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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**01/04/2021** at 08:00:00 AM  
Clerk of the Superior Court  
By Melinda McClure, Deputy Clerk

5 Attorneys for Plaintiff Sarah Blount  
6  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION**  
10

11 SARAH BLOUNT, as an individual and on  
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 HOST HEALTHCARE, INC., a Delaware  
16 corporation; and DOES 1 through 50,  
inclusive,

17 Defendants.  
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21  
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Case No. 37-2020-00041775-CU-OE-CTL

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT**

1. Failure to Pay All Regular and Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Waiting Time Penalties
8. Failure to Reimburse Business Expenses
9. Violations of the Unfair Competition Law
- 10- Claims for Civil Penalties under the Labor  
18. Code Private Attorneys General Act of 2004

Judge: Hon. Richard E. L. Strauss  
Dept.: C-75  
Action Filed: November 16, 2020

1 Plaintiff SARAH BLOUNT (“Plaintiff”), as an individual and on behalf of a class of all  
2 other similarly situated current and former employees and the State of California, brings this class  
3 and representative action against Defendants HOST HEALTHCARE, INC.; and DOES 1 through  
4 50 (hereinafter collectively referred to as “Defendants” or “Host Healthcare”), alleging as follows:<sup>1</sup>

## 5 INTRODUCTION

6 1. This is a class and representative action brought under the California Labor Code  
7 and Unfair Competition Law.

8 2. This complaint challenges systemic unlawful employment policies and practices that  
9 resulted in violations of the California Labor Code against individuals who worked for Defendants.

10 3. Plaintiff alleges overtime underpayments based on Host Healthcare’s payroll  
11 practice of not including all forms of remuneration (e.g., bonuses and commissions) in the regular  
12 rate of pay for purposes of calculating and paying overtime earnings.

13 4. Plaintiff further alleges that she and other Class Members worked through meal and  
14 rest periods, were not paid for all hours worked through meal periods, and were not consistently  
15 paid meal and rest period premiums when due on account of late, short, missed, or otherwise  
16 interrupted/non-compliant meal and rest periods.

17 5. Plaintiff seeks to recover waiting time penalties on behalf of all other employees  
18 whose employment with Host Healthcare terminated during the statutory period.

19 6. Moreover, Plaintiff alleges Host Healthcare did not reimburse Plaintiff and other  
20 Class Members for all work-related expenses and issued inaccurate wage statements.

21 7. Plaintiff has filed a notice with the California Labor and Workforce Development  
22 Agency as a prerequisite for pleading causes of action for civil penalties under the Labor Code  
23 Private Attorneys General Act of 2004, and will amend this complaint in due time to include those  
24 causes of action seeking civil penalties.

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26 <sup>1</sup> Plaintiff amends the original complaint without leave of court pursuant to Labor Code §  
27 2699.3(a)(2)(C), which states “[n]otwithstanding any other provision of law [including C.C.P. § 472],  
28 a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under  
this part [Labor Code § 2698 et seq.] at any time within 60 days of the time periods specified in this  
part [i.e., after the 65-day notice period has expired].”

**JURISDICTION & VENUE**

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2 8. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the  
3 California Constitution.

4 9. Venue as to each defendant is proper in this judicial district under Code of Civil  
5 Procedure sections 395 and 395.5 because Defendants conduct substantial business in this county,  
6 maintain their principal place of business in this county, employed Plaintiff in this county, and  
7 committed some of the alleged violations in this county.

8 **PARTIES**

9 10. Plaintiff SARAH BLOUNT worked for Host Healthcare in San Diego County until  
10 September 2020 as an hourly, non-exempt employee.

11 11. Plaintiff is informed, believes and alleges that Defendant HOST HEALTHCARE,  
12 INC. is a Delaware corporation that does business throughout California, including San Diego,  
13 California, and maintains its principal place of business at 4225 Executive Square, Suite 1500 in  
14 La Jolla, California 92037.

15 12. The State of California, via the Labor and Workforce Development Agency  
16 ("LWDA"), is the real party in interest in this action with respect to Plaintiff's claims under the  
17 Labor Code Private Attorneys General Act of 2004 ("PAGA," California Labor Code § 2698,  
18 *et seq.*).

