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By Megan Diethofer, Deputy Clerk

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8 Attorneys for Plaintiffs

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN DIEGO-CENTRAL DIVISION

11  
12 LETICIA BELMONTEZ-CARILLO,  
13 individually on behalf of all others  
similarly situated;

Case No.: 37-2019-00054227-CU-OE-  
CTL

Judge: Hon. Eddie C. Sturgeon  
Dept.: 67

14 Plaintiffs,

**SECOND AMENDED COMPLAINT**

15 vs.

- 16 1. Failure to Pay Minimum/Regular Wages;
- 17 2. Failure to Pay Overtime Wages;
- 18 3. Meal Period Violations;
- 19 4. Rest Period Violations;
- 20 5. Failure to Provide Accurate Itemized Wage Statements;
- 21 6. Waiting Time Penalties;
- 22 7. Failure to Reimburse Business Expenses;
- 23 8. Remedies Under Private Attorney General Act (PAGA California Labor Code §§ 2698, 2699, *et seq.*); and
- 24 9. Unfair Business Practices in Violation of Cal. Bus & Prof. Code §§ 17200, *et seq.*

17 METROPOLITAN AREA ADVISORY  
COMMITTEE ON ANTI-POVERTY OF  
18 SAN DIEGO COUNTY, INC., a  
California nonprofit corporation; MAAC  
19 COMMUNITY CENTER, INC., a  
California nonprofit corporation; MAAC  
20 HOUSING CORPORATION, a  
California nonprofit corporation; and  
21 DOES 1 through 50;

22 Defendants.  
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28

**DEMAND FOR JURY TRIAL**

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1 Plaintiff LETICIA BELMONTEZ-CARILLO on behalf of herself and acting  
2 for the interest of other current and former employees (“Represented Employees”), and  
3 all other similarly situated individuals (cumulatively “Plaintiffs”), allege the following:

4 **NATURE OF THE ACTION**

5 1. This is an employment related wage and hour class action.

6 2. Pursuant to Code of Civil Procedure § 382 and Labor Code Private  
7 Attorney General Act (“PAGA”), §§ 2698, 2699 of the California Labor Code,  
8 Plaintiffs bring a class and representative action against Defendants for wage and hour  
9 abuses in violation of the California Labor Code and the Industrial Welfare  
10 Commission Wage Orders (the “IWC Wage Orders”), all of which contribute to  
11 Defendants’ deliberate unfair competition.

12 3. Defendants, as a common and systematic policy and practice, have  
13 violated the California Labor Code, Industrial Welfare Commission Wage Orders and  
14 California Business and Professions Code, causing losses to Plaintiff and Class  
15 Members.

16 4. Plaintiffs seek damages, penalties, restitution, injunctive and other  
17 equitable relief, reasonable attorneys’ fees, and costs.

18 **THE PARTIES**

19 5. Plaintiff LETICIA BELMONTEZ-CARILLO is an individual residing in  
20 California.

21 6. Defendant METROPOLITAN AREA ADVISORY COMMITTEE ON  
22 ANTI-POVERTY OF SAN DIEGO COUNTY, INC. is a California nonprofit  
23 corporation that does business and maintains offices and operations throughout  
24 California, including San Diego County.

25 7. Defendant MAAC COMMUNITY CENTER, INC. is a California  
26 nonprofit corporation that does business and maintains offices and operations  
27 throughout California, including San Diego County.

28 8. Defendant MAAC HOUSING CORPORATION is a California nonprofit

1 corporation that does business and maintains offices and operations throughout  
2 California, including San Diego County.

3 9. The true names and capacities, whether individual, corporate, associate or  
4 otherwise of the Defendants named herein as DOES 1 through 50, are unknown to  
5 Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names  
6 pursuant to § 474 of the California Code of Civil Procedure. Plaintiff will seek leave to  
7 amend this Complaint to allege the true names and capacities of DOES 1 through 10  
8 when their names are ascertained. Plaintiff is informed and believe, and based thereon  
9 allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the  
10 events and actions alleged herein.

11 10. Unless otherwise specified by name, the named Defendants and DOES 1  
12 through 50 will be collectively referred to as “DEFENDANT EMPLOYER” and/or  
13 “Defendants.”

14 11. Plaintiffs are informed and believe, and based thereon allege, that each  
15 Defendant was acting as an agent, joint venturer, an integrated enterprise and/or alter  
16 ego for each of the other Defendants and each were co-conspirators with respect to the  
17 acts and the wrongful conduct alleged herein so that each is responsible for the acts of  
18 the other pursuant to the conspiracy and in proximate connection with the other  
19 Defendant(s).

20 12. Plaintiffs are informed and believe, and based thereon allege, that each  
21 Defendant was acting partly within and partly without the scope and course of their  
22 employment, and was acting with the knowledge, permission, consent, and ratification  
23 of every other Defendant.

24 13. Plaintiffs are informed and believe, and based thereon allege that each of  
25 the Defendants was an agent, managing general partner, managing member, owner, co-  
26 owner, partner, employee, and/or representative of each of the Defendants and was at  
27 all times material hereto, acting within the purpose and scope of such agency,  
28 employment, contract and/or representation, and that each of them is jointly and

1 severally liable to Plaintiff.

2 14. Plaintiffs are informed and believe and based thereon allege that each of  
3 the Defendants are liable to Plaintiff under legal theories and doctrines including but  
4 not limited to (1) joint employer; (2) integrated enterprise; (3) agency; and/or (4) alter  
5 ego, based in part, on the facts set forth below.

6 15. Plaintiffs are informed and believe, and based thereon allege, that each of  
7 the named Defendants are part of an integrated enterprise and have acted or currently  
8 act as the employer and/or joint employer of the Plaintiffs/Class Members making each  
9 of them liable for the wage and hour violations alleged herein.

10 **JURISDICTION AND VENUE**

11 16. Jurisdiction of this action is proper in the Superior Court of California  
12 under Article VI, § 10 of the California Constitution.

13 17. The monetary damages, restitution, penalties, and other amounts sought  
14 in this Complaint exceed the minimal jurisdictional limits of this Court.

15 18. Defendants have sufficient minimum contacts in California or otherwise  
16 intentionally avail themselves of the California market, thus rendering them subject to  
17 the jurisdiction of this Court in accordance with traditional notions of fair play and  
18 substantial justice.

19 19. Plaintiffs' claims arise under California law.

20 20. Venue as to Defendants is proper in this judicial district under Code of  
21 Civil Procedure § 395(a) and 395.5 because at least some of the acts and omissions  
22 complained of in this Complaint occurred in this county.

23 21. Defendants either own, maintain offices, transact business, or have an  
24 agent or agents in the State of California, County of San Diego.

25 22. Plaintiffs are informed and believe, and thereon allege, that more than  
26 two-thirds of the proposed Class Members are citizens of California; that the principal  
27 injuries resulting from Defendants' alleged conduct were incurred in California; and  
28 that no class action asserting the same factual allegations has been filed against

1 Defendants in the preceding three years.

2 23. Plaintiffs are informed and believe and based thereon allege that at least  
3 one Defendant is a California citizen whose alleged conduct forms a significant basis  
4 for the claims asserted and relief sought by Plaintiff on behalf of the proposed Class  
5 Members.

6 **FACTUAL ALLEGATIONS**

7 24. At all relevant times mentioned herein, Defendants employed Plaintiff  
8 BELMONTEZ-CARILLO and other persons as exempt and non-exempt employees  
9 throughout California.

10 25. From on or about November 16, 2007, Defendants employed Plaintiff  
11 BELMONTEZ-CARILLO in California as an hourly, non-exempt employee in various  
12 capacities at the Chula Vista location until her involuntary termination on or about July  
13 22, 2019.

14 26. Plaintiff BELMONTEZ-CARILLO was subject to all the protections of  
15 California law during her employment with Defendants.

16 27. Defendants continue to employ exempt and non-exempt employees  
17 within California or who are otherwise subject to the protections of California law.

18 28. Plaintiff BELMONTEZ-CARILLO earned \$15.65 per hour, in addition  
19 to other sums.

20 29. Plaintiff BELMONTEZ-CARILLO's job duties included data entry and  
21 assisting with records documentation to comply with the affordable housing  
22 regulations applicable to Defendants, lease processing, among other duties.

23 30. Plaintiffs are informed and believe and based thereon allege that at all  
24 times herein mentioned, Defendants were advised by skilled management, employees,  
25 lawyers, and other professionals who were knowledgeable about California wage and  
26 hour and employment laws that applied to Plaintiff and Class Members.

