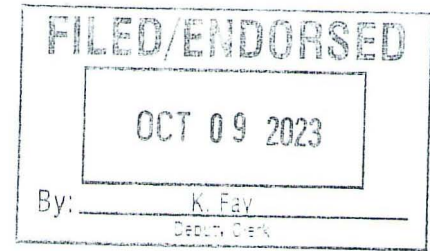


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of herself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

JENNY ESTRADA, an individual, on behalf
of herself and others similarly situated,

Plaintiff,

vs.

ONEMAIN GENERAL SERVICES
CORPORATION, a Delaware corporation;
ONEMAIN FINANCIAL GROUP, LLC, a
Delaware limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 23CV005986

CLASS ACTION Assigned To:
Hon. Lauri Damrell
Dept.: 28

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Required Records
10. Failure to Produce Requested Records
11. Failure to Reimburse Labor Code § 2802;
12. Violation of B & P Code § 17200 *et seq.*;
13. Penalties under PAGA, Labor Code § 2698.

DEMAND FOR JURY TRIAL

Original Complaint filed: August 4, 2023

1 Plaintiff JENNY ESTRADA (hereinafter “Plaintiff”), on behalf of herself and other
2 similarly situated non-exempt, hourly employees employed by Defendants in California as loan
3 specialists and in similar and related positions (collectively, “Employees”; individually,
4 “Employee”), complains of Defendants, and each of them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees, including as loan specialists
9 and in similar and related positions, by Defendants ONEMAIN GENERAL SERVICES
10 CORPORATION, a Delaware corporation; ONEMAIN FINANCIAL GROUP, LLC, a Delaware
11 limited liability company; and DOES 1 through 50, inclusive (all defendants being collectively
12 referred to herein as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated
13 various provisions of the California Labor Code, relevant orders of the Industrial Welfare
14 Commission (“IWC”), and the California Business & Professions Code, and seeks redress for
15 these violations.

16 2. Plaintiff and the Class members worked as hourly, non-exempt Employees for
17 Defendants, including as personal loan specialists and in related positions pertaining to providing
18 consumer financing and loan related services to Defendants’ customers. Plaintiff, and upon
19 information and belief other similarly situated Employees, were required to perform work tasks
20 based out of Defendants’ California offices and facilities in California. Plaintiff was employed by
21 Defendants as a personal loan specialist with duties that included speaking and meeting with
22 customers to provide them with loan origination and support services, including all the necessary
23 paperwork attendant to taking a loan from application and approval through origination and
24 servicing.

25 3. Defendants employed other similarly situated Class members as loan specialists
26 and in similar and related positions in connection with its loan application, origination, and
27 servicing operations based out of their many offices throughout California. Plaintiff and the other
28 similarly situated Class members worked at Defendants’ behest without being paid all wages due

1 and without being provided all required breaks. More specifically, Plaintiff and the other similarly
2 situated Class members were employed by Defendants and (1) shared similar job duties and
3 responsibilities (2) were subjected to the same policies and practices (3) and endured similar
4 violations at the hands of Defendants as the other Employee Class members who served in similar
5 and related positions.

6 4. Defendants required Plaintiff and the Employees in the Class to work off the clock
7 and failed to record accurate time worked by these Employees, failed to pay them at the
8 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
9 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
10 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
11 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
12 under Defendants' control and were not provided with the opportunity to take full uninterrupted
13 and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable
14 paragraphs of the IWC Wage Orders.

15 5. Defendant ONEMAIN GENERAL SERVICES CORPORATION is a Delaware
16 corporation that lists its principal offices in Evansville, Indiana, and it does not list a California
17 office or address with the California Secretary of State. It describes its type of business as
18 Management Services, and is upon information and belief a subsidiary of OneMain Holdings, Inc.,
19 which is a financial services holding company operating its subsidiaries as OneMain Financial.
20 ONEMAIN GENERAL SERVICES CORPORATION is listed as the employer on W2's issued to
21 Plaintiff and upon information and belief is also listed as the employer on wage statements issued
22 to Plaintiff and the Class members. Upon information and belief, Plaintiff worked primarily based
23 out of the Moreno Valley and Hemet, California locations, and Defendants also operate many
24 other offices throughout California, including in Sacramento County.

25 6. Defendant ONEMAIN FINANCIAL GROUP, LLC is a Delaware limited liability
26 company with principal offices in Baltimore, Maryland. It does not list a California office address,
27 and describes its type of business as Consumer Finance. It is upon information and belief an
28 employer and/or joint employer of Plaintiff and the Class members and operates together with

1 ONEMAIN GENERAL SERVICES CORPORATION to jointly employ Plaintiff and the Class
2 members in connection with their financial services and loan origination and renewal operations
3 based on their many office locations and facilities throughout California.

4 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
5 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
6 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
7 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
8 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
9 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Sacramento County
10 and Defendants have not listed a principal California address. Defendants also employ Class
11 members at offices and facilities in Sacramento County and throughout California.

12 8. The true names and capacities, whether individual, corporate, associate, or
13 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
14 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
15 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
16 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
17 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
18 this Complaint to reflect the true names and capacities of the Defendants designated herein as
19 Does 1 through 50 when their identities become known.

20 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
21 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
22 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
23 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
24 all respects as the employers or joint employers of Employees. Defendants, and each of them,
25 exercised control over the wages, hours or working conditions of Employees, created and
26 implemented the policies and practices that governed the employment of Plaintiff and the Class
27 members and dictated their job duties and responsibilities, or otherwise suffered or permitted
28 Plaintiff and the other Employee Class members to work, or engaged them, thereby creating a

1 common law employment relationship with the Employee Class members. Therefore, Defendants,
2 and each of them, employed or jointly employed the Employee Class members.

3 **FACTUAL BACKGROUND**

4 10. The Employees who comprise the Class, including Plaintiff, are non-exempt
5 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
6 (“IWC”). During the period of four years prior to the filing of this action through its resolution,
7 the Employee Class members were employed by Defendants and worked in non-exempt positions
8 at the direction of Defendants in the State of California. Plaintiff and the Class members were
9 either not paid by Defendants for all hours worked or were not paid at the appropriate minimum,
10 regular and overtime rates. Plaintiff also contends that Defendants failed to pay Plaintiff and the
11 Class members all wages due and owing, including by requiring off the clock work, failed to
12 provide meal and rest breaks, and failed to furnish accurate wage statements, all in violation of
13 various provisions of the California Labor Code and applicable paragraphs of the IWC Wage
14 Orders.

15 11. During the course of Plaintiff and the Class members’ employment with
16 Defendants, they were not paid all wages they were owed, including for all work performed
17 (resulting in “off the clock” work) and for all their overtime hours worked, and they were not
18 paid at the required rates for overtime. This has resulted in systematic and ongoing violations of
19 the California Labor Code and relevant IWC Wage Orders. Upon information and belief,
20 Defendants employ other non-exempt, hourly employees as loan specialists and in similar and
21 related positions based out of their locations and offices in California.