19 13. The true names and capacities, whether individual, corporate, or otherwise, of the  
20 parties sued as DOES 1 through 50, are presently unknown to Plaintiff, who sues them by such  
21 fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes and  
22 alleges that each of the fictitious defendants is responsible in some manner for the acts and omissions  
23 alleged herein. Plaintiff will seek leave to amend this Complaint to reflect their true names and  
24 capacities when they become known.

25 14. Plaintiff is informed, believes and alleges that all defendants in this action are  
26 employers and/or joint employers and part of an integrated employer enterprise, as each defendant  
27 exercises control over the wages, hours, and working conditions of Plaintiff and the aggrieved  
28 employees, suffers and permits them to work, and engages the workforce creating a common law

1 employment relationship. Additionally, all defendants have common ownership, common  
2 management, interrelationship of operations, and centralized control over labor relations and are  
3 therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and  
4 omissions alleged herein.

5 15. Plaintiff is informed, believes and alleges that each defendant acted in all respects  
6 pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator,  
7 partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants,  
8 such that the acts and omissions of each defendant are legally attributable to all others.

9 16. Plaintiff is informed, believes and alleges that the above-mentioned defendants  
10 violated and caused to be violated Labor Code and IWC Wage Order provisions regulating  
11 minimum wages and days of work and Labor Code sections 203, 226, 226.7, 1193.6, 1194 and/or  
12 2802 and may thus be held liable as an employer or person acting on behalf of the employer for  
13 such violations, as provided in Labor Code sections 558, 558.1 and 1197.1

#### 14 **GENERAL ALLEGATIONS**

15 17. Plaintiff, like other Class Members, was a non-exempt employee of Host Healthcare  
16 during the Class Period. She, like some of the Class Members, earned bonuses and commissions  
17 during her employment.

18 18. Plaintiff is informed, believes, and alleges, that Host Healthcare maintained a  
19 common policy and practice of payment and payroll administration whereby Host Healthcare paid  
20 overtime wages to Plaintiff and Class Members based on a multiple of their straight time base  
21 hourly rate, rather than “at the rate of no less than one and one-half times the regular rate of pay for  
22 [each] employee,” resulting in an underpayment of overtime wages to Plaintiff and the Class.  
23 (Labor Code § 510 (emphasis added).)

24 19. Specifically, Plaintiff and other Class Members earned remuneration in addition to  
25 their base hourly earnings—such as bonuses and commissions based on objective sales metrics—  
26 yet in those pay periods when they earned additional forms of remuneration, the wage statements  
27 reflect that Plaintiff and other Class Members were paid overtime at a 1.5x multiple of their

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1 respective base hourly rate, rather than based upon a 1.5x (or double time) multiple of their “regular  
2 rate of pay” in violation of Labor Code section 510.

3           20. Plaintiff’s wage statement with the pay date of Sept. 11, 2020 provides an illustrative  
4 example of this unlawful payroll practice. In that pay period, Plaintiff earned 80.00 hours of  
5 “Regular” earnings at the hourly rate of \$21.6300 and total “Commission” earnings of \$1,920.91.  
6 Host Healthcare was required by law to calculate Plaintiff’s regular rate of pay by including the  
7 Commission earnings with the base Regular earnings, however Host Healthcare paid Plaintiff the  
8 rate of \$32.4450 for “Overtime” and \$43.2602 for “Double Time” which reflect 1.5x and 2.0x  
9 multiples of the Regular base hourly rate (\$21.63), rather than a 1.5x or 2.0x multiple of the  
10 “regular rate of pay.” Plaintiff is informed, believes, and alleges that this regular rate of pay  
11 violation occurs in every pay period worked by a non-exempt Host Healthcare employee (current or  
12 former) where the individual earned forms of remuneration in addition to hourly earnings that, by  
13 law, must be factored into the regular rate of pay for purposes of overtime. As a result, Plaintiff and  
14 Class Members were underpaid overtime wages in those pay periods and are entitled to recover all  
15 associated wages, penalties, and interest associated with this practice. Host Healthcare  
16 miscalculated overtime and double-time earnings in pay periods in which putative class members  
17 earned additional forms of remuneration, such as bonuses or commissions, resulting in an  
18 underpayment of wages.

