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 ORIGINAL FILED
 Superior Court of California
 County of Los Angeles

OCT 15 2019

Sherril K. Smith, Executive Officer/Clerk of Court
 By *[Signature]*, Deputy
 Steven Drew

Attorneys for Plaintiffs Jaime Collins and Brandye Houston, individually
 and on behalf of all others similarly situated
 (Additional Counsel on Page 2)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

11 JAIME COLLINS and BRANDYE
 12 HOUSTON, individually, and on behalf
 13 of all others similarly situated,

Plaintiffs,

vs.

15 MAXIMUS HUMAN SERVICES, INC.,
 16 a Virginia Corporation; MAXIMUS,
 17 INC., a Virginia Corporation; and DOES
 18 1 through 50, inclusive,

Defendants.

19 MAIANH NGUYEN, individually and on
 20 behalf of all others similarly situated,

Plaintiff,

vs.

23 MAXIMUS HUMAN SERVICES, INC.;
 24 MAXIMUS, INC.; MAXIMUS
 25 CONSULTING SERVICES, INC.;
 26 MAXIMUS K-12 EDUCATION, INC.; and
 27 MAXIMUS HIGHER EDUCATION, INC.;
 28 and DOES 1 through 20, inclusive,

Defendants.

CASE NO. 19STCV17916 (Lead Case)
 Consolidated with
 CASE NO.: 19STCV34596

CLASS ACTION**CONSOLIDATED COMPLAINT FOR:**

- (1) Failure to Pay Wages;
- (2) Failure to Provide Meal Periods;
- (3) Failure to Permit Rest Breaks;
- (4) Failure to Pay All Wages Due Within the Required Time and Upon Separation of Employment;
- (5) Failure to Furnish Accurate Wage Statements;
- (6) Violation of Business and Professions Code §§ 17200, *et seq.*; and
- (7) Enforcement of Labor Code §§ 2698, *et seq.* ("PAGA")

DEMAND FOR JURY TRIAL

BY FAX

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12 Attorneys for Plaintiff Maianh Nguyen, individually
13 and on behalf of all others similarly situated

1 Plaintiffs Jaime Collins, Brandye Houston, and Maianh Nguyen, individually and on
2 behalf of all others similarly situated, allege as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs JAIME COLLINS, BRANDYE HOUSTON, and MAIANH NGYUEN
5 (collectively, "Plaintiffs"), bring this putative class action pursuant to California Code of Civil
6 Procedure section 382, and representative action (for Jaime Collins and Maianh Nguyen),
7 pursuant to Private Attorneys General Act of 2004, Cal. Lab. Code section 2698 *et seq.*, on
8 behalf of Plaintiffs and all non-exempt employees(including those misclassified as exempt)
9 employed by, or formerly employed by, Maximus Human Services, Inc., Maximus, Inc.,
10 Maximus Consulting Services, Inc., Maximus Higher Education, Inc. and DOES 1 through 50,
11 inclusive (collectively, "Defendants") within the State of California.

12 2. Defendants provide consulting services.

13 3. Through this action, Plaintiffs are alleging that Defendants have engaged in a
14 systematic pattern of wage and hour violations under the California Labor Code and Industrial
15 Welfare Commission ("IWC") Wage Orders, all of which contribute to Defendants' deliberate
16 unfair competition.

17 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
18 increased their profits by violating state wage and hour laws by, among other things:

- 19 (a) Failing to pay minimum wages;
- 20 (b) Failing to pay overtime wages;
- 21 (c) Failing to provide compliant meal periods or compensation in lieu
22 thereof;
- 23 (d) Failing to authorize or permit compliant rest breaks or provide
24 compensation in lieu thereof;
- 25 (e) Willfully failing to provide accurate, semi-monthly itemized wage
26 statements; and
- 27 (f) Failing to pay all wages due upon separation of employment.

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1 5. Plaintiffs bring this lawsuit seeking monetary relief against Defendants on
2 behalf of themselves and all other members of the general public similarly situated in
3 California to recover, among other things, unpaid wages and benefits, interest, attorney's fees,
4 costs and expenses and penalties (to the extent permitted by law) pursuant to Labor Code §§
5 201, 202, 203, 204, 226, 226.3, 226.7, 510, 511, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197,
6 1197.1, 1198, and 2698, *et seq.* and Code of Civil Procedure § 1021.5.