22 12. Plaintiff was generally scheduled to work five to six days per week for eight to
23 nine hours per shift, with shift times generally spanning from 8:30 a.m. through 5:30 p.m. On
24 many occasions, Plaintiff was also required to work longer shifts with an additional hour or two
25 of time approved by Defendants to be paid at overtime premium rates. However, Plaintiff was
26 required by Defendants to endure substantial off the clock work before and after her scheduled
27 shift hours.

28 13. Defendants’ policy and practice of requiring systematic off the clock work flowed

1 in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to
2 be inputted into the company computer systems by Employees rather than through a timeclock or
3 some other method of recording actual times worked. While Defendants required time punch
4 records for shift start and end times and meal period beginning and end times, they were not
5 recorded contemporaneously and instead Defendants merely required them to be entered by the
6 end of the work week. Plaintiff was therefore compelled to record scheduled shift times worked
7 rather than actual times when she was on and off the clock, and was concerned of consequences if
8 she were to record all the hours she actually worked.

9 14. Additionally, Defendants instructed Plaintiff and the Class members to input into
10 the timekeeping system that they took a full hour for a meal period and did so before the fifth
11 hour of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiff
12 and the Class members to thus record compliant meal breaks without regard to whether they were
13 actually taken on time or for the full duration or were interrupted by customer and management
14 demands and other work requirements. Additionally, by deducting 30 minutes for a meal period
15 plus an additional 30 minutes for an alleged hour long meal period that was generally not
16 lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of
17 hours worked from each Employee's daily work shifts. Managers would again modify and adjust
18 any timekeeping entries recorded for meal periods that were non-compliant to reflect they were
19 timely or not shortened to avoid incurring and paying meal period premium penalty wages.

20 15. Defendants also required Plaintiff to be prepared to begin work at her scheduled
21 shift start time, and she would be reprimanded if she was not. However, for Plaintiff to do so she
22 had to arrive at the office well before that start time. Plaintiff's work shifts generally were
23 scheduled to start at 8:30 a.m., and to be prepared to start working then she had to arrive at the
24 office by at least 10 minutes prior so she could get her work station and files situated and turn on
25 her computer and wait for it to boot up and then log in. In order to avoid overtime, Defendants'
26 managers would also move Plaintiffs' clock in times to later ones as much as needed to offset any
27 unapproved overtime or to make a late meal period timely. When Plaintiff questioned this
28 unlawful deduction of her hours worked, Defendants' manager justified the deduction by arguing

1 Plaintiff had taken her time and got coffee and did not actually start working at 8:30 as scheduled.

2 16. As addressed further below, Defendants' managers would also unilaterally
3 determine to move overtime hours to PTO/sick time without Plaintiff's permission and against
4 her wishes. Defendants' managers also contacted Plaintiff by calling her personal cell phone
5 regarding work related matters and scheduling, and would do so both throughout the work day
6 and during breaks and also after work hours. Plaintiff was also required to work off the clock
7 after her scheduled shift end times, and she also was compelled by Defendants not to record that
8 she was clocked out but continue working. Plaintiff was instructed to turn her computer off at the
9 end of each shift and had to wait for the computer to shut down, but in many instances before
10 doing so, Plaintiff was required to continue working off the clock to finish pressing work tasks
11 and requirements she was unable to complete during the scheduled hours. Additionally, under
12 Defendants' requirements at least two employees were required in the office if there was a
13 customer present with an issue, and on these occasions Plaintiff was required to wait and continue
14 working until the meeting was completed. Additional off the clock work occurred in the form of
15 the unlawful deduction of 30 minutes of hours worked for an alleged hour long meal period that
16 was provided generally untimely if at all.

17 17. Overtime hours were generally not allowed, and if Plaintiff worked beyond her
18 scheduled hours, Defendants instructed her to come in at a later time to avoid overtime for the
19 week or required her to record fewer hours worked, or Defendants' managers would alter
20 timekeeping records to eliminate the unapproved overtime. When combined with difficult to
21 attain processing and production goals and understaffing and over-assignment of cases for the
22 loan servicers, this compelled Plaintiff to work many hours off the clock and without
23 compensation. This strict overtime avoidance policy also compelled Plaintiff's manager to add
24 what should have been overtime hours to payroll as Plaintiff's sick days or paid time off days.
25 Plaintiff did not approve of this use of her sick/PTO days, as she wanted to keep them for
26 occasions when they were needed, but her manager would unilaterally pay them as such without
27 regard to whether Plaintiff needed or wanted to use them for another purpose. Additionally,
28 Defendants paid Plaintiff and the Class members performance based bonuses when they attained

1 difficult to reach goals. To whatever extent Defendant paid this and any other form of
2 remuneration to Employees in the Class, such as shift differentials and the like, Defendants failed
3 to include it in the regular rate used to calculate and pay the overtime that Defendants did pay.

4 18. Plaintiff was therefore not paid for all her hours worked at the required minimum,
5 overtime and double time wage rates due to Defendants' uniformly applied and unlawful policy
6 and practice of requiring her to work off the clock and without pay. Defendants systematically
7 underpaid Plaintiff and the Class members by failing to pay them at the required overtime rates
8 for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a
9 day at the required double time rate. Upon information and belief, the Class members were bound
10 by similar scheduling and timekeeping policies and endured similar violations at Defendants'
11 hands as Plaintiff.

12 19. Defendants have either failed to maintain timekeeping records for Plaintiff that
13 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
14 required and the actual hours Plaintiff worked or the breaks she received or have otherwise
15 declined to produce them to Plaintiff in response to a timely and lawful records request. By
16 failing to pay for all hours worked, and by under-recording regular hours to the detriment of the
17 Class members, Defendants have committed knowing and intentional ongoing violations of the
18 record keeping requirements under the Labor Code, including section 1174, by either failing to
19 maintain records or retaining inaccurate ones.

20 20. The failure to pay for all hours worked and underpayment of wages to Plaintiff
21 and the Class members is and has been a direct consequence of Defendants' unlawful
22 compensation policies and practices, which upon information and belief applied uniformly to the
23 Class members working remotely and/or based out of Defendants' locations and facilities
24 throughout California. As a result of the above-described unlawful requirements to work off the
25 clock, the failure to accurately record all hours worked and pay wages at the correct rates, and the
26 other wage violations they endured at Defendants' hands, Plaintiff and the Class members were
27 not properly paid all wages earned and all wages owed to them by Defendants, including when
28 working more than eight hours in any given day and/or more than forty hours in any given week.

1 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
2 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
3 hours worked and failing to pay minimum wages for all time worked, as required by California
4 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
5 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
6 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
7 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
8 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

9 22. Defendants also failed to provide Plaintiff and the Class members with their
10 required meal periods and the at least two ten-minute rest breaks as required at a minimum for
11 Plaintiff's scheduled shift durations. The above described off the clock work contributed to
12 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
13 members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
14 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
15 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
16 IWC Wage Order(s).

