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

11 AMY MCCORMACK, as an individual and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 STERLING JEWELERS INC., a corporation;
16 SIGNET JEWELERS LTD., a corporation; and
17 DOES 1 through 50,

17 Defendants.

Case No. 37-2022-00008433-CU-OE-CTL

CLASS ACTION

CLASS ACTION COMPLAINT

1. Failure to Pay All Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Untimely Payment of Wages
6. Wage Statement Violations
7. Underpaid Sick Leave
8. Underpaid Covid-19 Supplemental Sick Leave
9. Waiting Time Penalties
10. Failure to Reimburse Business Expenses
11. Violations of the Unfair Competition Law

1 Plaintiff AMY MCCORMACK (“Plaintiff”), as individual and on behalf of all others
2 similarly situated, brings this action against Defendants STERLING JEWELERS INC. and
3 SIGNET JEWELERS LTD., and DOES 1 through 50 (collectively, “Defendants”), alleging as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff was an employee of Defendants, Sterling Jewelers Inc. and Signet
7 Jewelers Ltd. Plaintiff’s allegations concerning Sterling Jewelers involve the policies and
8 practices at Jared the Galleria of Jewelry store locations. Sterling Jewelers maintained a policy
9 and practice of unpaid, off-the-clock work during uncompensated meal periods. She and other
10 Class Members were required to be available on the salesfloor, to communicate with customers,
11 and complete various tasks, but were required to clock out. As a result, Sterling Jewelers deprived
12 Plaintiff and other Class Members of minimum, regular, and overtime wages for these hours
13 worked, along with meal period premiums.

14 2. Separately, Plaintiff seeks to recover rest period premiums for non-compliant rest
15 periods for Class Members at Sterling Jewelers.

16 3. Additionally, Plaintiff seeks to recover cell phone reimbursements for a Class of
17 individuals who worked at the Sterling Jewelers Jared locations, because Plaintiff alleges that
18 they were required to use their personal devices to communicate with jewelry-purchasing clients,
19 and post to social media, among other requirements.

20 4. With respect to Signet Jewelers, Signet Jewelers is the parent company of Sterling
21 Jewelers, and also, on information and belief, operates Kay Jewelers, Zales, Jared, Banter by
22 Piercing Pagoda, Diamonds Direct, JamesAllen.com, Rocksbox, Peoples Jewelers, H. Samuel,
23 and Ernest Jones. Plaintiff’s allegations against Signet Jewelers address a Signet-wide policy and
24 practice of payroll administration across these different locations, whereby Signet failed to pay
25 meal and rest period premiums and paid sick leave at the lawful hourly rate, instead electing to
26 pay those earnings at a straight time base hourly rate, contrary to California law.

1 5. As a result of these unlawful policies and practices, as alleged herein, Plaintiff
2 further seeks to recover statutory penalties, interest, attorneys' fees and costs on behalf of the
3 Classes defined below.

4 **JURISDICTION & VENUE**

5 6. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of
6 the California Constitution.

7 7. Venue as to each defendant is proper in this judicial district under Code of Civil
8 Procedure section 395.5 because Defendants conduct business in this county, employed putative
9 class members in this county, and committed some of the violations in this county.

10 **PARTIES**

11 **A. Plaintiff Amy McCormack**

12 8. Plaintiff Amy McCormack is a California citizen over 18 years of age who worked
13 for Defendants in San Diego County as an hourly, non-exempt employee.

14 9. Plaintiff worked for Defendants from August 1, 2020 to July 9, 2021 as a Jared
15 Jewelry Specialist and Jared Jewelry Specialist Manager. During her employment, Plaintiff was
16 paid commissions, bonuses, incentives, and other forms of non-discretionary remuneration.

17 **B. Defendants**

18 10. Plaintiff is informed, believes, and alleges that Defendant STERLING
19 JEWELERS, INC. is a corporation registered to do business in the State of California, doing
20 business and employing labor throughout San Diego County. Sterling Jewelers Inc. does business
21 as Jared the Galleria of Jewelry and employs employees in Jared the Galleria of Jewelry stores
22 throughout California.

23 11. Plaintiff is informed, believes, and alleges that Defendant SIGNET JEWELERS,
24 LTD. is a corporation doing business and employing labor throughout the State of California.
25 Signet Jewelers Ltd. operates approximately 2,800 stores primarily under the name brands of Kay
26 Jewelers, Zales, Jared, Banter by Piercing Pagoda, Diamonds Direct, JamesAllen.com, Rocksbox,
27 Peoples Jewelers, H. Samuel, and Ernest Jones.