19           21. Separate and in addition to the regular rate of pay violations and underpayments,  
20 Plaintiff alleges that Host Healthcare also maintained a policy and practice of restricting overtime to  
21 10 recorded hours per week/pay period, which resulted in off-the-clock unpaid hours for Class  
22 Members, as the recorded hours did not match the actual hours worked by Class Members. Plaintiff  
23 alleges that this policy applied to the employees who were entitled to earn commissions and  
24 bonuses, including but not limited to Recruiters, Account Coordinators, Account Managers, Quality  
25 Assurance Specialists. This cap created an overtime limit that was not congruent with the number  
26 of hours worked by Class Members, such that hours in excess of the cap were often worked but not  
27 paid. Class Members were incentivized and expected to produce via commissions and bonuses, and  
28 the overtime cap limited the number of compensable overtime hours contrary to California law

1 requiring payment for all hours worked. As a result, Plaintiff and Class Members were underpaid  
2 overtime wages due to the overtime cap and are entitled to recover all associated wages, penalties,  
3 and interest associated with this practice.

4 22. Plaintiff alleges that Class Members worked during meal periods without  
5 compensation due to work demands, the scheduling of required meetings (whether in person or later  
6 on Zoom) that occurred during the lunch hour, and Defendants' policy and practice of requiring  
7 Plaintiff and Class Members to record a meal period despite not receiving a meal period (or hourly  
8 pay) due to work demands. Meal periods were thus missed, late, short, interrupted or otherwise  
9 non-complaint as a matter of company practice. For these non-complaint meal periods, Plaintiff  
10 and Class Members were not paid a meal period premium, nor were they compensated for the time  
11 worked at the lawful minimum wage, resulting in an unpaid premium in violation of the IWC Wage  
12 Orders and Labor Code sections 226.7 and 512 and unpaid off-the-clock hours in violation of Labor  
13 Code sections 1182.12, 1194, 1194.2, and related provisions. Furthermore, Plaintiff alleges that she  
14 and other Class Members were not paid a meal period premium for each late, short, or missed meal  
15 period during the relevant statutory period as a result of Host Healthcare's policies, practices and  
16 payroll administration.

17 23. On account of work demands and business practices, Plaintiff and Class Members  
18 were not authorized or permitted to take all required rest periods, in violation of California law. For  
19 these non-compliant rest periods, Host Healthcare did not pay a rest period premium and, on  
20 information and belief, Plaintiff alleges that Host Healthcare as a matter of common policy and  
21 practice did not pay all required rest period premiums required by law during the statutory period.  
22 Whereas Host Healthcare appears to have paid some *meal period premiums* under certain instances  
23 to Plaintiff and Class Members, Plaintiff alleges that Host Healthcare did not pay rest period  
24 premiums as a matter of common practice in violation of Labor Code sections 226.7 and 516.

25 24. The Host Healthcare employee handbook is silent as to the entitlement of its  
26 workforce to receive meal and rest period premiums when missed, late, short or interrupted.  
27 Plaintiff alleges that Host Healthcare did not have sufficient standards, forms, or similar  
28 mechanisms to ensure that premiums were paid to employees when owed.

1           25. Because of Host Healthcare’s policies and practices which resulted in the  
2 underpayment of wages and premiums to Plaintiff and Class Members, Defendants did not timely  
3 pay all wages owed to Plaintiff and Class Members each pay period on regularly scheduled pay  
4 days, and further did not pay all amounts due upon separation of employment in violation of Labor  
5 Code sections 201 through 204, including 203’s waiting time penalty.

6           26. Plaintiff and Class Members were required to use their personal cell phones for  
7 work-related purposes, including to communicate via phone and email with clients and teammates  
8 (email app usage, phone usage, Vonage app usage), but were not reimbursed a reasonable  
9 percentage of their cell phone bill in violation of Labor Code section 2802. (*See e.g., Cochran v.*  
10 *Schwan’s Home Service, Inc.* (2014) 228 Cal. App. 4th 1137.) Although Defendants paid a  
11 telework reimbursement to some of the Class Members at some point post-COVID, the nominal  
12 amount insufficiently covered the actual and reasonable costs incurred by Class Members for work  
13 related expenses, such as data, communications and telephone.

