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 on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

HOLLY SCHNEIDER, on behalf of herself and
 other aggrieved employees,

Plaintiff,

vs.

AMAZON RETAIL LLC.; and DOES 1 to 100,
 inclusive,

Defendants.

Case No.: 21STCV26226

PAGA ACTION

**PLAINTIFF HOLLY SCHNEIDER'S
 COMPLAINT FOR DAMAGES AND
 RESTITUTION FOR:**

- 1. CIVIL PENALTIES PURSUANT
 TO THE PRIVATE ATTORNEYS
 GENERAL ACT OF 2004
 ("PAGA"), LABOR CODE
 SECTION 2698, et seq.**

DEMAND FOR JURY TRIAL

COME NOW Plaintiff HOLLY SCHNEIDER ("Plaintiff"), who alleges and complains
 against Defendants AMAZON RETAIL LLC and DOES 1 to 100, inclusive (collectively
 "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq.
 ("PAGA"). representative action brought by Plaintiff on behalf of the State of California, herself
 and other current and former aggrieved employees of Defendants who worked as hourly non-
 exempt employees, in California during the relevant time period seeking civil penalties associated

1 with Defendants' violation of the Labor Code based on Defendant's failure to pay wages for all
2 hours worked at minimum wage, all overtime hours worked at the overtime rate of pay, failure to
3 authorize or permit all legally required and/or legally compliant meal periods or pay meal period
4 premium wages, failure to authorize or permit all legally required and/or legally compliant rest
5 periods or pay rest period premium wages, failure to indemnify for employment-related
6 expenditures, statutory penalties for failure to timely pay earned wages; statutory penalties for
7 failure to provide accurate wage statements, waiting time penalties in the form of continuation
8 wages for failure to timely pay employees all wages due upon separation of employment, and
9 failure to provide suitable seating. Plaintiff seeks on a representative basis, following notice to the
10 Labor and Workforce Development Agency, civil penalties, reasonable attorney's fees pursuant to
11 Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California,
12 and others aggrieved.

13 **II. JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over Plaintiff and the aggrieved employees' claims
15 because Plaintiff's lawsuit seeks damages in excess of \$25,000 and Defendants employed class
16 members and injuries occurred in locations in California including but not limited to Los Angeles
17 County at 5101 Lankershim Blvd, North Hollywood, CA 91601.

18 **III. PARTIES**

19 3. Plaintiff brings this action as a representative of the Labor and Workforce
20 Development Agency on behalf of herself and other current and former employees subject to
21 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
22 filed include current, former and/or future employees of Defendants who worked, work, or will
23 work for Defendants as hourly non-exempt employees in California. At all times mentioned
24 herein, the currently named Plaintiff is and was domiciled and a resident and citizen of California
25 and was employed by Defendants in an hourly non-exempt position at Defendants' location in Los
26 Angeles from approximately January 2021 until her termination on or about May 11, 2021.

27 4. Plaintiff is informed and believes and thereon alleges that Defendant AMAZON
28 RETAIL LLC is authorized to do business within the State of California and is doing business in

1 the State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto
2 were persons acting on behalf of Defendant AMAZON RETAIL LLC in the establishment of, or
3 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
4 AMAZON RETAIL LLC operates in Los Angeles County and employed Plaintiff and putative
5 class members in Los Angeles County, including but not limited to, at 5101 Lankershim Blvd,
6 North Hollywood, CA 91601.

7 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
8 through 50 are corporations, or are other business entities or organizations of a nature unknown to
9 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
10 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
11 working conditions of employment of Plaintiff and aggrieved employees.

12 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
13 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
14 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
15 supervisor, independent contractor and/or employee of each defendant who violated or caused to
16 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
17 the Industrial Welfare Commission's wage orders regulating hours and days of work.

18 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
19 sues said defendants by said fictitious names, and will amend this complaint when the true names
20 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
21 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
22 named defendants is in some manner responsible for the events and allegations set forth in this
23 complaint.

24 8. Plaintiff makes the allegations in this complaint without any admission that, as to
25 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
26 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

27 **FIRST CAUSE OF ACTION**

28 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

1 **GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.**

2 **(Against all Defendants)**

3 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

4 10. During the period beginning one-year period preceding the sending of the initial
5 notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204,
6 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and Sections 14 and 15 of the applicable Wage
7 Orders.