1 12. The true names and capacities, whether individual, corporate, or otherwise, of the
2 parties sued as DOES 1 through 50, are presently unknown to Plaintiff, who sue them by such
3 fictitious names under Code of Civil Procedure section 474. Plaintiff is informed, believes, and
4 alleges that each of the factiously-named defendants is responsible in some manner for the acts
5 and omissions alleged herein. Plaintiff may later seek leave to amend this Complaint to reflect
6 their true names and capacities.

7 13. Plaintiff is informed, believes, and alleges that all defendants in this action are
8 employers and/or joint employers and part of an integrated employer enterprise, as each defendant
9 exercises control over the wages, hours, and working conditions of Plaintiff and the Class
10 Members, suffer and permit them to work, and engage the workforce creating a common law
11 employment relationship.

12 14. Additionally, all defendants have common ownership, common management,
13 interrelationship of operations, and centralized control over labor relations and are therefore part
14 of an integrated enterprise and thus jointly and severally responsible for the acts and omissions
15 alleged herein.

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

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1 **GENERAL ALLEGATIONS**

2 16. Defendants failed to pay certain Class Members for all hours worked at the
3 applicable minimum, regular, overtime, and/or double time hourly rate, because of Defendants'
4 practice of requiring employees to perform work duties during unpaid meal periods. Defendants
5 required employees to clock out for meal periods, but employees were required to perform various
6 work-related tasks although they were clocked out and were not compensated for that time. This
7 resulted in unpaid regular and overtime wages to Plaintiff and certain Class Members.
8 Defendants' have failed to pay for all hours worked and are liable accordingly for unpaid
9 minimum wage, liquidated damages, and any corresponding overtime wages owed.

10 17. Defendants had a pattern and practice of failing to consistently provide timely, off-
11 duty 30-minute meal periods to certain Class Members within the first five hours of work, and
12 timely second off-duty 30-minute meal periods to the extent they worked shifts of 10 hours or
13 more, in violation of Labor Code sections 226.7, 512 and section 11 of the applicable IWC Wage
14 Orders. (*Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61 [“[T]ime records showing
15 noncompliant meal periods raise a rebuttable presumption of meal period violations, including at
16 the summary judgment stage”].) Plaintiff’s time records establish meal period violations without
17 a corresponding meal period premium payment (although Defendants did pay some meal period
18 premiums). Plaintiff’s time records reveal instances of Defendants’ agents editing her time
19 records to make it appear as though her meal periods were compliant (*i.e.*, not short or late).
20 Plaintiff is informed and believes this practice applies to certain Class Members.

21 18. During some of the times when certain Class Members were clocked out for a meal
22 period, they were still forced to work during the meal periods. Defendants required employees to
23 complete various non-sales tasks, including cold calling 10 customers each day, writing thank
24 you notes, training videos and quizzes, communicating with existing customers, and posting to
25 their personal social media accounts, among other activities. The tasks required of certain Class
26 Members made it incredibly difficult to consistently take duty-free meal and rest periods.
27 Additionally, employees were forced to clock out for meal periods and continue making
28 themselves available to customers or else they would be penalized by being taken out of the sales

1 “rotation” and would lose out on sales (*i.e.*, commissions). Defendants operated under a system
2 whereby salespeople were assigned to customers to fairly spread out the ability to earn
3 commissions. However, whenever an employee took a meal period or a rest period, they would
4 be *taken out* of the sales “rotation” and would essentially be placed at the back of the line rather
5 than simply returning to their place in line once the break was over. As a result, certain Class
6 Members often clocked out for lunch and would remain on the sales floor so they would not lose
7 their place in the rotation.

8 19. When Defendants did not provide fully compliant meal periods, Defendants failed
9 to pay Plaintiff and certain Class Members a meal period premium at the regular rate of
10 compensation, in violation of Labor Code section 226.7. (*See e.g., Ferra v. Loews Hollywood*
11 *Hotel, LLC* (2021) 11 Cal. 5th 858, 863 [“We hold that the terms are synonymous: “regular rate
12 of compensation” under section 226.7(c), like “regular rate of pay” under section 510(a),
13 encompasses all nondiscretionary payments, not just hourly wages.”]). Instead, Defendants paid
14 meal period premiums at Plaintiff’s and the other Class Member’s straight time hourly rate and
15 failed to factor in the additional remuneration earned by Plaintiff and Class Members, such as
16 bonuses, commissions, and incentives. Defendants’ failure to pay meal period premiums at the
17 correct rate is a widespread payroll issue that impacted all Class Members. Plaintiff alleges that
18 both Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay meal period premiums at the
19 regular rate of compensation.