27 **Unpaid Minimum/Regular/Overtime Wages.**

28 31. Plaintiffs are informed and believe and based thereon allege that

1 Defendants knew or should have known that Plaintiff and Class Members were entitled  
2 to receive at least minimum wages and that they were not receiving minimum wages  
3 for all work that was required to be performed.

4 32. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Class  
5 Members were not paid at least minimum wage for *all* hours worked or for work  
6 performed off-the-clock due to the work demands and policies of Defendants.

7 33. Defendants regularly and systematically, as a policy and practice,  
8 required Plaintiff and, upon information and belief, other employees, to continue  
9 working after clocking out.

10 34. For example, Defendants required Plaintiff BELMONTEZ-CARILLO,  
11 after clocking out for the work day, to continue communicating with tenants and  
12 addressing the needs of those tenants.

13 35. As such, Plaintiffs are informed and believe and based thereon allege  
14 that, to date, Defendants have not paid Plaintiffs all compensation due and payable in  
15 an amount to be proven at trial.

16 36. Moreover, Plaintiffs are informed and believe and based thereon allege  
17 that Defendants knew or should have known that Plaintiff and Class Members had the  
18 right to receive overtime for all overtime hours worked.

19 37. In violation of the Labor Code and IWC Wage Orders, Defendants failed  
20 to pay Plaintiff and Class Members their lawful overtime rate for all overtime hours for  
21 work performed off-the-clock.

22 38. Finally, Plaintiffs are informed and believe and based thereon allege that  
23 Defendants knew or should have known that Plaintiff and Class Members were entitled  
24 to receive certain wages for overtime compensation based on the regular rate of pay.

25 39. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Class  
26 Members were not properly paid for all their overtime hours worked because  
27 Defendants improperly calculated the regular rate of pay by failing to include bonuses,  
28 incentive pay, differentials, “pay in lieu” of benefits or other amounts, and other forms

1 of benefits and renumeration in the computation of their regular rate for purposes of  
2 overtime, meal and rest period premiums and other forms of pay that must be paid  
3 based on the regular rate of pay/compensation rather than based on a multiple of  
4 Plaintiff and Class Members' hourly, straight-time rate.

5 40. Defendants regularly and systematically, as a policy and practice,  
6 miscalculated the overtime rate of pay by failing to properly include various forms of  
7 incentive pay, namely bonuses, paid to Plaintiff and, upon information and belief, other  
8 employees, which are not statutory exclusions when calculating an employee's regular  
9 rate of pay.

10 41. Rather, Defendants only paid Plaintiffs one and one-half times their base  
11 rate, which was not equal to the regular rate because Defendants failed to include  
12 various forms of incentive pay earned during corresponding periods that were required  
13 to be included in the regular rate, but were not.

14 42. For example, on or about February 27, 2019, Defendants paid Plaintiff  
15 BELMONTEZ-CARILLO what appears to be a nondiscretionary bonus payment of  
16 \$30.00.

17 43. In the corresponding period for which Defendant paid the bonus, Plaintiff  
18 BELMONTEZ-CARILLO earned \$19.72 of overtime paid at \$23.48 an hour for 0.84  
19 hours of work.

20 44. In that same period, Defendants paid Plaintiff BELMONTEZ-CARILLO  
21 an extra \$0.46, labeled as "Bal OT."

22 45. Defendants paid Plaintiff's overtime based on her base rate of \$15.65 an  
23 hour and did not include his bonus in the calculation of her overtime rate in violation  
24 of California law.

25 46. When including the "Bal OT" payment, Defendants still underpaid  
26 Plaintiff BELMONTEZ-CARILLO in an amount to be proven at trial. (See § 49.1.1 of  
27 the California Division of Labor Standards and Enforcement Policies and  
28 Interpretations Manual, "In California, as with the federal FLSA, overtime is computed

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1 based on the regular rate of pay. The regular rate of pay includes many different kinds  
2 of remuneration, for example: hourly earnings, salary, piecework earnings,  
3 commissions, *certain bonuses*, and the value of meals and lodging.” [Emphasis  
4 added.]

5 47. As a further example, on or about October 25, 2017, Defendants paid  
6 Plaintiff BELMONTEZ-CARILLO what appears to be a nondiscretionary bonus  
7 payment of \$145.00.

8 48. In the corresponding period for which Defendant paid the bonus, Plaintiff  
9 BELMONTEZ-CARILLO earned \$43.82 of overtime paid at \$20.19 an hour for 2.17  
10 hours of work.

11 49. In that same period, Defendants paid Plaintiff BELMONTEZ-CARILLO  
12 an extra \$2.18, labeled as “Bal OT.”

13 50. When including the “Bal OT” payment, Defendants still underpaid  
14 Plaintiff BELMONTEZ-CARILLO in an amount to be proven at trial.

15 51. These are a few of many similar instances where Defendants failed to pay  
16 wages to the Plaintiffs.

17 52. As a result, Defendants underpaid Plaintiff and Class Members wages  
18 and premiums at the lawful rate.

19 **Meal Period Violations.**

20 53. Plaintiffs are informed and believe and based thereon allege that  
21 Defendants knew or should have known that Plaintiff and Class Members had the right  
22 to receive all meal periods or payment of one additional hour of pay at their respective  
23 regular rate of pay/compensation when they did not receive a timely, fully-compliant,  
24 and uninterrupted meal period.

25 54. Plaintiffs are informed and believe and based thereon allege that Plaintiff  
26 and Class Members did not receive all meal periods or payment of one additional hour  
27 of pay at their respective regular rate of pay/compensation when they missed or  
28 received non-compliant meal periods (i.e., untimely, short, or interrupted).



1           55. Based on the foregoing, Plaintiffs seek the remedies set forth in this  
2 Complaint.

3 **Rest Period Violations.**

4           56. Defendants knew or should have known that Plaintiff and Class Members  
5 had the right to receive all rest breaks or payment of one additional hour of pay at their  
6 respective regular rate of pay/compensation when they did not receive a timely, fully  
7 compliant uninterrupted rest period.

8           57. Plaintiffs are informed and believe and based thereon allege that Plaintiff  
9 and Class Members did not receive all rest breaks or payment of one additional hour of  
10 pay at their respective regular rate of pay/compensation when they missed or received  
11 non-complaint rest periods (i.e., short or interrupted).

12           58. Specifically, Plaintiff alleges that Defendants knew or should have  
13 known that Plaintiff and Class Members regularly missed or had their rest periods cut  
14 short or interrupted as a result of Defendants' common employment policies and  
15 practices.

16           59. Defendants' demands and lack of any meaningful oversight or  
17 employment policies and practices effectively deprived Plaintiff and Class Members of  
18 the opportunity to take fully compliant rest periods on a regular basis.

19           60. On those occasions, Defendants failed to pay a rest period premium to  
20 Plaintiff and Class Members.

21           61. To the extent any rest period premiums were provided to Plaintiff and  
22 Class Members for a deficient rest period, the premiums were not paid based on the  
23 regular rate applicable to Plaintiff and Class Members.

24           62. As a result, Plaintiff and Class Members were underpaid and deprived of  
25 rest period premiums at the lawful rate.

26           63. Based on the foregoing, Plaintiffs seek the remedies set forth in this  
27 Complaint.

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1 **Waiting Time Penalties.**

2 64. Plaintiffs are informed and believe and based thereon allege that  
3 Defendants knew or should have known that Plaintiff and Class Members who left  
4 their employment with Defendants during the relevant statutory period were entitled to  
5 timely payment of all wages due upon separation.

6 65. In violation of the Labor Code, Plaintiff and those Class Members did not  
7 receive payment of all wages owed upon separation within the permissible period  
8 because of Defendants' policies and practices which underpaid wages and premiums to  
9 Plaintiff and Class Members throughout their employment.

10 66. Specifically, Plaintiffs allege that Defendants knew or should have  
11 known that Plaintiff and Class Members were being shorted on their wages during their  
12 employment.

13 67. Plaintiff and Class Members were not paid all wages or premiums owed  
14 to them each pay period because of Defendants' systemic employment violations.

15 68. Plaintiff and, on information and belief, other Class Members notified  
16 Defendants of their defective payroll policies and unlawful failure to pay all wages  
17 owed, but Defendants failed to take meaningful action to ensure that all amounts owed  
18 were in fact paid.

19 69. The Plaintiff BELMONTEZ-CARILLO did not receive her final  
20 paycheck upon separation containing the full balance of all wages owed.

21 70. Plaintiffs are informed and believe and based thereon allege that  
22 Defendants maintained noncompliant common payroll practices that naturally resulted  
23 in systemic untimely payment of wages upon separation.

24 71. As a result, Defendants did not timely pay Plaintiff and other Class  
25 Members wages owed upon separation of employment.