8 11. Specifically, Defendants have committed the following violations of California
9 Labor Code:

10 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
11 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
12 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
13 which includes all time that an employee is under control of the employer and all time the
14 employee is suffered and permitted to work. This includes the time an employee spends, either
15 directly or indirectly, performing services which inure to the benefit of the employer.

16 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
17 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
18 Wage Orders.

19 14. In this case, Plaintiff and other current and former aggrieved California-based
20 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
21 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
23 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
24 not limited to:

25 (a) During certain pay periods, “rounding down” or “shaving down” Plaintiff’s
26 and other current and former aggrieved California-based hourly non-exempt employees’ punches
27 to the nearest quarter of an hour to the benefit of Defendants without paying Plaintiff and similarly
28 situated employees for this time. For example:

1 i. During the pay period beginning January 24, 2021 and ending
2 January 30, 2021, Defendants “rounded down” or “shaved down” Plaintiff’s hours worked to
3 14.25 hours worked;

4 ii. During the pay period beginning April 11, 2021 and ending April
5 17, 2021, Defendants “rounded down” or “shaved down” Plaintiff’s regular hours worked to 20.25
6 hours worked and overtime hours to .50 hours worked; and

7 iii. During the pay period beginning April 18, 2021 and ending April
8 23, 2021, Defendants “rounded down” or “shaved down” Plaintiff’s hours worked to 8.5 hours
9 worked.

10 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
11 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
12 control without paying wages for that time. This resulted in Plaintiff and other current and former
13 aggrieved California-based hourly non-exempt employees working time for which they were not
14 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
15 Wage Order.

16 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
17 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
18 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
19 which includes all time that an employee is under control of the employer and all time the
20 employee is suffered and permitted to work. This includes the time an employee spends, either
21 directly or indirectly, performing services that inure to the benefit of the employer.’

22 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
23 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
24 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

25 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40)
26 hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of
27 work in any one (1) workweek, shall be compensated at the rate of no less than one-and-
28 one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve
(12) hours in one (1) day shall be compensated at the rate of no less than twice the regular
rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
seventh day of a workweek shall be compensated at the rate of no less than twice the
regular rate of pay of an employee.

1 Labor Code section 510.

2 18. In this case, Defendants failed to pay Plaintiff and other current and former
3 aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours
4 worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

5 (a) During certain pay periods, "rounding down" or "shaving down" Plaintiff's
6 and similarly situated employees' punches to the nearest quarter of an hour to the benefit of
7 Defendants without paying Plaintiff and other current and former aggrieved California-based
8 hourly non-exempt employees for this time. For example:

9 i. During the pay period beginning January 24, 2021 and ending
10 January 30, 2021, Defendants "rounded down" or "shaved down" Plaintiff's hours worked to
11 14.25 hours worked;

12 ii. During the pay period beginning April 11, 2021 and ending April
13 17, 2021, Defendants "rounded down" or "shaved down" Plaintiff's regular hours worked to 20.25
14 hours worked and overtime hours to .50 hours worked; and

15 (b) During the pay period beginning April 18, 2021 and ending April 23, 2021,
16 Defendants "rounded down" or "shaved down" Plaintiff's hours worked to 8.5 hours worked.

17 19. Defendants, pursuant to their policies, practices, and procedures, therefore suffered,
18 permitted, and required Plaintiff and other current and former aggrieved California-based hourly
19 non-exempt employees to be subject to Defendants' control without paying wages for that time.
20 This resulted in Plaintiff and similarly situated employees working time for which they were not
21 compensated any wages.

22 20. The foregoing policies, practices, and/or procedures resulted in time during each
23 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
24 employees were under the control of Defendants but were not compensated. To the extent that the
25 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
26 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
27 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
28 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code

sections 510 and 1194 and the applicable Wage Order.

21. Failure to pay overtime at the proper overtime rate by failing to include all remuneration in calculating the regular rate of pay for purposes of paying overtime:

Defendants employ hourly non-exempt employees, including Plaintiff and other current and former aggrieved California-based hourly non-exempt employees, with a compensation structure that includes additional remuneration, including an additional \$5/hour “hero pay.”