20 20. Moreover, Defendants had a pattern and practice of failing to authorize or *permit*
21 ten-minute rest periods for every four hours of work or major faction thereof as required by Labor
22 Code section 226.7 and 516 and section 12 of the applicable IWC Wage Order. Plaintiff and
23 certain Class Members were unable to take all the rest periods to which they were entitled due to
24 the same limitations employees faced with respect to meal periods (*i.e.*, inability to take rest
25 periods due to numerous tasks required by Defendants). In the same manner as described above,
26 Plaintiff and certain Class Members would be taken out of the “rotation” each time they took a
27 rest period, thereby discouraging employees from taking rest periods at all. Further, Defendants
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1 had a policy and practice of not paying rest period premiums to employees who were unable to
2 take rest periods.

3 21. To the extent Defendants did pay rest period premiums, Plaintiff alleges that they
4 were underpaid because they were paid at the straight time rate and not the regular rate of
5 compensation, which would have factored in employees' commissions, bonuses, incentives, and
6 other compensation. (*Loews Hollywood Hotel*, 11 Cal. 5th at 863.) Plaintiff alleges that both
7 Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay rest period premiums at the regular
8 rate of compensation.

9 22. In pay periods where Defendants provided Plaintiff and certain Class Members
10 with remuneration in addition to their respective base hourly rate for hours worked (*e.g.*, bonuses,
11 commissions, etc.), Defendants failed to properly calculate and pay paid sick leave at the
12 appropriate rate of pay, in violation of Labor Code § 246. One example of this violation occurs
13 on Plaintiff's wage statement dated July 2, 2021. During that pay period, Plaintiff was paid
14 commissions and incentives and used 8 hours of sick leave. Defendants paid the sick leave at her
15 straight time hourly rate of \$19.75 rather than one of the methods required by statute (*i.e.*, failed
16 to factor in commissions/incentives). Plaintiff alleges that both Sterling Jewelers Inc. and Signet
17 Jewelers Ltd. failed to pay sick leave at a rate under one of the methods authorized by statute.

18 23. Defendants also failed to pay Covid-19 Supplemental Sick Leave at a rate
19 authorized by statute because when paying such leave because Defendants failed to factor in
20 employees' commissions, bonuses, incentives, and other compensation. On information and
21 belief, Defendants instead paid Supplemental Sick Leave at employees' straight time hourly rate
22 rather than by one of the methods authorized by Labor Code sections 248.2 and 248.6. Plaintiff
23 alleges that both Sterling Jewelers Inc. and Signet Jewelers Ltd. failed to pay Covid-19
24 supplemental sick leave under one of the methods authorized by statute.

25 24. Defendants did not maintain a lawful reimbursement policy, in violation of Labor
26 Code section 2802. Defendants required Plaintiff and certain Class Members to incur costs for
27 work-related purposes, including expenses associated with their cell phones, data, and/or cell
28 phone apps. For example, Defendants required employees to make social media posts during

1 their shift to their personal social media accounts and employees used their own cell phones to
2 access their social media accounts, to take photos, and to access Jared photos from an app.
3 Plaintiff and certain Class Members were also required to use their cell phones to text guests about
4 their orders, to answer questions, etc. Plaintiff also incurred expenses associated with using apps
5 to text customers and to post on social media. As such and in direct consequence of their job
6 duties, Plaintiff and certain Class Members unavoidably and necessarily incurred losses,
7 expenditures, costs and expenses that were unreimbursed in violation of Labor Code sections
8 2800 and 2802.

9 25. With respect to the unpaid wages and premiums owed to Plaintiff and Class
10 Members, Defendants failed to pay those wages on time each pay period or upon separation of
11 employment. Because Defendants did not pay Plaintiff and the Class for all wages/premiums
12 owed each pay period their employment (*i.e.*, overtime, sick leave pay, supplemental sick leave
13 pay, meal and rest period premiums), Defendants failed to timely pay all wages owed on time
14 each pay day or upon separation of employment (or within 72 hours thereof, as applicable), in
15 violation of Labor Code sections 201 through 203 (waiting time) and 204 and 204b (paydays).

