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12
 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 FOR THE COUNTY OF LOS ANGELES

15 PAULINA VEGA, individually, on behalf
 16 of other members of the general public
 17 similarly situated, and as an aggrieved
 18 employee pursuant to the Private Attorneys
 General Act (“PAGA”), on behalf of the
 State of California and other aggrieved
 employees,

19 Plaintiff,

20 vs.

21 JPMORGAN CHASE BANK, N.A., a New
 22 York corporation; and DOES 1 through 10,
 inclusive,

23 Defendants.
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 26
 27
 28

Case No.: BC698750

**SECOND AMENDED CLASS ACTION
 AND PAGA COMPLAINT**

- (1) Claim for Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq.
- (2) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (3) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (4) Violation of California Labor Code §§ 226.7, 512(a), and 1198 (Failure to Provide Meal Periods);
- (5) Violation of California Labor Code §§ 226.7 and 1198 (Failure to Authorize and Permit Rest Periods);
- (6) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely

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- Paid Upon Termination);
- (8) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)
- (10) Violation of 29 U.S.C. § 201, *et seq.* (Fair Labor Standards Act)

Jury Trial Demanded

1 Plaintiff Paulina Vega, individually, on behalf of other members of the public similarly
2 situated, and as an aggrieved employee and on behalf of all other aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382. This is also an enforcement action under the Labor Code Private Attorneys
7 General Act of 2004, California Labor Code section 2698 *et seq.* (“PAGA”) to recover civil
8 penalties on behalf of Plaintiff, the State of California, and other current and former
9 employees who worked for Defendants in California as non-exempt, hourly-paid Tellers, In-
10 Store Tellers, Senior Tellers, Lead Tellers, Lead Teller Operations Specialists (“LTOS”),
11 LTOS Trainees, Associate Bankers, Lead Associate Operations, Personal Bankers, Private
12 Client Bankers, or Relationship Bankers who received at least one wage statement, and
13 against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of the
14 Labor Code or any provision regulating hours and days of work in the applicable Industrial
15 Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint, at
16 any time between one year prior to the filing of this complaint until judgment (“non-party
17 Aggrieved Employees”). The monetary damages, penalties, and restitution sought by Plaintiff
18 exceed the minimal jurisdiction limits of the Superior Court and will be established according
19 to proof at trial. This Court has jurisdiction over this action pursuant to the California
20 Constitution, Article VI, section 10. The statutes under which this action is brought do not
21 specify any other basis for jurisdiction. Plaintiff’s share of damages, penalties, and other
22 relief sought in this action does not exceed \$75,000.

23 2. This Court has jurisdiction over this action pursuant to the California
24 Constitution, Article VI, section 10. The statute under which this action is brought does not
25 specify any other basis for jurisdiction.

26 3. This Court has jurisdiction over all Defendants because, on information and
27 belief, Defendants are either citizens of California, have sufficient minimum contacts in
28 California, and otherwise intentionally avail themselves of the California market so as to

1 render the exercise of jurisdiction over them by the California courts consistent with
2 traditional notions of fair play and substantial justice. There is no basis for federal diversity
3 jurisdiction in this action given that the State of California, as the real party in interest in this
4 action, is not a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin*
5 *Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties
6 cannot be aggregated to satisfy the amount in controversy requirement for federal diversity
7 jurisdiction in this action, and that diversity jurisdiction cannot be established when Plaintiff’s
8 share of the civil penalties attributable to violations personally suffered are less than \$75,000.
9 *Id.* at 1122.

10 4. Venue is proper in this Court because Defendants employ persons in this
11 county and employed Plaintiff in this county, and thus a substantial portion of the transactions
12 and occurrences related to this action occurred in this county.

13 5. California Labor Code sections 2698 *et seq.*, the “Labor Code Private Attorneys
14 General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys
15 general their current or former employers for various civil penalties for violations of various
16 provisions in the California Labor Code.

17 THE PARTIES

18 6. Plaintiff PAULINA VEGA worked for Defendants as a non-exempt, hourly-
19 paid employee from approximately August 3, 2010, to November 29, 2017. Plaintiff worked
20 for Defendants at their various bank branch locations in Los Angeles County, including
21 Venice (1415 Lincoln Blvd., Venice, California 90291), Culver City – Bristol & Green Valley
22 (6201 Bristol Pkwy., Culver City, California 90230), and Fox Hills (5670 Sepulveda Blvd.,
23 Culver City, California 90230). Over the course of her employment, Plaintiff worked in
24 various positions, including Personal Banker and Lead Teller. During her employment,
25 Plaintiff typically worked eight (8) or more hours per day, five (5) or more days per week, and
26 approximately 40 hours per week. Her job duties included, without limitation, supporting the
27 Branch Manager in branch operations, such as with loss control, compliance, and audit
28 standards, and assisting customers with financial transactions.

1 United States, including California. Upon information and belief, Defendants operate more
2 than 5,000 bank branches in 23 states, including approximately 1,000 branch locations in
3 California, and employ approximately 240,000 employees nationwide and globally.

4 14. On information and belief, Defendants maintain their corporate headquarters in
5 Columbus, Ohio. Upon information and belief, Defendants maintain a single, centralized
6 Human Resources (“HR”) department in Columbus, Ohio, which is responsible for conducting
7 Defendants’ recruiting and hiring of new employees, as well as communicating and
8 implementing Defendants’ company-wide policies to employees throughout California.

9 15. In particular, on information and belief, Plaintiff and other non-party Aggrieved
10 Employees received the same standardized documents and/or written policies. Upon
11 information and belief, the usage of standardized documents and/or written policies, indicate
12 that Defendants dictated policies at the corporate level and implemented them company-wide,
13 regardless of their employees’ assigned locations or positions. Upon information and belief,
14 Defendants set forth uniform policies and procedures in several documents provided at an
15 employee’s time of hire. At the time Plaintiff was hired, she received documents including,
16 but not limited to, the Offer Letter, Background Investigation Authorization and Disclosure
17 Form, Pay Policy Handbook, and other new-hire paperwork, that informed her that she would
18 be subject to the policies and rules listed in the new hire documents.

19 16. On information and belief, all transactions regarding hiring, terminations,
20 promotions, pay increases, and employee transfers, etc., relating to Defendants’ California
21 employees were submitted to and processed by Defendants’ HR department in Columbus,
22 Ohio. Additionally, on information and belief, Defendants’ corporate records, business
23 records, data, and other information related to Defendants, including, in particular, HR records
24 pertaining to Defendants’ California employees, are also maintained at Defendants’ corporate
25 headquarters in Columbus, Ohio.

26 17. Upon information and belief, Defendants maintain a centralized Payroll
27 department in Columbus, Ohio, which processes payroll for all non-exempt, hourly-paid
28 Tellers, Lead Tellers, or similarly-titled positions working for Defendants at their various

1 locations in California, including Plaintiff and other non-party Aggrieved Employees. Based
2 upon information and belief, Defendants issued the same formatted wage statements to all
3 non-exempt Tellers, Lead Tellers, or similarly-titled positions in California, irrespective of
4 their work location. Upon information and belief, Defendants process payroll for departing
5 employees in the same manner throughout the State of California, regardless of the manner in
6 which each employee's employment ends.

7 18. Defendants continue to employ non-exempt, hourly-paid Tellers, Lead Tellers,
8 or similarly-titled positions throughout California.

9 19. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
11 and advisors knowledgeable about California labor and wage law, employment and personnel
12 practices, and about the requirements of California law.

13 20. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
14 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
15 were not recorded.

16 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
18 receive certain wages for overtime compensation and that they were not receiving certain
19 wages for overtime compensation.

20 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
22 be paid at a regular rate of pay, and corresponding overtime rate of pay, that included as
23 eligible income all income derived from incentive pay, nondiscretionary bonuses, and/or other
24 forms of compensation.