14           27. Host Healthcare also issued inaccurate and incomplete itemized wage statements to  
15 Plaintiff and Class Members in violation of Labor Code section 226(a). Specifically, Host  
16 Healthcare issued wage statements that did not accurately reflect the wages and hours worked and  
17 earned by or owed to Plaintiff and Class Members, as Defendants failed to pay overtime  
18 compensation at the correct regular rate of pay, failed to pay for off-the-clock overtime and regular  
19 hours, and failed to pay all required meal and rest period premiums, resulting in an inaccurate  
20 statement of net and gross wages earned and owed, total hours worked, the lawful rates in effect  
21 each pay period with the corresponding number of hours.

22           28. Host Healthcare listed the incorrect overtime and double time hourly rate on wage  
23 statements in pay periods in which putative class members earned bonuses or commissions. Host  
24 Healthcare listed the incorrect amount of commissions and bonuses earned and paid on wage  
25 statements.

26           29. Plaintiff alleges that this caused confusion, concealment of underpayment of wages,  
27 difficulty examining the pay records, and other injuries.

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2 30. Moreover, to the extent meal and rest periods were paid to Plaintiff and other Class  
3 Members, they were not paid at the regular rate of compensation and therefore the inaccurate hourly  
4 rate is stated on wage statements.

5 31. Lastly, Plaintiff alleges that as a matter of practice, Defendants did not issue final  
6 wage statements to Class Members who separate from employment during the statutory period.

7 32. Plaintiff is informed, believes and alleges that Defendants have engaged in willful  
8 violations of the Labor Code and IWC Wage Orders by creating and maintain policies, practices  
9 and customs that knowingly deny Plaintiff and Class Members their legal rights and benefits.

10 **CLASS ACTION ALLEGATIONS**

11 33. ***Class Definition.*** The named individual Plaintiff seeks class certification under  
12 California Code of Civil Procedure section 382. Plaintiff proposes the following class:

13 a. All individuals who worked for Host Healthcare as a non-exempt or hourly  
14 employee in California at any time during the period four (4) years before the filing  
15 of this Complaint and continuing to the time of trial (the "Class" or "Class  
16 Members" and the "Class Period").

17 34. Further, Plaintiff proposes the following subclasses:

18 a. All Class Members who separated from employment with Host Healthcare at any  
19 time during the period three (3) years before the filing of this Complaint and  
20 continuing through the present (the "Waiting Time Subclass").

21 b. All Class Members who received a wage statement Host Healthcare at any time  
22 during the period one (1) year before the filing of this Complaint and continuing  
23 through the present (the "Wage Statement Subclass").

24 c. All Class Members who were not paid a monetary amount by Host Healthcare as a  
25 cell phone reimbursement (the "Reimbursement Subclass").

26 35. Plaintiff reserves the right to move the Court to amend and modify the class  
27 definitions and to establish additional classes and subclasses as the litigation progresses.

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1           36.    **Numerosity.** The members of the Class are so numerous that joinder of all  
2 individuals is impracticable. The identity of the Class Members is readily ascertainable by review  
3 of Defendants' employment and payroll records. Plaintiff is informed, believes and alleges there  
4 are more than 50 Class Members.

5           37.    **Adequacy of Representation.** Plaintiff is an adequate class representative, who will  
6 take all necessary steps to adequately and fairly represent and protect the interest of the Class.  
7 Plaintiff is represented by attorneys who have substantial experience prosecuting and resolving  
8 wage-and-hour class actions in the past and currently have numerous wage-and-hour class actions  
9 pending in California state and federal courts.

10          38.    **Manageability.** This class action is manageable because all of the liability and  
11 damages to Class Members can be ascertained by forensic review of corporate and employer  
12 timekeeping and payroll records along with other evidence that Defendants maintained and is  
13 required by law to maintain, along with Class Member testimony.

14          39.    **Superiority.** A class action is superior to other means for adjudication of the claims  
15 of the Class and is beneficial and efficient for the parties and the Court. Class treatment will allow  
16 for the common issues to be resolved in a single forum, simultaneously and without duplication of  
17 effort and expense.

18          40.    **Commonality.** Common questions of law and fact and a community of interest  
19 exists amongst Plaintiff and the Class. These common issues arise from the employment  
20 relationship with Defendants and predominate over any individual issues.