7 **JURISDICTION AND VENUE**

8 6. This is a class action, pursuant to California Code of Civil Procedure § 382.
9 The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional
10 limits of the Superior Court and will be established according to proof at trial.

11 7. This Court has jurisdiction over this action pursuant to the California
12 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes
13 except those given by statutes to other courts. The statutes under which this action is brought do
14 not specify any other basis for jurisdiction.

15 8. This Court has jurisdiction over all Defendants because, upon information and
16 belief, they are citizens of California, have sufficient minimum contacts in California or
17 otherwise intentionally avail themselves of the California market so as to render the exercise of
18 jurisdiction over them by the California courts consistent with traditional notions of fair play
19 and substantial justice.

20 9. Venue is proper in this Court because, upon information and belief, Defendants
21 reside, transact business or have offices in this county and the acts and omissions alleged herein
22 took place in this county.

23 **THE PARTIES**

24 10. Plaintiffs are citizens of California. Plaintiffs were employed by Defendants
25 during the Class Period in California.

26 11. Plaintiffs are informed and believe, and thereon allege, that Defendants were
27 and are corporations doing business in California and, at all times hereinafter mentioned, were
28

1 and are employers as defined in and subject to the Labor Code and IWC Wage Orders, whose
2 employees are engaged throughout this county and the State of California.

3 12. Plaintiffs are unaware of the true names or capacities of the Defendants sued
4 herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to
5 amend this Complaint and serve such fictitiously named Defendants once their names and
6 capacities become known.

7 13. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 50
8 are the partners, agents, owners, shareholders, managers or employees of Defendants, at all
9 relevant times.

10 14. Plaintiffs are informed and believe, and thereon allege, that each and all of the
11 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
12 DOES 1 through 50, acting as the agent or alter ego for the other, with legal authority to act on
13 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
14 the official policy of Defendants.

15 15. At all relevant times, Defendants, and each of them, acted within the scope of
16 such agency or employment, or ratified each and every act or omission complained of herein.
17 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions
18 of each and all the other Defendants in proximately causing the damages herein alleged.

19 16. Plaintiffs are informed and believe, and thereon allege, that each of said
20 Defendants is in some manner intentionally, negligently or otherwise responsible for the acts,
21 omissions, occurrences and transactions alleged herein.

22
23 **CLASS ACTION ALLEGATIONS**

24 17. Plaintiffs bring this action under Code of Civil Procedure § 382 on behalf of
25 themselves and all other members of the general public who work or worked for Defendants
26 during the relevant time period and are similarly situated who were affected by Defendants'
27 Labor Code, Business and Professions Code §§ 17200 and IWC Wage Order violations.

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1 18. Plaintiffs bring this action on behalf of themselves and all others similarly
2 situated as a class action, pursuant to California *Code of Civil Procedure* §382. The classes
3 which Plaintiffs seek to represent are composed of, and defined as follows:

4 Class:

5 All California citizens currently or formerly employed as non-exempt employees
6 (including those misclassified as exempt employees) by Defendants in California
7 starting four years prior to the filing of the initial Complaint by Plaintiff Jaime Collins
8 on May 23, 2019 ("Complaint").

9 19. Plaintiffs also seeks to certify the following Subclasses:

10 Alternative Workweek Subclass:

11 All Class members subject to an alternative workweek schedule

12 Waiting Time Subclass:

13 All Class members who separated their employment from Defendants starting three
14 years prior to the filing of the Complaint who were not paid all wages due at the time of
15 separation from their employment with Defendant.

16 Meal Period Sub-Class:

17 All members of the Class who were not authorized and permitted to take a 30-minute,
18 off-duty, uninterrupted meal period for every five hours worked per day, and were not
19 compensated one hour's pay for each day on which such meal period was not
20 authorized and permitted.

21 Rest Break Sub-Class:

22 All members of the Class who were not authorized and permitted to take a 10-minute,
23 off-duty, uninterrupted rest break for every four hours worked per day, or major
24 fraction thereof, and were not compensated one hour's pay for each day on which such
25 rest break was not authorized and permitted.

26 Overtime Sub-Class:

27 All members of the Class who were not paid overtime compensation for all hours
28 worked in excess of eight hours per day and/or 40 hours per week.