25 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
27 receive at least minimum wages for compensation and that they were not receiving at least
28 minimum wages for work that was required to be done off-the-clock. In violation of the

1 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
2 least minimum wages for work done off-the-clock.

3 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
5 meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay
6 at their regular rates of pay when they were not provided with timely, uninterrupted, thirty
7 (30) minute meal periods and that Plaintiff and other non-party Aggrieved Employees were
8 not provided with all meal periods or payment of one (1) additional hour of pay at their
9 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
10 period.

11 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
13 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
14 of one (1) additional hour of pay at their regular rates of pay when they were not provided
15 with a compliant rest period and that Plaintiff and other non-party Aggrieved Employees were
16 not provided compliant rest periods or payment of one (1) additional hour of pay at their
17 regular rates of pay when they were not provided a compliant rest period.

18 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 receive complete and accurate wage statements in accordance with California law. In
21 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
22 were not provided complete and accurate wage statements.

23 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that they had a duty to maintain accurate and complete payroll records,
25 including hours worked, in accordance with the Labor Code and applicable IWC Wage Order,
26 but willfully, knowingly, and intentionally failed to do so.

27 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to

1 timely payment of all wages earned upon termination of employment. In violation of the
2 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
3 payment of all wages due, including, but not limited to, overtime wages and minimum wages,
4 within permissible time periods.

5 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 timely payment of wages during their employment. In violation of the California Labor Code,
8 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
9 including, but not limited to, overtime wages and minimum wages, within permissible time
10 periods.

11 30. Plaintiff is informed and believes, and thereon alleges, that at all times herein
12 mentioned, Defendants knew or should have known that they had a duty to provide Plaintiff
13 and other non-party Aggrieved Employees with written notice of the material terms of their
14 employment with Defendants as required by the California Wage Theft Prevention Act, but
15 willfully, knowingly, and intentionally failed to do so.

16 31. Plaintiff is informed and believes, and thereon alleges, that at all times herein
17 mentioned, Defendants knew or should have known that they had a duty to compensate
18 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
19 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
20 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
21 that they were properly denied wages, all in order to increase Defendants' profits.

22 32. At all times herein set forth, PAGA provides that any provision of law under
23 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
24 assessed and collected by the LWDA for violations of the California Labor Code and
25 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
26 civil action brought on behalf of themselves and other current or former employees pursuant
27 to procedures outlined in California Labor Code section 2699.3.

28 33. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any

1 person who was employed by the alleged violator and against whom one or more of the
2 alleged violations was committed.”

3 34. Plaintiff and other current and former California employees of Defendants are
4 “aggrieved employees” as defined by Labor Code section 2699(c) in that they are all
5 Defendants’ current or former California employees and one or more of the alleged violations
6 were committed against them.

7 35. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
8 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
9 following requirements have been met:

- 10 (a) The aggrieved employee or representative shall give written notice by
11 online filing with the LWDA and by certified mail to the employer of
12 the specific provisions of the California Labor Code alleged to have
13 been violated, including the facts and theories to support the alleged
14 violation.
- 15 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
16 2699.3(a) and any employer response to that notice shall be
17 accompanied by a filing fee of seventy-five dollars (\$75).
- 18 (c) The LWDA shall notify the employer and the aggrieved employee or
19 representative by certified mail that it does not intend to investigate the
20 alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of
21 the postmark date of the aggrieved employee’s notice. Upon receipt of
22 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
23 (65) calendar days of the postmark date of the aggrieved employee’s
24 notice, the aggrieved employee may commence a civil action pursuant
25 to California Labor Code section 2699 to recover civil penalties.

26 36. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
27 through Plaintiff, may pursue a civil action arising under the PAGA for violations of any
28 provision other than those listed in Section 2699.5 after the following requirements have been

1 met:

- 2 (a) The aggrieved employee or representative shall give written notice by
3 online filing with the LWDA and by certified mail to the employer of
4 the specific provisions of the California Labor Code alleged to have
5 been violated (other than those listed in Section 2699.5), including the
6 facts and theories to support the alleged violation.
- 7 (b) An aggrieved employee's notice filed with the LWDA pursuant to
8 2699.3(c) and any employer response to that notice shall be
9 accompanied by a filing fee of seventy-five dollars (\$75).
- 10 (c) The employer may cure the alleged violation within thirty-three (33)
11 calendar days of the postmark date of the notice sent by the aggrieved
12 employee or representative. The employer shall give written notice
13 within that period of time by certified mail to the aggrieved employee or
14 representative and by online filing with the LWDA if the alleged
15 violation is cured, including a description of actions taken, and no civil
16 action pursuant to Section 2699 may commence. If the alleged violation
17 is not cured within the 33-day period, the aggrieved employee may
18 commence a civil action pursuant to Section 2699.

19 37. On November 11, 2017, Plaintiff provided written notice by online filing to the
20 LWDA and by Certified Mail to Defendant JPMORGAN CHASE BANK, N.A. of the specific
21 provisions of the California Labor Code alleged to have been violated, including facts and
22 theories to support the alleged violations, in accordance with California Labor Code section
23 2699.3. Plaintiff's written notice was accompanied with the applicable filing fees of seventy-
24 five dollars (\$75). That same day, the LWDA PAGA Administrator confirmed receipt of
25 Plaintiff's written notices and assigned Plaintiff PAGA Case Number LWDA-CM-367723-17.

26 38. On January 12, 2018, Plaintiff sent an amended written notice by online filing
27 to the LWDA and by Certified Mail to Defendant JPMORGAN CHASE BANK, N.A. of the
28 specific provisions of the California Labor Code alleged to have been violated, supplementing

1 and clarifying the facts and theories to support the alleged violations set forth in her original
2 LWDA notice, in accordance with California Labor Code section 2699.3 True and correct
3 copies of Plaintiff's written notices to the LWDA and Defendants dated November 11, 2017,
4 and January 12, 2018, are attached hereto as "Exhibit 1."

5 39. As of the filing date of this complaint, over 65 days have passed since Plaintiff
6 sent her notices described above to the LWDA, and the LWDA has not responded that it
7 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

8 40. Thus, Plaintiff has satisfied the administrative prerequisites under California
9 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
10 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a),
11 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

12 41. Defendants, at all times relevant to this complaint, were employers or persons
13 acting on behalf of an employer(s) who violated Plaintiff and other non-party Aggrieved
14 Employees' rights by violating various sections of the California Labor Code as set forth
15 above.

16 42. As set forth below, Defendants have violated provisions of both the Labor Code
17 sections regulating hours and days of work as well as the applicable IWC Wage Order.

18 43. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
19 2699.3(a), 2699.3(c), and 2699.5, Plaintiff, acting in the public interest as a private attorney
20 general, seeks assessment and collection of civil penalties for herself, all other non-party
21 Aggrieved Employees, and the State of California against Defendants for violations of
22 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d),
23 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

24 **CLASS ACTION ALLEGATIONS**

25 44. Plaintiff brings this action on her own behalf, as well as on behalf of each and
26 all other persons similarly situated, and thus seeks class certification under California Code of
27 Civil Procedure section 382.

28 45. All claims alleged herein arise under California law for which Plaintiff seeks

1 relief authorized by California law.

2 46. Plaintiff's proposed class consists of and is defined as follows:

3 All persons who worked for Defendants as a non-exempt, hourly
4 paid Teller, In-Store Teller, Senior Teller, Lead Teller, Lead
5 Teller Operations Specialist ("LTOS"), LTOS Trainee, Associate
6 Banker, Lead Associate Operations, Personal Banker, Private
7 Client Banker, or Relationship Banker in California, from
8 November 17, 2016 through August 1, 2019 ("Class").

9 47. Members of the Class are referred to herein as "class members."

