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8
 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 UNLIMITED JURISDICTION

12
 13 DECHANIQUE SCOTT, on behalf of herself
 and all others similarly situated, and the
 14 general public,

15 *Plaintiff,*

16 v.

17 ADECCO USA, INC., a Delaware
 corporation; FN LOGISTICS, LLC, a
 18 Delaware limited liability company;
 FASHION NOVA, LLC, a California limited
 19 liability company; NOVA FASHION, INC., a
 20 California corporation; and DOES 1 through
 50, inclusive,

21 *Defendants.*

Case No. **21STCV44038**

CLASS AND REPRESENTATIVE ACTION

COMPLAINT

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
5. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
7. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff DECHANIQUE SCOTT ("Plaintiff"), on behalf of herself and all others similarly
2 situated, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against defendants ADECCO
5 USA, INC., a Delaware corporation; FN LOGISTICS, LLC, a Delaware limited liability company;
6 FASHION NOVA, LLC, a California limited liability company; NOVA FASHION, INC., a
7 California corporation; and DOES 1 through 50, inclusive, (collectively referred to as
8 "Defendants") for alleged violations of the Labor Code. As set forth below, Plaintiff alleges that
9 Defendants have

- 10 (1) failed to provide Plaintiff and all other similarly situated individuals with meal
11 periods;
- 12 (2) failed to provide them with rest periods;
- 13 (3) failed to pay them premium wages for missed meal and/or rest periods;
- 14 (4) failed to pay them premium wages for missed meal and/or rest periods at the regular
15 rate of pay;
- 16 (5) failed to pay them at least minimum wage for all hours worked;
- 17 (6) failed to pay them overtime wages at the correct rate;
- 18 (7) failed to pay them double time wages at the correct rate;
- 19 (8) failed to pay them overtime and/or double time wages by failing to include all
20 applicable remuneration in calculating the regular rate of pay;
- 21 (9) failed to pay them for all vested vacation pay;
- 22 (10) failed to reimburse them for all necessary business expenses;
- 23 (11) failed to provide them with accurate written wage statements; and
- 24 (12) failed to pay them all of their final wages following separation of employment.

25 Based on these alleged violations, Plaintiff now brings this class and representative action to
26 recover unpaid wages, restitution, civil and statutory penalties, and related relief on behalf of
27 herself and all others similarly situated, all other aggrieved employees, and the State of California.

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1 **JURISDICTION AND VENUE**

2 2. This Court has subject matter jurisdiction to hear this case because the unpaid wages,
3 actual damages, liquidated damages, restitution, and penalties sought by Plaintiff from Defendants
4 exceeds the minimal jurisdictional limits of the Superior Court of the State of California.

5 3. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure
6 §§ 393(a), 395(a) and 395.5 in that liability arose there, because at least some of the transactions that
7 are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains
8 offices, transacts business, and/or has an agent therein.

9 **PARTIES**

10 4. Plaintiff is and was, and at all relevant times mentioned herein, an individual
11 residing in the State of California.

12 5. Plaintiff is informed and believes, and thereupon alleges, that Defendant ADECCO
13 USA, INC. is, and at all relevant times mentioned herein, a Delaware corporation doing business in
14 the State of California.

15 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant FN
16 LOGISTICS, LLC is, and at all relevant times mentioned herein, a Delaware limited liability
17 company doing business in the State of California.

18 7. Plaintiff is informed and believes, and thereupon alleges, that Defendant FASHION
19 NOVA, LLC is, and at all relevant times mentioned herein, a California limited liability company
20 doing business in the State of California.

21 8. Plaintiff is informed and believes, and thereupon alleges, that Defendant NOVA
22 FASHION, INC. is, and at all relevant times mentioned herein, a California corporation doing
23 business in the State of California.

24 9. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
25 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.
26 Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants
27 when ascertained. Plaintiff is informed and believes, and thereupon alleges, that each of the
28 fictitiously named defendants are responsible in some manner for the occurrences, acts and

omissions alleged herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

10. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times mentioned herein, some or all of the defendants were the representatives, agents, employees, partners, directors, associates, joint venturers, joint employers, principals, or co-participants of some or all of the other defendants, and, in doing the things alleged herein, were acting within the course and scope of such relationship and with the full knowledge, consent, and ratification by such other defendants.

