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

11 DUSTIN EVERS, as an individual and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 LA-Z-BOY INCORPORATED, a Michigan
16 corporation; LZB RETAIL, INC., a Michigan
17 corporation; and DOES 1 through 50,
inclusive,

18 Defendants.
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Case No. 37-2021-00047960-CU-OE-CTL

CLASS ACTION

CLASS ACTION COMPLAINT

1. Failure to Pay All 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

1 Plaintiff DUSTIN EVERS (“Plaintiff”), on behalf of a class of all other similarly situated
2 current and former employees, brings this action against Defendants LA-Z-BOY
3 INCORPORATED; LZB RETAIL, INC.; and DOES 1 through 50 (collectively, “Defendants”),
4 alleging as follows:

5 **INTRODUCTION**

6 1. This is a class action filed for wage and hour violations of the California Labor
7 Code. Plaintiff worked as a Sales Associate for Defendants. Defendants paid Plaintiff and other
8 employees less than the lawful minimum wage in effect during the Class Period. Defendants also
9 miscalculated and underpaid overtime wages, because of an inaccurate “regular rate of pay”
10 calculation method. Defendants edited time records, such that Plaintiff and other employees were
11 not paid for work performed during uncompensated 30-minute meal periods. Defendants did not
12 pay Labor Code § 226.7 premiums at the regular rate of compensation for non-compliant meal
13 periods and rest periods—including late, short, and missed meal periods evident on the face of
14 Defendants’ employment and payroll records. As a result of these violations, Defendants failed to
15 timely pay Plaintiff and Class Members each pay period on paydays and upon separation of
16 employment, and thus are liable for waiting time and other statutory penalties. Defendants required
17 Sales Associates and other hourly employees to use La-Z-Boy-branded emails on their personal cell
18 phones and to communicate with customers, but Plaintiff and Class Members were not issued a
19 reasonable reimbursement or stipend for such use.

20 2. Defendants’ employment policies and practices and payroll administration systems
21 enabled and facilitated these violations on a company-wide basis with respect to the Class
22 Members.

23 **JURISDICTION & VENUE**

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

26 4. Venue as to each defendant is proper in this judicial district under Code of Civil
27 Procedure sections 395 and 395.5 because Defendants conduct business in this county, employed
28 Plaintiff in this county, and committed some of the alleged violations in this county.

PARTIES

A. The Plaintiff Dustin Evers

5. Plaintiff DUSTIN EVERS is an individual over 18 years of age who worked for Defendants in San Diego County as an hourly, non-exempt “Sales Associate” employee.

6. Plaintiff was employed in California from January 2021 through October 2021.

B. The La-Z-Boy Defendants

7. Throughout the Statutory Period, each of the named La-Z-Boy defendants was a legal employer of Plaintiff and Class Members.

8. Plaintiff is informed, believes, and alleges that Defendant LA-Z-BOY INCORPORATED is a corporation incorporated in the State of Michigan, doing business and employing labor throughout California, including San Diego, California.

9. Plaintiff is informed, believes, and alleges that Defendant LZB RETAIL, INC. is a corporation incorporated in the State of Michigan, doing business and employing labor throughout California, including San Diego, California.

10. Plaintiff is informed, believes, and alleges that no class action asserting similar factual allegations has been filed against any of the named defendants within the preceding three years.

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

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

1 13. Additionally, all defendants have common ownership, common management,
2 interrelationship of operations, and centralized control over labor relations and are therefore part of
3 an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged
4 herein. Defendants operate as employers of the Class in their operation of the La-Z-Boy Furniture
5 Galleries and related operations.

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

10 15. Plaintiff is informed, believes and alleges that the above-mentioned defendants
11 violated and/or caused to be violated Labor Code and IWC Wage Order provisions and/or
12 regulating minimum wages and days of work and other provisions of the Labor Code with respect
13 to the Class of aggrieved employees. As a result, they may be held personally liable under Labor
14 Code sections 558, 558.1, and 1197.1. (*See, e.g., Atempa v. Pedrazzani* (2018) 27 Cal. App. 5th
15 809.)

16 **GENERAL ALLEGATIONS**

17 16. Defendants failed to pay minimum wage to Plaintiff and Class Members for all
18 hours worked in violation of Labor Code § 1182.12 (state minimum wage) and 1197 (local
19 ordinances), and the IWC Wage Orders. Defendants paid Plaintiff \$13.00 per hour worked, which
20 was \$1.00 less than the California minimum wage, and less than all applicable local minimum wage
21 ordinances in effect. On information and belief, Plaintiff alleges that this practice was equally
22 applied to other Class Members, who were paid less than the lawful state, local, or county minimum
23 wage.