29 Unpaid Wage Subclass:

30 All members of the Class who Defendants failed to pay an hourly wage for each hour
31 worked.

32 Wage Statement Subclass:

33 All members of the Class that Defendants did not provide accurate itemized wage
34 statements showing all hours actually worked, all wages earned, and the applicable rates
35 of pay.

1 Misclassification Subclass:

2 All Class members who were misclassified as exempt employees as a result of not
3 meeting the salary basis test.

4 UCL Subclass: All members of the Class who, are owed restitution of unpaid wages
5 resulting from Defendants' systematic violations of California's Labor Code and the
6 Wage Orders.

7 20. Plaintiffs reserve the right to modify or re-define the Class/sub-classes, establish
8 additional subclasses, as appropriate based on investigation, discovery, and specific theories of
9 liability.

10 21. Members of the Class and the above subclasses described above will be
11 collectively referred to as "Class Members."

12 22. There are common questions of law and fact as to the Class Members that
13 predominate over any questions affecting only individual members including, but not limited
14 to, the following:

- 15 (a) Whether Defendants failed to pay Plaintiffs and Class Members all
16 wages (including minimum wages and overtime wages) for all hours
17 worked by Plaintiffs and Class Members.
- 18 (b) Whether Defendants required Plaintiffs and Class Members to work
19 over eight (8) hours per day, over twelve (12) hours per day, and/or
20 over forty (40) hours per week and failed to pay them overtime
21 compensation for all overtime hours worked at the proper rate.
- 22 (c) Whether Defendants deprived Plaintiffs and Class Members of timely
23 meal periods or required Plaintiffs and Class Members to work through
24 meal periods without compensation including one hour of pay in lieu
25 thereof.
- 26 (d) Whether Defendants deprived Plaintiffs and Class Members of rest
27 breaks or required Plaintiffs and Class Members to work through rest
28 breaks and did not pay them one hour of pay in lieu thereof.

- (e) Whether Defendants' timekeeping system and policies failed to record all hours worked, including meal periods, by Plaintiff and Class members;
- (f) Whether Defendants failed to provide Plaintiffs and Class Members accurate itemized wage statements.
- (g) Whether Defendants failed to timely pay the Waiting Time Subclass all wages due upon termination or within seventy-two (72) hours of resignation.
- (h) Whether Defendants' conduct was willful or reckless.
- (i) Whether Defendants engaged in unfair business practices in violation of Business and Professions Code §§ 17200, *et seq.*

23. There is a well-defined community of interest in this litigation and the proposed Class and Subclasses are readily ascertainable:

(a) Numerosity: The Class Members are so numerous that joinder of all members is impractical. Although the members of the entire Class and Subclasses are unknown to Plaintiffs at this time, on information and belief, the class is estimated to be greater than fifty (250) individuals. The identities of the Class Members are readily ascertainable by inspection of Defendants' employment and payroll records.

(b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the claims (or defenses, if any) of the Class Members because Defendants' failure to comply with the provisions of California's wage and hour laws entitled each Class Member to similar pay, benefits, and other relief. The injuries sustained by Plaintiffs are also typical of the injuries sustained by the Class Members, because they arise out of and are caused by Defendants' common course of conduct as alleged herein.

(c) Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of all Class Members because it is in Plaintiffs' best interest to prosecute the claims alleged herein to obtain full compensation and penalties due to Plaintiffs and the Class Members. Plaintiffs' attorneys, as proposed class counsel, are competent and experienced in

1 litigating large employment class actions and versed in the rules governing class action
2 discovery, certification, and settlement. Plaintiffs have incurred and, throughout the duration of
3 this action, will continue to incur attorneys' fees and costs that have been and will be
4 necessarily expended for the prosecution of this action for the substantial benefit of the Class
5 Members.

6 (d) Superiority: The nature of this action makes use of class action adjudication
7 superior to other methods. A class action will achieve economies of time, effort, and expense as
8 compared with separate lawsuits and will avoid inconsistent outcomes because the same issues
9 can be adjudicated in the same manner for the entire Class and Subclasses at the same time. If
10 appropriate, this Court can, and is empowered to, fashion methods to efficiently manage this
11 case as a class action.