21          41.    **Typicality.** Plaintiff's claims are typical of the claims of the other Class Members.  
22 Plaintiff and Class Members were subject to the same policies and practices of Defendants, which  
23 resulted in losses to Plaintiff and Class Members.

24          42.    Proof of common unlawful business practices, which Plaintiff experienced and is  
25 representative of, will establish the right of the Class to recover on the causes of action alleged  
26 herein.

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**PAGA ALLEGATIONS**

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2 43. “Notwithstanding any other provision of law, any provision of this code that  
3 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development  
4 Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a  
5 violation of this code, may, as an alternative, be recovered through a civil action brought by an  
6 aggrieved employee on behalf of himself or herself and other current or former employees pursuant  
7 to the procedures specified in Section 2699.3.” (Labor Code § 2699(a)).

8 44. Plaintiff seeks to recover civil penalties as an individual aggrieved employee and on  
9 behalf of the State of California and all other current and former non-exempt employees of  
10 Defendants who work or worked within the State of California within the one-year period prior to  
11 the date on which Plaintiff first provided written notice to the Labor and Workforce Development  
12 Agency and Defendants under Labor Code § 2699.3 and continuing through the present (the  
13 “aggrieved employees” and the “PAGA Period”).

14 45. Plaintiff is an “aggrieved employee” because Plaintiff was employed by Defendants  
15 and suffered one or more of the Labor Code violations committed by Defendants and alleged in this  
16 Complaint.

17 46. On October 22, 2020, Plaintiff gave written notice by online filing with the LWDA  
18 and by certified mail to Defendants of the specific provisions of the Labor Code alleged to have  
19 been violated, including the facts and theories to support the alleged violations. Plaintiff paid the  
20 requisite filing fee to the LWDA. A true and correct copy of the notice, incorporated by reference  
21 as though fully set forth herein, is attached hereto as Exhibit A.

22 47. Within 33 calendar days of the postmark date of the notice sent by Plaintiff,  
23 Defendants did not give written notice by certified mail to Plaintiff providing a description of any  
24 actions taken to cure the alleged violations.

25 48. Now that at least 65 days have passed from Plaintiff notifying Defendants of these  
26 violations, without any notice of cure from them or notice from the LWDA of its intent to  
27 investigate the alleged allegations and issue the appropriate citations to Defendant, Plaintiff  
28 exhausted all prerequisites and commences this civil action under Labor Code § 2699.



1 55. day of a workweek in violation of Labor Code sections 510 and 1198 and the IWC  
2 Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

3 56. Defendants failed to pay overtime at the regular rate of pay by failing to calculate it  
4 properly through inclusion of commissions, bonuses and other remuneration. This resulted in an  
5 underpayment of overtime wages in each pay period Class Members worked overtime.  
6 Additionally, Plaintiff and Class Members were subject to a cap on the number of overtime hours  
7 worked, further resulting in uncompensated hours worked.

8 57. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of  
9 overtime wages in amounts to be determined at trial. Plaintiff and the Class are entitled to recover  
10 to the full amount of the unpaid overtime wages, in addition to interest, attorneys’ fees, and costs to  
11 the extent permitted by law, including under Labor Code section 1194.

12 **THIRD CAUSE OF ACTION**

13 **MEAL PERIOD VIOLATIONS**

14 **Labor Code §§ 226.7 and 512**

15 58. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

16 59. Defendants willfully failed in their affirmative obligation to consistently provide  
17 Plaintiff and Class Members compliant, duty-free meal periods of not less than 30 minutes  
18 beginning before the fifth hour of hour for each work period of more than five hours per day and a  
19 second on-duty meal period of not less than 30 minutes beginning before the tenth hour of hour of  
20 work in violation of Labor Code sections 226.7 and 512 and the IWC Wage Orders (the “Meal  
21 Periods” sections of the applicable orders).

22 60. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
23 Plaintiff and Class Members one additional hour of pay at the respective regular rate of  
24 compensation for each workday that a fully compliant meal period was not provided, in violation of  
25 Labor Code sections 226.7 and the IWC Wage Orders.

26 61. As alleged above, Plaintiff and Class Members did not receive all meal period  
27 premiums for late, short, or interrupted or working meal periods. Additionally, Plaintiff and Class  
28 Members worked through meal periods without a corresponding premium payment.





1 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor  
2 Code section 226(e).