24 17. As one illustrative example, Plaintiff's wage statement with the pay date of
25 09/03/2021 (pay period of 08/15/2021 to 08/28/2021) reflects that Plaintiff was paid "Regular"
26 wages for 72.21 hours, at the deficient hourly rate of \$13.00 per hour – an amount less than the
27 applicable state and local minimum wages. These violations are evident on the face of Defendants'
28 own payroll and employment records, including wage statements issued and required to be

1 maintained. As a result of this practice of paying less than the lawful state and/or local minimum
2 wage laws, Defendants have violated Labor Code section 1182.12 (the state minimum wage) and
3 Labor Code section 1197 (codifying local ordinances, including, without limitation, those listed on
4 <https://alpha.ca.gov/find-minimum-wage-your-city/>).

5 18. To the extent Defendants seek or sought to credit commissions earned by Plaintiff
6 and/or Class Members to make up the underpaid minimum wage amounts, this form of averaging is
7 neither lawful nor permitted, and violates California Labor Code sections 221, 222 and 223: “[t]he
8 minimum wage standard affixes to each hour worked by [employees] for which they were not
9 paid.” (*See Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 324.)

10 19. Furthermore, when Defendants paid overtime to Plaintiff and other Class Members,
11 Defendants failed to pay the overtime at the lawful regular rate of pay. Plaintiff and other Class
12 Members regularly worked overtime and earned commissions and/or other forms of remuneration
13 in the same pay period. In those pay periods, Defendants paid employees at the straight time hourly
14 rate for the overtime hours, but also made a separate payment entitled “OT – Half” for each
15 overtime hour worked. However, the “OT – Half” – when added together with the base hourly rate
16 – did not fully compensate Plaintiff and other Class Members “at the rate of no less than one and
17 one-half times the regular rate of pay for an employee[,]” or “at the rate of no less than twice the
18 regular rate of pay for an employee” for any applicable double time hours, as required by Labor
19 Code section 510 and the IWC Wage Orders.

20 20. Moreover, during times in which Plaintiff and Class Members could not take a
21 compliant meal period, Defendants maintained a policy and practice of editing or changing time
22 records to manually enter a 30-minute meal period into the respective employee’s time records,
23 even though Plaintiff and other Class Members worked during these meal periods. As a result of
24 this practice, Defendants deprived Plaintiff and other Class Members of 30 minutes of
25 compensation, requiring them to effectively work off the clock without pay due to the time
26 adjustments and edits. Plaintiff and Class Members were deprived of the hourly overtime and
27 minimum wages, as applicable, for these hours worked during periods marked as unpaid meal
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1 periods. This common practice was facilitated, at least in part, through Punch Edit Forms, that
2 Defendants state shall be retained in store for a period of 7 years.

3 21. Furthermore, Defendants failed to consistently provide timely, off-duty 30-minute
4 meal periods to Class Members within the first five hours of work, and timely second off-duty 30-
5 minute meal periods to the extent they worked shifts of 10 hours or more, in violation of Labor
6 Code sections 226.7, 512 and section 11 of the applicable IWC Wage Orders. (*See, e.g., Ferra v.*
7 *Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863 [“We hold that the terms are
8 synonymous: “regular rate of compensation” under section 226.7(c), like “regular rate of pay”
9 under section 510(a), encompasses all nondiscretionary payments, not just hourly wages.”])

10 22. When Defendants did not provide fully compliant meal periods, Defendants failed to
11 pay Class Members a meal period premium at the regular rate of compensation in violation of
12 Labor Code section 226.7. (*See Ferra*, 11 Cal. 5th at 863.) “[T]ime records showing noncompliant
13 meal periods raise a rebuttable presumption of meal period violations, including at the summary
14 judgment stage.” (*Donohue v. AMN Servs., LLC* (2021) 11 Cal. 5th 58, 61.) Defendants’ policy
15 and practice of not paying all meal period premiums at the lawful rate is a matter of common
16 corporate policy and payroll administration such that it applies and affected all other Class
17 Members and are evident from the time records maintained by Defendants, which show late, short
18 and missed meal periods without an associated meal period premium on the corresponding
19 employee wage statement.

20 23. Moreover, Defendants failed to authorize or *permit* ten-minute rest periods for every
21 four hours of work or major fraction thereof as required by Labor Code section 226.7 and 516 and
22 section 12 of the applicable IWC Wage Order. When Defendants did not provide a fully compliant
23 rest period to Plaintiff or other Class Members, Defendants failed to pay Claimant and other Class
24 Members a rest period premium at the lawful “regular rate of compensation” in violation of Labor
25 Code section 226.7. Defendants Retail Employee Policy Manual only allows “[a]ssociates who
26 work more than four hours and less than eight hours ... one 10-minute paid break period,” even
27 though California law requires more for those employees who work 6 hours but less than 8 hours in
28 a workday.