10 48. There are common questions of law and fact as to class members that
11 predominate over questions affecting only individual members, including, but not limited to:

- 12 (a) Whether Defendants required Plaintiff and class members to work over
13 eight (8) hours per day, over twelve (12) hours per day, or over forty
14 (40) hours per week and failed to pay all legally required overtime
15 compensation to Plaintiff and class members;
- 16 (b) Whether Defendants failed to properly calculate the "regular rate" of
17 pay on which Plaintiff's and class members' overtime rate of pay was
18 based;
- 19 (a) Whether Defendants failed to pay Plaintiff and class members at least
20 minimum wages for all hours worked;
- 21 (b) Whether Defendants failed to provide Plaintiff and class members with
22 meal periods;
- 23 (c) Whether Defendants failed to authorize and permit Plaintiff and class
24 members to take rest periods;
- 25 (d) Whether Defendants provided Plaintiff and class members with
26 complete and accurate wage statements as required by California Labor
27 Code section 226(a);
- 28 (e) Whether Defendants maintained accurate payroll records as required by
California Labor Code section 1174(d);
- (f) Whether Defendants failed to pay earned overtime wages, minimum

1 wages, and meal and rest period premiums due to Plaintiff and class
2 members upon their discharge;

3 (g) Whether Defendants failed timely to pay overtime wages, minimum
4 wages and meal and rest period premiums to Plaintiff and class
5 members during their employment;

6 (h) Whether Defendants engaged in unlawful and unfair business practices
7 in violation of California Business & Professions Code sections 17200,
8 *et seq.*; and

9 (i) The appropriate amount of damages, restitution, or monetary penalties
10 resulting from Defendants' violations of California law.

11 49. There is a well-defined community of interest in the litigation and the class
12 members are readily ascertainable:

13 (a) Numerosity: The class members are so numerous that joinder of all
14 members would be unfeasible and impractical. The membership of the
15 entire class is unknown to Plaintiff at this time; however, the class is
16 estimated to be greater than one hundred (100) individuals and the
17 identity of such membership is readily ascertainable by inspection of
18 Defendants' employment records.

19 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
20 protect the interests of each class member with whom she has a well-
21 defined community of interest, and Plaintiff's claims (or defenses, if
22 any) are typical of all class members as demonstrated herein.

23 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
24 protect the interests of each class member with whom she has a well-
25 defined community of interest and typicality of claims, as demonstrated
26 herein. Plaintiff acknowledges that she has an obligation to make
27 known to the Court any relationship, conflicts or differences with any
28 class member. Plaintiff's attorneys, the proposed class counsel, are

1 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
2 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198. Labor Code section 2699.3(c)
3 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
4 those Labor Code sections not found in section 2699.5, including sections 1182.12 and
5 2810.5.

6 52. Defendants' conduct, as alleged herein, violates numerous sections of the
7 California Labor Code, including, but not limited to, the following:

- 8 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
9 wage order for Defendants' failure to compensate Plaintiff and other
10 non-party Aggrieved Employees with all required overtime pay and
11 failure to properly calculate the overtime rates paid to Plaintiff and/or
12 other non-party Aggrieved Employees as set forth below;
- 13 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
14 and the applicable IWC wage order for Defendants' failure to
15 compensate Plaintiff and other non-party Aggrieved Employees with at
16 least minimum wages for all hours worked as set forth below;
- 17 (c) Violation of Labor Code sections 226.7, 512(a), 1198, and the
18 applicable IWC wage order for Defendants' failure to provide Plaintiff
19 and other non-party Aggrieved Employees with meal and/or rest
20 periods, as set forth below;
- 21 (d) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
22 wage order for failure to provide accurate and complete wage statements
23 to Plaintiff and other non-party Aggrieved Employees, as set forth
24 below;
- 25 (e) Violations of Labor Code sections 1174(d), 1198, and the applicable
26 IWC wage order for failure to maintain payroll records as set forth
27 below;
- 28 (f) Violation of Labor Code sections 201, 202, and 203 for failure to pay all

1 earned wages upon termination as set forth below;

2 (g) Violation of Labor Code section 204 for failure to pay all earned wages
3 during employment as set forth below; and

4 (h) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
5 provide written notice of information material to Plaintiff and other non-
6 party Aggrieved Employees' employment with Defendants, as set forth
7 below.

8 **FAILURE TO PAY OVERTIME**

9 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

10 53. Labor Code section 1198 makes it illegal to employ an employee under
11 conditions of labor that are prohibited by the applicable wage order. California Labor Code
12 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
13 be the . . . standard conditions of labor for employees. The employment of any employee . . .
14 under conditions of labor prohibited by the order is unlawful.”

15 54. California Labor Code section 1198 and the applicable IWC Wage Order
16 provide that it is unlawful to employ persons without compensating them at a rate of pay
17 either time-and-one-half or two-times that person's regular rate of pay, depending on the
18 number of hours worked by the person on a daily or weekly basis.

19 55. Specifically, the applicable IWC Wage Order provides that Defendants are and
20 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
21 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
22 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
23 hours in a workweek.

24 56. The applicable IWC Wage Order further provides that Defendants are and were
25 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
26 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
27 An employee's regular rate of pay includes all remuneration for employment paid to, or on
28 behalf of, the employee, including non-discretionary bonuses and incentive pay.

1 57. California Labor Code section 510 codifies the right to overtime compensation
2 at one and one-half times (1½) the regular rate of pay for hours worked in excess of eight (8)
3 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
4 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
5 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
6 in a day on the seventh (7th) day of work.

7 58. During the relevant time period, Defendants willfully failed to pay all overtime
8 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
9 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
10 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
11 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
12 not recorded.

13 59. During the relevant time period, on information and belief, Defendants had, and
14 continue to have, a company-wide policy of staffing branch locations strictly based on a labor
15 budget allocated by corporate for each market, and subsequently broken down by each branch
16 location, which was set on a quarterly basis and based on the perceived demand in each
17 market or branch location. The number of full-time employees and part-time employees that
18 could be hired at a guaranteed/minimum number of hours was limited in accordance with this
19 labor budget. Defendants' policy resulted in chronic understaffing such that there were too
20 few employees on duty to handle the workload and be available to provide meal break
21 coverage.

22 60. As a result of Defendants' systemic utilization of labor budgets, Plaintiff and
23 other non-party Aggrieved Employees were not provided adequate meal break coverage to
24 allow them to be relieved of their duties for compliant meal breaks and thus were required to
25 perform work while off-the-clock. For example, Plaintiff was required to return to work
26 during unpaid meal breaks because the branch location was shorthanded and to perform
27 certain tasks that typically required two people, so that the branch did not have to pull other
28 employees away from assisting customers. Other non-party Aggrieved Employees were also

1 required to tend to customers during meal breaks.

2 61. Additionally, Defendants had, and continue to have, a company-wide policy of
3 failing to implement any practices to authorize and permit employees to take compliant meal
4 periods and, instead, engaged in a practice of discouraging and impeding employees from
5 taking meal periods by understaffing their branch location(s) and not providing a mechanism
6 in the timekeeping or payroll system for indicating a meal period was missed. Thus, as a
7 result of Defendants' company-wide failure to provide adequate staffing and break coverage
8 in stores, Plaintiff and other non-party Aggrieved Employees were not always permitted and
9 authorized to take timely uninterrupted 30-minute meal periods during shifts in which they
10 were entitled to receive meal periods. Plaintiff and other non-party Aggrieved Employees did
11 not sign valid meal break waivers on days that they were entitled to meal periods but were not
12 relieved of all duties.

13 62. Also, Defendants did not allow Plaintiff and other non-party Aggrieved
14 Employees to leave the bank by themselves at the end of their shifts. Thus, after clocking out
15 for the day at the end of their shifts, Plaintiff and other non-party Aggrieved Employees had to
16 wait approximately five (5) minutes in the bank for another employee to accompany them
17 when they left the bank or to let them out and watch them when they left. This occurred on a
18 regular basis. This waiting time was not reasonably related to or necessary for any purported
19 security checks. At all times, the Plaintiff and other non-party Aggrieved Employees
20 remained under the control of Defendants. This idle waiting time could have been recorded
21 by Defendants, but they refused to do so to avoid payment of additional wages.