3 **SEVENTH CAUSE OF ACTION**

4 **WAITING TIME PENALTIES**

5 **Violation of Labor Code §§ 201 through 203**

6 75. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 76. Defendants willfully failed in their affirmative obligation to pay all wages earned  
8 and unpaid to Plaintiff and members of the Waiting Time Subclass immediately upon termination  
9 of employment or within 72 hours thereafter for employees who did not provide at least 72 hours  
10 prior notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter  
11 in violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

12 77. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of timely  
13 wages upon separation of employment in amounts to be determined at trial. Plaintiff and the Class  
14 are entitled to recover to the wages of Plaintiff and members of the Waiting Time Subclass as a  
15 waiting time penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs  
16 to the extent permitted by law.

17 **EIGHTH CAUSE OF ACTION**

18 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

19 **Violation of Labor Code §§ 2802**

20 78. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

21 79. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff and  
22 Class Members for all necessary expenditures, losses, expenses and costs incurred by them in direct  
23 discharge of the duties of their employment, in violation of Labor Code section 2802.

24 80. As alleged above, Defendants failed to reimburse Plaintiff and Class Members for  
25 their work-related use of their personal cell phones and other expenses.

26 81. Defendants' unlawful acts and omissions deprived Plaintiff and Class Members of  
27 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and the  
28 Class are entitled to recover to amount of the unreimbursed expenses of Plaintiff and Class

1 Members in addition to interest, attorneys' fees, and costs to the extent permitted by law, including  
2 under Labor Code section 2802.

3 **NINTH CAUSE OF ACTION**

4 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**

5 **Business and Professions Code §§ 17200, *et seq.***

6 82. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 83. Defendants willfully failed in their affirmative obligation to timely pay each payday  
8 or at other required intervals all minimum, regular, and overtime wages, meal and rest period  
9 premium wages, and reimbursements to Plaintiff and Class Members. These failures constitute  
10 unlawful, deceptive, and unfair business acts and practices in violation of Business and Professions  
11 Code section 17200, *et seq.*

12 84. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct, as alleged  
13 throughout this Complaint, Plaintiff, as an individual and on behalf of the Class seeks restitution of  
14 all monies and property withheld, acquired, or converted by Defendants in violation of the Labor  
15 Code and IWC Wage Orders under Business and Professions Code section 17202, 17203, 17204  
16 and 17208.

17 85. Defendants' unlawful acts and omissions deprived Plaintiff and Class Members of  
18 monies and property in amounts to be determined at trial. Plaintiff and the Class are entitled to  
19 injunctive relief against Defendants, restitution, and other equitable relief to return all funds over  
20 which Plaintiff and the Class have an ownership interest and to prevent future damage under  
21 Business and Professions Code section 17200, *et seq.* in addition to interest, attorneys' fees, and  
22 costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

23 **TENTH CAUSE OF ACTION**

24 **CIVIL PENALTIES FOR FAILURE TO PAY**

25 **ALL REGULAR AND MINIMUM WAGES (PAGA)**

26 **Labor Code §§ 2698, *et seq.***

27 86. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

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1           87.     Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,  
2 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor  
3 and Workforce Development Agency or any of its departments, divisions, commissions, boards,  
4 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a  
5 civil action brought by an aggrieved employee on behalf of himself or herself and other current or  
6 former employees pursuant to the procedures specified in Section 2699.3 .”

7           88.     Labor Code section 2699(f) provides: “For all provisions of this code except those  
8 for which a civil penalty is specifically provided, there is established a civil penalty for a violation  
9 of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs  
10 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved  
11 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved  
12 employee per pay period for each subsequent violation.”

13           89.     Labor Code section 558(a) provides: “Any employer or other person acting on behalf  
14 of an employer who violates, or causes to be violated, a section of this chapter or any provision  
15 regulating hours and days of work in any order of the Industrial Welfare Commission shall be  
16 subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each  
17 underpaid employee for each pay period for which the employee was underpaid in addition to an  
18 amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred  
19 dollars (\$100) for each underpaid employee for each pay period for which the employee was  
20 underpaid in addition to an amount sufficient to recover underpaid wages.”