CLASS ALLEGATIONS

11. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure § 382, because there is a well-defined community of interest among the persons who comprise the readily ascertainable classes defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

12. **Relevant Time Period:** The relevant time period is defined as the time period beginning four years prior to the filing of this action until judgment is entered.

Hourly Employee Class: All persons employed by Defendants and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California during the **Relevant Time Period**.

Meal Period Sub-Class: All **Hourly Employee Class** members who worked in a shift in excess of five hours during the **Relevant Time Period**.

Rest Period Sub-Class: All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours during the **Relevant Time Period**.

Wage Statement Penalties Sub-Class: All **Hourly Employee Class** members employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.

Waiting Time Penalties Sub-Class: All **Hourly Employee Class** members who separated from their employment with Defendants during the period beginning three years before the filing of this action and ending when final judgment is entered.

UCL Class: All **Hourly Employee Class** members employed by Defendants in California during the **Relevant Time Period**.

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2 13. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the
3 right to amend or modify the class definitions with greater specificity by further division into sub-
4 classes and/or by limitation to particular issues.

5 14. **Numerosity:** The class members are so numerous that the individual joinder of each
6 individual class member is impractical. While Plaintiff does not currently know the exact number of
7 class members, Plaintiff is informed and believes, and thereupon alleges, that the actual number
8 exceeds the minimum required for numerosity under California law.

9 15. **Commonality and Predominance:** Common questions of law and fact exist as to all
10 class members and predominate over any questions that affect only individual class members. These
11 common questions include, but are not limited to:

- 12 i. Whether Defendants maintained a policy or practice of failing to provide employees
13 with their meal periods;
- 14 ii. Whether Defendants maintained a policy or practice of failing to provide employees
15 with their rest periods;
- 16 iii. Whether Defendants failed to pay premium wages to class members when they have
17 not been provided with required meal and/or rest periods;
- 18 iv. Whether Defendants failed to pay minimum and/or overtime wages to class members
19 as a result of policies that fail to provide meal periods in accordance with California
20 law;
- 21 v. Whether Defendants failed to pay minimum and/or overtime wages to class members
22 for all time worked;
- 23 vi. Whether Defendants failed to provide class members with accurate written wage
24 statements as a result of providing them with written wage statements with
25 inaccurate entries for, among other things, amounts of gross and net wages, and total
26 hours worked;
- 27 vii. Whether Defendants applied policies or practices that result in late and/or incomplete
28 final wage payments;

viii. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203;

ix. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

16. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes, and thereupon alleges, that Defendants have a policy or practice of failing to comply with the Labor Code and Business and Professions Code as alleged in this Complaint.

17. **Adequacy of Class Representative:** Plaintiff is an adequate class representative in that she has no interests that are adverse to or otherwise conflict with the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and adequately represent and protect the interests of the other class members.

18. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent class members.

19. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to prosecute their common claims simultaneously and efficiently in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

20. Plaintiff worked for Defendants as an hourly, non-exempt employee during the applicable statutory period.

Bag Check and Off-the-Clock

21. Plaintiff and the putative class were required to utilize the general entrance to the venues and required to go through a security check at the time of entering and leaving the premises on which they worked. The bag check required Plaintiff and the putative class to first wait in a general purpose line where anyone who wanted to enter the venues were required to go through a bag screening.

22. Plaintiff and the putative class were required to go through the bag check prior to clocking in at the beginning of each work shift.

23. Based on the above, Defendants' bag check practices have resulted in substantial amounts of time not recorded as hours worked therefore resulting in substantial amounts of wages not paid to Plaintiff and the putative class.

Shortened Meal Periods

24. Plaintiff and the putative class were not provided with meal periods of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal period as part of each work shift; (2) chronically understaffing each work shift with not enough workers; (3) imposing so much work on each employee such that it made it unlikely that an employee would be able to take their breaks if they wanted to finish their work on time; and (4) no formal written meal and rest period policy that encouraged employees to take their meal and rest periods.

25. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of requiring Plaintiff and the putative class to wait in a long line to clock in and out for their meal periods as they were required to utilize the same finger scanning clock location when clocking in or clocking out where they worked. Plaintiff and the putative class would typically have to wait in line before they could clock in and out for their meal periods.

26. Accordingly, Plaintiff and the putative class were provided with shortened meal periods due to the time spent clocking in and clocking out, and undergoing bag checks, and returning to their workstations. Plaintiff and the putative class were pressured by Defendants to

1 rush their meal period and get back so that they could stand in line with enough time that they were
2 able to timely clock in and report back to work as demanded and/or instructed by Defendants.

3 27. Plaintiff alleges that, at relevant times during the applicable limitations period,
4 Defendants maintained a policy or practice of disciplining Plaintiff and members of the putative
5 class, up to and including termination, if they did not clock back in from their meal periods on
6 time.

7 28. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
8 provided with uninterrupted meal periods of at least thirty (30) minutes for each five (5) hours
9 worked.

10 Clock In Process

11 29. Plaintiff and the putative class were trained to clock in for each work shift using the
12 same finger scanning clock station. Plaintiff and the putative class were required to first wait in a
13 line to clock in or clock out as employees pooled up around the station. The line of employees
14 "clocking in" and "clocking out" could take as long as ten minutes to get through.

15 30. Accordingly, by the time Plaintiff and the putative class clocked in, as much as ten
16 minutes may have already passed – This time was not properly recorded as time worked and
17 resulted in Plaintiff and the putative class not being paid for all hours worked by Defendants.

18 Missed Rest Periods

19 31. Plaintiff and the putative class were not provided with rest periods of at least ten
20 (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1) Defendants'
21 policy of not scheduling each rest period as part of each work shift; (2) chronically understaffing
22 each work shift with not enough workers; (3) imposing so much work on each employee such that
23 it made it unlikely that an employee would be able to take their breaks if they wanted to finish their
24 work on time; and (4) no formal written meal and rest period policy that encouraged employees to
25 take their meal and rest periods. Defendants had a policy and/or practice of not allowing any rest
26 breaks when Plaintiff and the putative class were working overtime.

27 32. As a result of Defendants' policy, Plaintiff and the putative class were regularly not
28 provided with uninterrupted rest periods of at least ten (10) minutes for each four (4) hours worked

1 due to complying with Defendants' productivity requirements that required Plaintiff and the
2 putative class to work through their rest periods in order to complete their assignments on time.

3 **Wage Statements**

4 33. Plaintiff and the putative class were not provided with accurate wage statements as
5 mandated by law pursuant to Labor Code § 226. Plaintiff and the putative class were paid
6 electronically through direct deposit. Plaintiff is informed and believes, and upon such information
7 and belief alleges that Defendants have a policy and/or practice of not providing Plaintiff and the
8 putative class with the option of electing to receive their pay in the form of a written paper stub or
9 record.

10 34. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
11 earned" were not accurately reflected in that all hours worked, including overtime and "off-the-
12 clock" work were not included.

13 35. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours
14 worked by the employee" were not accurately reflected in that all hours worked, including overtime
15 and "off-the-clock" work were not included.

16 36. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages
17 earned" were not accurately reflected in that all hours worked, including overtime and "off-the-
18 clock" work were not included.

19 37. Defendants failed to comply with Labor Code section 226(a)(8) as "the name and
20 address of the legal entity that is the employer" were not accurately reflected in that Defendants
21 failed to include the name and address of all legal entities that were the employers, including but not
22 limited to all companies with whom Defendants contract to supply Plaintiff and the putative class as
23 labor.

24 38. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable
25 hourly rates in effect during the pay period and the corresponding number of hours worked at each
26 hourly rate by the employee" were not accurately reflected in that all hours worked, including
27 overtime and "off-the-clock" work were not included.