17 23. More specifically, Plaintiff worked shifts that entitled her to at least one meal
18 period, but as addressed above, Defendants' managers required Plaintiff and the Class members to
19 input an hour for lunches and would deduct that time from hours worked for the shift. To whatever
20 extent there was ever a schedule for meal periods, it went by the wayside quickly as there always
21 seemed to be a customer issue to resolve or a phone call to take or a message to respond to. This
22 led to systematically late meal periods, if they were provided at all, and on-duty meal periods that
23 were incessantly interrupted by customer and management demands and required job duties and
24 tasks. The difficult to attain production goals and management expectations also contributed to
25 Employees working through meal periods or not taking them or taking them late so work could be
26 accomplished or they were required to remain under Defendants' control during meal periods.

27 24. Additionally, Defendants instructed Plaintiff and the Class members to input into
28 the timekeeping system that they took a full hour for a meal period and did so before the fifth hour

1 of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiff and
2 the Class members to thus record compliant meal breaks without regard to whether they were
3 actually taken on time or for the full duration or were interrupted by customer and management
4 demands and other work requirements. Plaintiff recalls generally that any meal period she was
5 ever able to take included only 15-20 minutes of actual duty-free break time, despite the fact that
6 Defendants automatically deducted 60 minutes for an hour-long meal period on each work shift
7 without regard to whether it was actually taken or was otherwise unlawful.

8 25. Therefore, meal period violations systematically occurred ongoing throughout all
9 of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
10 payment and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day.
11 To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all
12 forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour
13 premium payment. Upon information and belief, the other Class members were subjected to
14 similar unlawful policies and practices and endured similar violations as Plaintiff.

15 26. Defendants thus failed to provide all the legally required unpaid, off-duty meal
16 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
17 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
18 members were required to perform work as ordered by Defendants for more than five hours during
19 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
20 followed a practice of requiring off the clock work in a manner that would impact when
21 Employees were to receive meal periods and rest breaks, and required them to respond to work
22 calls and inquiries and other demands during breaks, thus leading to further violations.

23 27. Upon information and belief, Defendants' systems did not automatically generate a
24 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
25 into a work shift or in the event the time punch records reflected a meal period of less than thirty
26 minutes. However, upon information and belief, in the event Defendants did pay any meal period
27 premiums, they did so at the employee's customary regular rate of hourly compensation without
28 including all forms of remuneration in that hourly rate calculation, for example by omitting

1 performance-based bonuses and the like from the rate at which meal premiums were paid.

2 28. Defendants thus followed uniformly applied policies of not providing all required
3 meal periods to their Employees. Meal periods were often not properly provided, as work
4 demands and computer and phone time impermissibly shortened their breaks. Even when Plaintiff
5 and the Class members were able to take a meal period, it was generally interrupted by work
6 duties or was taken after the fifth hour of work. Additionally, as addressed above, Defendants
7 followed a practice of requiring off the clock work in a manner that would impact when
8 Employees were to receive meal periods and rest breaks, thus leading to further violations.

9 29. As a result, Defendants' failure to provide Plaintiff and the Class members with all
10 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
11 periods is and will be evidenced by Defendants' business records, or lack thereof. As further
12 detailed above, Defendants also failed to pay Employees "premium pay," i.e., one hour of wages
13 at each Employee's effective regular hourly rate of compensation for each meal period or rest
14 break that Defendants failed to provide or deficiently provided.

15 30. Therefore, for at least four years prior to the filing of this action and through to the
16 present, Plaintiff and the Class members were unable to take off-duty breaks or were otherwise not
17 provided with the opportunity to take required breaks as required under the Labor Code and Wage
18 Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the Class
19 members were provided with a meal period, it was often untimely or interrupted, or was
20 impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.
21 Meal period violations thus occurred in one or more of the following manners:

22 (a) Class members were not provided full thirty-minute duty free meal periods
23 for work days in excess of five hours and were not compensated one
24 hour's wages in lieu thereof, or were not compensated at the correct regular
25 rate of compensation, all in violation of, among others, Labor Code §§
26 226.7, 512, and the applicable Industrial Welfare Commission Wage
27 Order(s);

28 (b) Class members were not provided second full thirty-minute duty free meal

1 periods for work days in excess of ten hours;

2 (c) Class members were required to work through at least part of their daily
3 meal period(s);

4 (d) Meal periods were provided after five hours of continuous work during a
5 shift; and

6 (e) Class members were restricted in their ability to take a full thirty-minute
7 meal period.

8 31. Similar violations resulted from Defendants' failure to authorize and permit
9 Plaintiff and the Class members to take duty-free, net ten minute rest breaks for every four hours
10 of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class members
11 were either not authorized permitted the opportunity to take a rest break, or were required to
12 remain under Defendants' control and respond to calls and instructions from management and job
13 and customer demands if and when they even attempted to take one. Upon information and belief,
14 Defendants thus also failed to authorize and permit employees to leave the premises during rest
15 breaks, evidencing Defendants' policy and practice of requiring Plaintiff and the Class members
16 to remain under their control during required off-duty rest break times.

17 32. Rest breaks were neither scheduled nor contemplated by Defendants. During
18 Plaintiff's entire employment duration with Defendants, she cannot recall a time when she took a
19 break, despite being entitled to receive at least two paid, timely, uninterrupted, and off duty ten
20 minute rest breaks during each of her work shifts. As detailed above, in addition to failing to
21 authorize and permit rest breaks, Defendants unlawfully deducted up to 30 additional minutes for
22 hour long meal periods that were rarely provided or otherwise received without violation. In so
23 doing, it was also as if Defendants combined meal periods with rest breaks and deducted the time
24 for all from hours worked. This practice again unlawfully failed to pay Employees for rest break
25 time, which must be compensated at the regular rate.

26 33. Defendants' uniformly applied policies and practices thus resulted in untimely and
27 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
28 members worked shifts of at least eight hours, which required at least two rest breaks, and often

1 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions
2 when Defendants authorized and permitted Plaintiff to take a first rest break, she was not
3 permitted to take a second or a third break, and those that were provided were often late and
4 generally interrupted by job duties and requirement.