12 (e) Public Policy Considerations: Employers in the State of California violate
13 employment and labor laws every day. Current employees are often afraid to assert their rights
14 out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
15 because they believe their former employers might damage their future endeavors through
16 negative references and/or other means. Class actions provide class members who are not
17 named in the complaint with a type of anonymity that allows for the vindication of their rights
18 while affording them privacy protections.

19 GENERAL ALLEGATIONS

20 24. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
21 California residents throughout California and at Defendants' California business location(s).

22 25. Defendants employed Plaintiffs Brandye Houston and Maianh Nguyen in non-
23 exempt positions at Defendants' California business location(s) during the relevant time period.
24 Defendants misclassified Plaintiff Jaime Collins as an exempt employee during the relevant
25 time period due to their failure to comply with the salary basis test.

26 26. Defendants continue to employ non-exempt employees within California.

27 27. Plaintiffs are informed and believe, and thereon allege, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers, employees and other professionals

1 who were knowledgeable about California wage and hour laws, employment and personnel
2 practices and the requirements of California law.

3 28. During the course of Plaintiffs' and Class members' employment, Defendants
4 failed to compensate Plaintiffs and the Class members for all hours worked (including overtime
5 hours). This includes, as noted below, that they were required to work during their meal
6 periods, but the full thirty minutes was still deducted from their pay. Additionally, Plaintiffs
7 and Class members were regularly required to clock out at the end of their shift and then
8 continue working. In fact, this happened to Plaintiffs at least a couple times per week. This
9 results in a failure to pay minimum wage for these hours worked (and resulting liquidated
10 damages). Additionally, as these hours (in addition to the time worked during meal periods)
11 were overtime hours, there was also a failure to pay overtime wages.

12 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs and class members were entitled to receive certain wages for
14 overtime compensation. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and
15 class members were not properly paid for all of their overtime work because Defendants
16 rounded Plaintiffs' and class members' time punches to Defendants' advantage, and improperly
17 calculated the overtime rate by failing to include bonuses or other incentive pay in the
18 computation of their regular rate of pay. Defendants also required Plaintiffs Houston and
19 Nguyen and Alternative Workweek Subclass members to work outside of their regularly
20 scheduled alternative workweek schedule and failed to pay them proper overtime
21 compensation. Alternatively, Defendants failed to implement a proper alternative workweek
22 and thus owe Plaintiffs and Alternative Workweek Subclass members unpaid overtime

23 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to receive at least minimum
25 wages and overtime and that they were not receiving at least these amounts for work that was
26 required to be performed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and
27 class members were not paid as addressed above including, but not limited to, when
28 Defendants failed to implement a proper alternative workweek.

1 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and class members were entitled to receive all meal periods
3 or payment of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of
4 compensation when they did not receive a timely, uninterrupted meal period. In violation of
5 the Labor Code and IWC Wage Orders, Plaintiffs and class members did not receive all meal
6 periods or payment of one (1) additional hour of pay at Plaintiffs' and class members' regular
7 rate of compensation when they did not receive a timely, uninterrupted meal period.
8 Defendants had Plaintiffs and Class members work through at least part of their meal periods
9 for, among other reasons, the press of business. Defendants regularly interrupted the meal
10 periods of Plaintiffs and Class members and required them go back to work and work through
11 those portions of the meal periods. This has also resulted in a failure to pay for all wages for
12 hours worked during meal periods for which they were not paid. They were also not
13 authorized and permitted to take all of their meal periods or meal periods were not timely
14 provided

15 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
16 should have known that Plaintiffs and class members were entitled to receive all rest breaks or
17 payment of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of
18 compensation when a rest break was missed. In violation of the Labor Code and IWC Wage
19 Orders, Plaintiffs and class members did not receive all rest breaks or payment of one (1)
20 additional hour of pay at Plaintiffs' and class members' regular rate of compensation when a
21 rest break was missed. In fact, Plaintiffs and Class members were told by managers that they
22 were not entitled to receive any rest breaks and thus such rest breaks were not taken.

23 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and Waiting Time Subclass members were entitled to timely
25 payment of wages due upon separation of employment. In violation of the Labor Code,
26 Plaintiffs and Waiting Time Subclass members did not receive payment of all wages including,
27 but not limited to, unpaid minimum wage and overtime compensation (including as detailed
28 above), within permissible time periods.