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FIRST CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
(Lab. Code §§ 204, 223, 226.7, 512 and 1198)
(Plaintiff and Meal Period Sub-Class)

39. Plaintiff incorporates by reference the preceding paragraphs as if fully alleged herein.

40. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full meal period protections of both the Labor Code and the applicable Industrial Welfare Commission Wage Order ("Wage Order").

41. Labor Code § 512 and § 11 of the applicable Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

42. Labor Code § 226.7 and § 11 of the applicable Wage Order both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of premium wages on each workday that the employee is not provided with the required meal period.

43. Compensation for missed meal periods constitutes wages within the meaning of Labor Code § 200.

44. Labor Code § 1198 makes it unlawful to employ a person under conditions that violate the applicable Wage Order.

45. Section 11 of the applicable Wage Order states:

"No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

1 46. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
2 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
3 members were not subject to valid on-duty meal period agreements with Defendants.

4 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,
5 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
6 **Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for
7 each five (5) hour work period, as required by Labor Code § 512 and the applicable Wage Order.

8 48. Plaintiff alleges that, at all relevant times during the applicable limitations period,
9 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
10 **Class** members when they worked five (5) hours without clocking out for any meal period.

11 49. Plaintiff alleges that, at all relevant times during the applicable limitations period,
12 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal**
13 **Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and
14 failed to pay them premium wages as required by Labor Code § 512 and the applicable Wage
15 Order.

16 50. Moreover, Defendants' written policies do not provide that employees must take
17 their first meal period before the end of the fifth hour of work, that employees are entitled to a
18 second meal period if they work a shift of over ten hours, or that the second meal period must
19 commence before the end of the tenth hour of work, unless waived.

20 51. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
21 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
22 regular rates of pay when required meal periods were not provided.

23 52. Pursuant to Labor Code §§ 204, 218.6 and 226.7, Plaintiff, on behalf of herself and
24 the **Meal Period Sub-Class** members, seek to recover unpaid premium wages, interest thereon, and
25 costs of suit.

26 53. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
27 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the **Meal**
28

1 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

2 **SECOND CAUSE OF ACTION**

3 **FAILURE TO PROVIDE REST PERIODS**

4 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

5 **(Plaintiff and Rest Period Sub-Class)**

6 54. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

7 55. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been
8 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
9 Code and the applicable Wage Order.

10 56. Section 12 of the applicable Wage Order imposes an affirmative obligation on
11 employers to permit and authorize employees to take required rest periods at a rate of no less than
12 ten minutes of net rest time for each four-hour work period, or major fraction thereof, that must be
13 in the middle of each work period insofar as practicable.

14 57. Labor Code § 226.7 and § 12 of the applicable Wage Order both prohibit employers
15 from requiring employees to work during required rest periods and require employers to pay non-
16 exempt employees an hour of premium wages at the employees' regular rates of pay, on each
17 workday that the employee is not provided with the required rest period(s).

18 58. Compensation for missed rest periods constitutes wages within the meaning of Labor
19 Code § 200.

20 59. Labor Code § 1198 makes it unlawful to employ a person under conditions that
21 violate the Wage Order.

22 60. Plaintiff alleges that, at all relevant times during the applicable limitations period,
23 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
24 with net rest period of at least ten minutes for each four-hour work period, or major fraction thereof,
25 as required by the applicable Wage Order.

26 61. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-**
27 **Class** members additional premium wages when required rest periods were not provided.

28 62. Specifically, Defendants written policies do not provide that employees may take a

1 rest period for each four hours worked, or major fraction thereof, nor that rest periods should be
2 taken in the middle of each work period insofar as practicable.

3 63. Pursuant to Labor Code §§ 204, 218.6 and 226.7, Plaintiff, on behalf of herself and
4 **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and
5 costs of suit.

6 64. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
7 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest Period**
8 **Sub-Class** members, seeks to recover reasonable attorneys' fees.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

11 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

12 **(Plaintiff and Hourly Employee Class)**

13 65. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

14 66. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have
15 been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
16 applicable Wage Order.

17 67. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
18 which an employee is subject to the control of the employer, and includes all the time the employee
19 is suffered or permitted to work, whether or not required to do so."

20 68. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
21 employees at least the minimum wage set forth therein for all hours worked, which consists of all
22 hours that an employer has actual or constructive knowledge that employees are working.

