conduct, Plaintiffs and Class Members have suffered
4 damages in an amount subject to proof, to the extent they were not compensated for accrued interest
5 on amounts deposited for mandatory uniforms upon returning their uniforms to Defendants. Pursuant
6 to Labor Code sections 218, 218.5, and 404, Plaintiffs and Class Members are entitled to recover their
7 unpaid accrued interest on uniform deposits, reasonable attorney's fees, and costs of suit.

8 **TENTH CAUSE OF ACTION**

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

10 112. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
11 preceding paragraphs of this Complaint as though fully set forth hereon.

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

16 114. Plaintiffs are informed and believe, and based thereon alleges that, at all times relevant
17 hereto, Defendants promulgated and maintained a uniform policy providing for paid vacations, and
18 that Plaintiffs' employment contract with Defendants included paid vacations.

19 115. For at least four (4) years prior to the filing of this action and continuing to the present,
20 Defendants have had a consistent policy of failing to provide Plaintiffs and similarly situated
21 employees or former employees within the State of California with compensation at their final rate of
22 pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

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

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

4 **ELEVENTH CAUSE OF ACTION**

5 **(Unfair Competition – Against All Defendants)**

6 118. Plaintiffs reallege and incorporate by reference all of the allegations contained in the
7 preceding paragraphs as though fully set forth herein.

8 119. Plaintiffs are informed, believe, and based thereon allege that the unlawful conduct of
9 Defendants alleged herein constitutes unfair competition within the meaning of Business and
10 Professions Code section 17200. Plaintiffs are further informed and believe and based thereon alleges
11 that in addition to the unlawful conduct of Defendants alleged in the preceding paragraphs, for at least
12 four (4) years prior to the filing of this action and continuing to the present, Defendants have had a
13 consistent policy of failing to provide Plaintiffs and similarly situated employees or former employees
14 within the State of California with the rights provided to them under the Healthy Workplace Healthy
15 Families Act of 2014, codified at Labor Code section 245, *et seq.* Due to their unlawful business
16 practices in violation of the Labor Code, Defendants have gained a competitive advantage over other
17 comparable companies doing business in the State of California that comply with their obligations to
18 compensate employees in accordance with the Labor Code.

19 120. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and Class
20 Members have suffered injury in fact and lost money or property.

21 121. Pursuant to Business and Professions Code section 17203, Plaintiffs and Class
22 Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor
23 Code and requiring the establishment of appropriate and effective means to prevent further violations,
24 as well as restitution of all wages and other monies owed to them under the Labor Code, including
25 interest thereon, in which they had a property interest and which Defendants nevertheless failed to
26 pay them and instead withheld and retained for themselves. Restitution of the money owed to
27 Plaintiffs and Class Members is necessary to prevent Defendants from becoming unjustly enriched by
28

1 their failure to comply with the Labor Code.

2 122. Plaintiffs and Class Members are entitled to costs of suit under Code of Civil Procedure
3 section 1032 and interest under Civil Code section 3287.

4 **TWELVE CAUSE OF ACTION**

5 **(Civil Penalties Under the Private Attorneys' General Act (2004) – Against All Defendants)**

6 123. Plaintiffs reallege and incorporate by reference all of the allegations set forth in the
7 preceding paragraphs as though fully set forth herein.

8 **Civil Penalties Under Labor Code § 210**

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

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

21 126. At all relevant times herein, Defendants have had a consistent policy or practice of failing
22 to pay Plaintiffs and/or Aggrieved Employees during their employment on a timely basis as per Labor
23 Code section 204. Thus, pursuant to Labor Code section 210, Plaintiffs and other Aggrieved
24 Employees are entitled to recover civil penalties for Defendants’ violations of Labor Code section
25 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial
26 violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee for each
27 subsequent violation in connection with each payment that was made in violation of Labor Code
28 section 204.

Civil Penalties Under Labor Code § 226.3

1 127. Defendants had and have a policy or practice of failing to comply with Labor Code
2 section 226, subdivision (a) by intentionally failing to furnish Plaintiffs and Aggrieved Employees
3 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
4 wages earned; the name and address of each employer with whom they have been placed to work; all
5 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
6 at each hourly rate; the legal name of the employer and/or the name and address of the legal entity
7 securing the employer's services if the employer is a farm labor contractor; and other such information
8 as required by Labor Code section 226, subdivision (a).

9 128. Labor Code section 226.3 states that "[a]ny employer who violates subdivision (a) of
10 section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
11 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
12 violation in a subsequent citation, for which the employer fails to provide the employee a wage
13 deduction statement or fails to keep the records required in subdivision (a) of section 226."

14 129. Labor Code section 226.3 further provides that "[t]he civil penalties provided for in
15 this section are in addition to any other penalty provided by law."

16 130. Plaintiffs are informed and believe, and based thereon alleges, that Defendants had and
17 have a policy or practice of failing to furnish non-exempt employees, including, without limitation,
18 Plaintiffs, with itemized wage statements that accurately reflect gross wages earned; total hours
19 worked; net wages earned; all deductions; all applicable hourly rates in effect and the corresponding
20 number of hours worked at each hourly rate in effect during the pay period; the legal name of the
21 employer and/or the name and address of the legal entity securing the employer's services if the
22 employer is a farm labor contractor; and other such information as required by Labor Code section
23 226, subdivision (a).