1 24. Plaintiff is informed, believes, and alleges that Defendants failed to maintain lawful
2 meal and rest period policies in an employee handbook or other governing document that
3 adequately apprised Plaintiff and other Class Members of their respective rights under California
4 law. Specifically, the Retail Employee Policy Manual, revised 12/2018. Per company policy,
5 management was required to designate meal and rest period time for associates, but Defendants did
6 not maintain a policy or practice of actually scheduling or designating those breaks.

7 25. With respect to the unpaid wages and premiums owed to Plaintiff and Class
8 Members, Defendants failed to pay those wages on time each pay period or upon separation of
9 employment. Because Defendants did not pay Plaintiff and the Class for all wages/premiums owed
10 each pay period their employment, Defendants failed to timely pay all wages owed each pay day or
11 upon separation of employment (or within 72 hours thereof), in violation of Labor Code sections
12 201 through 203 (waiting time) and 204 and 204b (paydays).

13 26. Additionally, Defendants failed to reimburse Plaintiff and Class Members with a
14 stipend or reasonable percentage reimbursement allowance allotted to their use of personal cell
15 phones and data for work activities. Defendants issued Plaintiff and other Class Members La-Z-
16 Boy business cards that contains each person's assigned La-Z-Boy email address, which were given
17 to customers. Plaintiff and other Class Members used their personal cell phones to communicate
18 via email and cell phone with co-workers and customers regarding sales, customer complaints,
19 delivery scheduling and other delivery delays using work related emails, phone calls, and text
20 messages on their personal cell phones. However, Defendants did not reimburse employees, in
21 violation of California Labor Code section 2802. *See generally Cochran v. Schwan's Home*
22 *Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1140.

23 27. Defendants equally failed in their affirmative obligation to provide accurate itemized
24 wage statements each pay period to Plaintiff and Class Members. Defendants issued wage
25 statements to Plaintiff and, on information and belief, other Class Members, which contain at least
26 three distinct types of violations.

27 28. First, on each wage statement furnished, Defendants failed to accurately state the
28 "gross wages earned" and "net wages earned" in violation of Labor Code § 226(a)(1) and (5), as

1 Plaintiff and Class Members earned overtime at one and one-half times their regular rate of pay, but
2 were underpaid overtime on an hourly basis, and were deprived of all meal and rest period
3 premiums earned, resulting in an inaccurate itemization of gross and net wages earned on those
4 wage statements.

5 29. Second, on each wage statement furnished to Plaintiff and, on information and
6 belief, the Class Members, Defendants failed to accurately state “all applicable hourly rates in effect
7 during the pay period and the corresponding number of hours worked at each hourly rate by the
8 employee” in violation of Labor Code § 226(a)(9), as the wage statements issued to Plaintiff and
9 Class Members:

- 10 a. Do not accurately list the applicable hourly overtime rate, but instead what
11 appears to be half-time calculation intended as an OT premium, but not reflective
12 of the actual hourly overtime rate.
- 13 b. Inaccurately included overtime hours in the “regular” hours category, making it
14 difficult to discern which hours are indeed non-overtime hours and which hours
15 are in fact overtime hours (*e.g.*, in excess of 8 in a workday, 40 in a workweek,
16 12 in a workday, seventh consecutive day, etc.), resulting in an inaccurate
17 statement of regular hours worked and OT hours worked on those wage
18 statements.
- 19 c. Inaccurately stated the hourly rate in effect for certain regular and overtime
20 hours, as Plaintiff and Class Members *earned* overtime at the rate required by
21 Labor Code section 510 and 1182.12 and the local minimum wage ordinances,
22 yet were paid deflated hourly overtime rates and regular (*i.e.*, minimum) wages
23 in those affected pay periods.

24 30. Third, Defendants inaccurately listed total hours worked during the pay period, as
25 Plaintiff and Class Members worked off-the-clock during times edited or recorded as unpaid meal
26 periods, resulting in an inaccurate reflection of total hours worked on those corresponding wage
27 statements.

1 31. Defendants' wage statement issues described above rendered the wage statements
2 inaccurate and confusing to Plaintiff and Class Members, concealing the underpayments and
3 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiff and Class
4 Members as the sole documentary evidence of their respective earnings.