26 72. Based on the foregoing, Plaintiffs seek the remedies set forth in this  
27 Complaint.

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1 **Wage Statement Violations.**

2 73. Plaintiffs are informed and believe and based thereon allege that  
3 Defendants knew or should have known that Plaintiff and Class Members were entitled  
4 to receive complete and accurate wage statements.

5 74. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Class  
6 Members were not furnished with complete and accurate wage statements that show all  
7 the information required by Labor Code § 226.

8 75. Plaintiff alleges that the wage statements inaccurately and incompletely  
9 state the gross and net wages earned, the total hours worked, the name of the legal  
10 employer, all hourly rates in effect and the total number of hours worked at each rate  
11 during the pay period and the date the wages were paid.

12 76. As to Defendants' violations of Labor Code § 226(a)(8) in particular,  
13 Defendants issued Plaintiff BELMONTEZ-CARILLO paystubs that said "MAAC"  
14 was the legal entity that was her employer, yet Plaintiffs are informed and believe and  
15 therefore allege that METROPOLITAN AREA ADVISORY COMMITTEE ON  
16 ANTI-POVERTY OF SAN DIEGO COUNTY, INC. was the legal entity that was their  
17 employer, not even a close resemblance to the correct legal entity adding to the  
18 confusion of Plaintiffs and the putative Class. (*Noori v. Countrywide Payroll & HR*  
19 *Solutions, Inc.* (2019) 43 Cal.App.5th 957.)

20 77. Plaintiffs are informed and believe and based thereon allege that  
21 Defendants' wage statement violations are the result of Defendants' failure to pay  
22 wages and premiums when owed (rendering the wage statements inaccurate) and  
23 Defendants' failure to accurately list all required information.

24 78. These knowing and intentional wage statement violations are significant  
25 because they sowed confusion among Plaintiff and, on information and belief, other  
26 Class Members with respect to what amounts were owed and when those amounts  
27 were due.

28 79. As a result of the wage statement violations, Defendants have been able

1 to avoid liability, until now, for the wage violations set forth in this Complaint.

2 80. Based on the foregoing, Plaintiffs seek the remedies set forth in this  
3 Complaint.

4 **Unreimbursed Expenses.**

5 81. Plaintiffs are informed and believe and based thereon allege that  
6 Defendants knew or should have known that Plaintiff and Class Members were entitled  
7 to receive reimbursement for their work-related business expenses.

8 82. In violation of the Labor Code and IWC Wage Orders, Plaintiff and Class  
9 Members were not reimbursed for all expenses necessarily incurred in the direct  
10 discharge of their employment with Defendants.

11 83. For example, Defendants knew or should have known that Plaintiff and  
12 other Class Members used their personal cell phones, home internet and other  
13 communications devices to complete their duties and respond to management.

14 84. Defendants' tenants would commonly communicate with Plaintiff and,  
15 upon information and belief, other employees regarding Defendants' business and  
16 during and outside business hours.

17 85. The Plaintiff BELMONTEZ-CARILLO and other employees also used  
18 their vehicles to drive during the workday from more than one work location, yet  
19 Defendants did not reimburse them for their mileage.

20 86. Defendants did not reimburse Plaintiff and Class Members or provide a  
21 mechanism for reimbursement of those associated work-related costs.

22 87. Plaintiffs are informed and believe and based thereon allege that  
23 Defendants, jointly and severally, have acted knowingly, intentionally and with  
24 deliberate indifference and conscious disregard to the rights of Plaintiff and Class  
25 Members in committing the violations set forth in this Complaint.

26 88. Plaintiffs are informed and believe and based thereon allege that  
27 Defendants have engaged in systemic violations of the Labor Code and IWC Wage  
28 Orders by creating and maintaining policies, practices and customs that knowingly

1 deny Plaintiff and Class Members of their employment rights.

2 89. Plaintiffs are informed and believe and based thereon allege that all  
3 violations are ongoing.

4 90. Based on the foregoing, Plaintiffs seek the remedies set forth in this  
5 Complaint.

6 **REPRESENTATIVE ACTION (PAGA) CLAIMS**

7 91. The duties and business activities of the Represented Employees were  
8 essentially the same as the duties and activities of the Plaintiff described above.

9 92. This is a wage and hour representative action filed pursuant to PAGA, §§  
10 2698, 2699 generally consists of the following group:

11 **All current or former employees who worked in the state of**  
12 **California from October 10, 2018 to the present for the**  
13 **Defendants.**

14 93. All members of the represented groups will be referred to as the  
15 “Represented Employees.”

16 94. The “Representative Period” means from **October 10, 2018** to the  
17 present, the timeframe where the scope of statute allows Plaintiffs to recover wages  
18 and penalties.

19 95. At all times during the Representative Period, all the Represented  
20 Employees were employed in the same or similar job as Plaintiff and were paid in the  
21 same manner and under the same standard employment procedures and practices as the  
22 Plaintiff.

23 96. Plaintiffs further allege, and on information and belief, Represented  
24 Employees, did not receive all wages due at the time their employment ended with  
25 DEFENDANT EMPLOYER.

26 97. On information and belief, current and former employees of  
27 DEFENDANT EMPLOYER were subject to wage and hour violations by  
28 DEFENDANT EMPLOYER, including failing to be paid for all wages due.

1 98. California law provides that an employee may file an action against an  
2 employer to recover penalties for violations of the Labor Code and Wage Orders  
3 provided the aggrieved employee files an action on behalf of him or herself and  
4 similarly-situated current and former employees.

5 99. At all material times, DEFENDANT EMPLOYER and DOES 1 through  
6 50 were and/or are Represented Employees' employers or persons acting on behalf of  
7 Represented Employees' employer, within the meaning of California Labor Code §  
8 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the  
9 California Labor Code or any provision regulating hours and days of work in any  
10 Order of the Industrial Welfare Commission and, as such, are subject to penalties for  
11 each underpaid employee as set for in Labor Code § 558.

12 100. As set forth in further detail below, because of the analysis and  
13 investigation of the Plaintiffs' claims, Plaintiffs' attorneys sent letters to the California  
14 Labor and Workforce Development Agency (hereinafter referred to as "LWDA") and  
15 to DEFENDANT EMPLOYER informing DEFENDANT EMPLOYER of their claims  
16 and their intent to pursue litigation.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 101. As to penalty claims under the Labor Code Private Attorney General Act,  
19 on **October 10, 2019** and **April 13, 2020**, Plaintiffs began to exhaust his/her  
20 administrative remedies by sending correspondence to the LWDA and DEFENDANT  
21 EMPLOYER indicating that Plaintiffs are pursuing the claims alleged in this  
22 Complaint.

23 102. The statutory period for Plaintiffs has expired on the letters alleged above  
24 and the LWDA did not serve Plaintiffs with notice of intent to assume jurisdiction over  
25 the applicable penalty claims and did not provide notice as set forth in Labor Code §  
26 2699.3 (a)(2)(A) within the statutory period.

27 103. Therefore, Plaintiffs have exhausted Plaintiffs' administrative remedies  
28 to enable Plaintiffs to seek the penalty claims sought in this Complaint.





1           **Overtime Subclass:** All Members of the Plaintiff Class who,  
2           during the relevant period, worked more than eight hours per day  
3           and/or in 40 hours per week and who did not receive the proper  
4           amount of overtime pay.

5           **Wage Statement Subclass:** All Members of the Plaintiff Class  
6           who, during the applicable statute of limitations period, did not  
7           receive accurate itemized wage statements as required by Labor  
8           Code § 226.

9           **Waiting Time Subclass:** All Members of the Plaintiff Class who,  
10           during the applicable limitations period, did not receive all wages  
11           due in a timely manner as required by Labor Code §§ 201-203.

12           **Unreimbursed Expense Subclass:** All Members of the Plaintiff  
13           Class who, during the relevant period, incurred work-related  
14           expenses required by Defendants.

15           **Meal and Rest Break Subclass:** All Members of the Plaintiff  
16           Class who, during the applicable statute of limitations period  
17           worked for Defendants in California as an hourly-paid non-exempt  
18           employee and were not provided compliant meal and/or rest breaks  
19           and were not provided one hour of pay at their regular rate of  
20           compensation in lieu thereof during the applicable statute of  
21           limitations period.

22           **UCL Subclass:** All Members of the Plaintiff Class, who, during  
23           the relevant period, Defendants owe restitution in the form of (1)  
24           unreimbursed expenses and/or (2) wages earned and unpaid  
25           because of Defendants’ uniform pay policies and procedures.

26           108. The above-mentioned class-members will collectively be referred to as  
27           “Class Members.”