22 63. Further, other non-party Aggrieved Employees were also required to wait to
23 undergo security screenings by another employee when leaving the branch location(s) after
24 clocking out. Defendants maintained a written policy stating, "The following are examples of
25 non-work activities that occur outside normal working hours and should not be recorded in
26 [the Time and Attendance System] as time worked: . . . Security screenings, if required, at the
27 conclusion of the workday." Other non-party Aggrieved Employees were not compensated
28 for the time spent undergoing Defendants' mandatory security screenings while off-the-clock.

1 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, 1197.1, AND 1198**

2 68. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
3 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
4 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
5 fixed is unlawful. Compensable work time is defined in Wage Order No. 4 as “the time
6 during which an employee is subject to the control of an employer, and includes all the time
7 the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code.
8 Regs. tit. 8, § 11040(2)(K) (defining “Hours Worked”).

9 69. As stated, during the relevant time period, due to Defendants’ labor budgets
10 and resultant understaffing, Plaintiff and other non-party Aggrieved Employees were forced to
11 forego meal periods or have their meal periods interrupted by work and, instead, were
12 required to continue performing their assigned tasks and attending to bank customers. Thus,
13 Plaintiff and other non-party Aggrieved Employees were not relieved of all duties for unpaid
14 meal periods. Defendants’ systemic utilization of labor budgets and understaffing of its
15 branch locations also prevented Plaintiff and other non-party Aggrieved Employees from
16 completing their assigned work while clocked in for their scheduled shifts.

17 70. As also stated, Defendants did not allow Plaintiff and other non-party
18 Aggrieved Employees to leave the bank by themselves at the end of their shifts, and required
19 them to wait approximately five (5) minutes in the bank, after clocking out for the day at the
20 end of their shifts, for another employee to accompany them when they left the bank or to let
21 them out and watch them when they left. Furthermore, as previously stated, Defendants
22 implemented a loss prevention policy requiring that employees undergo security checks when
23 they left the bank premises. After clocking out at the end of their shifts, other non-party
24 Aggrieved Employees were required to wait off-the-clock for another employee to become
25 available to perform a security check before they could leave. Pursuant to the company’s
26 written policy, as mentioned above, other non-party Aggrieved Employees were not
27 compensated for the time they spent waiting for a security check or the time spent undergoing
28 security checks.

1 71. Thus, Defendants did not pay at least minimum wages for off-the-clock hours
2 that qualified for overtime premium payment. Also, to the extent that these off-the-clock
3 hours did not qualify for overtime premium payment, Defendants did not pay at least
4 minimum wages for those hours worked off-the-clock in violation of California Labor Code
5 sections 1182.12, 1194, 1197, 1197.1, and 1198.

6 72. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
7 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
8 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
9 civil penalties pursuant to sections 1197.1 and/or 2699(a), (f), and (g).

10 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
11 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198**

12 73. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
13 California Labor Code sections 226.7, 512(a), and 1198 were applicable to Plaintiff and non-
14 party Aggrieved Employees' employment by Defendants.

15 74. At all relevant times herein set forth, California Labor Code section 512(a)
16 provides that an employer may not require, cause, or permit an employee to work for a period
17 of more than five (5) hours per day without providing the employee with a meal period of not
18 less than thirty (30) minutes, except that if the total work period per day of the employee is
19 not more than six (6) hours, the meal period may be waived by mutual consent of both the
20 employer and the employee. Under California law, first meal periods must start after no more
21 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
22 2012).

23 75. At all relevant times herein set forth, California Labor Code section 226.7 and
24 512(a) provide that no employer shall require an employee to work during any meal period
25 mandated by an applicable order of the IWC.

26 76. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
27 the applicable IWC Wage Order also require employers to provide a second meal break of not
28 less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an

1 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
2 hours worked is no more than twelve (12) hours, the second meal period may be waived by
3 mutual consent of the employer and the employee only if the first meal period was not waived.

4 77. As stated, Defendants' company-wide understaffing and failure to provide
5 adequate break coverage as a result of its labor budget policies, prevented Plaintiff and other
6 non-party Aggrieved Employees from taking compliant meal periods. Additionally,
7 Defendants had, and continue to have, a company-wide policy of failing to implement any
8 practices to authorize and permit employees to take compliant meal periods and, instead,
9 engaged in a practice of discouraging and impeding employees from taking meal periods by
10 understaffing their branch location(s) and then failing to provide a mechanism in the
11 timekeeping/payroll system for employees to indicate when a meal period was missed.

12 78. Because of Defendants' practices and/or policies, Plaintiff and other non-party
13 Aggrieved Employees were required to continue to perform their duties without being able to
14 take a timely, compliant meal period. Plaintiff and other non-party Aggrieved Employees had
15 to work through part or all of their meal periods, have their meal periods interrupted, and/or
16 wait extended periods of time before taking meal periods. For example, Plaintiff and other
17 non-party Aggrieved Employees were required to return to work during unpaid meal periods
18 to attend to branch location demands and customer needs. Defendants required its employees
19 to continue working and failed to provide meal period coverage for employees, thereby
20 preventing them from taking timely, uninterrupted meal periods to which they were entitled.

21 79. At all times herein mentioned, Defendants knew or should have known that as a
22 result of these policies, that Plaintiff and other non-party Aggrieved Employees were not
23 actually relieved of all duties to take timely, uninterrupted meal periods. On information and
24 belief, Defendants did not pay Plaintiff and other non-party Aggrieved Employees meal period
25 premium wages when meal periods were missed, late, short, and/or interrupted. Plaintiff and
26 other non-party Aggrieved Employees did not sign valid, applicable meal break waivers on
27 days that they were entitled to meal periods and were not relieved of all duties.

28 80. Moreover, Defendants have engaged in a systematic, company-wide policy of

1 not paying meal period premiums when compliant meal periods are not provided.
2 Alternatively, to the extent that Defendants did pay Plaintiff and/or other non-party Aggrieved
3 Employees one (1) additional hour of premium pay for missed meal periods, Defendants did
4 not pay Plaintiff and/or other non-party Aggrieved Employees at the correct rate of pay for
5 premium wages because Defendants systematically failed to include all forms of
6 compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
7 remuneration, in the regular rate of pay. As a result, to the extent Defendants paid Plaintiff
8 and/or other non-party Aggrieved Employees premium pay for missed meal periods, it did so
9 at a lower rate than required by law.

10 81. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
11 Employees compliant meal periods and failed to pay the full meal period premiums due.

12 82. Defendants' conduct violates the applicable IWC Wage Order, and California
13 Labor Code sections 226.7, 512(a), and 1198. Plaintiff and other non-party Aggrieved
14 Employees are entitled to recover civil penalties pursuant to sections 2699(a), (f), and (g).

15 **FAILURE TO PROVIDE REST PERIODS**

16 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198**

17 83. At all relevant times herein set forth, the applicable IWC Wage Order and
18 California Labor Code sections 226.7 and 1198 were applicable to Plaintiff and other non-
19 party Aggrieved Employees' employment by Defendants.

20 84. At all relevant times, the applicable IWC Wage Order provides that “[e]very
21 employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period” and that the “rest period time shall be
23 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
24 hours or major fraction thereof” unless the total daily work time is less than three and one-half
25 (3½) hours.

26 85. At all relevant times, California Labor Code section 226.7 provides that no
27 employer shall require an employee to work during any rest period mandated by an applicable
28 order of the California IWC. To comply with its obligation to provide rest periods under

1 California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must
2 “relinquish any control over how employees spend their break time, and relieve their
3 employees of all duties — including the obligation that an employee remain on call. A rest
4 period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2
5 Cal. 5th 257, 269-270 (2016).

6 86. Pursuant to the applicable IWC Wage Order and California Labor Code section
7 226.7(b), Plaintiff and other non-party Aggrieved Employees were entitled to recover from
8 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
9 required rest period was not provided.