23 69. Labor Code § 1194 invalidates any agreement between an employer and an
24 employee to work for less than the minimum or overtime wage required under the applicable Wage
25 Order.

26 70. Labor Code § 1194.2 entitles non-exempt employees to recover liquidated damages
27 in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition to the
28 underlying unpaid minimum wages and interest thereon.

1 71. Labor Code § 1197 makes it unlawful for an employer to pay an employee less than
2 the minimum wage required under the applicable Wage Order for all hours worked during a payroll
3 period.

4 72. Labor Code § 1197.1 provides that it is unlawful for any employer or any other
5 person acting either individually or as an officer, agent, or employee of another person to pay an
6 employee, or cause an employee to be paid, less than the applicable minimum wage.

7 73. Labor Code § 1198 makes it unlawful for employers to employ employees under
8 conditions that violate the applicable Wage Order.

9 74. Labor Code § 204 requires employers to pay non-exempt employees their earned
10 wages for the normal work period at least twice during each calendar month on days the employer
11 designates in advance and to pay non-exempt employees their earned wages for labor performed in
12 excess of the normal work period by no later than the next regular payday.

13 75. Labor Code § 223 makes it unlawful for employers to pay their employees lower
14 wages than required by contract or statute while purporting to pay them legal wages.

15 76. Labor Code § 510 and § 3 of the applicable Wage Order require employers to pay
16 non-exempt employees overtime wages of no less than one and one-half times the employees'
17 respective regular rates of pay for all hours worked in excess of eight hours in one workday, all
18 hours worked in excess of forty hours in one workweek, and for the first eight hours worked on the
19 seventh consecutive day of one workweek.

20 77. Labor Code § 510 and § 3 of the applicable Wage Order also require employers to
21 pay non-exempt employees overtime wages of no less than two times the employees' respective
22 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
23 worked in excess of eight hours on a seventh consecutive workday during the workweek.

24 78. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
25 centrally devised policies and practices to her and **Hourly Employee Class** members with respect
26 to working conditions and compensation arrangements.

27 79. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
28 **Employee Class** members for all time worked, including but not limited to, overtime hours at

1 statutory and/or agreed rates.

2 80. During the relevant time period, Defendants failed to pay Plaintiff and **Hourly**
3 **Employee Class** members all earned wages every pay period at the correct rates, including
4 overtime rates, because Defendants directed, permitted, or otherwise encouraged Plaintiff and
5 **Hourly Employee Class** members to perform off-the-clock work.

6 81. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
7 members have suffered damages in an amount subject to proof, to the extent they were not paid the
8 full amount of wages earned during each pay period during the applicable limitations period,
9 including overtime wages.

10 82. Pursuant to Labor Code §§ 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
11 behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and
12 overtime wages, interest thereon, and costs of suit.

13 83. Pursuant to Labor Code § 1194, Code of Civil Procedure § 1021.5, the substantial
14 benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly**
15 **Employee Class** members, seeks to recover reasonable attorneys' fees.

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

18 **(Lab. Code § 226)**

19 **(Plaintiff and Wage Statement Penalties Sub-Class)**

20 84. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

21 85. Labor Code § 226(a) states:

22 An employer, semimonthly or at the time of each payment of wages, shall furnish to
23 his or her employee, either as a detachable part of the check, draft, or voucher paying
24 the employee's wages, or separately if wages are paid by personal check or cash, an
25 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
26 worked by the employee, except as provided in subdivision (j), (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
28 rate basis, (4) all deductions, provided that all deductions made on written orders of
the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
inclusive dates of the period for which the employee is paid, (7) the name of the
employee and only the last four digits of his or her social security number or an
employee identification number other than a social security number, (8) the name and
address of the legal entity that is the employer and, if the employer is a farm labor
contractor, as defined in subdivision (b) of Section 1682, the name and address of the

1 legal entity that secured the services of the employer, and (9) all applicable hourly
2 rates in effect during the pay period and the corresponding number of hours worked
3 at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
4 temporary services employer as defined in Section 201.3, the rate of pay and the total
5 hours worked for each temporary services assignment. The deductions made from
6 payment of wages shall be recorded in ink or other indelible form, properly dated,
7 showing the month, day, and year, and a copy of the statement and the record of the
8 deductions shall be kept on file by the employer for at least three years at the place of
9 employment or at a central location within the State of California. For purposes of
10 this subdivision, 'copy' includes a duplicate of the itemized statement provided to an
11 employee or a computer-generated record that accurately shows all of the information
12 required by this subdivision.