5 34. During rest periods, employers must relieve employees of all duties and relinquish
6 control over how employees spend their time. Plaintiff and the Class members were and are under
7 Defendants' control when they are working through rest breaks and remaining under Defendants'
8 control. Defendants have also provided either impermissibly shortened or untimely meal and rest
9 breaks to Plaintiff and the Class members. Plaintiff and the Employees in the Class were thus not
10 authorized and permitted to take lawful rest periods, were systematically required by Defendants
11 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.
12 They were required to remain on-duty during breaks or portions of their breaks, thus making
13 them either untimely or shortened and on-duty, and they were also prevented from leaving the
14 premises and otherwise remain under Defendants' control during rest breaks under Defendants'
15 uniformly applied policies and practices. Rest period violations therefore arose in one or more of
16 the following manners:

- 17 (a) Class members were required to work without being provided a minimum
18 ten minute rest period for every four hours or major fraction thereof worked
19 and were not compensated one hour of pay at their regular rate of
20 compensation for each workday that a rest period was not provided;
- 21 (b) Class members were not authorized and permitted to take timely rest periods
22 for every four hours worked, or major fraction thereof; and
- 23 (c) Class members were required to remain on-duty during rest periods or
24 otherwise had their rest periods interrupted by work demands.

25 35. From at least four years prior to the filing of this lawsuit and continuing to the
26 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
27 deducting the Employees' earned wages, including by the above described off the clock work and
28 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest

1 breaks, Defendants unlawfully deducted up to 30 additional minutes for hour long meal periods
2 that were rarely provided or otherwise received without violation. Thus, by deducting 30 minutes
3 for a meal period plus an additional 30 minutes for an alleged hour-long meal period that was
4 generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least
5 30 minutes of hours worked from each Employee's daily work shifts. In order to avoid overtime,
6 Defendants' managers would also move Plaintiffs' clock in times to later ones as much as needed
7 to offset any unapproved overtime or to make a late meal period timely. Defendants' strict
8 overtime avoidance policy also compelled Plaintiff's manager to add what should have been
9 overtime hours to payroll as Plaintiff's sick days or paid time off days. Plaintiff did not approve of
10 this use of her sick/PTO days, as she wanted to keep them for occasions when they were needed,
11 but her manager would unilaterally pay them as such without regard to whether Plaintiff needed or
12 wanted to use them for another purpose. By not compensating Employees for all hours worked,
13 and by deducting PTO/sick time and shifting overtime hours to regular hours without consent,
14 Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

15 36. Defendants also violated California Labor Code § 246 by not providing all
16 required paid sick days to Plaintiff and the Class members. Labor Code § 246 provides that an
17 Employee who "works in California for the same employer for 30 or more days within a year
18 from the commencement of employment is entitled to paid sick days as specified in this section."
19 Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their
20 required and earned sick days, in violation of Labor Code § 246. Additionally and upon
21 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
22 the Class members during the relevant time period, including by failing to provide two work
23 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
24 248.2 and including damages and penalties as these sections are enforced through Labor Code §
25 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid
26 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
27 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
28 (\$4,000), shall be included in the administrative penalty." As also addressed above, Defendants'

1 strict overtime avoidance policy also compelled Plaintiff's manager to add what should have been
2 overtime hours to payroll as Plaintiff's sick days or paid time off days. Plaintiff did not approve
3 of this use of her sick/PTO days, as she wanted to keep them for occasions when they were
4 needed, but her manager would unilaterally pay them as such without regard to whether Plaintiff
5 needed or wanted to use them for another purpose. Plaintiff accordingly seeks this relief available
6 for Defendants' failure to provide Employees with all their required and earned sick days and all
7 their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the
8 civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2,
9 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs
10 pursuant to Labor Code § 2699(g)(1).

11 37. Upon information and belief, Defendants also failed to provide Employees such as
12 Plaintiff at the time of her employment and thereafter with written notice complying with all the
13 requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer
14 shall provide to each employee a written notice, in the language the employer normally uses to
15 communicate employment-related information to the employee, containing" specific required
16 information. Upon information and belief, Defendants failed to provide this information to the
17 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
18 provide Plaintiff and the aggrieved employee Class members certain specific information upon
19 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
20 any such information when she was hired, or have failed to produce them, and upon information
21 and belief Defendants committed similar violations in connection with similarly situated and
22 aggrieved Class members.

23 38. As a result of these illegal policies and practices, Defendants also engaged in and
24 enforced the following additional unlawful practices and policies against Plaintiff and the Class
25 members she seeks to represent:

- 26 a. failing to pay all wages owed to Class members who either were discharged, laid
27 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
28 203;

- b. failing to pay all wages owed to the Class members twice monthly in accordance with the requirements of Labor Code § 204;
- c. failing to pay Class members all wages owed, including all meal and rest period premium wages, and failing to pay them at the regular rate of compensation;
- d. failing to maintain accurate records of Class members' hours worked and earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the applicable IWC Wage Orders; and
- e. failing to produce timekeeping records in response to Plaintiff's timely and lawful request to receive them under these authorities.

39. Defendants have also consistently failed to provide Class members with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Class, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods, which were automatically presumed by Defendants to have been lawfully provided when they were not. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff and the Class members, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

40. Defendants have thus also failed to comply with Labor Code § 226(a) by

1 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
2 members, along with the appropriate applicable rates, among others requirements. Plaintiff and
3 Class members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
4 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
5 applicable California IWC Wage Orders by failing to maintain time records showing when the
6 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
7 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from
8 payment of wages and accurately reporting total hours worked.

9 41. Defendants also required Plaintiff and the Class members to work hours off the
10 clock for which they were not compensated. They were required to endure off the clock work
11 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
12 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
13 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
14 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
15 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
16 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
17 two hours of their resignation, as required by California wage-and-hour laws.

18 42. Additionally, from at least four years prior to the filing of this lawsuit and
19 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
20 incur necessary business expenses in the course of performing their required job duties without
21 reimbursement. These included the cell phone related expenses Plaintiff incurred in responding to
22 calls from managers and in accessing the internet as required for research and the like. Plaintiff
23 was also required to drive to other locations during work shift hours but Defendants neglected to
24 reimburse her for mileage or related automobile expenses and usage. Plaintiff and the Class
25 members must be reimbursed for these necessary business expenses under Labor Code § 2802 and
26 Defendants systematically failed to do so.

27 43. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
28 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,

226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1198.5, 1199, 2802, and 2698 *et seq.*, and California Code of Regulations, Title 8, section 11000 *et seq.*

44. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

45. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly loan specialists within the State of California.” This includes all types of loan specialists and those in similar and related positions. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants’ policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee’s regular rate of pay in lieu thereof.

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

1 e. Subclass 5. Wage Statement Subclass. All Class members who, within the
2 applicable limitations period, were not provided with accurate itemized wage statements.

3 f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class members
4 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
5 including by requiring off the clock work.

6 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
7 members who were subject to Defendants' policy and practice of not timely paying all wages
8 earned when they were due and payable at least twice monthly.

9 h. Subclass 8. Termination Pay Subclass. All Class members who, within the
10 applicable limitations period, either voluntarily or involuntarily separated from their employment
11 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
12 termination.

13 i. Subclass 9. Failure To Produce Requested Employment Records Subclass. All
14 Class members who, within the applicable limitations period, were denied the right to inspect and
15 receive their payroll records, timecards, and personnel records.