10 87. During the relevant time period, Defendants regularly failed to authorize and
11 permit Plaintiff and other non-party Aggrieved Employees to take ten (10) minute rest period
12 per each four (4) hour period worked or major fraction thereof. As with meal periods,
13 Defendants’ company-wide labor budget policies and resultant understaffing of branch
14 locations prevented Plaintiff and other non-party Aggrieved Employees from being relieved of
15 all duty in order to take compliant rest periods. As a result of Defendants’ understaffing,
16 Plaintiff and other non-party Aggrieved Employees would work shifts in excess of 3.5 hours,
17 in excess of six (6) hours, and/or in excess of ten (10) hours without ten (10) minute rest
18 periods to which they were entitled. Throughout her employment, Plaintiff was not permitted
19 to take a full and complete ten (10) minute rest periods as there was insufficient coverage at
20 the branch and she was required to return to assist customers or help manage the bank. As
21 with meal periods, Defendants had, and continue to have, a company-wide policy of failing to
22 implement any practices to authorize and permit employees to take compliant rest periods and,
23 instead, engaged in a practice of discouraging and impeding employees from taking rest
24 periods by understaffing their branch location(s) and not providing a mechanism in the
25 timekeeping/payroll system for indicating a rest period was missed.

26 88. Defendants have also engaged in a company-wide practice and/or policy to not
27 pay rest period premiums owed when compliant rest periods are not provided. Alternatively,
28 to the extent that Defendants did pay Plaintiff and/or other non-party Aggrieved Employees

1 one (1) additional hour of premium pay for missed rest periods, Defendants did not pay
2 Plaintiff and/or other non-party Aggrieved Employees at the correct rate of pay for premium
3 wages because Defendants failed to include all forms of compensation, such as incentive pay,
4 nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. As a
5 result, to the extent Defendants paid Plaintiff and/or other non-party Aggrieved Employees
6 premium pay for missed rest periods, it did so at a lower rate than required by law.

7 89. Based on the foregoing, Plaintiff and other non-party Aggrieved Employees
8 were denied rest periods and Defendants failed to pay the full rest period premiums due.

9 90. Defendants' conduct violates the applicable IWC Wage Order and California
10 Labor Code sections 226.7 and 1198. Plaintiff and other non-party Aggrieved Employees are
11 therefore entitled to recover civil penalties pursuant to section 2699(a), (f), and (g).

12 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
13 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

14 91. At all relevant times herein, California Labor Code section 226(a) provides that
15 every employer shall furnish each of his or her employees an accurate and complete itemized
16 wage statement in writing, including, but not limited to, the name and address of the legal
17 entity that is the employer, the inclusive dates of the pay period, total hours worked, and all
18 applicable rates of pay.

19 92. During the relevant time period, Defendants have knowingly and intentionally
20 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
21 inaccurate wage statements. For example, Defendants issued uniform wage statements to
22 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
23 earned; net wages earned; and all applicable hourly rates in effect during the pay period,
24 including overtime rates of pay, and the corresponding number of hours worked at each hourly
25 rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(5), and 226(a)(9).

26 93. Because Defendants did not calculate Plaintiff's and/or other non-party
27 Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime,
28 Defendants did not list the correct amount of gross wages earned by Plaintiff and/or other non-

1 party Aggrieved Employees in compliance with section 226(a)(1). For the same reason,
2 Defendants failed to list the correct amount of net wages earned by Plaintiff and/or other non-
3 party Aggrieved Employees in violation of section 226(a)(5). Defendants also failed to
4 correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime
5 rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

6 94. Further, because Defendants failed to pay meal and rest period premiums to
7 Plaintiff and other non-party Aggrieved Employees, Defendants did not list the correct amount
8 of gross wages earned by Plaintiff and other non-party Aggrieved Employees in compliance
9 with section 226(a)(1). For the same reason, Defendants failed to list the correct amount of
10 net wages earned by Plaintiff and other non-party Aggrieved Employees in violation of
11 section 226(a)(5). Defendants' failure to pay meal period premiums consistently also resulted
12 in an inaccurate calculation of Plaintiff's and/or other non-party Aggrieved Employees'
13 regular rate of pay when overtime was either earned or paid; thus, Plaintiff and/or other non-
14 party Aggrieved Employees the wage statements were furnished with inaccurate hourly rates
15 in effect during the pay period, especially the overtime rate and rate of pay for premium wages
16 when overtime wages were due, in violation of section 226(a)(9).

17 95. The wage statement deficiencies also include, among other things, failing to
18 list total hours worked by employees; failing to list the number of piece-rate units earned and
19 any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all
20 deductions; failing to list the name of the employee and only the last four digits of his or her
21 social security number or an employee identification number other than a social security
22 number; failing to list the name and address of the legal entity that is the employer; failing to
23 list the inclusive dates of the period for which aggrieved employees were paid; and/or failing
24 to state all hours worked as a result of not recording or stating the hours they worked off-the-
25 clock.

26 96. California Labor Code section 1174(d) provides that “[e]very person employing
27 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
28 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the

1 plants or establishments at which employees are employed, payroll records showing the hours
2 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
3 applicable piece rate paid to, employees employed at the respective plants or
4 establishments...” During the relevant time period, and in violation of Labor Code section
5 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and
6 other non-party Aggrieved Employees showing the daily hours they worked and the wages
7 paid thereto as a result of failing to record the off-the-clock hours that they worked.

8 97. California Labor Code section 1198 provides that the maximum hours of work
9 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
10 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
11 employment of any employees for longer hours than those fixed by the order or under
12 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
13 Wage Order, employers are required to keep accurate time records showing when the
14 employee begins and ends each work period and meal period. During the relevant time
15 period, Defendants failed, on a company-wide basis, to keep accurate records of meal period
16 start and stop times for Plaintiff and other non-party Aggrieved Employees, in violation of
17 section 1198.

18 98. Because Defendants’ violations of 226(a) and 1174(d) were committed against
19 Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party Aggrieved
20 Employees are entitled to recover civil penalties pursuant to sections 226(e), 226.3, 1174.5,
21 and/or 2699(a), (f), and (g).

22 **FAILURE TO PAY WAGES UPON TERMINATION**

23 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

24 99. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
25 that if an employer discharges an employee, the wages earned and unpaid at the time of
26 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
27 her employment, his or her wages shall become due and payable not later than seventy-two
28 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of

1 his or her intention to quit, in which case the employee is entitled to his or her wages at the
2 time of quitting.

3 100. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
4 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
5 above, including but not limited to, overtime wages, minimum wages, and meal and/or rest
6 period premium wages, either at the time of discharge, or within seventy-two (72) hours of
7 their leaving Defendants' employ.

8 101. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
9 who are no longer employed by Defendants their wages earned and unpaid at the time of
10 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
11 Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are
12 therefore entitled to recover civil penalties pursuant to Labor Code section 2699(f)-(g).

13 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

14 **VIOLATION OF LABOR CODE SECTIONS 204**

15 102. At all relevant times herein set forth, California Labor Code section 204
16 requires that all wages earned by any person in any employment between the 1st and the 15th
17 days, inclusive, of any calendar month, other than those wages due upon termination of an
18 employee, are due and payable between the 16th and the 26th day of the month during which
19 the labor was performed. Labor Code section 204 further provides that all wages earned by
20 any person in any employment between the 16th and the last day, inclusive, of any calendar
21 month, other than those wages due upon termination of an employee, are due and payable
22 between the 1st and the 10th day of the following month.

23 103. At all relevant times herein, California Labor Code section 204 also requires
24 that all wages earned for labor in excess of the normal work period shall be paid no later than
25 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
26 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
27 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
28 more than seven (7) calendar days following the close of the payroll period.

1 104. During the relevant time-period, Defendants willfully failed to pay Plaintiff and
2 other non-party Aggrieved Employees all wages due to them within any time-period specified
3 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
4 wages, and meal and/or rest period premium wages.