1 34. Plaintiffs are informed and believes and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and class members were entitled to receive complete and
3 accurate wage statements in accordance with California law. In violation of the California
4 Labor Code, Plaintiffs and class members were not furnished with complete and accurate wage
5 statements showing their accurate gross and net wages, and the number of hours worked at
6 each applicable hourly rate, among other things, including as a result of the conduct detailed
7 above.

8 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known they had a duty to compensate Plaintiffs and class members, and
10 Defendants had the financial ability to pay such compensation but willfully, knowingly and
11 intentionally failed to do so all in order to increase Defendants' profits.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES**

14 (Violation of Labor Code §§ 200 *et seq.*, 510, 511, 1194, 1194.2, 1197 and 1198)

15 36. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
16 though fully set forth herein.

17 37. During the relevant time period, Defendants were required to compensate
18 Plaintiffs and class members for all hours worked, pursuant to Labor Code §§ 200 *et seq.*, 510,
19 511, 1194, 1197, 1198, and the applicable IWC Wage Order.

20 38. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees
21 fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser
22 wage than the minimum so fixed is unlawful.

23 39. Labor Code § 510 codifies the right to overtime compensation at one and one-
24 half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty
25 (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and
26 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve
27 (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

1 40. As detailed above, during the relevant time period, Defendants failed to pay
2 Plaintiffs and class members all wages owed when Defendants rounded Plaintiff's and Class
3 members' time punches, did not pay them for time worked during meal periods, to Defendants'
4 advantage and failed to include non-discretionary bonuses or other incentive pay in the
5 computation of their regular rate of pay.

6 41. During the relevant time period, Defendants regularly failed to pay all wages to
7 Plaintiffs and class members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

8 42. Labor Code § 511(b) provides an affected employee working longer than eight
9 hours but not more than 12 hours in a day pursuant to an alternative workweek schedule
10 adopted pursuant to this section shall be paid an overtime rate of compensation of no less than
11 one and one-half times the regular rate of pay of the employee for any work in excess of the
12 regularly scheduled hours established by the alternative workweek agreement and for any work
13 in excess of 40 hours per week. An overtime rate of compensation of no less than double the
14 regular rate of pay of the employee shall be paid for any work in excess of 12 hours per day
15 and for any work in excess of eight hours on those days worked beyond the regularly scheduled
16 workdays established by the alternative workweek agreement.

17 43. During the relevant time period, Defendants failed to pay Plaintiffs and
18 Alternative Workweek Subclass members all wages owed when Defendants failed to pay
19 overtime wage and/or double time wages for work performed outside of the regularly
20 scheduled alternative workweek schedule. Alternatively, Defendants failed to implement a
21 proper alternative workweek and thus owe Plaintiffs Houston and Nguyen and Alternative
22 Workweek Subclass members unpaid overtime under Labor Code § 510.

23 44. As a direct and proximate result of Defendants' failure to pay Plaintiffs and class
24 members the required wages, Plaintiffs and class members are entitled to recover the unpaid
25 balance of their wages, including overtime compensation, as well as interest, costs and
26 attorneys' fees.

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1 45. Pursuant to Labor Code § 1194.2, Plaintiffs and class members are entitled to
2 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
3 thereon.

4 **SECOND CAUSE OF ACTION**

5 **FAILURE TO PROVIDE MEAL PERIODS**

6 **(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)**

7 46. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
8 though fully set forth herein.

9 47. Labor Code § 226.7 provides that no employer shall require an employee to
10 work during any meal period mandated by the IWC Wage Orders.

11 48. Section 11 of the applicable IWC Wage Order states, “no employer shall
12 employ any person for a work period of more than five (5) hours without a meal period of not
13 less than 30 minutes, except that when a work period of not more than six (6) hours will
14 complete the day’s work the meal period may be waived by mutual consent of the employer
15 and the employee.”

16 49. Labor Code § 512(a) provides that an employer may not require, cause or permit
17 an employee to work for a period of more than five (5) hours per day without providing the
18 employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if
19 the total work period per day of the employee is not more than six (6) hours, the meal period
20 may be waived by mutual consent of both the employer and the employee.