5 32. Plaintiff and Class Members suffered injury in the form of confusion regarding
6 amounts paid for hours worked, and in the form of concealment of the common payroll practices
7 causing the violations and underpayment of wages and wage statement deficiencies as addressed in
8 this Complaint.

9 33. Indeed, Plaintiff and, on information and belief, Class Members were misinformed
10 and misled by the wage statements wages, hours, rates, and earnings. As a result of the
11 inaccuracies on the wage statements, Plaintiff and, on information and belief, Class Members were
12 led to believe that the hourly rates and net and gross wages reflected were a complete and accurate
13 reflection of the wages actually earned under California law.

14 34. Defendants' wage statement violations were knowing and intentional as a matter of
15 law with respect to Plaintiff and California Class Members given that the legal obligation was not
16 disputed, the wage statement and wage laws are clear and unambiguous as written, and because
17 Defendants nevertheless failed to comply despite the means and ability to do so.

18 35. Because of the violations set forth in this Complaint, including Defendants' failure
19 to accurately maintain records of pay for all hours worked at the appropriate lawful rates of pay
20 (*i.e.*, unrecorded off-the-clock hours), Defendants violated Labor Code section 1174 and the IWC
21 Wage Orders by failing to maintain records showing accurate daily hours worked at the
22 corresponding wage rate, and the wages paid to each employee.

23 36. Plaintiff is informed, believes, and alleges that Defendants' acts and omissions have
24 knowingly and intentionally caused harm to Plaintiff and the Class. Plaintiff is informed, believes,
25 and alleges that Defendants have engaged in systemic violations of the Labor Code and IWC Wage
26 Orders by maintaining practices, policies, and customs that are inconsistent with their obligations
27 under California law.

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1 **CLASS ACTION ALLEGATIONS**

2 37. ***Class Definition.*** The named individual Plaintiff seeks class certification under
3 California Code of Civil Procedure section 382. Plaintiff proposes the following class:

4 a. All individuals currently or formerly employed by Defendants in the State of
5 California as hourly non-exempt employees at any time from
6 **November 11, 2017** through the time of trial in this action (the “Class” or
7 “Class Members” and the “Class Period”).

8 38. Further, Plaintiff proposes the following subclasses:

9 a. All Class Members who separated from employment with Defendants at any
10 time from **November 11, 2018** through the time of trial in this action (the
11 “Waiting Time Subclass”).

12 b. All Class Members who received a wage statement from Defendants at any
13 time from **November 11, 2020** through the time of trial in this action (“Wage
14 Statement Subclass”).

15 c. All Class Members who received additional forms of compensation that are
16 non-excludable from the regular rate of pay, such as bonuses and
17 commissions, each pay period in which they also worked overtime or double-
18 time hours (the “Regular Rate of Pay Subclass”).

19 d. All Class Members who used their personal devices to communicate
20 regarding work-related issues on a personal cell phone
21 (“Reimbursement Subclass”).

22 e. All Class Members who worked shifts of five hours or more without a duty-
23 free meal period of at least 30 minutes, who were not paid one hour of pay at
24 the regular rate of compensation for each of those days (“Meal Period
25 Subclass”).

26 f. All Class Members who worked shifts of four hours or major fraction thereof
27 without being authorized or permitted an uninterrupted rest period of at least
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1 10 minutes, who were not paid one hour at the regular rate of compensation
2 for each of those days (“Rest Period Subclass”).

3 g. All Class Members who were not paid all regular, overtime, or minimum
4 wages for all hours worked each pay period (“Unpaid Wage Subclass”).

5 39. Plaintiff reserves the right to move the Court to amend or modify the class
6 definitions and to establish additional classes and subclasses as appropriate.

7 40. **Numerosity.** The members of the Class are so numerous that joinder of all
8 individuals is impracticable. The identity of the Class Members is readily ascertainable by review
9 of Defendants’ employment and payroll records. Plaintiff is informed, believes, and alleges there
10 are more than 40 Class Members.

11 41. **Adequacy of Representation.** Plaintiff is an adequate class representative. Plaintiff
12 will take all necessary steps to adequately and fairly represent and protect the interest of the Class.
13 Plaintiff is represented by attorneys who have substantial experience prosecuting and resolving
14 wage-and-hour class actions in California state and federal courts.

15 42. **Manageability.** This class action is manageable because the liability and damages to
16 Class Members can be ascertained by review of corporate and employer timekeeping and payroll
17 records along with other evidence that Defendants maintained and are required by law to maintain
18 under the California Labor Code, IWC Wage Orders and federal law. This class action is
19 manageable because the contact information and identity of percipient witnesses—namely,
20 Defendants’ employees (the putative class members)—is readily maintained by Defendants.