5 105. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
6 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

7 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
8 **EMPLOYMENT - VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

9 106. California's Wage Theft Prevention Act was enacted to ensure that employers
10 provide employees with basic information material to their employment relationship at the
11 time of hiring, and to ensure that employees are given written and timely notice of any
12 changes to basic information material to their employment. Codified at California Labor
13 Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an
14 employer must provide written notice to employees containing basic and material payroll
15 information, including, among other things, the rate(s) of pay and basis thereof, whether paid
16 by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for
17 overtime, the regular payday designated by the employer, and any allowances claims as part
18 of the minimum wage, including meal or lodging allowances. Labor Code section
19 2810.5(a)(1)(A)-(C).

20 107. During the relevant time period, Defendants, on a company-wide basis, failed
21 to provide written notice to Plaintiff and other non-party Aggrieved Employees that lists the
22 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).

23 108. Defendants' failure to provide Plaintiff and other non-party Aggrieved
24 Employees with written notice of basic information regarding their employment with
25 Defendants is in violation of Labor Code section 2810.5. Plaintiff and other non-party
26 Aggrieved Employees are therefore entitled to recover penalties, attorney's fees, costs, and
27 interest thereon, pursuant to Labor Code section 2699(f)-(g).

28 **SECOND CAUSE OF ACTION**

1 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**
2 **(Against all Defendants)**

3 109. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
4 and every allegation set forth above.

5 110. Labor Code section 1198 makes it illegal to employ an employee under
6 conditions of labor that are prohibited by the applicable wage order. California Labor Code
7 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
8 be the . . . standard conditions of labor for employees. The employment of any employee . . .
9 under conditions of labor prohibited by the order is unlawful.”

10 111. California Labor Code section 1198 and the applicable IWC Wage Order
11 provide that it is unlawful to employ persons without compensating them at a rate of pay
12 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
13 number of hours worked by the person on a daily or weekly basis.

14 112. Specifically, the applicable IWC Wage Order provides that Defendants are and
15 were required to pay Plaintiff and class members working more than eight (8) hours in a day
16 or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all
17 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
18 workweek.

19 113. The applicable IWC Wage Order further provides that Defendants are and were
20 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
21 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
22 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
23 employee, including non-discretionary bonuses and incentive pay.

24 114. California Labor Code section 510 codifies the right to overtime compensation
25 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
26 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
27 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate
28 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours

1 in a day on the seventh (7th) day of work.

2 115. During the relevant time period, Defendants willfully failed to pay all overtime
3 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
4 class members were not paid overtime premiums for all of the hours they worked in excess of
5 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
6 hours in a week, because all hours worked were not recorded.

7 116. Defendants knew or should have known that as a result of their company-wide
8 practices and/or policies, Plaintiff and class members were performing work off-the-clock,
9 and were suffered or permitted to perform work for which they were not paid. Because
10 Plaintiff and class members worked shifts of eight (8) hours a day or more or forty (40) hours
11 a week or more, some of this off-the-clock work qualified for overtime premium pay.
12 Therefore, Plaintiff and class members were not paid overtime wages for all of the overtime
13 hours they actually worked.

14 117. Furthermore, Defendants did not pay Plaintiff and class members the correct
15 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
16 wage, Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses,
17 and/or other forms of remuneration. However, in violation of the California Labor Code,
18 Defendants failed to properly incorporate all compensation, including incentive pay,
19 nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
20 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during
21 times when Plaintiff and class members worked overtime and received these other forms of
22 pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than
23 required.

24 118. Defendants' failure to pay Plaintiff and class members the balance of overtime
25 compensation as required by California law, violates the provisions of California Labor Code
26 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
27 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
28 and attorneys' fees.

1 **THIRD CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid**
3 **Minimum Wages**
4 **(Against all Defendants)**

5 119. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 120. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
8 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
9 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
10 fixed is unlawful. Compensable work time is defined in Wage Order No. 4 as “the time
11 during which an employee is suffered or permitted to work for the employer, whether or not
12 required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards
13 Act.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

14 121. Defendants did not pay minimum wages for off-the-clock hours that Plaintiff
15 and class members worked through that qualified for overtime premium payment. To the
16 extent that these off-the-clock hours did not qualify for overtime premium payment,
17 Defendants did not pay at least minimum wages for those hours worked off-the-clock in
18 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

19 122. Defendants’ failure to pay Plaintiff and class members minimum wages violates
20 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
21 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
22 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

23 **FOURTH CAUSE OF ACTION**

24 **Violations of California Labor Code, §§ 226.7, 512(a), and 1198—Meal Period Violations**
25 **(Against all Defendants)**

26 123. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
27 and every allegation set forth above.

28 124. At all relevant times herein set forth, California Labor Code section 512(a)

1 provides that an employer may not require, cause, or permit an employee to work for a period
2 of more than five (5) hours per day without providing the employee with a meal period of not
3 less than thirty (30) minutes, except that if the total work period per day of the employee is
4 not more than six (6) hours, the meal period may be waived by mutual consent of both the
5 employer and the employee. Under California law, first meal periods must start after no more
6 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
7 2012).

8 125. At all relevant times herein set forth, California Labor Code section 226.7 and
9 512(a), and 1198 provide that no employer shall require an employee to work during any meal
10 period mandated by an applicable order of the IWC.

11 126. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a),
12 1198 and the applicable IWC Wage Order also require employers to provide a second meal
13 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
14 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if
15 the total hours worked is no more than twelve (12) hours, the second meal period may be
16 waived by mutual consent of the employer and the employee only if the first meal period was
17 not waived.

18 127. At all times herein mentioned, Defendants knew or should have known that, as
19 a result of these policies, Plaintiff and class members were prevented from being relieved of
20 all duties and required to perform some of their assigned duties during meal periods.
21 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
22 members meal period premium wages when meal periods were late, interrupted, shortened, or
23 missed.

24 128. Moreover, Defendants engaged in a company-wide practice and/or policy of
25 not paying all meal period premiums owed when compliant meal periods are not provided.
26 Because of Defendants' practices and/or policies, Plaintiff and class members have not
27 received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the
28 extent that Defendants did pay Plaintiff and class members premium pay for missed, late, and

1 interrupted meal periods, Defendants did not pay Plaintiff and class members at the correct
2 rate of pay for premium wages because Defendants systematically failed to include all forms
3 of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
4 remuneration, in the regular rate of pay. As a result, to the extent Defendants paid Plaintiff
5 and class members premium pay for missed meal periods, it did so at a lower rate than
6 required by law.

7 129. As a result, Defendants failed to provide Plaintiff and class members compliant
8 meal periods in violation of California Labor Code sections 226.7 and 512 and failed to pay
9 the full meal period premiums due.

10 130. Defendants' conduct violates the applicable IWC Wage Order, and California
11 Labor Code sections 226.7, 512(a), and 1198. Plaintiff and class members are therefore
12 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
13 rate of compensation for each work day that the meal period was not provided.

14 **FIFTH CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 226.7 and 1198—Rest Period Violations** 16 **(Against all Defendants)**

17 131. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
18 and every allegation set forth above.

19 132. At all relevant times herein set forth, the applicable IWC Wage Order and
20 California Labor Code sections 226.7 and 1198 were applicable to Plaintiff and class
21 members' employment by Defendants.

22 133. At all relevant times, the applicable IWC Wage Order provides that “[e]very
23 employer shall authorize and permit all employees to take rest periods, which insofar as
24 practicable shall be in the middle of each work period” and that the “rest period time shall be
25 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
26 hours or major fraction thereof” unless the total daily work time is less than three and one-half
27 (3½) hours.