13 86. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize
14 the "detachable part of the check" provision and the "accurate itemized statement in writing"
15 provision of Labor Code section 226(a) by allowing for electronic wage statements so long as each
16 employee retains the right to elect to receive a written paper stub or record and that those who are
17 provided with electronic wage statements retain the ability to easily access the information and
18 convert the electronic statements into hard copies at no expense to the employee. (DLSE Opinion
19 Letter July 6, 2006.)

20 87. Plaintiff is informed and believes that, at all relevant times during the applicable
21 limitations period, Defendants have failed to provide **Wage Statement Penalties Sub-Class**
22 members with written wage statements as described above.

23 88. Plaintiff is informed and believes that Defendants' failure to provide her and **Wage**
24 **Statement Penalties Sub-Class** members with accurate written wage statements were intentional in
25 that Defendants had the ability to provide them with accurate wage statements but had intentionally
26 provided them with written wage statements that Defendants knew do not comply with Labor Code
27 § 226(a).

28 89. Plaintiff and **Wage Statement Penalties Sub-Class** members have suffered injuries,
in that Defendants have violated Plaintiff's and **Wage Statement Penalties Sub-Class** members'
legal rights to receive accurate wage statements and have misled them about their actual rates of pay
and wages earned. In addition, inaccurate information on their wage statements have prevented
immediate challenges to Defendants' unlawful pay practices, has required discovery and
mathematical computations to determine the amount of wages owed, has caused difficulty and

1 expense in attempting to reconstruct time and pay records, and/or has led to the submission of
2 inaccurate information about wages and deductions to federal and state government agencies.

3 90. Pursuant to Labor Code § 226(e), Plaintiff, on behalf of herself and **Wage Statement**
4 **Penalties Sub-Class** members, seeks the greater of actual damages or fifty dollars (\$50.00) for the
5 initial pay period in which a violation of Labor Code section 226(a) occurred and one hundred
6 dollars (\$100.00) for each subsequent pay period in which a violation of Labor Code § 226(a)
7 occurred, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00) per class member.

8 91. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or
9 the common fund doctrine, Plaintiff, on behalf of herself and **Wage Statement Penalties Sub-**
10 **Class** members, seek awards of reasonable attorneys' fees and costs.

11 **FIFTH CAUSE OF ACTION**

12 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

13 **(Lab. Code §§ 201–203)**

14 **(Plaintiff and Waiting Time Penalties Sub-Class)**

15 92. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

16 93. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members
17 have been entitled, upon the end of their employment with Defendants, to timely payment of all
18 wages earned and unpaid before termination or resignation.

19 94. At all relevant times, pursuant to Labor Code § 201, employees who have been
20 discharged have been entitled to payment of all final wages immediately upon termination.

21 95. At all relevant times, pursuant to Labor Code § 202, employees who have resigned
22 after giving at least seventy-two (72) hours' notice of resignation have been entitled to payment of
23 all final wages at the time of resignation.

24 96. At all relevant times, pursuant to Labor Code § 202, employees who have resigned
25 after giving less than seventy-two (72) hours' notice of resignation have been entitled to payment of
26 all final wages within seventy-two (72) hours' of giving notice of resignation.

27 97. During the applicable limitations period, Defendants failed to pay Plaintiff all of her
28 final wages in accordance with the Labor Code by failing to timely pay her all of her final wages.

98. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class** members all of their final wages in accordance with the Labor Code.

99. Plaintiff is informed and believes that, at all relevant times during the applicable limitations period, Defendants have maintained a policy or practice of paying **Waiting Time Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code §§ 201 or 202 by failing to timely pay them all final wages.