21           90.     Labor Code section 1197.1(a) provides: “Any employer or other person acting either  
22 individually or as an officer, agent, or employee of another person, who pays or causes to be paid to  
23 any employee a wage less than the minimum fixed by an applicable state or local law, or by an  
24 order of the commission, shall be subject to a civil penalty ... and any applicable penalties imposed  
25 pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one  
26 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is  
27 underpaid ... and any applicable penalties imposed pursuant to Section 203. (2) For each  
28 subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each

1 underpaid employee for each pay period for which the employee is underpaid regardless of whether  
2 the initial violation is intentionally committed.”

3 91. Plaintiff does not seek for any cause of action in this Complaint under PAGA any  
4 amounts that are not recoverable pursuant to Labor Code section 2699 et seq. (i.e., underpaid  
5 wages).

6 92. Defendants willfully failed in their affirmative obligation to pay Plaintiff and  
7 aggrieved employees at least the lawful minimum wage for all hours worked in violation of Labor  
8 Code sections 1182.12, 1197 and 1198 and the IWC Wage Orders (the “Hours and Days of Work”  
9 and “Minimum Wages” sections of the applicable orders).

10 93. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
11 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
12 by Labor Code sections 558, 1197.1, and 2699(a) and (f)(2), in addition to interest, attorneys’ fees,  
13 and costs to the extent permitted by law, including under Labor Code section 2699(g).

14 **ELEVENTH CAUSE OF ACTION**

15 **CIVIL PENALTIES FOR FAILURE TO PAY**

16 **ALL OVERTIME WAGES (PAGA)**

17 **Labor Code §§ 2698, et seq.**

18 94. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

19 95. Defendants failed in their affirmative obligation to pay Plaintiff and aggrieved  
20 employees no less than one and one-half times their respective “regular rate of pay” for all hours  
21 worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on  
22 the seventh day of work in any one workweek, and no less than twice their respective “regular rate  
23 of pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh  
24 day of a workweek in violation of Labor Code sections 510 and 1198 and the IWC Wage Orders  
25 and the IWC Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

26 96. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
27 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required

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1 by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs  
2 to the extent permitted by law, including under Labor Code section 2699(g).

3 **TWELFTH CAUSE OF ACTION**

4 **CIVIL PENALTIES FOR MEAL PERIOD VIOLATIONS (PAGA)**

5 **Labor Code §§ 2698, *et seq.***

6 97. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 98. Defendants willfully failed in their affirmative obligation to consistently provide  
8 Plaintiff and aggrieved employees compliant, duty-free meal periods of not less than 30 minutes  
9 beginning before the fifth hour of hour for each work period of more than five hours per day and a  
10 second on-duty meal period of not less than 30 minutes beginning before the tenth hour of hour of  
11 work in violation of Labor Code sections 226.7 and 512 and the IWC Wage Orders (the "Meal  
12 Periods" sections of the applicable orders)..

13 99. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
14 Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of  
15 compensation for each workday that a fully compliant meal period was not provided, in violation of  
16 Labor Code sections 226.7 and the IWC Wage Orders.

17 100. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
18 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
19 by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys' fees, and costs  
20 to the extent permitted by law, including under Labor Code section 2699(g).

21 **THIRTEENTH CAUSE OF ACTION**

22 **CIVIL PENALTIES FOR REST PERIOD VIOLATIONS (PAGA)**

23 **Labor Code §§ 2698, *et seq.***

24 101. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

25 102. Defendants willfully failed in their affirmative obligation to consistently authorize  
26 and permit Plaintiff and aggrieved employees to receive compliant, duty-free rest periods of not less  
27 than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor  
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1 Code sections 226.7 and 516 and the IWC Wage Orders (the “Rest Periods” sections of the  
2 applicable orders).

3 103. Further, Defendants willfully failed in their affirmative obligation to consistently pay  
4 Plaintiff and aggrieved employees one additional hour of pay at the respective regular rate of  
5 compensation for each workday that a fully compliant rest period was not provided, in violation of  
6 Labor Code sections 226.7 and the IWC Wage Orders.

7 104. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
8 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
9 by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs  
10 to the extent permitted by law, including under Labor Code section 2699(g).