28 134. At all relevant times, California Labor Code section 226.7 provides that no

1 employer shall require an employee to work during any rest period mandated by an applicable
2 order of the California IWC. To comply with its obligation to authorize and permit rest
3 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
4 employer must “relinquish any control over how employees spend their break time, and
5 relieve their employees of all duties — including the obligation that an employee remain on
6 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
7 *Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
8 California Labor Code section 226.7(b), Plaintiff and class members are entitled to recover
9 from Defendants one (1) additional hour of pay at their regular rates of pay for each work day
10 that a required rest period was not authorized and permitted.

11 135. As with meal periods, Defendants’ systematic use of labor budgets and
12 resultant understaffing prevented Plaintiff and class members from being relieved of all duty
13 in order to take compliant rest periods. Further, Defendants had no policy for scheduling rest
14 periods for employees and no policy for assigning employees coverage to take rest periods,
15 which further impeded and prevented Plaintiff and class members from taking compliant rest
16 periods.

17 136. Additionally, upon information and belief, during the relevant time period,
18 Defendants maintained implemented a company-wide on-premises rest period policy, which
19 mandated that Plaintiff and class members remain on Defendants’ premises during their rest
20 periods. Upon information and belief, Defendants’ company-wide on-premises rest period
21 policy prevented Plaintiff and class members from being relieved of all duties for rest periods
22 and caused them to perform work during rest periods.

23 137. As a result of Defendants’ practices and policies, Plaintiff and class members
24 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
25 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
26 throughout her employment, Plaintiff was never authorized or permitted to take a full and
27 complete 10-minute rest period.

28 138. Defendants have also engaged in a systematic, company-wide practice and/or

1 policy of not paying rest period premiums owed when rest periods are not authorized and
2 permitted. Alternatively, to the extent that Defendants did pay Plaintiff and class members
3 one (1) additional hour of premium pay for missed rest periods, Defendants did not pay
4 Plaintiff and class members at the correct rate of pay for premium wages because Defendants
5 failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses,
6 and/or other forms of remuneration, in the regular rate of pay. As a result, to the extent
7 Defendants paid Plaintiff and class members premium pay for missed rest periods, it did so at
8 a lower rate than required by law.

9 139. Defendants' conduct violates the applicable IWC Wage Order and California
10 Labor Code sections 226.7 and 1198. Plaintiff and class members are therefore entitled to
11 recover from Defendants one (1) additional hour of pay at the employee's regular rate of
12 compensation for each work day that a compliant rest period was not authorized and
13 permitted.

14 **SIXTH CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 16 **Statements and Failure to Maintain Accurate Payroll Records** 17 **(Against all Defendants)**

18 140. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 141. At all relevant times herein set forth, California Labor Code section 226(a)
21 provides that every employer shall furnish each of his or her employees an accurate and
22 complete itemized wage statement in writing, including, but not limited to, the name and
23 address of the legal entity that is the employer, the inclusive dates of the pay period, total
24 hours worked, and all applicable rates of pay.

25 142. At all relevant times, Defendants have knowingly and intentionally provided
26 Plaintiff and Class members with uniform, incomplete, and inaccurate wage statements. For
27 example, Defendants issued uniform wage statements to Plaintiff and Class members that fail
28 to correctly list: gross wages earned; total hours worked; net wages earned; the correct name

1 and address of the legal entity that is the employer; and all applicable hourly rates in effect
2 during the pay period, including overtime rates of pay, and the corresponding number of hours
3 worked at each hourly rate.

4 143. The wage statement deficiencies also include, without limitation, failing to list
5 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
6 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
7 only the last four digits of his or her social security number or an employee identification
8 number other than a social security number; failing to list the inclusive dates of the period for
9 which class members were paid; and/or failing to state all hours worked as a result of not
10 recording or stating hours worked off-the-clock.

11 144. California Labor Code section 1198 provides that the maximum hours of work
12 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
13 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
14 employment of any employees for longer hours than those fixed by the order or under
15 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
16 Wage Order, employers are required to keep accurate time records showing when the
17 employee begins and ends each work period and meal period. At all relevant times,
18 Defendants failed, on a company-wide basis, to keep records of meal period start and stop
19 times for Plaintiff and Class members in violation of section 1198. Furthermore, in light of
20 Defendants’ failure to provide Plaintiff and Class members with timely, compliant second 30-
21 minute meal periods to which they were entitled, Defendants failed to keep accurate records of
22 meal start and end times for second meal periods.

23 145. California Labor Code section 1174(d) provides that “[e]very person employing
24 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
25 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
26 plants or establishments at which employees are employed, payroll records showing the hours
27 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
28 applicable piece rate paid to, employees employed at the respective plants or

1 establishments...” At all relevant times, and in violation of Labor Code section 1174(d),
2 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Class
3 members showing the daily hours they worked and the wages paid thereto as a result of failing
4 to record the off-the-clock hours that they worked.

5 146. Plaintiff and Class members are entitled to recover from Defendants the greater
6 of their actual damages caused by Defendants’ failure to comply with California Labor Code
7 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
8 employee.

9 **SEVENTH CAUSE OF ACTION**

10 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid**

11 **Upon Termination**

12 **(Against all Defendants)**

13 147. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

15 148. This cause of action is dependent upon, and wholly derivative of, the overtime
16 wages and minimum wages that were not timely paid to Plaintiff and those class members no
17 longer employed by Defendants upon their termination.

18 149. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
19 that if an employer discharges an employee, the wages earned and unpaid at the time of
20 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
21 her employment, his or her wages shall become due and payable not later than seventy-two
22 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
23 his or her intention to quit, in which case the employee is entitled to his or her wages at the
24 time of quitting.

25 150. Defendants willfully failed to pay Plaintiff and class members who are no
26 longer employed by Defendants the earned and unpaid wages set forth above, including but
27 not limited to, overtime wages, minimum wages, and meal and rest period premium wages,
28 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants’

1 employ.

2 151. Defendants' failure to pay Plaintiff and class members who are no longer
3 employed by Defendants their wages earned and unpaid at the time of discharge, or within
4 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
5 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
6 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
7 thirty (30) day maximum pursuant to California Labor Code section 203.

8 **EIGHTH CAUSE OF ACTION**

9 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

10 **Unlawful Business Practices**

11 **(Against all Defendants)**

12 152. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 153. Defendants are "persons" as defined by California Business & Professions
15 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
16 and/or associations.

17 154. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
18 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
19 suffered injury in fact and has lost money as a result of Defendants' unlawful business
20 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
21 meaning of Code of Civil Procedure section 1021.5.

22 155. Defendants' activities, as alleged herein, are violations of California law, and
23 constitute unlawful business acts and practices in violation of California Business &
24 Professions Code sections 17200, *et seq.*

25 156. A violation of California Business & Professions Code sections 17200, *et seq.*
26 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
27 policies and practices have violated state law in at least the following respects:

28 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and

1 class members, to work overtime without paying them proper
2 compensation in violation of California Labor Code sections 510 and
3 1198 and the applicable IWC Order, and paying Plaintiff and class
4 members overtime at a lower rate than required by law by failing to
5 properly calculate the regular rate of pay for purposes of overtime, as
6 alleged herein;

7 (b) Failing to pay at least minimum wage to Plaintiff and class members in
8 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
9 and 1198 and the applicable IWC Order, as alleged herein;

10 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
11 members in violation of California Labor Code sections 226.7, 512(a),
12 1198, and the applicable IWC Order, as alleged herein;

13 (d) Failing to authorize and permit Plaintiff and class members to take
14 uninterrupted rest periods in violation of California Labor Code sections
15 226.7, 1198, and the applicable IWC Order, as alleged herein;

16 (e) Failing to provide Plaintiff and class members with accurate wage
17 statements and failing to maintain accurate payroll records in violation of
18 California Labor Code sections 226(a), 1174(d), 1198, and the applicable
19 IWC Order, as alleged herein;

20 (f) Failing timely to pay all earned wages to Plaintiff and class members in
21 violation of California Labor Code section 204 and the applicable IWC
22 Order, as set forth below;

23 157. At all times relevant herein, Labor Code section 204 provides that all wages
24 earned by any person in any employment between the first (1st) and the fifteenth (15th) days,
25 inclusive, of any calendar month, other than those wages due upon termination of an
26 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
27 the month during which the labor was performed.