16 26. Defendants equally failed in their affirmative obligation to provide accurate
17 itemized wage statements each pay period to Plaintiff and Class Members. Defendants issued
18 wage statements to Plaintiff and, on information and belief, other Class Members, which contain
19 at least several types of violations. First, on each wage statement furnished, Defendants failed to
20 accurately state the “gross wages earned” and “net wages earned” in violation of Labor Code
21 § 226(a)(1) and (5), as Plaintiff and certain Class Members earned regular and overtime wages,
22 but were underpaid due to the off-the-clock hours worked during meal periods and were not paid
23 for sick leave and meal and rest period premiums payments at the lawful rate, resulting in an
24 inaccurate itemization of gross and net wages earned on those wage statements. Second, on each
25 wage statement furnished to Plaintiff and, on information and belief, certain Class Members,
26 Defendants failed to accurately state “all applicable hourly rates in effect during the pay period
27 and the corresponding number of hours worked at each hourly rate by the employee” in violation
28 of Labor Code § 226(a)(9), as the wage statements issued to Plaintiff and certain Class Members

1 do not accurately list the actual hours worked by employees (due to off the clock work), but
2 instead list deflated hours and wages, and list the incorrect hourly rates for paid sick leave,
3 overtime, meal and rest period premiums, as such amounts were not paid at the lawful regular
4 rate of pay. Third, Defendants inaccurately listed total hours worked during the pay period in
5 violation of Labor Code § 226(a)(2), as Plaintiff and certain Class Members worked off-the-clock
6 during uncompensated meal periods.

7 27. Defendants' wage statement issues described above rendered the wage statements
8 inaccurate and confusing to Plaintiff and Class Members, concealing the underpayments and
9 presenting a false portrayal of accuracy on the wage statements relied upon by Plaintiff and Class
10 Members as the sole documentary evidence of their respective earnings. Plaintiff and, on
11 information and belief, Class Members were misinformed and misled by the wage statements
12 wages, hours, rates, and earnings. Defendants' wage statement violations were knowing and
13 intentional as a matter of law with respect to Plaintiff and Class Members given that the legal
14 obligation was not disputed, the wage statement and wage laws are clear and unambiguous as
15 written, and because Defendants nevertheless failed to comply despite the means and ability to
16 do so.

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

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

1 **CLASS ACTION ALLEGATIONS**

2 30. ***Class Definition.*** The named individual Plaintiff seeks class certification under
3 California Code of Civil Procedure section 382. Plaintiff proposes the following classes of
4 individuals currently or formerly employed by Defendants in the State of California (referred to
5 herein together as the “Class” or “Class Members”):

- 6 a. All Class Members who worked for Sterling Jewelers Inc. at any time from
7 **March 4, 2018**, through the date of trial in this action (“Class Period”) and
8 who were not paid all regular, overtime, or minimum wages for all hours
9 worked each pay period (“Unpaid Wage Class”).
- 10 b. All Class Members who during the Class Period: [1] worked for Sterling
11 Jewelers Inc. [2] worked shifts of five hours or more without a duty-free
12 meal period of at least 30 minutes or shifts of 10 or more hours without a
13 duty-free second 30-minute meal period, and [3] were not paid one hour of
14 meal period premium pay at the regular rate of compensation for each of
15 those days (“Meal Period Class”).
- 16 c. All Class Members who during the Class Period: [1] worked for Sterling
17 Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a meal period
18 premium, and [3] who were paid commission, bonuses, incentives, or other
19 non-discretionary remuneration in the same pay period in which they
20 received a meal period premium (“Meal Period Premium Class”).
- 21 d. All Class Members who during the Class Period: [1] worked for Sterling
22 Jewelers Inc., [2] worked shifts of four hours or major fraction thereof
23 without being authorized or permitted an uninterrupted rest period of at
24 least 10 minutes, and [3] were not paid one hour of rest period premium
25 pay at the regular rate of compensation for each of those days (“Rest Period
26 Class”).