16 j. Subclass 10. Payroll Records Subclass. All Class members who were subject to
17 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
18 by California wage-and-hour laws.

19 k. Subclass 11. Expense Reimbursement Subclass. All Class members who incurred
20 necessary and reasonable expenses in connection with performing their job duties for Defendants
21 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

22 l. Subclass 12. UCL Subclass. All Class members who are owed restitution as a
23 result of Defendants' business acts and practices, to the extent such acts and practices are found to
24 be unlawful, deceptive, and/or unfair.

25 46. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
26 modify the class description with greater particularity or to provide further division into subclasses
27 or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
28 against Defendants, the Class Period should be adjusted accordingly.

1 47. Defendants, as a matter of company policy, practice and procedure, and in violation
2 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements,
3 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
4 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
5 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the
6 benefit of this work, required Employees to perform this work and permitted or suffered to permit
7 this work. Defendants have uniformly denied these Class members wages to which these
8 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
9 order to unfairly cheat the competition and unlawfully profit.

10 48. This action has been brought and may properly be maintained as a class action
11 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
12 of interest in this litigation and the proposed Class is easily ascertainable from the employment
13 records for Plaintiff and the Class members that Defendants are required to maintain under
14 California law.

15 **A. Numerosity**

16 49. The potential members of the class as defined are so numerous that joinder of all
17 the member of the class is impracticable. While the precise number of class member has not been
18 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
19 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
20 Class definition within the State of California. Plaintiff alleges that Defendants’ employment
21 records will provide information as to the number and location of all Class members.

22 **B. Commonality**

23 50. There are questions of law and fact common to the Class that predominate over any
24 questions affecting only individual Class members. The common questions are numerous and
25 substantial and flow from Defendants’ uniform policies and/or practices of violating the California
26 Labor Code addressed above. As such, these common questions predominate over individual
27 questions concerning each individual Class Member’s showing as to his or her eligibility for
28 recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;
- g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;
- h. Whether Defendants violated Labor Code § 221;
- i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- j. Whether Defendants' conduct was willful;
- k. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary

business expenses incurred by Employees;

o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

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

C. Typicality

51. The claims of the named plaintiff are typical of those of the other Employees. The Employee Class members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off the clock work and meal and rest violations she was required to endure are typical of those of the other Class members.

D. Adequacy of Representation

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

E. Superiority of Class Action

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

54. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class members. Further, as the economic or other loss suffered by vast numbers of Class members may be relatively small, the expense and burden of individual actions makes it difficult for the Class members to individually redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered, a class action is the only mechanism that will permit the employment of

1 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
2 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
3 to vindicate their rights for violations they endured which they would otherwise be foreclosed
4 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

5 55. Class action treatment will allow those persons similarly situated to litigate their
6 claims in the manner that is most efficient and economical for the parties and the judicial system.
7 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
8 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would
9 set forth the subject and nature of the instant action. The Defendants' own business records can be
10 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
11 that any further notice is required additional media and/or mailings can be used.

12 56. Defendants, as prospective and actual employers of the Employees in the Class,
13 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
14 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
15 Employees as well as the effect of any alleged arbitration agreements that may have been forced
16 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
17 and policies, most notably intentionally refusing to pay for all hours actually worked which should
18 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
19 agreements and policies and practices on the Employees and Class as a whole.

20 57. Plaintiff and the Employees in the Class did not discover the fact that they were
21 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
22 ever any discussion about Plaintiff's and the Class' waiver of their Constitutional rights of trial by
23 jury, right to collectively organize and oppose unlawful pay practices under California law as well
24 as obtain injunctive relief preventing such practices from continuing. As a result, the applicable
25 statutes of limitation were tolled until such time as Plaintiff and the Class members discovered
26 their claims.

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FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

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

59. Defendants failed to pay Employees minimum wages for all hours worked. Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control during breaks and due to the work demands placed upon them by Defendants' management and customers and by the unlawful deduction of hours or allocation of hours worked as sick/PTO time or by paying what should have been overtime hours as regular hours. Defendants' uniformly applied policies required systematic off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Class members, including by requiring systematic off the clock work. To the extent any local wage ordinances were also applicable to paying the employees an hourly rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

60. In California, employees must be paid at least the applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

61. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be

1 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
2 applicable minimum wage rate fixed by the commission for work during the relevant period is
3 found in the Wage Orders.

4 62. The minimum wage provisions of California Labor Code are enforceable by private
5 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
6 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
7 overtime compensation applicable to the employee is entitled to recover in a civil action the
8 unpaid balance of the full amount of this minimum wage or overtime compensation, including
9 interest thereon, reasonable attorney’s fees and costs of suit.”

10 63. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
11 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
12 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
13 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
14 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
15 the absence of a contractually agreed upon one.

16 64. In committing these violations of the California Labor Code, Defendants
17 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
18 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
19 time worked by Plaintiff and other members of the Class, including by requiring off the clock
20 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
21 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
22 Welfare Commission requirements and other applicable laws and regulations. As a result of these
23 violations, Defendants also failed to timely pay all wages earned in accordance with California
24 Labor Code § 1194.

25 65. California Labor Code § 1194.2 also provides for the following remedies: “In any
26 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
27 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
28 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

1 66. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
2 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
3 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
4 pay each employee minimum wages.

5 67. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
6 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
7 interest thereon.

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

11 69. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
12 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
13 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's
14 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
15 members of the Class further request recovery of all unpaid wages, according to proof, interest,
16 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
17 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
18 wage compensation is determined to be owed to the Class members who have terminated their
19 employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore
20 these individuals are also be entitled to waiting time penalties under California Labor Code § 203,
21 which penalties are sought herein on behalf of these Class members. Defendants' failure to timely
22 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
23 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
24 alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Class
25 members are entitled to seek and recover statutory costs.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

3 **(Against All Defendants)**

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

6 71. California Labor Code § 1194 provides that “any employee receiving less than the
7 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
8 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
9 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action
10 may be maintained directly against the employer in an employee’s name without first filing a
11 claim with the Division of Labor Standards and Enforcement.

12 72. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
13 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
14 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
15 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
16 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
17 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
18 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
19 work in a workweek.

20 73. Defendants had a consistent policy of not paying Employees wages for all hours
21 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
22 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants
23 have also failed to include all forms of remuneration in the regular rate of pay used to calculate
24 and pay overtime, and failed to begin paying overtime when it was incurred due to the off the
25 clock work, as detailed above. Defendants’ managers also moved hours that should have been paid
26 at overtime premium rates to regular hours or paid them at regular rates for sick/PTO time Plaintiff
27 wanted to use for other purposes.

28 74. Defendants thus had a consistent policy of not paying Employees wages for all

1 hours worked, including hours at their required regular, overtime, and double-time rates.
2 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
3 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
4 members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the
5 Class members all earned and owed straight time and overtime wages and other benefits, in
6 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
7 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
8 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
9 employees to work through meal periods or remain under Defendants' control when they were
10 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
11 respond to demands from customers and managers.