28 158. At all times relevant herein, Labor Code section 204 provides that all wages

1 earned by any person in any employment between the sixteenth (16th) and the last day,
2 inclusive, of any calendar month, other than those wages due upon termination of an
3 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
4 month.

5 159. At all times relevant herein, Labor Code section 204 provides that all wages
6 earned for labor in excess of the normal work period shall be paid no later than the payday for
7 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
8 204 provides that the requirements of this section are deemed satisfied by the payment of
9 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
10 seven (7) calendar days following the close of the payroll period.

11 160. At all relevant times herein, Defendants willfully failed to pay Plaintiff and
12 class members all wages due including, but not limited to, overtime wages, minimum wages,
13 and meal and rest period premium wages, within the time periods specified by California
14 Labor Code section 204.

15 161. As a result of the violations of California law herein described, Defendants
16 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
17 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
18 herein.

19 162. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
20 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
21 Defendants during a period that commences four years prior to the filing of this complaint; a
22 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
23 class members; and an award of attorneys' fees pursuant to California Code of Civil
24 Procedure section 1021.5 and other applicable laws; and an award of costs.

25 **NINTH CAUSE OF ACTION**

26 **Violation of California Business & Professions Code §§ 17200, et seq. –**

27 **Unfair Business Practices**

28 **(Against all Defendants)**

1 U.S.C. §§ 201, *et seq.* or “FLSA”).

2 170. Defendant employed and/or continues to employ Plaintiff and class members
3 within the meaning of the FLSA.

4 171. Defendant required Plaintiff and class members as part of their employment to
5 work off-the-clock, for less than minimum wage under 29 U.S.C. § 206, and, when working
6 more than 40 hours in the workweek, less than the overtime wage under 29 U.S.C. § 207.

7 172. Plaintiff and class members are entitled to be paid in an amount at least equal to
8 the applicable minimum wage, or at least equal to the overtime wage when working more than
9 40 hours in the workweek.

10 173. As alleged in greater detail above, at all relevant times, Defendant required
11 Plaintiff and class members to regularly work off-the-clock during unpaid meal periods,
12 before and after scheduled shifts, and for mandatory drug tests and/or physical examinations.

13 174. The FLSA also imposes a record-keeping requirement on employers, including
14 the obligation to keep accurate records of all hours worked by employees. Defendant has
15 knowingly and willfully failed and continues to willfully fail to record, report, and/or preserve
16 accurate records of all hours worked by Plaintiff and class members. By failing to record,
17 report, and/or preserve records of all hours worked by Plaintiff and class members, Defendant
18 has violated, and continues to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*

19 175. Based on the foregoing and allegations herein, Defendant has violated 29
20 U.S.C. §§ 201 *et seq.*, including 29 U.S.C. §§ 206 and 207.

21 176. Defendant’s conduct, as alleged herein, constitutes a willful violation of the
22 FLSA within the meaning of 29 U.S.C. § 255(a).

23 177. Plaintiff, on behalf of himself and class members, seeks to recover their
24 respective unpaid wages, liquidated damages, interest, attorneys’ fees and costs pursuant to 29
25 U.S.C. § 216(b), and any other relief the Court deems just and proper.

26 **REQUEST FOR JURY TRIAL**

27 Plaintiff requests a trial by jury.

28 **PRAYER FOR RELIEF**

1 Plaintiff, on behalf of the State of California and all other non-party Aggrieved
2 Employees, prays for relief and judgment against Defendants, jointly and severally, as
3 follows:

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000) to the State of California and aggrieved employees.

6 2. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
7 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
8 reserves the right to amend her prayer for relief to seek a different amount.

9 **Class Certification**

10 3. That this case be certified as a class action;

11 4. That Plaintiff be appointed as the representative of the Class;

12 5. That counsel for Plaintiff be appointed as class counsel.

13 **As to the First Cause of Action**

14 6. That the Court declare, adjudge and decree that Defendants violated the
15 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
16 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
17 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512
18 and 1198 (by failing to provide all meal and rest periods); 226(a), 1174(d) and 1198 (by
19 failing to provide accurate wage statements and maintain accurate payroll records); 201, 202,
20 203 (by failing timely to pay all earned wages upon termination); 204 (by failing timely to pay
21 all earned wages during employment); and 2810.5 (by failing to provide written notice of
22 material terms of employment);

23 7. For civil penalties, pursuant to California Labor Code sections 210, 226.3,
24 1174.5, 1197.1, 2699(a) and/or 2699(f) and (g), for violations of California Labor Code
25 sections 201, 202, 203, 204, 226(a), 226.7, 510, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198,
26 and 2810.5;

27 8. For attorneys' fees and costs pursuant to California Labor Code section
28 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California

1 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194,
2 1197, 1197.1, 1198, and 2810.5;

3 9. For pre-judgment and post-judgment interest as provided by law; and

4 10. For such other and further relief as the Court may deem equitable and
5 appropriate.

6 **As to the Second Cause of Action**

7 11. That the Court declare, adjudge, and decree that Defendants violated California
8 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
9 pay all overtime wages due to Plaintiff and class members;

10 12. For general unpaid wages at overtime wage rates and such general and special
11 damages as may be appropriate;

12 13. For pre-judgment interest on any unpaid overtime compensation commencing
13 from the date such amounts were due, or as otherwise provided by law;

14 14. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
15 California Labor Code section 1194(a); and

16 15. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 **As to the Third Cause of Action**

19 16. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 by willfully failing to pay
21 minimum wages to Plaintiff and class members;

22 17. For general unpaid wages and such general and special damages as may be
23 appropriate;

24 18. For pre-judgment interest on any unpaid compensation from the date such
25 amounts were due, or as otherwise provided by law;

26 19. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
27 California Labor Code section 1194(a);


28 20. For liquidated damages pursuant to California Labor Code section 1194.2; and

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Dated: October 25, 2019

Respectfully submitted,

Capstone Law APC

By: 

Robert Drexler
Molly DeSario
Jonathan Lee

Attorneys for Plaintiff Paulina Vega

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles. I declare that I am over the age of eighteen
4 (18) and not a party to this action. My business address is: Capstone Law APC, 1875 Century
5 Park East, Suite 1000, Los Angeles, California 90067.

6 On December 18, 2019, I served the within document(s) described below as:


7 **SECOND AMENDED CLASS ACTION AND PAGA COMPLAINT**

8 on the interested parties in this action by placing true copies thereon enclosed in sealed envelopes
9 address as follows:

10 Carrie Gonell
11 Alexander L. Grodan
12 Morgan, Lewis & Bockius LLP
13 600 Anton Blvd., Suite 1800
14 Costa Mesa, CA 92626
15 *Carrie.gonell@morganlewis.com*
16 *Alexander.grodan@morganlewis.com*

- 14 () **MAIL:** I deposited such envelope in the mail at Los Angeles, California. The envelopes
15 were mailed with postage thereon fully prepaid.
- 16 (X) **ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via
17 One Legal eService to the individuals listed above, as they exist on that database. This
18 will constitute service of the document(s).
- 19 (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the
20 State of California Labor and Workforce Development Agency Online Filing Site
21 <https://dir.tfaforms.net/202>
- 22 () **PERSONAL:** I caused such envelope to be delivered by hand to the individuals at the
23 address listed above via a messenger service (Prolegal).
- 24 () **OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered
25 via overnight courier service (FedEx) to the individuals at the address listed above.
- 26 () **FACSIMILE:** I caused the above-referenced document(s) to be transmitted to the above-
27 named person at the telephone numbers above.
- 28 (X) **(STATE)** I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

EXECUTED this document on December 18, 2019, at Los Angeles, California.

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26 _____
Sandy S. Acevedo