28           109. Plaintiff reserves the right to modify or redefine the Class, establish  
          additional subclasses, or modify or re-define any class or subclass definition as  
          appropriate based on investigation, discovery, and specific theories of liability.

          110. This action is brought and may properly be maintained as a Class Action  
          under the provisions of § 382 of the Code of Civil Procedure because there is a well

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1 defined community of interest in the litigation and the proposed Class is easily  
2 ascertainable.

3 **A. Numerosity/Ascertainability**

4 111. The members of the Class are so numerous that joinder of all Class  
5 Members would be impractical.

6 112. Although the members of the entire Class and Subclasses are unknown to  
7 Plaintiff at this time, Plaintiffs are informed and believe and based thereon allege that  
8 the class is estimated to be greater than 40 individuals.

9 113. The identity of the Class Members is currently unknown to Plaintiff;  
10 however, the identities of the Class Members are readily ascertainable from  
11 Defendants' employment and payroll records Defendants must maintain under  
12 California law.

13 114. Accounting for employee turnover during the relevant periods necessarily  
14 increases this number substantially.

15 **B. Typicality**

16 115. The claims of Plaintiff are typical of the claims of all Class Members in  
17 that Plaintiff suffered the harm alleged in this Complaint in a similar and typical  
18 manner as the Class Members because of Defendants' failure to comply with the  
19 provisions of California wage and hour laws, which entitled Plaintiff and Class  
20 Members to similar employment rights, pay requirements, and other legal protections.

21 116. Defendants have committed the same or similar labor violations against  
22 Plaintiff and the Class Members.

23 117. The injuries sustained by Plaintiff are also typical of the injuries  
24 sustained by the Class Members because they arise out of and are caused by  
25 Defendants' common unlawful employment and payroll policies, practice, conduct,  
26 and customs.

27  
28 **C. Adequacy of Representation**

1 118. The named Plaintiff is fully prepared to take all necessary steps to fairly  
2 and adequately represent the interests of the Class.

3 119. The named Plaintiff is a member of the Class, does not have any conflicts  
4 of interest with other Class Members, and will prosecute the case vigorously on behalf  
5 of the Class.

6 120. Counsel representing the named Plaintiff and the putative Class is  
7 competent and experienced in litigating employment class actions, including wage and  
8 overtime class actions.

9 121. The named Plaintiff will fairly and adequately represent and protect the  
10 interests of the Class Members.

11 **D. Superiority of Class Action**

12 122. The nature of this action makes the use of class action adjudication  
13 superior to other methods.

14 123. A class action is superior to other available means for the fair and  
15 efficient adjudication of this controversy because individual joinder of all Class  
16 Members is not practicable, and questions of law and fact common to the Class  
17 predominate over any questions affecting only individual members of the Class.

18 124. Each Class Member was damaged or suffered injury and may recover by  
19 reasons of Defendants' illegal policies and/or practices.

20 125. Class Action treatment will allow those similarly situated persons to  
21 litigate their claims in the manner that is most efficient and economical for the parties  
22 and the judicial system.

23 126. A class action will achieve economies of time, effort and expense as  
24 compared with separate lawsuits, and will avoid inconsistent outcomes because the  
25 same issues can be adjudicated in the same manner and at the same time for the entire  
26 Class.

27 **E. Public Policy**

28 127. Employment and labor law violations in California are violated every

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1 day.

2 128. Current employees are often afraid to assert their rights out of fear of  
3 direct or indirect retaliation.

4 129. Former employees are fearful of bringing actions because they believe  
5 their former employers might damage their future endeavors through negative  
6 references and through other means.

7 130. Many California employees simply do not know their employment rights  
8 and rely on their employer to get it right.

9 131. A class action provides the Class Members who are not named in the  
10 Complaint with a type of anonymity that allows for the vindication of their rights while  
11 also protecting their privacy and enabling them to recoup losses to which they may be  
12 unaware or afraid to assert.

13 **F. Commonality**

14 132. There are common questions of law and fact as to the Class which  
15 predominate over questions affecting only individual Class Members, thus creating a  
16 well-defined community of interest.

17 133. Plaintiff and Class Members have suffered their common injuries as a  
18 result of Defendants' systemic employment policies and practices.

19 134. Common questions of law and fact include, without limitation and  
20 subject to possible further amendment, the following:

- 21 a. Whether Defendants' policy or practice of not paying  
22 Plaintiff and putative class members overtime  
23 compensation for the hours they worked over 40 in a  
24 workweek or eight hours in a day is illegal under Labor  
25 Code §§ 510, 1194, and the applicable Wage Order;
- 26 b. Whether Defendants violated the Labor Code by not fully  
27 compensating Plaintiff and the Class the proper amount  
28 of minimum/regular wages as required by law;

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- 1 c. Whether Defendants' policy or practice of not providing  
2 hourly employees lawfully compliant meal and rest  
3 periods or paying hourly employees premium pay for  
4 missed meal and rest periods is unlawful under Labor  
5 Code §§ 226.7, 512, and 1198 and the applicable IWC  
6 Wage Order;
- 7 d. Whether Defendants' policy or practice of not paying  
8 hourly employees all their wages due in their final  
9 paychecks immediately upon involuntary termination or  
10 when 72 hours' notice was provided before voluntary  
11 resignation, is unlawful under Labor Code §§ 201, 202  
12 and/or 203;
- 13 e. Whether Defendants violated Labor Code §§ 226 by not  
14 providing accurate paystubs;
- 15 f. Whether Defendants violated Labor Code §§ 2802 by  
16 failing to reimburse Plaintiffs for business expenses; and
- 17 g. Whether Plaintiff and the members of the Class may  
18 recover remedies pursuant to Business & Professions  
19 Code §§ 17200, *et seq.*

20 135. Looking to Defendants' employment policies and practices, the Court can  
21 adjudicate the lawfulness of those policies and practices on a class-wide basis,  
22 according to proof, and issue an award to Plaintiff and Class Members accordingly.

23 136. Answers to the common questions raised in this Complaint will advance  
24 resolution of each individual proposed Class Member's claims.

25 137. For the reasons alleged in this Complaint, this action should be certified  
26 as a Class Action.

**FIRST CAUSE OF ACTION**

**Individual, Class Claim, and Representative Action Claim via PAGA for Failure to Pay State and Local Minimum/Regular Wages in Violation of California Labor Code §§ 216, 218, 218.5, 1182.12, 1194, 1194.2, 1197, 1198, and the Applicable Industrial Welfare Commission (“IWC”) Wage Orders**  
(Against all Defendants)

138. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

139. At all relevant times, Defendants had a duty to comply with Labor Code sections 200 *et seq.*, 1182.12, 1194, 1194.2, 1197, 1198, the applicable IWC Wage Orders, and all applicable local minimum wage ordinances in effect throughout California.

140. Labor Code section 204 and the IWC Wage Orders require timely payment of all wages owed on regularly scheduled paydays at least twice during each calendar month, on days designated in advance by the employer as the regular paydays.

141. All wages in earned in excess of the normal work period must be paid no later than the payday for the next regular payroll period.

142. The IWC Wage Orders define “hours worked” as “the time during which an employee is subject to the control of an employer and includes all time the employee is suffered or permitted to work, whether or not required to do so.”

143. Labor Code § 1182.12 sets forth the minimum hourly wage that must be paid to all employees in California for all hours worked.

144. Local minimum wage ordinances, including but not limited to San Diego Municipal Code § 39.0107, provide for higher minimum wage rates that must be paid to employees for all hours worked in those locales where each local ordinance is in effect.

145. Labor Code § 1197 affirms that it is unlawful to pay less than the state or local minimum wage, whichever is higher, for any hour of work.

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1 146. Labor Code § 1194 requires that employers pay employees at least the  
2 legal minimum wage rate for all hours worked, notwithstanding any agreement to work  
3 for a lesser wage.

4 147. Labor Code § 1194 further authorizes any employee receiving less than  
5 the legal minimum wage applicable to the employee to recover in a civil action the  
6 unpaid balance of the full amount of wages, along with interest thereon, reasonable  
7 attorneys' fees and costs of suit.

8 148. Labor Code § 1194.2 authorizes the recovery of liquidated damages in an  
9 amount equal to the wages unlawfully unpaid and interest thereon for unpaid wage  
10 violations.

11 149. Labor Code § 1198 prohibits employers from employing for longer hours  
12 or less favorable conditions than those set forth in the Labor Code, IWC Wage Orders,  
13 or as otherwise set by the Labor Commissioner.

14 150. During all times relevant, Plaintiffs are informed and believe, and based  
15 thereupon allege, that Class Members including Plaintiff, were not paid  
16 minimum/regular wages for all hours suffered or permitted to work in violation of state  
17 and, where applicable, local law.