21 43. **Superiority.** A class action is superior to other means for adjudication of the claims
22 of the Class and is beneficial and efficient for the parties and the Court. Class treatment will allow
23 for the common issues to be resolved in a single forum, simultaneously and without duplication of
24 effort and expense.

25 44. **Commonality.** Common questions of law and fact and a community of interest
26 exists amongst Plaintiff and the Class. These common issues arise from the employment
27 relationship with Defendants and predominate over any individual issues.

1 seventh day of work in any one workweek, and no less than twice their respective “regular rate of
2 pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh
3 day of a workweek in violation of Labor Code sections 510, 1194, and 1198 and the IWC Wage
4 Orders (the “Hours and Days of Work” sections of the applicable orders).

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

9 **THIRD CAUSE OF ACTION**

10 **MEAL PERIOD VIOLATIONS**

11 **Labor Code §§ 226.7 and 512**

12 53. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

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

19 55. Further, Defendants willfully failed in their affirmative obligation to consistently pay
20 Plaintiff and Class Members one additional hour of pay at the respective regular rate of
21 compensation for each workday that a fully compliant meal period was not provided, in violation of
22 Labor Code sections 226.7, 512, and 1198 and the IWC Wage Orders (the “Meal Periods” sections
23 of the applicable orders).

24 56. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of meal
25 periods and meal period premiums in amounts to be determined at trial. Plaintiff and the Class are
26 entitled to recover to the full amount of the unpaid premiums, in addition to interest, attorneys’ fees,
27 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.
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1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **Labor Code §§ 226.7 and 516**

4 57. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

5 58. Defendants willfully failed in their affirmative obligation to consistently authorize
6 and permit Plaintiff and Class Members to receive compliant, duty-free rest periods of not less than
7 ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code
8 sections 226.7, 516, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the
9 applicable orders).

10 59. Further, Defendants willfully failed in their affirmative obligation to consistently pay
11 Plaintiff and Class Members one additional hour of pay at the respective regular rate of
12 compensation for each workday that a fully compliant rest period was not provided, in violation of
13 Labor Code sections 226.7 and 1198 and the IWC Wage Orders.

14 60. Defendants’ unlawful acts and omissions deprived Plaintiff and the Class of rest
15 periods and rest period premiums in amounts to be determined at trial. Plaintiff and the Class are
16 entitled to recover to the full amount of the unpaid premiums, in addition to interest, attorneys’ fees,
17 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

18 **FIFTH CAUSE OF ACTION**

19 **UNTIMELY PAYMENT OF WAGES**

20 **Labor Code §§ 204, 204b and 210**

21 61. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

22 62. Defendants willfully failed in their affirmative obligation to timely pay all wages and
23 premiums earned by Plaintiff and Class Members twice during each calendar month on days
24 designated in advance by the employer as regular paydays (for employees paid on a non-weekly
25 basis) and on the regularly-scheduled weekly payday weekly employees, if any, in violation of
26 Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of
27 the applicable orders).

1 a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to interest,
2 attorneys' fees, and costs to the extent permitted by law, including under Labor Code section
3 226(e).

4 **SEVENTH CAUSE OF ACTION**

5 **WAITING TIME PENALTIES**

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

7 69. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

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

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

18 **EIGHTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

20 **Violation of Labor Code § 2802**

21 72. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

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

25 74. Defendants' unlawful acts and omissions deprived Plaintiff and Class Members of
26 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiff and the
27 Class are entitled to recover to amount of the unreimbursed expenses of Plaintiff and Class
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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 75. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

7 76. 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 77. 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 78. 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 **PRAYER FOR RELIEF**

24 Plaintiff prays for judgment as follows:

- 25 a. For certification of this action as a class action;
- 26 b. For appointment of Plaintiff as the representative of the Class;
- 27 c. For appointment of counsel for Plaintiff as Class Counsel;
- 28 d. For injunctive relief;

- 1 e. For compensatory damages in amount according to proof;
2 f. For all recoverable pre- and post-judgment interest;
3 g. For recovery of all statutory penalties and liquidated damages;
4 h. For disgorgement of all amounts wrongfully obtained;
5 i. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
6 permitted by law, including (without limitation) under California Labor Code
7 sections 218.5, 226, 1194, 2802, and Code of Civil Procedure section 1021.5;
8 j. For such other relief the Court deems just and proper.

9
10 Respectfully submitted,

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12 Dated: November 11, 2021

Ferraro Vega Employment Lawyers, Inc.

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15 _____
Nicholas J. Ferraro
Attorney for Plaintiff Dustin Evers