12 75. Therefore, Employees were not properly compensated, nor were they paid overtime
13 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
14 Based on information and belief, Defendants did not make available to Employees a reasonable
15 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
16 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
17 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
18 Class members to work through meal periods when they were required to be clocked out or to
19 otherwise work off the clock to complete their daily job duties.

20 76. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
21 regular wages owed and overtime compensation for all hours worked, as required by California
22 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
23 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
24 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

25 77. Additionally, Labor Code § 558(a) provides "any employer or other person acting
26 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
27 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
28 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each

1 pay period for which the employee was underpaid in addition to an amount sufficient to recover
2 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
3 underpaid employee for each pay period for which the employee was underpaid in addition to an
4 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
5 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
6 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
7 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
8 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
9 Code § 558.

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

16 79. Employees have been damaged by these violations of California Labor Code §§
17 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
18 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
19 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
20 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
21 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
22 any order or ruling of the commission.”

23 80. Consequently, pursuant to the California Labor Code, including Labor Code §§
24 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
25 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
26 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
27 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
28 against Defendants, and each of them, and any additional sums as provided by the Labor Code

1 and/or other statutes.

2 **THIRD CAUSE OF ACTION**

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

4 **(Against All Defendants)**

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

7 82. Employees regularly worked shifts greater than five (5) hours and in some
8 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
9 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
10 (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or
11 for a shift of more than ten (10) hours without providing him or her with a second meal period of
12 not less than thirty (30) minutes.

13 83. Defendants failed to provide Employees with meal periods as required under the
14 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
15 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
16 provided them after Employees worked beyond the fifth hour of their shifts or Employees
17 otherwise had them shortened and interrupted by work demands and requirements to perform off
18 the clock work and remain under Defendants' control. Defendants also unlawfully combined meal
19 periods with rest breaks. Furthermore, upon information and belief, on the occasions when
20 Employees worked more than ten hours in a given shift, they did so without receiving a second
21 uninterrupted thirty-minute meal period as required by law.

22 84. Defendants thus failed to provide Plaintiff and the Class members with meal
23 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
24 including by not providing them with the opportunity to take meal breaks, by providing them late
25 or for less than thirty minutes, or by requiring them to perform work during breaks.

26 85. Moreover, Defendants failed to compensate Employees for each meal period not
27 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
28 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an

1 employee a meal period in accordance with this section, the employer shall pay the employee one
2 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
3 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
4 period premiums, they upon information and belief underpaid them by miscalculating the regular
5 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
6 compensate the Employees in the Class for each meal period not provided or inadequately
7 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
8 Wage Order.

9 86. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
10 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
11 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
12 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
13 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
14 other statutes and applicable IWC Wage Order paragraphs.

15 **FOURTH CAUSE OF ACTION**

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

17 **(Against All Defendants)**

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

20 88. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
21 provide that employers must authorize and permit all employees to take rest periods at the rate of
22 ten minutes net rest time per four (4) work hours.

23 89. Employees consistently worked consecutive four hour shifts and were generally
24 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
25 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
26 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
27 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
28 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort

1 to schedule or otherwise authorize and permit Plaintiff and the Class members to take lawful rest
2 breaks. Employees were often required to work or to otherwise remain under Defendants' control
3 during rest periods, including by responding to work requirements, and had breaks provided
4 untimely as a result of the above described off the clock work. Plaintiff and the Class members
5 were also not permitted to leave their work premises during rest breaks.

6 90. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
7 Orders provide that if an employer fails to provide an employee rest period in accordance with this
8 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
9 compensation for each workday that the rest period is not provided. Defendants failed to do so.

10 91. Defendants, and each of them, have therefore intentionally and improperly denied
11 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
12 paragraph 12 of the applicable IWC Wage Orders.

13 92. Defendants failed to authorize and permit Plaintiff and the Class members to take
14 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
15 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
16 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
17 12 and 20 of the applicable IWC Wage Orders.

18 93. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
19 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
20 of wages at their effective hourly rates of pay for each day worked without the required rest
21 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
22 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

23 **FIFTH CAUSE OF ACTION**

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

25 **(Against All Defendants)**

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

28 95. California Labor Code § 226(a) requires an employer to furnish each of his or her

1 employees with an accurate, itemized statement in writing showing the gross and net earnings,
2 total hours worked, and the corresponding number of hours worked at each hourly rate; these
3 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
4 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
5 statements may be given to the employee separately from the payment of wages; in either case the
6 employer must give the employee these statements twice a month or each time wages are paid.

7 96. Defendants failed to provide Plaintiff and the similarly situated Employee Class
8 members with accurate itemized wage statements in writing, as required by the Labor Code and
9 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
10 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
11 including for all overtime and double time hours worked and for deficient meal periods and rest
12 breaks, all of which Defendants knew or reasonably should have known were owed to the
13 Employees, as alleged above.

14 97. Throughout the liability period, Defendants intentionally failed to furnish to
15 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
16 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
17 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
18 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
19 the employee and only the last four digits of his or her social security number or an employee
20 identification number other than a social security number, (8) the name and address of the legal
21 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
22 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
23 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
24 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
25 members with such timely and accurate wage and hour statements.

26 98. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
27 and intentional failure to provide them with the wage and hour statements as required by law and
28 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the

1 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
2 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
3 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
4 wage statement alone one or more of the following: (i) The amount of the gross wages or net
5 wages paid to the employee during the pay period or any of the other information required to be
6 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
7 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
8 wages paid to the employee during the pay period, (iii) The name and address of the employer
9 and, (iv) The name of the employee and only the last four digits of his or her social security
10 number or an employee identification number other than a social security number. For purposes
11 of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an
12 objective standard] would be able to readily ascertain the information without reference to other
13 documents or information.

14 99. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
15 are required “to pay each employee, on the established payday for the period involved, not less
16 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
17 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
18 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
19 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
20 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
21 IWC Wage Orders.

22 100. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
23 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
24 Class suffered injuries, including among other things confusion over whether they received all
25 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
26 them to make mathematical computations to analyze whether the wages paid in fact compensated
27 them correctly for all hours worked.

28 101. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable

1 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
2 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
3 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
4 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
5 an award of costs and reasonable attorneys' fees.

6 **SIXTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 221**
8 **(Against All Defendants)**

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

11 103. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
12 receive from an employee any part of wages theretofore paid by said employer to said employee."
13 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
14 public policy, an employer must timely pay its employees for all hours worked. Defendants failed
15 to do so.