22. California Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight hours in a workday:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

(Cal. Lab. Code §510.)

23. Regarding the “regular rate,” overtime is based upon an employee’s regular rate of pay. “The regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual, Section 49.1.2.

24. At times, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked overtime hours under state law during pay periods that they earned the additional \$5/hour “hero pay.” Despite the fact that California law requires employers to include all remuneration as part of the regular rate of pay for determining overtime premium pay, Defendants entirely excluded Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’ additional \$5/hour “hero pay” in calculating those employees’ overtime rate of pay.

25. For example, during the pay period beginning April 11, 2021 and ending April 17, 2021, Plaintiff earned \$119.20 of additional remuneration in the form of an additional \$5/hour “hero pay” and worked .50 hours of overtime. The overtime rate reflected on the paystubs for this

1 pay period, however, was \$23.025/hour, which was 1.5x the Plaintiff's base rate of \$15.35/hour as
2 reflected on this paystub. Therefore, because the overtime rate reflected is equal to 1.5x Plaintiff's
3 base rate, it is evident that Defendants failed to include Plaintiff's \$119.20 of additional
4 remuneration when computing Plaintiff's regular rate of pay for purposes of calculating Plaintiff's
5 overtime rate of pay during this pay period.

6 26. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
7 and other current and former aggrieved California-based hourly non-exempt employees working
8 hours in excess of eight hours in a workday and/or 40 hours in a workweek and Defendants paying
9 them less overtime than they earned pursuant to California law.

10 27. **Failure to pay wages to hourly non-exempt employees for workdays that**
11 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
12 current and former aggrieved California-based hourly non-exempt employees regularly worked
13 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

14 28. California law requires an employer to authorize or permit an employee an
15 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
16 all duties and the employer relinquishes control over the employee's activities prior to the
17 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 7 at §11; *Brinker*
18 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
19 employee for a work period of more than ten (10) hours per day without providing the employee
20 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
21 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
22 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
23 period is only permitted when: (1) the nature of the work prevents an employee from being
24 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

25 29. If an employer fails to provide an employee a meal period in accordance with the
26 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
27 for each workday that a legally required and compliant meal period was not provided. Labor Code
28 section 226.7; Wage Order 7 at §11.

1 30. In this case, Plaintiff and similarly situated employees worked shifts long enough to
2 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
3 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
5 of not less than thirty (30) minutes for each five-hour period of work as required by law.

6 31. Specifically, during certain pay periods, Defendants “rounded down” or “shaved
7 down” Plaintiff’s and other current and former aggrieved California-based hourly non-exempt
8 employees’ punches to the nearest quarter of an hour at the time they clocked in and out for meal
9 periods resulting in meal periods of less than 30 minutes. For example:

10 (a) During the pay period beginning January 24, 2021 and ending January 30,
11 2021, Defendants “rounded down” or “shaved down” Plaintiff’s hours including at the time she
12 punched in and out for meal periods;

13 (b) During the pay period beginning April 11, 2021 and ending April 17, 2021,
14 Defendants “rounded down” or “shaved down” Plaintiff’s hours including at the time she clocked
15 in and out for meal periods; and

16 (c) During the pay period beginning April 18, 2021 and ending April 23, 2021,
17 Defendants “rounded down” or “shaved down” Plaintiff’s hours including at the time she clocked
18 in and out for meal periods.

19 32. Defendants’ foregoing policies, practices, and/or procedures cut into Plaintiff’s and
20 other current and former aggrieved California-based hourly non-exempt employees’ meal periods
21 rendering them less than 30 minutes and resulting in Defendants’ failure to provide meal periods
22 of at least 30 minutes.

23 33. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
24 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
25 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
26 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
27 employees did not receive legally required and compliant meal periods, in violation of Labor Code
28 section 226.7.