- 1 e. All Class Members who during the Class Period: [1] worked for Sterling
2 Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid a rest period
3 premium, and [3] who were paid commission, bonuses, incentives, or other
4 non-discretionary remuneration in the same pay period in which they
5 received a rest period premium (“Rest Period Premium Class”).
- 6 f. All Class Members who during the Class Period: [1] worked for Sterling
7 Jewelers Inc. and/or Signet Jewelers Ltd., [2] were paid for sick leave or
8 Covid-19 supplemental sick leave, and [3] were not paid for such sick leave
9 at a rate authorized by one of the methods provided in the California Labor
10 Code (“Sick Leave Underpayment Class”).
- 11 g. All Class Members who during the Class Period: [1] worked for Sterling
12 Jewelers Inc., [2] used their personal devices for required work-related
13 purposes, and [3] were not fully reimbursed for the use of their personal
14 devices (“Reimbursement Class”).
- 15 h. All Class Members who: [1] belong to the Meal Period, Meal Period
16 Premium, Rest Period, Rest Period Premium, Sick Leave Underpayment,
17 and Unpaid Wage Classes, respectively, and [2] who separated from
18 employment with Sterling Jewelers Inc. and/or Signet Jewelers Ltd. at any
19 time from **March 4, 2019** through the time of trial in this action (“Waiting
20 Time Class”).
- 21 i. All Class Members who: [1] belong to the Unpaid Wage, Meal Period,
22 Meal Period Premium, Rest Period, Rest Period Premium, and Sick Leave
23 Underpayment Classes, and [2] who received a wage statement from
24 Sterling Jewelers Inc. and/or Signet Jewelers Ltd. at any time from
25 **March 4, 2021** through the time of trial in this action (“Wage Statement
26 Class”).
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1 j. All Class Members who belong to Classes (a)-(i) above and were subject
2 to Defendants unlawful or unfair business acts or practices during the Class
3 Period (“UCL Class”).

4 31. Plaintiff reserves the right to amend or modify the class definitions and to establish
5 additional classes and subclasses. California Rule of Court 3.765(b).

6 32. **Numerosity.** The members of the Class are so numerous that joinder of all
7 individuals is impracticable. The identity of the Class Members is readily ascertainable by review
8 of Defendants’ employment and payroll records. Plaintiff is informed, believes, and alleges there
9 are more than 100 Class Members.

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

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

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

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

1 37. **Typicality.** Plaintiff’s claims are typical of the claims of the other Class Members.
2 Plaintiff and Class Members were subject to the same policies and practices of Defendants, which
3 resulted in losses to Plaintiff and Class Members.

4 38. Proof of common unlawful business practices, which Plaintiff experienced and is
5 an adequate representative of, will establish the right of the Class to recover on the causes of
6 action alleged herein.

7 **FIRST CAUSE OF ACTION**

8 **FAILURE TO PAY ALL MINIMUM WAGES**

9 **Labor Code §§ 1194 and 1194.2**

10 39. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

11 40. Plaintiff brings this cause of action on behalf of the Unpaid Wage Class.

12 41. Defendants willfully failed in their affirmative obligation to pay Plaintiff and the
13 Unpaid Wage Class at least the lawful minimum wage for each hour worked in violation of Labor
14 Code sections 1182.12, 1194, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and
15 Days of Work” and “Minimum Wages” sections of the applicable orders), including payment at
16 the lawful local and county minimum wage ordinances in effect.

17 42. As alleged, Defendants knew or should have known the Unpaid Wage Class
18 worked off-the-clock during uncompensated meal periods, resulting in unpaid hours worked and
19 corresponding liability for minimum wages and overtime.

20 43. Defendants’ unlawful acts and omissions deprived Plaintiff and the Unpaid Wage
21 Class of minimum, regular and overtime wages in amounts to be determined at trial. Plaintiff and
22 the Unpaid Wage Class are entitled to recover to the full amount of the unpaid wages, plus
23 liquidated damages in an amount equal to the wages unlawfully unpaid (and interest thereon), in
24 addition to interest, attorneys’ fees, and costs to the extent permitted by law, including under
25 Labor Code sections 1194 and 1194.2.

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SECOND CAUSE OF ACTION
FAILURE TO PAY ALL OVERTIME WAGES
Labor Code §§ 510 and 1194

44. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.
45. Plaintiff brings this cause of action on behalf of the Unpaid Wage Class.

46. Defendants failed in their affirmative obligation to pay Plaintiff and the Unpaid Wage Class no less than one and one-half times their respective “regular rate of pay” for all hours worked in excess of eight hours in one day, 40 hours in one week, or the first eight hours worked on the seventh day of work in any one workweek, and no less than twice their respective “regular rate of pay” for all hours over 12 hours in one day and any work in excess of eight hours on any seventh day of a workweek in violation of Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders (the “Hours and Days of Work” sections of the applicable orders).

47. Defendants failed to pay overtime to the Unpaid Wage Class at the required 1.5x multiple of the regular rate of pay or 2.0x multiple of the regular rate of pay for double time hours. As alleged, Defendants knew or should have known the Unpaid Wage Class worked off-the-clock during uncompensated meal periods, resulting in unpaid hours worked and corresponding liability for minimum wages and overtime.