100. Plaintiff is informed and believes and thereupon alleges that Defendants' failure to timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful in that Defendants have the ability to pay final wages in accordance with Labor Code §§ 201 and/or 202 but have intentionally adopted policies or practices that are incompatible with those requirements.

101. Pursuant to Labor Code §§ 203 and 218.6, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the respective dates that their final wages had first become due until paid, up to a maximum of thirty days, and interest thereon.

102. Pursuant to Labor Code § 226, Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-Class** members, seek awards of reasonable attorneys' fees and costs.

SIXTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code §§ 17200 *et seq.*)

(Plaintiff and UCL Class)

103. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

104. Business and Professions Code § 17200 defines “unfair competition” to include any unlawful business practice.

105. Business and Professions Code §§ 17203–17204 allow a person who has lost money or property as a result of unfair competition to bring a class action in accordance with Code of Civil

1 Procedure § 382 to recover money or property that may have been acquired from similarly situated
2 persons by means of unfair competition.

3 106. California law requires employers to pay hourly, non-exempt employees for all hours
4 they are permitted or suffered to work, including hours that the employer knows or reasonably
5 should know that employees have worked.

6 107. Plaintiff, on behalf of herself and the **UCL Class** members, re-alleges and
7 incorporates the FIRST, SECOND, and THIRD causes of action herein.

8 108. Plaintiff lost money and/or property as a result of the aforementioned unfair
9 competition.

10 109. Defendants have or may have acquired money by means of unfair competition.

11 110. Plaintiff is informed and believes and thereupon alleges that, by committing the
12 Labor Code violations described in this Complaint, Defendants violated Labor Code §§ 215, 216,
13 225, 226.6, 354, 408, 553, 1175, and 1199. Defendants thus committed misdemeanors by violating
14 the Labor Code as alleged herein.

15 111. Defendants have committed criminal conduct through their policies and practices of,
16 *inter alia*, failing to comport with their affirmative obligations as an employer to provide non-
17 exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each
18 work period of five or more hours, and by failing to pay non-exempt employees for all hours
19 worked.

20 112. At all relevant times, Plaintiff and **UCL Class** members have been non-exempt
21 employees and entitled to the full protections of both the Labor Code and the applicable Wage
22 Order.

23 113. Defendants' unlawful conduct as alleged in this Complaint amounts to and
24 constitutes unfair competition within the meaning of Business and Professions Code section 17200
25 *et sequitur*. Business and Professions Code §§ 17200 *et sequitur* protect against unfair competition
26 and allow a person who has suffered an injury-in-fact and has lost money or property as a result of
27 an unfair, unlawful, or fraudulent business practice to seek restitution on behalf of herself and on
28 behalf of similarly situated persons in a class-action proceeding.

1 114. As a result of Defendants' violations of the Labor Code during the applicable
2 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
3 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants'
4 conduct.

5 115. Plaintiff is informed and believes that other similarly situated persons have been
6 subject to the same unlawful policies or practices of Defendants.

7 116. Due to the unfair and unlawful business practices in violation of the Labor Code,
8 Defendants have gained a competitive advantage over other comparable companies doing business
9 in the State of California that comply with their legal obligations.

10 117. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
11 relief for "any unlawful, unfair or fraudulent business act or practice," including a practice or act
12 that violates, or is considered unlawful under, any other state or federal law.

13 118. Accordingly, pursuant to Business & Professions Code §§ 17200 and 17203,
14 Plaintiff requests the issuance of temporary, preliminary, and permanent injunctive relief enjoining
15 Defendants, and each of them, and their agents and employees, from further violations of the Labor
16 Code and applicable Industrial Welfare Commission Wage Orders, and upon a final hearing, an
17 order permanently enjoining Defendants, and each of them, and their respective agents and
18 employees, from further violations of the Labor Code and applicable Industrial Welfare
19 Commission Wage Orders.

20 119. Pursuant to Business and Professions Code § 17203, Plaintiff, on behalf of herself
21 and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully belonging
22 to them that Defendants did not pay them or otherwise retained by means of its unlawful and unfair
23 business practices.