1 34. During pay periods Defendants paid Plaintiff and other current and former
2 aggrieved California-based hourly non-exempt employees additional \$5/hour “hero pay” and meal
3 period premium wages for missed, late, short, or interrupted meal periods, Defendants failed to
4 pay the meal period premium wages at one (1) hour of pay at Plaintiff’s and other current and
5 former aggrieved California-based hourly non-exempt employees’ regular rate of pay due to
6 Defendants’ failure to include the additional \$5/hour “hero pay” when calculating Plaintiff’s and
7 other current and former aggrieved California-based hourly non-exempt employees regular rate of
8 pay for the purpose of paying premium wages. For example:

9 (a) During the pay period beginning March 7, 2021 and ending March 13,
10 2021, Plaintiff earned \$83.35 of additional remuneration in the form of an additional \$5/hour
11 “hero pay” and earned 1.0 hours of meal period premium pay. The meal period premium pay rate
12 reflected on the paystub for this pay period, however, was \$15.35/hour, which is Plaintiff’s base
13 rate of pay as also reflected on this paystub. Therefore, because the meal period premium pay rate
14 reflected is equal to Plaintiff’s base rate, it is evident that Defendants failed to include Plaintiff’s
15 \$83.35 of additional remuneration when computing Plaintiff’s regular rate of pay for purposes of
16 paying meal period premium wages during this pay period;

17 (b) During the pay period beginning March 21, 2021 and ending March 27,
18 2021, Plaintiff earned \$39.50 of additional remuneration in the form of an additional \$5/hour
19 “hero pay” and earned 1.0 hours of meal period premium pay. The meal period premium pay rate
20 reflected on the paystub for this pay period, however, was \$15.35/hour, which is Plaintiff’s base
21 rate of pay as also reflected on this paystub. Therefore, because the meal period premium pay rate
22 reflected is equal to Plaintiff’s base rate, it is evident that Defendants failed to include Plaintiff’s
23 \$39.50 of additional remuneration when computing Plaintiff’s regular rate of pay for purposes of
24 paying meal period premium wages during this pay period;

25 (c) During the pay period beginning March 28, 2021 and ending April 3, 2021,
26 Plaintiff earned \$45.25 of additional remuneration in the form of an additional \$5/hour “hero pay”
27 and earned 1.0 hours of meal period premium pay. The meal period premium pay rate reflected on
28 the paystub for this pay period, however, was \$15.35/hour, which is Plaintiff’s base rate of pay as

1 also reflected on this paystub. Therefore, because the meal period premium pay rate reflected is
2 equal to Plaintiff's base rate, it is evident that Defendants failed to include Plaintiff's \$54.25 of
3 additional remuneration when computing Plaintiff's regular rate of pay for purposes of paying
4 meal period premium wages during this pay period; and

5 35. During the pay period beginning April 11, 2021 and ending April 17, 2021,
6 Plaintiff earned \$45.25 of additional remuneration in the form of an additional \$5/hour "hero pay"
7 and earned 1.0 hours of meal period premium pay. The meal period premium pay rate reflected on
8 the paystub for this pay period, however, was \$15.35/hour, which is Plaintiff's base rate of pay as
9 also reflected on this paystub. Therefore, because the meal period premium pay rate reflected is
10 equal to Plaintiff's base rate, it is evident that Defendants failed to include Plaintiff's \$54.25 of
11 additional remuneration when computing Plaintiff's regular rate of pay for purposes of paying
12 meal period premium wages during this pay period.

13 36. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
14 and other current and former aggrieved California-based hourly non-exempt employees not
15 receiving wages to compensate them for workdays during which Defendants did not provide them
16 with meal periods in compliance with California law.

17 37. **Failure to pay wages to hourly non-exempt employees for workdays that**
18 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
19 current and former aggrieved California-based hourly non-exempt employees regularly worked
20 shifts of more than three-and-a-half (3.5) hours.

21 38. California law requires every employer to authorize and permit an employee a rest
22 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
23 Code section 226.7; Wage Order 7 at §12. Under California law, "[e]mployees are entitled to 10
24 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
25 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
26 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code
27 section 226.7; Wage Order 7 at §12. Rest periods, insofar as practicable, shall be in the middle of
28 each work period. Wage Order 7 at §12. Additionally, the rest period requirement "obligates

1 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
2 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
3 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

4 39. If the employer fails to authorize or permit a required rest period, the employer
5 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
6 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
7 Wage Order 7 at § 12.