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

THIRD CAUSE OF ACTION
MEAL PERIOD VIOLATIONS
Labor Code §§ 226.7 and 512

49. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.
50. Plaintiff brings this cause of action on behalf of the Meal Period and Meal Period

Premium Classes.

1 51. Defendants willfully failed in their affirmative obligation to consistently provide
2 Plaintiff and the Meal Period Class compliant, duty-free meal periods of not less than 30 minutes
3 beginning before the fifth hour of hour for each work period of more than five hours per day and
4 a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of
5 hour of work in violation of Labor Code sections 226.7 and 512 and the IWC Wage Orders (the
6 "Meal Periods" sections of the applicable orders). This was a direct result of Defendants' policy
7 and practice of requiring Plaintiff and the Meal Period Class to work without pay during
8 uncompensated meal periods, rendering the meal periods missed, late, short, and/or interrupted.

9 52. Further, Defendants willfully failed in their affirmative obligation to consistently
10 pay Plaintiff and the Meal Period and the Meal Period Premium Classes one additional hour of
11 pay at the respective regular rate of compensation for each workday that a fully compliant meal
12 period was not provided, in violation of Labor Code sections 226.7, 512, and 1198 and the IWC
13 Wage Orders (the "Meal Periods" sections of the applicable orders). Defendants also failed to
14 include commissions, bonuses, incentives, and other non-excludable earnings in the regular rate
15 of compensation for purposes of meal period premium computation for Plaintiff and the Meal
16 Period Premium Class.

17 53. Defendants' unlawful acts and omissions deprived Plaintiff and the Class of meal
18 periods and meal period premiums in amounts to be determined at trial. Plaintiff and the Meal
19 Period and Meal Period Premium Classes are entitled to recover to the full amount of the unpaid
20 premiums, in addition to interest, attorneys' fees, and costs to the extent permitted by law,
21 including under Code of Civil Procedure section 1021.5.

22 **FOURTH CAUSE OF ACTION**

23 **REST PERIOD VIOLATIONS**

24 **Labor Code §§ 226.7 and 516**

25 54. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

26 55. Plaintiff brings this cause of action on behalf of the Rest Period and Rest Period
27 Premium Classes.
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1 56. Defendants willfully failed in their affirmative obligation to consistently authorize
2 and permit Plaintiff and the Rest Period Class to receive compliant, duty-free rest periods of not
3 less than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of
4 Labor Code sections 226.7, 516, and 1198 and the IWC Wage Orders (the “Rest Periods” sections
5 of the applicable orders). This was a direct result of Defendants’ policies and practices requiring
6 what amounted to effectively working rest periods.

7 57. Further, Defendants willfully failed in their affirmative obligation to consistently
8 pay Plaintiff and Rest Period and Rest Period Premium Classes one additional hour of pay at the
9 respective regular rate of compensation for each workday that a fully compliant rest period was
10 not provided, in violation of Labor Code sections 226.7 and 1198 and the IWC Wage Orders.
11 Defendants also failed to include commissions, bonuses, incentives, and other non-excludable
12 earnings in the regular rate of compensation for purposes of rest period premium computation for
13 Plaintiff and the Rest Period Premium Class.

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

19 **FIFTH CAUSE OF ACTION**

20 **UNTIMELY PAYMENT OF WAGES**

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

22 59. Plaintiff incorporate all outside paragraphs of this Complaint as if set forth herein.

23 60. Plaintiff brings this cause of action on behalf of the Unpaid Wage, Meal Period,
24 Meal Period Premium, Rest Period, Rest Period Premium, and Sick Leave Underpayment Classes.

25 61. Defendants willfully failed in their affirmative obligation to timely pay all wages
26 and premiums earned by Plaintiff and certain Class Members twice during each calendar month
27 on days designated in advance by the employer as regular payday (for employees paid on a non-
28 weekly basis) and on the regularly-scheduled weekly payday weekly employees, if any, in

1 violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum
2 Wages” sections of the applicable orders).

3 62. Defendants’ unlawful acts and omissions deprived Plaintiff and certain Class
4 Members of timely wages in amounts to be determined at trial. Plaintiff and certain Class
5 Members are entitled to recover to the full amount of the unpaid wages, in addition to a statutory
6 penalty in the amount of \$100 for the initial violation for each failure to pay each employee and
7 \$200 for all subsequent violations and for all willful or intentional violations for each failure to
8 pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor
9 Code section 210, in addition to interest, attorneys’ fees, and costs to the extent permitted by law.