21 50. Labor Code § 512(a) also provides that an employer may not employ an
22 employee for a work period of more than ten (10) hours per day without providing the
23 employee with a second meal period of not less than thirty (30) minutes, except that if the total
24 hours worked is no more than twelve (12) hours, the second meal period may be waived by
25 mutual consent of the employer and the employee only if the first meal period was not waived.

26 51. As detailed above, during the relevant time period, Plaintiffs and class members
27 did not receive compliant meal periods for working more than five (5) and/or ten (10) hours per
28 day because, among other things, Defendants did not provide timely meal periods, Class

1 members were require to work through portions of their meal periods or take meal periods
2 shorter than 30 minutes and Defendants did not provide a second meal period for shifts over 10
3 hours.

4 52. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order
5 requires an employer to pay an employee one additional hour of pay at the employee's regular
6 rate of compensation for each workday that the meal period is not provided.

7 53. At all relevant times, Defendants failed to pay Plaintiffs and class members
8 meal period compliant premium for missed and untimely meal periods pursuant to Labor Code
9 § 226.7(b) and section 11 of the applicable IWC Wage Order.

10 54. As a result of Defendants' failure to pay Plaintiffs and class members an
11 additional hour of compensation for each day a meal period was not provided, Plaintiffs and
12 class members suffered and continue to suffer a loss of wages and compensation.

13 **THIRD CAUSE OF ACTION**

14 **FAILURE TO PERMIT REST BREAKS**

15 **(Violation of Labor Code § 226.7; Violation of IWC Wage Order § 12)**

16 55. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
17 though fully set forth herein.

18 56. Labor Code § 226.7(a) provides that no employer shall require an employee to
19 work during any rest period mandated by the IWC Wage Orders.

20 57. Section 12 of the applicable IWC Wage Order states "every employer shall
21 authorize and permit all employees to take rest periods, which insofar as practicable shall be in
22 the middle of each work period" and the "authorized rest period time shall be based on the total
23 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
24 fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

25 58. During the relevant time period, Plaintiffs and class members did not receive a
26 ten (10) minute rest period for every four (4) hours or major fraction thereof worked because
27 they were required to work through their daily rest periods and/or were not authorized to take
28 their rest periods.

1 59. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order
2 requires an employer to pay an employee one additional hour of pay at the employee's regular
3 rate of compensation for each workday that the rest period is not provided.

4 60. At all relevant times, Defendants failed to pay Plaintiffs and class members
5 compliant rest period premium for missed or interrupted or otherwise non-compliant rest
6 periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

7 61. As a result of Defendants' failure to pay Plaintiffs and class members an
8 additional hour of pay for each day a rest period was not provided, Plaintiffs and class
9 members suffered and continue to suffer a loss of wages and compensation.

10 **FOURTH CAUSE OF ACTION**

11 **FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT**

12 **(Violations of Labor Code §§ 201, 202 and 203)**

13 62. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
14 though fully set forth herein to the extent applicable and permitted by law. Labor Code §§ 201
15 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at
16 the time of discharge are due and payable immediately, and that if an employee voluntarily
17 leaves his employment, his wages shall become due and payable not later than seventy-two
18 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
19 his intention to quit, in which case the employee is entitled to his wages at the time of quitting.

20 63. During the relevant time period, Defendants willfully failed to pay Plaintiffs and
21 Waiting Time Subclass members who are no longer employed by Defendants all their earned
22 wages upon termination including, but not limited to, proper overtime compensation and
23 minimum wage, either at the time of discharge or within seventy-two (72) hours of their
24 leaving Defendants' employ.

25 64. Defendants' failure to pay Plaintiffs and Waiting Time Subclass members who
26 are no longer employed by Defendants all their earned wages at the time of discharge or within
27 seventy-two (72) hours of their leaving Defendants' employ is in violation of Labor Code
28 §§ 201 and 202.

10 **FIFTH CAUSE OF ACTION**
11 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**
12 **(Violation of Labor Code § 226)**

15 68. California Labor Code § 226(a) requires employers to furnish their employees
16 with an accurate itemized writing that shows gross wages earned, total hours worked, all
17 deductions and reimbursements, net wages earned, the inclusive dates of the period for which
18 the employee is paid, the name of the employee and the portion of his or her social security
19 number as required by law, the name and address of the legal entity that is the employer and all
20 applicable hourly rates in effect during the pay period and the corresponding number of hours
21 worked at each hourly rate by the employee.

70. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiffs and class members have suffered injury and damage to their statutorily protected rights.

1 Specifically, Plaintiffs and class members have been injured by Defendants' intentional
2 violation of California Labor Code § 226(a) because they were denied both their legal right to
3 receive, and their protected interest in receiving, accurate itemized wage statements under
4 California Labor Code § 226(a). Plaintiffs have had to file this lawsuit in order to determine the
5 extent of the underpayment of wages, thereby causing Plaintiffs to incur expenses and lost time.
6 Plaintiffs would not have had to engage in these efforts and incur these costs had Defendants
7 provided the accurate wages earned. This has also delayed Plaintiffs' ability to demand and
8 recover the underpayment of wages from Defendants.

9 71. California Labor Code § 226(a) requires an employer to pay the greater of all
10 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
11 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
12 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
13 comply with California Labor Code § 226(a).

14 72. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs
15 and class members from knowing, understanding and disputing the wages paid to them, and
16 resulted in an unjustified economic enrichment to Defendants. As a result of Defendants'
17 knowing and intentional failure to comply with California Labor Code § 226(a), Plaintiffs and
18 class members have suffered an injury, and the exact amount of damages and/or penalties is all
19 in an amount to be shown according to proof at trial.

20 SIXTH CAUSE OF ACTION

21 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

22 73. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
23 though fully set forth herein.

24 74. Defendants' conduct, as alleged herein, has been and continues to be unfair,
25 unlawful and harmful to Plaintiffs, class members and to the general public. Plaintiffs seek to
26 enforce important rights affecting the public interest within the meaning of Code of Civil
27 Procedure § 1021.5.
28

1 75. Defendants' activities, as alleged herein, violate California law and constitute
2 unlawful business acts or practices in violation of California Business and Professions Code §§
3 17200, *et seq.*

4 76. A violation of Business and Professions Code §§ 17200, *et seq.* may be
5 predicated on the violation of any state or federal law.

6 77. Defendants' policies and practices have violated state law in at least the
7 following respects:

8 (a) Failing to pay Plaintiffs and class members all minimum wage and overtime
9 compensation in violation of Labor Code §§ 200 *et seq.*, 510, 511, 1194, 1194.2,
10 1197 and 1198;

11 (b) Failing to provide compliant meal periods, including not paying Plaintiffs and
12 class members premium wages for every day said compliant meal periods were
13 not provided in violation of Labor Code §§ 226.7 and 512;

14 (c) Failing to authorize or permit compliant rest breaks, including not paying
15 Plaintiffs and class members premium wages for every day said complaint rest
16 breaks were not authorized or permitted in violation of Labor Code § 226.7;

17 78. Defendants intentionally avoided paying Plaintiffs' and class members' wages
18 and monies, thereby creating for Defendants an artificially lower cost of doing business in
19 order to undercut their competitors and establish and gain a greater foothold in the marketplace.

20 79. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiffs and class
21 members are entitled to restitution of the wages unlawfully withheld and retained by
22 Defendants during a period that commences four years prior to the filing of the Complaint; an
23 award of attorney's fees pursuant to Code of Civil Procedure § 1021.5 and other applicable
24 laws; and an award of costs.

25 SEVENTH CAUSE OF ACTION

26 ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")

27 80. Plaintiffs Jaime Collins and Maianh Nguyen hereby re-allege and incorporate by
28 reference all paragraphs above as though fully set forth herein.

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

7 82. For all provisions of the Labor Code except those for which a civil penalty is
8 specifically provided, Labor Code § 2699(f) imposes upon Defendant a penalty of one
9 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
10 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
11 subsequent pay period in which Defendant violated these provisions of the Labor Code.

12 83. Defendants' conduct violates numerous Labor Code sections including, but not
13 limited to, the following:

- 14 (a) Violation of Labor Code §§ 201-203, 204, 510, 1194, 1197 and 1198 for failure
15 to timely pay all earned wages (including minimum wages and overtime wages)
16 owed to Plaintiffs and other aggrieved employees during employment and upon
17 separation of employment as herein alleged;
- 18 (b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to
19 Plaintiffs and other aggrieved employees and failure to pay premium wages for
20 missed meal periods as herein alleged;
- 21 (c) Violation of Labor Code § 226 for failure to provide accurate itemized wage
22 statements to Plaintiffs and other aggrieved employees as herein alleged; and
- 23 (d) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
24 records.