11 **FOURTEENTH CAUSE OF ACTION**

12 **CIVIL PENALTIES FOR UNTIMELY PAYMENT OF WAGES (PAGA)**

13 **Labor Code §§ 2698, *et seq.***

14 105. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

15 106. Defendants willfully failed in their affirmative obligation to timely pay all wages and  
16 premiums earned by Plaintiff and aggrieved employees twice during each calendar month on days  
17 designated in advance by the employer as regular paydays (for employees paid on a non-weekly  
18 basis) and on the regularly-scheduled weekly payday for any weekly employees, in violation of  
19 Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of  
20 the applicable orders).

21 107. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
22 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
23 by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs  
24 to the extent permitted by law, including under Labor Code section 2699(g).

25 **FIFTEENTH CAUSE OF ACTION**

26 **CIVIL PENALTIES FOR WAGE STATEMENT VIOLATIONS (PAGA)**

27 **Labor Code §§ 2698, *et seq.***

28 108. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

1 109. Labor Code section 226.3 provides: “Any employer who violates subdivision (a) of  
2 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per  
3 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for  
4 each violation in a subsequent citation, for which the employer fails to provide the employee a  
5 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.  
6 The civil penalties provided for in this section are in addition to any other penalty provided by law.”

7 110. Defendants failed in their affirmative obligation provide accurate itemized wage  
8 statements to Plaintiff and aggrieved employees in violation of Labor Code section 226(a).

9 111. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
10 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
11 by Labor Code sections 226.3 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and  
12 costs to the extent permitted by law, including under Labor Code section 2699(g).

13 **SIXTEENTH CAUSE OF ACTION**

14 **CIVIL PENALTIES FOR FAILURE TO TIMELY PAY ALL WAGES UPON**  
15 **SEPARATION OF EMPLOYMENT (PAGA)**

16 **Labor Code §§ 2698, *et seq.***

17 112. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

18 113. Defendants willfully failed in their affirmative obligation to pay all wages earned  
19 and unpaid to Plaintiff and aggrieved employees immediately upon termination of employment or  
20 within 72 hours thereafter for employees who did not provide at least 72 hours prior notice of his or  
21 her intention to quit, and further failed to pay those sums for 30 days thereafter in violation of  
22 Labor Code sections 201 through 203 and the IWC Wage Orders.

23 114. As a result, Defendants violated the Labor Code and IWC Wage Orders and are  
24 liable to Plaintiff, the aggrieved employees and the State of California for civil penalties as required  
25 by Labor Code sections 558 and 2699(a) and (f)(2), in addition to interest, attorneys’ fees, and costs  
26 to the extent permitted by law, including under Labor Code section 2699(g).

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1 121. Defendants willfully failed in their affirmative obligation to maintain accurate  
2 records showing the hours worked daily and wages paid to the aggrieved employees, in violation of  
3 Labor Code section 1174.

4 122. As a result, Defendants violated the Labor Code and are liable to Plaintiff, the  
5 aggrieved employees and the State of California for civil penalties as required by Labor Code  
6 section 1174.5, in addition to interest, attorneys' fees, and costs to the extent permitted by law,  
7 including under Labor Code section 2699(g).

8 **PRAYER FOR RELIEF**

9 Plaintiff, as an individual and on behalf of the Class, prays for judgment as follows:

- 10 a. For certification of this action as a class action;
- 11 b. For appointment of Plaintiff as the representative of the Class;
- 12 c. For appointment of counsel for Plaintiff as Class Counsel;
- 13 d. For injunctive relief;
- 14 e. For compensatory damages in amount according to proof;
- 15 f. For all interest accrued;
- 16 g. For disgorgement of all amounts wrongfully obtained;
- 17 h. For this action to be maintained as a representative action under the PAGA and for  
18 Plaintiff and counsel to be provided with all enforcement capability as if the action  
19 were brought by the State of California or the California Division of Labor  
20 Enforcement;
- 21 i. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- 22 j. For recovery of all statutory penalties and liquidated damages;
- 23 k. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent  
24 permitted by law, including under California Labor Code sections 226, 1194, 2802,  
25 2699(g) and Code of Civil Procedure section 1021.5;
- 26 l. For such other relief the Court deems just and proper.

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1 Dated: January 4, 2021

FERRARO VEGA EMPLOYMENT LAWYERS, INC.

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4 NICHOLAS J. FERRARO, ESQ.

5 LAUREN N. VEGA, ESQ.

6 Attorneys for Plaintiff Sarah Blount

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