10 **SIXTH CAUSE OF ACTION**

11 **WAGE STATEMENT VIOLATIONS**

12 **Labor Code § 226**

13 63. Plaintiff incorporates all outside paragraphs of this Complaint as if set forth herein.

14 64. Plaintiff brings this cause of action on behalf of the Wage Statement Class.

15 65. Defendants knowingly and intentionally failed in their affirmative obligation
16 provide accurate itemized wage statements to Plaintiff and the Wage Statement Class in violation
17 of Labor Code section 226(a).

18 66. Based on the wage statements issued by Defendants to the Wage Statement Class,
19 Plaintiff alleges that these wage statements fail to correctly list (1) gross wages earned each pay
20 period, (2) total hours actually worked each pay period, (5) net wages earned, (9) all hourly rates
21 in effect and the total number of hours worked each pay period.

22 67. Defendants’ unlawful acts and omissions deprived Plaintiff and the Wage
23 Statement Class of accurate itemized wage statements, causing confusion and concealing wage
24 and premium underpayments. As a result, Plaintiff and the Wage Statement Class are entitled to
25 recover the statutory penalty of \$50 per employee for the initial pay period in which a violation
26 occurred and \$100 per employee for each violation in a subsequent pay period, up to an aggregate
27 penalty of \$4,000 per employee, in addition to interest, attorneys’ fees, and costs to the extent
28 permitted by law, including under Labor Code section 226(e).

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE PAID SICK LEAVE & SUPP. PAID SICK LEAVE**

3 **Labor Code §§ 246 et seq.**

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

5 69. Plaintiff brings this cause of action on behalf of the Sick Leave Underpayment
6 Class.

7 70. Defendants knowingly and intentionally failed in their affirmative obligation
8 provide and pay paid sick leave to Plaintiff and the Sick Leave Underpayment Class in violation
9 of Labor Code section 246.

10 71. Labor Code section 246(b)(1) requires that employees accrue sick leave at the
11 commencement of employment at a rate of 1 hour for every thirty hours worked. Section 246(c)
12 entitles employees to use any accrued sick leave beginning on their 90th day of employment.
13 Labor Code section 246(l) governs how Defendants were required to calculate paid sick leave:

14 [A]n employer shall calculate paid sick leave using any of the following calculations:

15 (1) Paid sick time for nonexempt employees shall be calculated in the same manner
16 as the regular rate of pay for the workweek in which the employee uses paid sick
17 time, whether or not the employee actually works overtime in that workweek.

18 (2) Paid sick time for nonexempt employees shall be calculated by dividing the
19 employee's total wages, not including overtime premium pay, by the employee's
20 total hours worked in the full pay periods of the prior 90 days of employment.

21 (3) Paid sick time for exempt employees shall be calculated in the same manner as
22 the employer calculates wages for other forms of paid leave time.

23 72. Defendants failed to pay Plaintiff and the Sick Leave Underpayment Class paid
24 sick leave at one of the lawful rates set forth in the statute because Defendants failed to include
25 in their sick leave calculation the additional remuneration received by Plaintiff and the Sick Leave
26 Underpayment Class.

1 73. Furthermore, Defendants knowingly and intentionally failed in their affirmative
2 obligation to pay Covid-19 Supplemental Sick Leave to the Sick Leave Underpayment Class at
3 the correct rate in violation of Labor Code sections 246, 247.5, 248.2, and 248.6.

4 74. Under Labor Code section 248.2, non-exempt employees must be paid
5 supplemental paid sick leave according to the highest of the following four methods:

6 (I) Calculated in the same manner as the regular rate of pay for the workweek
7 in which the covered employee uses COVID-19 supplemental paid sick leave,
8 whether or not the employee actually works overtime in that workweek.

9 (II) Calculated by dividing the covered employee's total wages, not including
10 overtime premium pay, by the employee's total hours worked in the full pay
11 periods of the prior 90 days of employment.

12 (III) The state minimum wage.

13 (IV) The local minimum wage to which the covered employee is entitled.

14 75. Labor Code section 248.6 requires employers to pay supplemental sick leave using
15 either method I or II identified above.

16 76. On information and belief, Defendants failed to pay Covid-19 Supplemental Sick
17 Leave in the manner described above because Defendants failed to include in their sick leave
18 calculation the additional remuneration received by the Sick Leave Underpayment Class.