18 151. At all material times, DEFENDANT EMPLOYER and DOES 1 through  
19 50 were and/or are Represented Employees' employers or persons acting on behalf of  
20 Represented Employees' employer, within the meaning of California Labor Code §  
21 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the  
22 California Labor Code or any provision regulating hours and days of work in any  
23 Order of the Industrial Welfare Commission and, as such, are subject to penalties for  
24 each underpaid employee as set for in Labor Code § 558.

25 152. In committing the violations of state law as herein alleged, Plaintiffs are  
26 informed and believe and based thereon allege that Defendants have knowingly and  
27 willfully refused to perform their obligations to compensate Represented Employees  
28 for all wages earned and all hours worked.



1           153. As a direct result, Represented Employees have suffered and continue to  
2 suffer, substantial losses related to the use and enjoyment of such compensation,  
3 wages, lost interest on such monies and expenses and attorneys' fees in seeking to  
4 compel Defendants to fully perform their obligations under state law, all to their  
5 respective damage in amounts according to proof at trial and within the jurisdictional  
6 limitations of this Court.

7           154. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,  
8 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
9 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
10 pay period for each subsequent violation in which DEFENDANT EMPLOYER  
11 violated the minimum wage and/or regular wage provisions of the Labor Code,  
12 including but not limited to §§ 216, 218, 218.5, 1182.12, 1194, 1194.2, and 1197, the  
13 exact amount of the applicable penalty is all in an amount to be shown according to  
14 proof at trial.

15           155. Additionally, pursuant to Labor Code § 2699, Plaintiffs and Class  
16 Members seek to recover from Defendants, and each of them, penalties, attorneys'  
17 fees, and costs incurred herein.

18           156. Upon information and belief, Class Members including Plaintiff should  
19 have received minimum wages in a sum according to proof during all times relevant to  
20 this action.

21           157. Upon information and belief, Defendants have intentionally failed and  
22 refused, and continue to fail and refuse, to pay Class Members including Plaintiffs'  
23 minimum wages for all time suffered or permitted to work.

24           158. Plaintiff and the Class request the recovery of the full amount of unpaid  
25 wages, liquidated damages, prejudgment interest, and statutory penalties, along with  
26 attorneys' fees, costs, and other remedies in an amount to be proven at trial.

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**SECOND CAUSE OF ACTION**

**Individual, Class Claim, and Representative Action Claim via PAGA for  
Failure to Pay State Overtime and Double Time Compensation  
in Violation of California Labor Code § 510, 1194,  
and the Applicable Industrial Welfare Commission (“IWC”) Wage Order  
(Against all Defendants)**

159. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

160. At all relevant times, Defendants had a duty to comply with Labor Code §§ 200 *et seq.*, 510, 511, 1194 and 1198 and the applicable IWC Wage Orders.

161. Labor Code § 204 and the IWC Wage Orders require timely payment of all wages owed, including overtime, on regularly scheduled paydays at least twice during each calendar month, on days designated in advance by the employer as the regular paydays.

162. All wages in earned in excess of the normal work period must be paid no later than the payday for the next regular payroll period.

163. Labor Code § 510 and the IWC Wage Orders require that employers pay employees for all overtime hours at a rate of one and one-half times the employee’s regular rate of pay for hours worked in excess of eight hours in one workday, 40 hours in one workweek, and after the first eight hours on the seventh consecutive workday in one work week.

164. Labor Code § 510 and the IWC Wage Orders further require that employers pay employees double their regular rate of pay for hours work in excess of 12 hours in a workday and after eight hours on the seventh consecutive workday in one workweek.

165. Labor Code § 510 requires payment of overtime wages at the “regular rate of pay,” which includes all forms of remuneration earned by the employee, including wages, commissions, bonuses, and other incentive pay earned by the

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1 employee.

2 166. Labor Code § 558, which applies to any provision of the Labor Code or  
3 IWC Wage Orders regulating hours and days of work, entitles an employee to recover  
4 from an employer all penalties and amounts sufficient to recover the underpaid wages.

5 167. Labor Code § 558(a)(3) provides that wages recovered pursuant to this  
6 section “shall be paid to the affected employee.”

7 168. Labor Code § 1194 requires that employers pay employees at least the  
8 legal overtime rate for all overtime hours worked, notwithstanding any agreement to  
9 work for a lesser wage.

10 169. Labor Code § 1194 further authorizes any employee receiving less than  
11 the legal overtime compensation applicable to the employee to recover in a civil action  
12 the unpaid balance of the full amount of overtime compensation, along with interest  
13 thereon, reasonable attorneys’ fees and costs of suit.

14 170. Labor Code § 1198 prohibits employers from employing for longer  
15 hours or less favorable conditions than those set forth in the Labor Code, IWC Wage  
16 Orders, or as otherwise set by the Labor Commissioner.

17 171. To the extent Defendants claim to have implemented an Alternative  
18 Workweek Schedule, Plaintiff alleges on information and belief, that the schedule is  
19 invalid for failing to comply with the requirements and registrations required by Labor  
20 Code § 511.

21 172. As alleged above in this Complaint, from at least four years before the  
22 filing of this action and continuing to the present, and pursuant to company policy  
23 and/or practice and/or direction, Defendants failed to pay its employees all overtime as  
24 required by law, i.e., Defendants underpaid overtime to its employees.

25 173. At all material times, DEFENDANT EMPLOYER and DOES 1 through  
26 50 were and/or are Represented Employees’ employers or persons acting on behalf of  
27 Represented Employees’ employer, within the meaning of California Labor Code §  
28 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the

1 California Labor Code or any provision regulating hours and days of work in any  
2 Order of the Industrial Welfare Commission and, as such, are subject to penalties for  
3 each underpaid employee as set for in Labor Code § 558.

4 174. In committing the violations of state law as herein alleged, Defendants  
5 have knowingly and willfully refused to perform their obligations to compensate  
6 Represented Employees for all wages earned and all hours worked.

7 175. As a direct result, Represented Employees have suffered and continue to  
8 suffer, substantial losses related to the use and enjoyment of such compensation,  
9 wages, lost interest on such monies and expenses and attorney's fees in seeking to  
10 compel Defendants to full perform their obligation under state law, all to their  
11 respective damage in amounts according to proof at trial and within the jurisdictional  
12 limitations of this Court.

13 176. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,  
14 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
15 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
16 pay period for each subsequent violation in which DEFENDANT EMPLOYER  
17 violated the overtime provisions of the Labor Code, including but not limited to §§ 510  
18 at 1194, the exact amount of the penalties sought is in an amount to be shown  
19 according to proof at trial.

20 177. Additionally, pursuant to Labor Code § 2699, Plaintiffs seek to recover  
21 from Defendants, and each of them, penalties, attorneys' fees, and costs incurred  
22 herein.

23 178. Based on the misconduct alleged in this Complaint, Plaintiffs and  
24 similarly situated members of the Class have suffered damages in an amount to be  
25 proven at trial.

26 179. Plaintiffs on behalf of themselves and Class request the full amount of  
27 unpaid wages, prejudgment interest, and statutory penalties, along with attorneys' fees,  
28 costs, and other remedies in an amount to be proven at trial.

**THIRD CAUSE OF ACTION**

**Individual, Class Claim, and Representative Action Claim via PAGA for  
Failure to Comply with the Meal Break Requirements  
Under Labor Code §§ 226.7, 512, 516, 1198,  
and the Applicable IWC Wage Order  
(Against all Defendants)**

180. Plaintiffs re-allege and incorporate by reference the foregoing allegations, as though set forth herein.

181. At all relevant times, Defendants had a duty to comply with Labor Code sections 226.7, 512 and 516 and section 11 of the applicable IWC Wage Orders.

182. Labor Code § 512 and the IWC Wage Orders prohibit an employer from employing any person for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes (commencing before the employee’s fifth hour of work), except that if the total work period per day is no more than 6 hours, the meal period may be waived by mutual consent of the employer and employee.

183. A second meal period of not less than 30 minutes is required if an employee works more than 10 hours per day and must begin before the employee’s tenth hour of work, except if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived.

184. For all meal periods, an employer must relieve an employee of all duties during meal periods.

185. Section 11 of applicable IWC Wage Orders state that “[u]nless 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.”

186. Labor Code § 226.7(b) and the IWC Wage Orders prohibit an employer from requiring any employee to work during a meal period mandated by any California

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1 statute, regulation, standard or order.