24 120. Pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or
25 the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover reasonable
26 attorneys' fees in connection with their unfair competition claims.

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1 **SEVENTH CAUSE OF ACTION**

2 **CIVIL PENALTIES**

3 **(Lab. Code §§ 2698 *et seq.*)**

4 121. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

5 122. During the applicable limitations period, Defendants have violated Labor Code §§
6 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, 1194, 1197, and 1198.

7 123. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of
8 herself and other current and former employees, to bring a representative civil action to recover
9 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not,
10 be brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

11 124. Plaintiff, a former employee against whom Defendants committed one or more of the
12 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
13 within the meaning of Labor Code § 2699(c).

14 125. Plaintiff has complied with the procedures for bringing suit specified in Labor Code
15 § 2699.3. Notice was provided to the California Labor & Workforce Development Agency
16 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an
17 intent to investigate.

18 126. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
19 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226(a), 226.7, 510,
20 512, 1194, 1197, and 1198:

- 21 i. For violations of Labor Code §§ 201, 202, 203, 212, 226.7, 1194, and 1198,
22 one hundred dollars (\$100) for each employee per pay period for each initial
23 violation and two hundred dollars (\$200) for each employee per pay period
24 for each subsequent violation (penalties set by Labor Code § 2699(f)(2));
- 25 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding
26 thirty (30) days’ pay as waiting time (penalties set by Labor Code § 256);
- 27 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
28 employee for each initial violation that was neither willful nor intentional,

1 two hundred dollars (\$200) for each employee, plus 25% of the amount
2 unlawfully withheld from each employee, for each initial violation that was
3 either willful or intentional, and two hundred dollars (\$200) for each
4 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
5 from each employee, for each subsequent violation, regardless of whether the
6 subsequent violation was either willful or intentional (penalties set by Labor
7 Code § 210);

8 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
9 employee for each initial violation that was neither willful nor intentional,
10 two hundred dollars (\$200) for each employee, plus twenty-five percent
11 (25%) of the amount unlawfully withheld from each employee, for each
12 initial violation that was either willful or intentional, and two hundred dollars
13 (\$200) for each employee, plus twenty-five percent (25%) of the amount
14 unlawfully withheld from each employee, for each subsequent violation,
15 regardless of whether the subsequent violation was either willful or
16 intentional (penalties set by Labor Code § 225.5);

17 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
18 citation, two hundred and fifty dollars (\$250) for each employee for each
19 violation. Alternatively, if an initial citation or its equivalent occurred before
20 the filing of this action, one thousand dollars (\$1,000) for each employee for
21 each violation (penalties set by Labor Code § 226.3);

22 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
23 employee for each initial pay period for which the employee was underpaid,
24 and one hundred dollars (\$100) for each employee for each subsequent pay
25 period for which the employee was underpaid (penalties set by Labor Code §
26 558);

27 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
28 aggrieved employee for each initial violation of Labor Code § 1197 that was

1 intentional and two hundred and fifty dollars (\$250) for each aggrieved
2 employee per pay period for each subsequent violation of Labor Code §
3 1197, regardless of whether the initial violation was intentional (penalties set
4 by Labor Code § 1197.1);

5 viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
6 attorneys' fees and costs in connection with Plaintiff's claims for civil
7 penalties.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general
10 public, prays for relief and judgment against Defendants as follows:

- 11 (1) An order that the action be certified as a class action;
- 12 (2) An order that Plaintiff be appointed class representative;
- 13 (3) An order that counsel for Plaintiff be appointed class counsel;
- 14 (4) Unpaid wages;
- 15 (5) Actual damages;
- 16 (6) Liquidated damages;
- 17 (7) Restitution;
- 18 (8) Declaratory relief;
- 19 (9) Pre-judgment interest;
- 20 (10) Statutory penalties;
- 21 (11) Civil penalties;
- 22 (12) Costs of suit;
- 23 (13) Reasonable attorneys' fees; and
- 24 (14) Such other relief as the Court deems just and proper.

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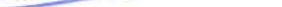
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Dated: December 2, 2021



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