19 77. As a result, Defendants violated the Labor Code and are liable to Plaintiff and the
20 Sick Leave Underpayment Class for underpaid sick leave earnings, in addition to interest,
21 attorneys' fees, and costs.

22 **EIGHTH CAUSE OF ACTION**

23 **WAITING TIME PENALTIES**

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

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

26 79. Plaintiff brings this cause of action on behalf of the Waiting Time Class.

27 80. Defendants willfully failed in their affirmative obligation to pay all wages and
28 premiums earned and unpaid to Plaintiff and members of the Waiting Time Class immediately
upon termination of employment or within 72 hours thereafter for employees who did not provide
at least 72 hours prior notice of his or her intention to quit, and further failed to pay those sums

1 for 30 days thereafter in violation of Labor Code sections 201 through 203 and the IWC Wage
2 Orders.

3 81. Defendants' unlawful acts and omissions deprived Plaintiff and the Waiting Time
4 Class of timely wages upon separation of employment in amounts to be determined at trial.
5 Plaintiff and the Waiting Time Class are entitled to recover to their wages as a waiting time
6 penalty for a period of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent
7 permitted by law.

8 **NINTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

10 **Violation of Labor Code § 2802**

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

12 83. Plaintiff brings this cause of action on behalf of the Reimbursement Class.

13 84. Defendants willfully failed in their affirmative obligation to reimburse Plaintiff
14 and the Reimbursement Class for all necessary expenditures, losses, expenses, and costs incurred
15 by them in direct discharge of the duties of their employment, in violation of Labor Code section
16 2802.

17 85. Defendants' unlawful acts and omissions deprived Plaintiff and the
18 Reimbursement Class of lawful reimbursements for business expenses in amounts to be
19 determined at trial. Plaintiff and the Reimbursement Class are entitled to recover to amount of
20 the unreimbursed expenses of Plaintiff and the Reimbursement Class in addition to interest,
21 attorneys' fees, and costs to the extent permitted by law, including under Labor Code section
22 2802.

23 **TENTH CAUSE OF ACTION**

24 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**

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

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

27 87. Plaintiff brings this cause of action on behalf of the UCL Class.

1 88. Defendants willfully failed in their affirmative obligation to timely pay each
2 payday or at other required intervals all minimum, regular, and overtime wages, sick leave, and
3 meal and rest period premium wages to Plaintiff and the UCL Class. These failures constitute
4 unlawful, deceptive, and unfair business acts and practices in violation of Business and
5 Professions Code section 17200, et seq.

6 89. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct, as
7 alleged throughout this Complaint, Plaintiff, as an individual and on behalf of the UCL Class
8 seeks restitution of all monies and property withheld, acquired, or converted by Defendants in
9 violation of the Labor Code and IWC Wage Orders under Business and Professions Code section
10 17202, 17203, 17204 and 17208.

11 90. Defendants' unlawful acts and omissions deprived Plaintiff and the UCL Class of
12 monies and property in amounts to be determined at trial. Plaintiff and the UCL Class are entitled
13 to injunctive relief against Defendants, restitution, and other equitable relief to return all funds
14 over which Plaintiff and the UCL Class have an ownership interest and to prevent future damage
15 under Business and Professions Code section 17200, et seq. in addition to interest, attorneys' fees,
16 and costs to the extent permitted by law, including under Code of Civil Procedure section 1021.5.

17 **PRAYER FOR RELIEF**

18 Plaintiff pray for judgment as follows:

- 19 a. For certification of this action as a class action;
20 b. For appointment of Plaintiff as the representatives of the Class;
21 c. For appointment of counsel for Plaintiff as Class Counsel;
22 d. For injunctive relief;
23 e. For compensatory damages in amount according to proof;
24 f. For all recoverable pre- and post-judgment interest;
25 g. For recovery of all statutory penalties and liquidated damages;
26 h. For disgorgement of all amounts wrongfully obtained;
27 i. For reasonable attorneys' fees and costs of suit, including expert fees, to the extent
28 permitted by law on each cause of action, including (without limitation) under

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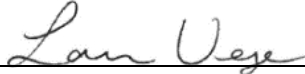
California Labor Code sections 218.5, 226, 1194, 2802, and Code of Civil Procedure section 1021.5;

j. For such other relief the Court deems just and proper.

Respectfully submitted,

Dated: March 4, 2022

Ferraro Vega Employment Lawyers, Inc.



Lauren N. Vega
Attorneys for Plaintiff