2 187. If an employer fails to provide an employee with a meal period in  
3 accordance with state law, Labor Code § 226.7(c) and the IWC Wage Orders require  
4 that the employer pay the employee one additional hour of pay at the employee's  
5 regular rate of compensation for each workday that the meal period is noncompliant.

6 188. Labor Code § 516 authorizes the IWC to adopt or amend protections  
7 relating to meal and rest periods.

8 189. Based on the misconduct alleged in this Complaint, Defendants failed to  
9 pay Plaintiff and Class Members premium pay for all their missed meal breaks.

10 190. Because of Defendants' illegal pay practices, said Defendants failed to  
11 pay Plaintiff and Class Members for all meal breaks despite their requirement under  
12 California law and, as such, all culpable Defendants are required to pay Plaintiff and  
13 Class Members for meal break premium wages.

14 191. Defendants also failed to provide Plaintiffs, and Class Members, legally-  
15 compliant meal periods, or compensation in lieu thereof, during their employment by  
16 said Defendants.

17 192. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a  
18 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
19 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
20 pay period for each subsequent violation in which all culpable Defendants violated Cal.  
21 Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in an  
22 amount to be shown according to proof at trial.

23 193. As a direct and proximate result of Defendants' failure to provide  
24 compliant meal periods or pay meal period premiums at the regular rate of  
25 compensation to Plaintiff and Class Members in accordance with the IWC Wage  
26 Orders and Labor Code sections 226.7, 512 and 516, Plaintiff and Class Members seek  
27 the full amount of unpaid meal period premiums, prejudgment interest, and statutory  
28 penalties, along with attorneys' fees, costs, and other remedies in an amount to be

1 proven at trial.

2 **FOURTH CAUSE OF ACTION**

3 **Individual, Class Claim, and Representative Action Claim via PAGA for**

4 **Failure to Comply with the Rest Break Requirements**

5 **Under Labor Code §§ 226.7, 516, 1198,**

6 **and the Applicable IWC Wage Order**

7 (Against all Defendants)

8 194. Plaintiffs re-allege and incorporate by reference the foregoing allegations,  
9 as though set forth herein.

10 195. At all relevant times, Defendants had a duty to comply with Labor Code  
11 sections 226.7, and 516 and section 12 applicable IWC Wage Orders.

12 196. Labor Code § 516 authorizes the IWC to adopt or amend protections  
13 relating to meal and rest periods.

14 197. Section 12 of the IWC Wage Orders require employers to authorize and  
15 permit all employees to take 10-minute duty-free rest periods for each four hours  
16 worked (or major fraction thereof).

17 198. Labor Code § 226.7(b) and the IWC Wage Orders prohibit an employer  
18 from requiring any employee to work during a rest period mandated by any California  
19 statute, regulation, standard or order.

20 199. If an employer fails to provide an employee with a rest period in  
21 accordance with state law, Labor Code § 226.7(c) and the IWC Wage Orders require  
22 that the employer pay the employee one additional hour of pay at the employee's  
23 regular rate of compensation for each workday that the rest period is noncompliant.

24 200. Based on the misconduct alleged in this Complaint, Defendants failed to  
25 pay Plaintiff and Class Members premium pay for all their missed rest breaks.

26 201. Because of Defendants' illegal pay practices, said Defendants failed to  
27 pay Plaintiff and Class Members for all rest breaks despite their requirement under  
28 California law and, as such, all culpable Defendants are required to pay Plaintiff and

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1 Class Members for rest break premium wages.

2 202. Defendants also failed to provide Plaintiffs, and Class Members, legally-  
3 compliant rest periods, or compensation in lieu thereof, during their employment by  
4 said Defendants.

5 203. Cal. Labor Code § 2699, *et seq.* imposes upon all culpable Defendants a  
6 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
7 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
8 pay period for each subsequent violation in which all culpable Defendants violated Cal.  
9 Labor Code §§ 226.7 and 512, the exact amount of the applicable penalty is all in an  
10 amount to be shown according to proof at trial.

11 204. As a direct and proximate result of Defendants' failure to provide  
12 compliant rest periods or pay rest period premiums at the regular rate of compensation  
13 to Plaintiff and Class Members in accordance with the IWC Wage Orders and Labor  
14 Code sections 226.7 and 516, Plaintiff and Class Members seek the full amount of  
15 unpaid rest period premiums, prejudgment interest, and statutory penalties, along with  
16 attorneys' fees, costs, and other remedies in an amount to be proven at trial.

17 **FIFTH CAUSE OF ACTION**

18 **Individual, Class Claim, and Representative Action Claim via PAGA for**  
19 **Failure to Provide Accurate Paystubs**  
20 **in Violation of California Labor Code § 226**

21 (Against all Defendants)

22 205. Plaintiffs re-allege and incorporate by reference the foregoing allegations,  
23 as though set forth herein.

24 206. At all relevant times, Defendants had a duty to comply with Labor Code  
25 § 226.

26 207. Plaintiffs allege that Labor Code § 226 subdivision (a) requires, in  
27 pertinent part, that "An employer, semimonthly or at the time of each payment of  
28 wages, shall furnish to his or her employee, either as a detachable part of the check,

1 draft, or voucher paying the employee's wages, or separately if wages are paid by  
2 personal check or cash, an accurate itemized statement in writing showing (1) gross  
3 wages earned, (2) total hours worked by the employee, except as provided in  
4 subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate  
5 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all  
6 deductions made on written orders of the employee may be aggregated and shown as  
7 one item, (5) net wages earned, (6) the inclusive dates of the period for which the  
8 employee is paid, (7) the name of the employee and only the last four digits of his or  
9 her social security number or an employee identification number other than a social  
10 security number, (8) the name and address of the legal entity that is the employer and,  
11 if the employer is a farm labor contractor, as defined in subdivision (b) of Section  
12 1682, the name and address of the legal entity that secured the services of the  
13 employer, and (9) all applicable hourly rates in effect during the pay period and the  
14 corresponding number of hours worked at each hourly rate by the employee . . .”  
15 (Labor Code § 226 subdivision (a).)

16 208. Labor Code § 226(e)(1) authorizes an employee suffering injury as a  
17 result of a knowing and intentional failure by an employer to provide an accurate  
18 itemized wage statement to recover the greater of all actual damages or \$50 for the  
19 initial pay violation and \$100 for each violation in a subsequent pay period, not to  
20 exceed an aggregate penalty of \$4,000 per employee, in addition to an award of costs  
21 and attorneys' fees.

22 209. Upon information and belief, during all times relevant to this action,  
23 Defendants did not provide accurate wage statements throughout the Class Period.

24 210. Plaintiffs allege that on numerous occasions, an exact amount by which  
25 will be proven at trial, Defendants violated various provisions of § 226, including but  
26 not limited to subdivisions (a)(1), a(2), (a)(5), (a)(8), and (a)(9) by failing to provide  
27 Plaintiffs itemized statements that accurately state gross and net wages, the number of  
28 hours worked by the Plaintiffs, Defendants' name and address, and all applicable

1 hourly rates as alleged in this Complaint

2 211. Defendants failed to provide wage statements in accordance with Labor  
3 Code § 226, such that Plaintiff and Class Members could not promptly and easily  
4 determine the wages earned or paid or the other information required to be provided on  
5 the wage statements.

6 212. At all material times DEFENDANT EMPLOYER and DOES 1 through  
7 50 were and/or are Represented Employees' employers or persons acting on behalf of  
8 Represented Employees' employer, within the meaning of California Labor Code §  
9 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the  
10 California Labor Code or any provision regulating business hours and days of work in  
11 any Order of the Industrial Welfare Commission and, as such, are subject to penalties  
12 for each underpaid employee as set forth in Labor Code § 558.

13 213. In committing the violations of state law as herein alleged, Defendants  
14 have knowingly and willfully refused to perform their obligations to compensate  
15 Represented Employees for all wages earned and all hours worked.

16 214. As a direct result, Represented Employees have suffered and continue to  
17 suffer, substantial losses related to the use and enjoyment of such compensation,  
18 wages, lost interest on such monies and expenses and attorney's fees in seeking to  
19 compel Defendants to fully perform their obligations under state law, all to their  
20 respective damage in amounts according to proof at trial and within the jurisdictional  
21 limitations of this Court.

22 215. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,  
23 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
24 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
25 pay period for each subsequent violation in which DEFENDANT EMPLOYER  
26 violated Labor Code § 226, the exact amount of the applicable penalty is all in an  
27 amount to be shown according to proof at trial.

28 216. For Defendants' misconduct as alleged in this Complaint, Plaintiffs seek

1 damages, penalties, costs, and attorneys' fees pursuant to Labor Code §§ 226, 226.3,  
2 and 226.6 in an amount to be proven at trial.