16 104. Defendants unlawfully received and/or collected wages from the Employees in the
17 Class by requiring off the clock work, by miscalculating overtime, and by automatically deducting
18 time for meal periods when they were not lawfully provided and not paying one hour of pay at the
19 regular rate of compensation for every meal and rest period violation endured by Plaintiff and the
20 other Class members, as alleged above. In addition to failing to authorize and permit rest breaks,
21 Defendants unlawfully deducted up to 30 additional minutes for hour long meal periods that were
22 rarely provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal
23 period plus an additional 30 minutes for an alleged hour long meal period that was generally not
24 lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of
25 hours worked from each Employee's daily work shifts. In order to avoid overtime, Defendants'
26 managers would also move Plaintiffs' clock in times to later ones as much as needed to offset any
27 unapproved overtime or to make a late meal period timely. Defendants' strict overtime avoidance
28 policy also compelled Plaintiff's manager to add what should have been overtime hours to payroll

1 as Plaintiff's sick days or paid time off days. Plaintiff did not approve of this use of her sick/PTO
2 days, as she wanted to keep them for occasions when they were needed, but her manager would
3 unilaterally pay them as such without regard to whether Plaintiff needed or wanted to use them for
4 another purpose. By not compensating Employees for all hours worked, and by deducting
5 PTO/sick time and shifting overtime hours to regular hours without consent, Defendants
6 unlawfully deducted wages earned in violation of Labor Code § 221.

7 105. As a direct and proximate cause of the unauthorized deductions, Employees have
8 been damaged, in an amount to be determined at trial.

9 **SEVENTH CAUSE OF ACTION**
10 **VIOLATION OF LABOR CODE § 204**
11 **(Against All Defendants)**

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

14 107. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
15 employment are due and payable twice during each calendar month, on days designated in
16 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
17 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
18 during which the labor was performed, and labor performed between the 16th and the last day,
19 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
20 month." Additionally, the requirements of this section shall be deemed satisfied by the payment
21 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
22 calendar days following the close of the payroll period." As detailed above, Defendants
23 maintained a consistently applied policy and practice of not paying all wages earned between the
24 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
25 between the 16th and the last day of the month between the 1st and 10th day of the following month.
26 Defendants similarly failed to pay all wages earned by not more than seven calendar days
27 following the close of the payroll period.

28 108. All wages due and owing to Plaintiff and the Class members, including as required

1 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
2 required by Labor Code § 1194 and other sections became due and payable to each employee in
3 each pay period that he or she was not provided with a meal period or rest period or paid straight
4 or overtime wages to which he or she was entitled.

5 109. Defendants violated Labor Code § 204 by systematically refusing to timely pay
6 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
7 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
8 payday for the period involved, not less than the applicable minimum wage for all hours worked in
9 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
10 hours than those fixed by the order or under conditions of labor prohibited by the order is
11 unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for
12 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
13 penalties under paragraph 20 of the applicable IWC Wage Orders.

14 110. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to
15 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
16 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
17 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
18 applicable IWC Wage Orders.

19 **EIGHTH CAUSE OF ACTION**
20 **VIOLATION OF LABOR CODE § 203**
21 **(Against All Defendants)**

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

24 112. Plaintiff and numerous Class members are no longer employed by Defendants; they
25 either quit Defendants’ employ or were fired therefrom.

26 113. Defendants failed to pay these Employees all wages due and certain at the time of
27 termination or within seventy-two hours of resignation.

28 114. The wages withheld from these Employees by Defendants remained due and owing

1 for more than thirty days from the date of separation from employment. Additionally, Defendants
2 failed to pay Plaintiff her final check at the time of her termination.

3 115. Defendants thus failed to pay Plaintiff and the Class members without abatement,
4 all wages as defined by applicable California law. Among other things, these Employees were not
5 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked
6 or requiring off the clock work or by unlawfully under-recording time entries to the detriment of
7 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
8 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
9 required time was willful within the meaning of Labor Code § 203.

10 116. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
11 are required "to pay each employee, on the established payday for the period involved, not less
12 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
13 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order
14 or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members
15 may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph
16 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
17 IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
18 Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer
19 hours than those fixed, or under conditions of labor prohibited by an order of the commission" or
20 if the employer pays "a wage less than the minimum fixed by an order of the commission" or
21 "violates...any provision of this chapter or any order or ruling of the commission."

22 117. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former
23 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
24 the IWC Wage Orders as addressed above, including the requirement that an employee's wages
25 shall continue until paid for up to thirty (30) days from the date they were due.

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

3 **(Against All Defendants)**

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

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

10 120. During the course of Plaintiff's and Employees' employment, Defendants
11 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
12 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
13 premium pay as discussed above and failing to document and pay for actual hours worked.

14 121. Defendants are also required by the California Labor Code § 1198 and the
15 applicable Wage Order to maintain a tracking system that accurately records the times during
16 which Employees work.

17 122. Defendants have maintained a common unlawful policy and practice of failing to
18 accurately record all hours worked and all meal period start and end times and by adjusting or
19 otherwise rounding and shaving them down. Defendants also manipulated timekeeping records to
20 reflect less time worked or to shift time to avoid premiums or to unlawfully deduct PTO/sick time
21 from Plaintiff and the Class members.

22 123. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
23 knew wages to be due but failed to pay them.

24 124. Accordingly, Defendants are liable for civil penalties pursuant to the California
25 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

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1 **TENTH CAUSE OF ACTION**

2 **FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198**

3 **(Against All Defendants)**

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

6 126. Pursuant to California Labor Code § 226, current and former employees have the
7 right to inspect or receive a copy of their records pertaining to their employment, upon reasonable
8 request to their employer. Under this statute, an employer that receives a request to inspect or
9 receive a copy of records pertaining to a current or former employee must comply with the request
10 as soon as practicable, but no later than twenty-one calendar days from the date of the request.

11 127. Pursuant to California Labor Code § 1198.5(a), every current and former employee,
12 or his or her representative, has the right to inspect and receive a copy of the personnel records
13 that the employer maintains relating to the employee's performance or to any grievance concerning
14 the employee. Under this statute, upon written request from a current or former employee or his or
15 her representative, an employer must make the contents of those personnel records available for
16 inspection or provide a copy of the personnel records to the current or former employee, or his or
17 her representative, not later than thirty calendar days from the date the employer receives the
18 written request, subject to some limited exceptions. Failure to comply with these requests allows
19 for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and
20 226(f).

21 128. Plaintiff sent written requests through his counsel to Defendants for their payroll
22 records, timecards, and personnel records. However, Plaintiff has not received all of his requested
23 records as of the date of this Complaint.

24 129. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely
25 produce the required records requested by Plaintiff.

26 130. On information and belief, Defendants' failure to provide Plaintiff with all of his
27 requested employment records is not an isolated incident, but was instead consistent with
28 Defendants' policy and practice that applied to Plaintiff and Employees.

131. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

132. Pursuant to California Labor Code § 226(f), Plaintiff is entitled to a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost, and the other Class members similarly situated are similarly entitled.

ELEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802

(Against All Defendants)

133. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

134. Plaintiff is informed and believes and based thereon alleges that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. Defendants required Plaintiff and the Class members to use their cellular phones to conduct work related business and failed to reimburse for mileage, as addressed above. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

135. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

136. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

137. Therefore, Plaintiff and the Class members are entitled to reimbursement for any

1 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
2 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
3 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
4 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
5 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

6 **TWELFTH CAUSE OF ACTION**

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

8 **(Against All Defendants)**

9 138. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
10 in full herein. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
11 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
12 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
13 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
14 the public interest within the meaning of Code of Civil Procedure § 1021.5.

15 139. Plaintiff is a "person" within the meaning of Business & Professions Code
16 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
17 injunctive relief, restitution, and other appropriate equitable relief.

18 140. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
19 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
20 fraudulent in that Defendants' policy and practice failed to provide the required amount of
21 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
22 Class members for all hours worked, due to systematic business practices as alleged herein that
23 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
24 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
25 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
26 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

27 141. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental

1 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
2 vigorously to enforce minimum labor standards, to ensure that employees are not required or
3 permitted to work under substandard and unlawful conditions, and to protect law-abiding
4 employers and their employees from competitors who lower costs to themselves by failing to
5 comply with minimum labor standards.

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

12 143. Defendants' conduct, as alleged above, constitutes unfair competition in violation
13 of the Business & Professions Code § 17200 *et seq.*

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

18 145. By the conduct alleged herein, Defendants have engaged and continue to engage in
19 a business practice which violates California and federal law, including but not limited to, the
20 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
21 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
22 Court should issue declaratory and other equitable relief pursuant to California Business &
23 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
24 constitute unfair competition, including restitution of wages wrongfully withheld.

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

27 147. Unless restrained by this Court Defendants will continue to engage in such
28 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this

1 Court should make such orders or judgments, including the appointment of a receiver, as
2 may be necessary to prevent the use by Defendants or their agents or employees of any
3 unlawful or deceptive practice prohibited by the Business & Professions Code, including
4 but not limited to the disgorgement of such profits as may be necessary to restore
5 Employees to the money Defendants have unlawfully failed to pay.

6 **THIRTEENTH CAUSE OF ACTION**

7 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

8 **(Against All Defendants)**

9 148. Plaintiff realleges and incorporate all preceding paragraphs, as though set
10 forth in full herein.

11 149. Plaintiff and the Employees in the Class are also aggrieved employees as
12 defined under Labor Code § 2699(c) in that they suffered the violations alleged in this
13 Complaint and either were or are employed by Defendants (“Aggrieved Employees”)
14 during the relevant time period.

15 150. In failing to pay Aggrieved Employees minimum wages and overtime, not
16 providing proper meal and rest periods, failing to provide accurate itemized wage
17 statements, and failing to pay Employees wages upon termination or timely upon
18 resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees
19 wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed
20 to maintain records showing accurate hours worked daily and the wages paid to Aggrieved
21 Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC
22 Wage Orders.

23 151. As such, Employees seek wages and penalties under Labor Code §§ 2698 and
24 2699 for Defendants’ violation of Labor Code provisions included under Labor Code §
25 2699.5, including the penalty provisions, without limitation, based, inter alia, on the
26 following California Labor Code sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7,
27 432.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199,
28 2802 and 2698 *et seq.*

1 152. More specifically, after complying with the notice procedures of Labor Code
2 § 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney
3 General and the other similarly Aggrieved Employees, a PAGA claim for violations of the
4 above addressed underlying claims and seeking penalties as specified by the applicable
5 corresponding provisions, including as follows:

6 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
7 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
8 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
9 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
10 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
11 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
12 to Labor Code § 2699(g)(1);

13 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
14 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
15 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
16 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
17 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
18 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
19 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
20 pursuant to Labor Code § 2699(g)(1);

21 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
22 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
23 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
24 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
25 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
26 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
27 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
28 providing inaccurate wage statements and failing to maintain records as required under Labor

Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects Defendants to “a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”;

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For Defendants’ unlawful deductions from wages and for Defendants’ failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants’ failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Alleged Violations of the IWC Wage Orders and Other Labor Code Sections: For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and

1 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
2 Labor Code § 2699(g)(1).

3 153. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees,
4 also seeks the penalties and remedies set forth in Labor Code § 558, which states:

5 (a) Any employer or other person acting on behalf of an employer who violates, or
6 causes to be violated, a section of this chapter or any provision regulating hours and days of work
7 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1)
8 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
9 which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
10 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
11 each pay period for which the employee was underpaid in addition to an amount sufficient to
12 recover underpaid wages...

13 (b) If upon inspection or investigation the Labor Commissioner determines that a
14 person had paid or caused to be paid a wage for overtime work in violation of any provision of this
15 chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare
16 Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting,
17 and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a
18 violation of this chapter shall be the same as those set out in Section 1197.1.

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

21 154. Plaintiff has exhausted her administrative remedies by submitting a certified
22 letter to the LWDA and Defendants on August 4, 2023 (LWDA Case No. LWDA-CM-
23 972541-23) addressing in detail the specific provisions of the Labor Code Defendants have
24 violated and addressing the facts and legal theories to support the alleged violations and
25 requested penalties. The LWDA has not provided notice of its intent to investigate the
26 alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff
27 adds this claim seeking penalties under the PAGA for the violations addressed herein and
28 in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

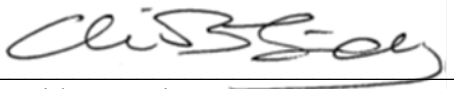
1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
14. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
15. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
16. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

17. For penalties under Labor Code § 558, as may be proven;
18. For other wages and penalties under the Labor Code as may be proven;
19. For all general, special, and incidental damages as may be proven;
20. For an award of pre-judgment and post-judgment interest;
21. For an award providing for the payment of the costs of this suit;
22. For an award of attorneys' fees; and
23. For such other and further relief as this Court may deem proper and just.

DATED: October 6, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

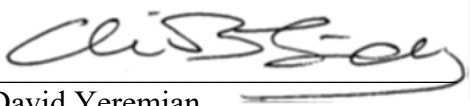
By 
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff JENNY ESTRADA
and all others similarly situated

DEMAND FOR JURY TRIAL

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

DATED: October 6, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

By 
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff JENNY ESTRADA
and all others similarly situated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

On October 6, 2023, I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

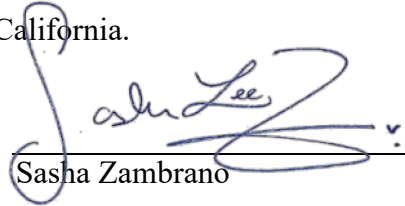
Jody A. Landly
jlandry@littler.com
Robert M. Geiger
rgeiger@littler.com
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101

[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above transmission.

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

Executed on October 6, 2023, at Glendale, California.


Sasha Zambrano