8 40. In this case, Plaintiff and other current and former aggrieved California-based
9 hourly non-exempt employees regularly worked shifts of more than three-and-a-half (3.5) hours.
10 Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their
11 failure to authorize or permit all legally required and/or compliant rest periods to Plaintiff and
12 other current and former aggrieved California-based hourly non-exempt employees by failing to
13 provide duty-free rest periods of a net 10-minutues for every four hours worked or major fraction
14 thereof.

15 41. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
16 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
17 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
18 workday they did not receive legally required and compliant rest periods, in violation of Labor
19 Code section 226.7.

20 42. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
21 and other current and former aggrieved California-based hourly non-exempt employees not
22 receiving wages to compensate them for workdays in which Defendants did not provide them with
23 rest periods in compliance with California law.

24 43. **Failure to Indemnify for Losses and Expenditures Incurred as Part of**
25 **Employment:** California law requires that every employer must indemnify its employees for all
26 necessary expenditures or losses incurred by the employee in discharge of his or her duties or at
27 the obedience of the directions of the employer. Moreover, an employer is prohibited from passing
28 the ordinary business expenses and losses of the employer onto the employee. (Lab. Code, §

2802.)

44. Defendants have violated Labor Code Section 2802 by failing to indemnify Plaintiff and other current and former aggrieved California-based non-exempt hourly employees' necessary expenditures they incurred in the discharge of their duties without receiving indemnification from Defendants. Such policies, practices, and/or procedures included, but were not limited to the following:

(a) Defendants' requirement that Plaintiff and other current and former aggrieved California-based non-exempt hourly employees download an application called "A to Z" on their personal cell phone in order to access Defendants' work schedules for them and in order to clock in and out for their shifts and/or meal periods; and

(b) Defendants passed along the costs of direct deposit to employees by charging them an ACH fee in the amount of \$38.00.

45. Moreover, Defendants employed policies and procedures which ensured Plaintiff and aggrieved employees would not receive indemnification for their employment related expenses. This practice resulted in Plaintiff and aggrieved employees not receiving such indemnification in compliance with California law.

46. Therefore, Defendants are liable to Plaintiff and aggrieved employees for their employment related expenses, including but not limited to costs of the data usage on their personal cell phones and the fees associated with receiving their pay pursuant to Labor Code section 2802.

47. **Failure to timely pay earned wages during employment:** In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code section 204(d).

1 48. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
2 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
3 exempt employees' earned wages (including minimum wages, overtime wages, meal period
4 premium wages, and/or rest period premium wages), in violation of Labor Code section 204.
5 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
6 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
7 their earned wages within the applicable time frames outlined in Labor Code section 204.

8 49. **Failure to provide complete and accurate wage statements:** Labor Code section
9 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
10 employee his or her wages, the employer must "furnish each of his or her employees ... an
11 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
12 employee, except for any employee whose compensation is solely based on a salary and who is
13 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
14 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
15 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
16 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
18 name of the employee and his or her social security number, (8) the name and address of the legal
19 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
20 the corresponding number of hours worked at each hourly rate by the employee."

21 50. In direct violation of Labor Code Section 226, Defendants failed to provide
22 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
23 with "...either as a detachable part of the check, draft, or voucher paying the employee's wages, or
24 separately if wages are paid by personal check or cash, an accurate itemized statement...."
25 Defendants did not provide Plaintiff and other current and former aggrieved California-based
26 hourly non-exempt employees with any type of physical itemized wage statements whatsoever.

27 51. Instead, Defendants made Plaintiff's and other current and former aggrieved
28 California-based hourly non-exempt employees' wage statements available electronically, but

1 failed to provide Plaintiff and/or other current and former aggrieved California-based hourly non-
2 exempt employees a way to access their itemized statements while at work using company
3 computer. Defendants further failed to provide Plaintiff and/or other current and former aggrieved
4 California-based hourly non-exempt employees a way to print free copies of their electronic wage
5 statements at work on printers provided by Defendants.

6 52. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
7 and other current and former aggrieved California-based hourly non-exempt employees all wages
8 earned (including minimum wages, overtime wages, overtime wages at the proper overtime rate,
9 meal period premium wages, meal period premium wages at the regular rate of pay, rest period
10 premium wages, and/or rest period premium wages at the regular rate of pay) rendered Plaintiff's
11 and other current and former aggrieved California-based hourly non-exempt employees' wage
12 statements inaccurate, in violation of Labor Code section 226.