3 217. For Defendants' misconduct as alleged herein, Plaintiffs seek all damages  
4 including injunctive relief, prejudgment interest, statutory penalties, along with  
5 attorneys' fees, costs, and other remedies in an amount to be proven at trial.

6 **SIXTH CAUSE OF ACTION**

7 **Individual, Class Claim, and Representative Action Claim via PAGA for**  
8 **Failure to Pay Timely Earned Wages during Employment and**  
9 **Upon Separation of Employment in Violation of**  
10 **California Labor Code § 201, 202, and 203**

11 (Against all Defendants)

12 218. Plaintiffs re-allege and incorporate by reference the foregoing allegations,  
13 as though set forth herein.

14 219. At all relevant times, Defendants had a duty to comply with Labor Code  
15 sections 201, 202 and 203.

16 220. Defendants failed to comply with these final paycheck requirements with  
17 respect to Plaintiff and members of the Waiting Time Subclass.

18 221. Labor Code § 201 requires that if an employer discharges an employee,  
19 the wages earned and unpaid at the time of discharge are due and payable immediately.

20 222. Labor Code § 202 requires that if "an employee not having a written  
21 contract for a definite period" quits, the employee's wages shall become due and  
22 payable not later than 72 hours thereafter, unless the employee has given 72 hours  
23 previous notice of his or her intention to quit, in which case the employee is entitled to  
24 his or her wages at the time of quitting.

25 223. Labor Code § 203 provides that if an employer willfully fails to pay,  
26 without abatement or reduction, any wages of an employee who is discharged or quits,  
27 the wages of the employee shall continue as a penalty from the due date thereof at the  
28 same rate until paid or until an action therefor is commenced, but that the wages shall

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1 not continue for more than 30 days per employee.

2 224. Of the former employees Plaintiff represents, Plaintiffs allege they were  
3 not properly paid pursuant to the requirements of Labor Code §§ 201 or 202 and  
4 thereby seek all remedies available to them.

5 225. To date, for example, Defendants have not paid Plaintiffs all earned  
6 wages as required by law in an amount to be proven at trial.

7 226. Plaintiffs are informed and believe and based thereon allege that  
8 Defendants willfully failed to pay Plaintiffs' wages pursuant to the requirements of  
9 Labor Code §§ 201-202, after Plaintiffs' demand and, therefore, Plaintiffs may recover  
10 the associated unpaid wages and waiting time penalties.

11 227. Plaintiffs are informed and believe and based thereon allege that  
12 Defendants did this with the intent to secure for himself, herself and itself a discount  
13 on its indebtedness and/or with intent to annoy harass, oppress, hinder, delay and/or  
14 defraud Plaintiffs.

15 228. At all material times, DEFENDANT EMPLOYER and DOES 1 through  
16 50 were and/or are Represented Employees' employers or persons acting on behalf of  
17 Represented Employees' employer, within the meaning of California Labor Code §  
18 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the  
19 California Labor Code or any provision regulating hours and days of work in any  
20 Order of the Industrial Welfare Commission and, as such, are subject to penalties for  
21 each underpaid employee as set for in Labor Code § 558.

22 229. In committing the violations of state law as herein alleged, Defendants  
23 have knowingly and willfully refused to perform their obligations to compensate  
24 Represented Employees for all wages earned and all hours worked.

25 230. As a direct result, Represented Employees have suffered and continue to  
26 suffer, substantial losses related to the use and enjoyment of such compensation,  
27 wages, lost interest on such monies and expenses and attorney's fees in seeking to  
28 compel Defendants to full perform their obligation under state law, all to their

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1 respective damage in amounts according to proof at trial and within the jurisdictional  
2 limitations of this Court.

3 231. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,  
4 a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period  
5 for the initial violation and two hundred (\$200.00) for each aggrieved employee per  
6 pay period for each subsequent violation in which DEFENDANT EMPLOYER  
7 violated Labor Code §§ 201, 202, and 203. The exact amount of the applicable penalty  
8 is all in an amount to be shown according to proof at trial.

9 232. Defendants deprived Plaintiffs their rightfully earned wages as a direct  
10 and proximate result of Defendants' failure and refusal to pay said compensation and  
11 for the reasons alleged in this Complaint.

12 233. Plaintiffs and Class Members request the full amount of unpaid wages,  
13 waiting time penalties, prejudgment interest, and statutory penalties, along with  
14 attorneys' fees, costs, and other remedies in an amount to be proven at trial.

15 **SEVENTH CAUSE OF ACTION**

16 **Individual, Class Claim, and Representative Action Claim via PAGA for**  
17 **Failure to Indemnify/Reimburse Business Expenses in Violation of**  
18 **California Labor Code §§ 2802, 1198, and the Applicable Wage Order**  
19 **(Against all Defendants)**

20 234. Plaintiffs re-allege and incorporate by reference the foregoing allegations,  
21 as though set forth herein.

22 235. At all relevant times, Defendants had a duty to comply with Labor Code  
23 sections 2800 and 2802.

24 236. Defendants failed to comply with these indemnification and  
25 reimbursement requirements with respect to Plaintiff and Class Members.

26 237. Labor Code § 2800 requires employers to always indemnify employees  
27 for losses caused by the employer's want of ordinary care.

28 238. To the extent Defendants claim that Plaintiff and Class Members failed to



1 request, demand, notify or otherwise seek reimbursement for their expenses and losses,  
2 Defendants were obligated to nevertheless indemnify Plaintiff and Class Members due  
3 to their own negligence.

4 239. Labor Code § 2802(a) requires that employers indemnify and reimburse  
5 employees for all business expenses, which are defined as all necessary expenditures or  
6 losses incurred by the employee in direct consequence of the discharge of the  
7 employee's duties or otherwise incurred based on the employee's obedience to the  
8 employer's directions.

9 240. Labor Code § 2802(b) authorizes employees to recover in a court action  
10 interest which shall accrue from the date on which the employee incurred the necessary  
11 expenditure or loss.

12 241. Labor Code § 2802(c) authorizes employees who to enforce their right to  
13 reimbursements under Labor Code § 2802 to also recover attorneys' fees and costs.

14 242. Plaintiff and the Class Members incurred losses in obedience to the  
15 directions of Defendants.

16 243. The costs included home office expenses, office supplies, paper, printer,  
17 internet, fax machines, cell/home phone, computer, computer  
18 repairs/upgrades/software, office space in their homes, gas and electric, water, and  
19 other similar expenses.

20 244. Upon information and belief, Defendants maintained no policy of  
21 reimbursement of such expenses and refused to reimburse said expenses even though  
22 the employer knew of and required work to be performed at home.

23 245. Plaintiff and Class Members were required to purchase and provide their  
24 own equipment, services, and supplies to work for Defendants.

25 246. As a direct result of Defendants' violations of California Labor Code §  
26 2802, the Plaintiff and Class Members suffered and continue to suffer substantial  
27 losses related to unpaid expenses, the use and enjoyment of monies owed, lost interest  
28 on monies owed, and attorneys' fees in an amount to be proven at the time of trial.



1 247. Defendants derived an unjust and inequitable economic benefit in failing  
2 to comply with the law regarding indemnification and reimbursement of employees.

3 248. As a direct and proximate result of Defendants' failure to indemnify and  
4 reimburse Plaintiff and Class Members for all business and work-related costs,  
5 expenditures, losses and expenses in accordance with Labor Code sections 2800 and  
6 2802, Plaintiff and Class Members are entitled to recover the full unreimbursed  
7 balance of reimbursements, expenditures and losses, prejudgment interest, and  
8 statutory penalties, along with attorneys' fees and costs in amounts that will be  
9 established at trial.

10 **EIGHTH CAUSE OF ACTION**

11 **Individual and Representative Claim for PAGA Penalties and Wage**  
12 **Under California Labor Code §§ 2698, 2699, *et seq.* for Violations of California**  
13 **Labor Code §§ 203.1, 203.5, 204.2, 206, 206.5, 208, 212, subdivision (d) of § 213,**  
14 **§§ 221, 222, 222.5, 223, and 224, 227, 227.3, 231, 432.5, 513, 551,**  
15 **552, 1021, 1021.5, and 1174**

16 (Against all Defendants)

17 249. Plaintiffs re-allege and incorporates by reference the foregoing  
18 allegations as though set forth herein.

19 250. Pursuant to law, on **October 10, 2019** and **April 13, 2020**, Plaintiffs sent  
20 written notice to the Labor Workforce Development Agency (LWDA) and Defendants  
21 of the specific violations of the California Labor Code Defendants have violated and  
22 continue to violate.