24 131. Pursuant to Labor Code section 226.3, Plaintiffs and other Aggrieved Employees are
25 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
26 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for
27 the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay period
28 for each subsequent violation.

Violation of Labor Code § 558

1 employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the
2 person.”

3 136. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required
4 every person employing labor in California to “[k]eep a record showing the names and addresses of
5 all employees employed and the ages of all minors.”

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

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

19 139. Plaintiffs are informed and believe, and based thereon alleges, that Defendants have
20 willfully failed to keep adequate or accurate time records including wage statements and similar
21 payroll documents under Labor Code section 226, documents signed to obtain or hold employment
22 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records
23 under Labor Code section 1174.

24 140. As a direct and proximate result of the herein-described Labor Code violations,
25 pursuant to Labor Code section 1174.5, Plaintiffs and other Aggrieved Employees are entitled to
26 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five
27 hundred dollars (\$500) per violation per Aggrieved Employee.

28 Violation of Labor Code § 1197.1

1 141. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
2 person acting either individually or as an officer, agent, or employee of another person, who pays or
3 causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local
4 law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
5 damages payable to the employee, and any applicable penalties imposed pursuant to section 203 as
6 follows:

7 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for
8 each underpaid employee for each pay period for which the employee is underpaid. This amount shall
9 be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
10 section 1194.2, and any applicable penalties imposed pursuant to section 203.

11 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
12 (\$250) for each underpaid employee for each pay period for which the employee is underpaid
13 regardless of whether the initial violation is intentionally committed. This amount shall be in addition
14 to an amount sufficient to recover underpaid wages, liquidated damages pursuant to section 1194.2,
15 and any applicable penalties imposed pursuant to section 203.

16 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to section
17 203, recovered pursuant to this section shall be paid to the affected employee.”

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

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

1 hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each subsequent
2 violation.

3 Civil Penalties Under Labor Code § 2699

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

10 145. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the Labor
11 Code except those for which a civil penalty is specifically provided, the established civil penalty for
12 a violation of those provisions is as follows: if, at the time of the alleged violation, the person employs
13 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee
14 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee
per pay period for each subsequent violation.

15 146. Plaintiffs are informed and believe and based thereon alleges that Defendants, and each of
16 them, violated the Labor Code sections described herein, including, without limitation, for the failure
17 to: pay the rates of pay and overtime rates of pay applicable to their employment, allowances claimed
18 as part of the minimum wage, the regular payday designated by Defendants, the name of the employer,
19 including “doing business as” names used, the name, address, and telephone number of the workers’
20 compensation insurance carrier, information regarding paid sick leave, and other pertinent information
21 required to be disclosed by Defendants under Labor Code section 2810.5, failing to provide Plaintiffs
22 and other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant
23 to California and local laws.

24 147. Moreover, Plaintiffs and other Aggrieved Employees within the State of California whom
25 he seeks to represent are entitled to an award of reasonable attorneys’ fees and costs in connection
26 with their herein-described claims for civil penalties.

27 **DEMAND FOR JURY TRIAL**

28 148. Plaintiffs demand a trial by jury on all causes of action contained herein.

PRAYER

WHEREFORE, on behalf of Plaintiffs, Class Members, and Aggrieved Employees, Plaintiffs pray for judgment against Defendants as follows:

- A. An order certifying this case as a Class Action;
- B. An Order appointing Plaintiffs as Class representative and appointing Plaintiffs' counsel as class counsel;
- C. Damages for all wages earned and owed, including minimum and overtime wages and unpaid wages for vested vacation time, under Labor Code sections 510, 558.1, 1194, 1197 and 1199 and 227.3;
- D. Liquidated damages pursuant to Labor Code sections 558.1 and 1194.2;
- E. Damages for unpaid premium wages from missed meal and rest periods under, among other Labor Code sections, 512, 558.1 and 226.7;
- F. Penalties for inaccurate wage statements under Labor Code sections 226, subdivision (e) and 558.1;
- G. Waiting time penalties under Labor Code sections 203 and 558.1;
- H. Penalties to timely pay wages under Labor Code section 210;
- I. Damages under Labor Code sections 2802 and 558.1;
- J. Preliminary and permanent injunctions prohibiting Defendants from further violating the California Labor Code and requiring the establishment of appropriate and effective means to prevent future violations;
- K. Restitution of wages and benefits due which were acquired by means of any unfair business practice, according to proof;
- L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
- M. For attorneys' fees in prosecuting this action;
- N. For costs of suit incurred herein;
- O. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;

- 1 P. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
2 210, 226.3, 558, 1174.5, 1197.1, and 2699; and
3 Q. For such other and further relief as the Court deems just and proper.
4

5 Dated: July 25, 2025

BIBIYAN LAW GROUP, P.C.

6
7 BY: /s/ Joseph C. Rocha

Robert D. Wilson III

Joseph C. Rocha

8 Attorneys for Plaintiffs, KALEY DUNBAR,
9 TIFFANY KEAHEY, CAROL HAYES, ELSIE
10 HURD and on behalf of all others similarly
11 situated
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