13 53. **Failure to pay employees all wages due at time of termination/resignation:** An
14 employer is required to pay all unpaid wages timely after an employee's employment ends. The
15 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
16 hours of resignation (Labor Code section 202).

17 54. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
18 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
19 all their earned wages (including minimum wages, overtime wages, overtime wages at the proper
20 overtime rate, meal period premium wages, meal period premium wages at the regular rate of pay,
21 rest period premium wages, and/or rest period premium wages at the regular rate of pay),
22 Defendants failed to pay those employees timely after each employee's termination and/or
23 resignation, in violation of Labor Code sections 201, 202, and 203.

24 55. **Failure to provide suitable seats:** Labor Code section 1198 provides that the
25 standard conditions of labor fixed by the IWC shall be the standard conditions of labor for
26 employees in California. Section 14(A) of Wage Order 7 provides that "All working employees
27 shall be provided with suitable seats when the nature of the work reasonably permits the use of
28 seats."

1 56. During the one (1) year preceding the filing of the PAGA Claim Notice with
2 LWDA, Defendants did not comply with the requirements of section 14(A) of Wage Order 7.
3 Plaintiff is informed and believes, and thereon alleges, that when the nature of the work of
4 Plaintiff and other current and former hourly non-exempt employees, specifically cashiers and/or
5 employees who performed cashiering duties, employed by Defendants at Defendants' grocery
6 stores reasonably permitted the use of seats, Defendants failed to provide Plaintiff and other
7 current and former hourly non-exempt employees, specifically cashiers and/or employees who
8 performed cashiering duties, employed by Defendants at Defendants' grocery stores with suitable
9 seats for use during their employment.

10 57. Defendants' violations of Wage Order 7 constituted violations of Labor Code
11 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

12 58. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
13 employee, on behalf of himself or herself and other current or former employees, to bring a civil
14 action to recover civil penalties against all Defendants pursuant to the procedures specified in
15 Labor Code section 2699.3.

16 59. Plaintiff has complied with the procedures for bringing suit specified in Labor
17 Code section 2699.3. On May 5, 2021, Plaintiff filed notice with LWDA and provided notice to
18 Defendants by certified mail which provided notice of the specific provisions of the Labor Code
19 alleged to have been violated, including the facts and theories to support the violations alleged.
20 Thereafter, on Mar 11, 2021, Plaintiff filed an amended notice with the LWDA and provided
21 notice to Defendants by certified mail which provided notice of the specific provisions of the
22 Labor Code alleged to have been violated, including the facts and theories to support the
23 violations alleged.

24 60. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
25 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
26 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
27 parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate
28 Plaintiff's claims.

61. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510, 512, 1194, 1197, 1198, and 2802, during the Civil Penalty Period in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 2802, 512, and 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

b. For violations of Labor Code section 226, two hundred fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 510, fifty dollars (\$50) for each employee for each pay period for the initial violation, and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558] and any unpaid wages.

d. For violations of Labor Code section 1194 and 1197, one hundred dollars (\$100) for each underpaid employee for each pay period for the initial violation, and for each subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

62. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorney's fees and costs in connection with her claims for civil penalties

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON HER BEHALF AND ON OTHER AGGRIEVED PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That the Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations

1 subject to any permissible tolling, including but not limited to that recoverable under California
2 Labor Code, including but not limited to sections 2699(f).

3 3. For attorneys' fees and costs of suit, including but not limited to that recoverable
4 under California Labor Code section 2699(g); and,

5 4. For such and other further relief, in law and/or equity, as the Court deems just or
6 appropriate

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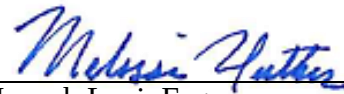
8 Dated: July 15, 2021

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

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By:



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Vincent C. Granberry, Esq.

Melissa A. Huether, Esq.

Attorneys for Plaintiff

HOLLY SCHNEIDER

on behalf of herself and current and former
aggrieved employees

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