23 251. Pursuant to Labor Code § 2699.3, no response was received from the  
24 LWDA within 65 days of the postmark date of the above-alleged letters.

25 252. Plaintiffs, therefore, have exhausted all administrative procedures  
26 required of them under Labor Code §§ 2698, 2699, and 2699.3, and, as a result, may  
27 prosecute this cause of action and may pursue the recovery of penalties in a  
28 representative action for Defendants' violations of the Labor Code.

1           253. Pursuant to Labor Code § 2699, any provision of the Labor Code that  
2 provides for a civil penalty to be assessed and collected by the LWDA or any of its  
3 departments, divisions, commissions, boards, agencies or employees for violation of  
4 the code may, as an alternative, be recovered through a civil action brought by an  
5 aggrieved employee on behalf of himself or herself and other current or former  
6 employees pursuant to the procedures specified in Labor Code § 2699.3.

7           254. Plaintiffs are informed and believe and based thereon allege that because  
8 of the acts alleged above, Plaintiffs may and hereby seek penalties under Labor Code  
9 §§ 2698 and 2699 because of Defendants’ violation of numerous provisions of the  
10 California Labor Code as alleged in this Complaint upon information and belief.

11           255. Plaintiffs are “aggrieved employees” because Plaintiffs were employed  
12 by the alleged violator and had one or more of the alleged violations committed against  
13 Plaintiffs, and therefore is properly suited to represent the interests of other current and  
14 former Represented Employees.

15           256. Labor Code § 2699, *et seq.* imposes upon Defendants, and each of them,  
16 penalties for violating Labor Code §§ 203.1, 203.5, 204.2, 206, 206.5, 208, 212,  
17 subdivision (d) of § 213, §§ 221, 222, 222.5, 223, and 224, 227, 227.3, 231, 432.5,  
18 513, 551, 552, 1021, 1021.5, and 1174.

19           257. Labor Code § 558 establishes a civil penalty as follows: Any employer or  
20 other person acting on behalf of an employer who violates, or causes to be violated, a  
21 section of this chapter or any provision regulating hours and days of work in any order  
22 of the Industrial Welfare Commission (including the “Hours and Days of Work”  
23 section of the Wage Order) shall be subject to a civil penalty of (1) for any initial  
24 violation, fifty dollars (\$50) for each underpaid employee for each pay period for  
25 which the employee was underpaid in addition to an amount sufficient to recover  
26 underpaid wages; (2) for each subsequent violation, one hundred dollars (\$100) for  
27 each underpaid employee for each pay period for which the employee was underpaid in  
28 addition to an amount sufficient to recover underpaid wages; and (3) wages recovered

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1 pursuant to this section shall be paid to the affected employee.

2 258. Plaintiffs seek penalties for Defendants' conduct as alleged herein as  
3 permitted by law.

4 259. Pursuant to Labor Code § 2698, *et seq.*, Plaintiffs seek to recover  
5 attorney's fees, costs, civil penalties, and wages on behalf of Plaintiff and other current  
6 and former Represented Employees as alleged herein in an amount to be shown  
7 according to proof at trial and within the jurisdictional limits of this Court.

8 **NINTH CAUSE OF ACTION**

9 **Class Claim for Remedies for Violations of the**  
10 **California Unfair Business Practices Code §§ 17200, *et seq.***

11 (Against all Defendants)

12 260. Plaintiffs re-allege and incorporate by reference the foregoing allegations,  
13 as though set forth herein.

14 261. Specifically, Plaintiff incorporates all violations set forth in this  
15 Complaint which may support a claim for unlawful and unfair business practices, to  
16 the extent permitted by law.

17 262. At all relevant times, Defendants have engaged in unlawful and unfair  
18 business practices in violation of Business and Professions Code § 17200 *et seq.*  
19 through common and systemic employment policies and practices by failing to provide  
20 the employment protections, wages, premiums, reimbursements and other funds and  
21 property owed to Plaintiff and Class Members, as alleged throughout this Complaint,  
22 in violation of the Labor Code and IWC Wage Orders.

23 263. Defendants' business practices deprived Plaintiff and Class Members of  
24 compensation, reimbursements and other funds to which they are legally entitled,  
25 constitutes unlawful and unfair fraudulent business practices, and provides an unfair  
26 advantage to Defendants over its competitors who have been or are currently in honest  
27 compliance with applicable wage and hour and employment laws.

28 264. Plaintiffs are informed and believe and based thereon allege that

1 Defendants are unjustly enriched because of their unlawful and unfair business  
2 practices.

3 265. Because the named Plaintiff is a victim of Defendants' unfair and  
4 unlawful conduct, as alleged in throughout this Complaint, Plaintiff, as an individual  
5 and on behalf of the Class Members, seeks restitution of all monies and property  
6 withheld, acquired or converted by Defendants pursuant to Business and Professions  
7 Code §§ 17202, 17203, 17204, and 17208.

8 266. Plaintiff and Class Members have rights to obtain an injunction,  
9 restitution, and other equitable relief against such unlawful practices to return all funds  
10 over which Plaintiff and Class Members have an ownership interest and to prevent  
11 future damage pursuant to Business and Professions Code § 17200 *et seq.*

12 267. Plaintiff was compelled to retain the services of counsel to file this court  
13 action to protect their interests and those of the Class Members and to enforce  
14 important employment rights affecting the public interest.

15 268. Plaintiffs have thereby incurred attorneys' fees, which Plaintiffs have the  
16 right to recover on all causes of action under Code of Civil Procedure § 1021.5.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment individually and for all others on  
19 whose behalf this suit is brought against Defendants, jointly and severally, as follows:

- 20 1. For an order certifying the proposed Class and Subclasses;
- 21 2. For an order appointing the named Plaintiff as a class representative;
- 22 3. For an order appointing Counsel for Plaintiffs as class counsel;
- 23 4. For an award of all damages, monetary relief, wages, premiums,  
24 reimbursements, and other sums due to Plaintiffs and Class Members by  
25 virtue of their claims;
- 26 5. For an award of waiting time penalties pursuant to Labor Code § 203;
- 27 6. For an award of liquidated damages pursuant to Labor Code § 1194.2;
- 28 7. For an award of statutory penalties for all Labor Code violations;

- 1 8. For restitution to Plaintiff and Class Members of all money and property  
2 unlawfully acquired by Defendants through unfair or unlawful business  
3 practices pursuant to Business and Professions Code § 17200 *et seq.*;
- 4 9. For disgorgement through restitution of all ill-gotten and/or ill-gained  
5 profits, including unpaid wages to Plaintiffs and/or the Class and/or  
6 Represented Employees, resulting from Defendants' unfair business  
7 practices pursuant to Business and Professions Code §§ 17200-05;
- 8 10. For all remedies available to Plaintiffs under the applicable Industrial  
9 Welfare Commission Order including but not limited to Labor Code §§  
10 201, 201.3, 202, 203, 204, 216, 218, 218.5, 226, 226.3, 226.6, 226.7,  
11 227.3, 510, 512, 516, 558, 558.1, 1182.12, 1194, 1194.2, 1197, 1198,  
12 2802, and 2810.5 via 2698 and 2699 via PAGA Labor Code § 2698, *et*  
13 *seq.* including an award of unpaid wages, attorneys' fees, costs, interest,  
14 liquidated damages, damages, penalties and waiting time penalties  
15 according to proof to the extent permitted by law;
- 16 11. For maximum civil penalties available under the Labor Code and  
17 applicable Wage Order as described more particularly in this Complaint,  
18 representative PAGA claims including the payment of wages as set forth  
19 in Labor Code § 558;
- 20 12. For Labor Code § 226(e) penalties in the amount of \$4,000.00 for each  
21 putative Class Member;
- 22 13. For an award of prejudgment interest on all sums recovered pursuant to  
23 Labor Code § 218.6 and Civil Code §§ 3287 and 3289;
- 24 14. For an order for post judgment interest on all amounts awarded to  
25 Plaintiff and Class Members as provided by law;
- 26 15. For recovery attorneys' fees and costs provided by Labor Code §§ 226,  
27 1194, 2802, 2699(g), and Code of Civil Procedure § 1021.5; and
- 28 16. For such other and further relief as the Court deems just and proper.

1  
2 Dated: June 29, 2020

Law Offices of  
Thomas D. Rutledge

3  
4 By: /s/Thomas D. Rutledge  
Thomas D. Rutledge  
Attorneys for Plaintiffs

5  
6 **DEMAND FOR JURY TRIAL**

7 Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

8 Dated: June 29, 2020

Law Offices of  
Thomas D. Rutledge

9  
10 By: /s/Thomas D. Rutledge  
Thomas D. Rutledge  
Attorneys for Plaintiffs

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