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

1 employee for each pay period for which the employee was underpaid; (2) For each
2 subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
3 period for which the employee was underpaid in addition to an amount sufficient to recover
4 underpaid wages.

5 85. As set forth above, Defendants have violated numerous provisions of the
6 Labor Code regulating hours and days of work as well as the IWC Wage Orders.
7 Accordingly, Plaintiffs seek the remedies set forth in Labor Code § 558 for themselves, the
8 underpaid employees, and the State of California.

9 86. Plaintiffs Jamie Collins, and Maianh Nguyen are “aggrieved employees”
10 because they were employed by the alleged violator and had one or more of the alleged
11 violations committed against them, and therefore are properly suited to represent the interests
12 of all other aggrieved employees.

13 87. Plaintiffs have exhausted the procedural requirements under Labor Code §
14 2699.3 as to Defendants as Plaintiff Collins filed her PAGA Notice on March 18, 2019 and
15 Plaintiff Nguyen filed hers on May 28, 2019, both of which were served on Defendants. Both
16 Plaintiffs thereafter filed Complaint that included PAGA causes of action when the statutory
17 65 day waiting period expired. They are therefore able to pursue a claim for penalties on
18 behalf of themselves and all other aggrieved employees under PAGA.

19 88. Pursuant to Labor Code § 2699(a), 2699.2, and 2699.5, Plaintiffs are entitled
20 to recover civil penalties, in addition to other remedies, for violations of the Labor Code
21 sections cited above.

22 89. For bringing this action, Plaintiffs are entitled to attorneys’ fees and costs
23 incurred herein.

24 **PRAYER FOR RELIEF**

25 Plaintiffs, on their own behalf and on behalf of all others similarly situated, pray for
26 relief and judgment against Defendants, jointly and severally, as follows:

- 27 1. For certification of this action as a class action;
28

2. For appointment of Jaime Collins, Brandye Houston, and Maianh Nguyen as the class representatives;

3. For appointment of Bisnar|Chase LLP, Ferraro Employment Law, Inc., and Regis Law Firm, PC as class counsel for all purposes;

4. For compensatory damages in an amount according to proof with interest thereon;

5. For economic and/or special damages in an amount according to proof with interest thereon;

6. For liquidated damages pursuant to Labor Code § 1194.2;

7. For reasonable attorneys' fees, costs of suit and interest to the extent permitted by law, including pursuant to PAGA, Code of Civil Procedure § 1021.5, and Labor Code §§ 226(e) and 1194;

8. For statutory penalties to the extent permitted by law, including those pursuant to the Labor Code and IWC Wage Orders;

9. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

10. For an order requiring Defendants to restore and disgorge all funds to each employee acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair competition under Business and Professions Code §§ 17200, *et seq.*;

11. For an award of damages in the amount of unpaid compensation including, but not limited to, unpaid wages, benefits and penalties;

12. For pre-judgment interest; and

13. For penalties pursuant to PAGA;

14. For such other relief as the Court deems just and proper.

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1 DATED: October 11, 2019

**BISNAR/CHASE LLP/FERRARO EMPLOYMENT
LAW, INC.**

2
3 By: 

Brian D. Chase
Jerusalem F. Beligan
Ian M. Silvers
Nicholas J. Ferraro
Attorneys for Plaintiffs Jaime Collins and Brandye
Houston

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8 DATED: October 11, 2019

AEGIS LAW FIRM, PC

9
10 By: 

Samuel A. Wong
Kashif Haque
Jessica L. Campbell
Fawn F. Bekam
Attorneys for Plaintiff Maianh Nguyen

11
12
13 **DEMAND FOR JURY TRIAL**

14
15 Plaintiffs hereby demand a trial by jury of all claims and causes of action so triable in
16 this lawsuit.

17 DATED: October 11, 2019

**BISNAR/CHASE LLP/FERRARO EMPLOYMENT
LAW, INC.**

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19 By: 

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20
21
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23 DATED: October 11, 2019

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