

1 SHARON R. VINICK, ESQ., State Bar No. 129914
E-Mail: sharon@vinickhyams.com
2 VINICK HYAMS LLP
66 Franklin Street, Suite 300
3 Oakland, CA 94607
Tel.: (510) 318-7700
4 Fax: (510) 318-7701

5 RACHEL TERP, ESQ., State Bar No. 290666
E-Mail: rachel@terplaw.com
6 TERP LAW
2831 Telegraph Avenue
7 Oakland, CA 94609
Tel.: (510) 550-5103
8

Attorneys for Plaintiffs Antonio Loera, Jr. and
9 Charlotte Daniels the FLSA Collective,
the putative Class, and aggrieved employees.
10

11 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
12

13 ANTONIO LOERA, JR. and CHARLOTTE)
DANIELS, on behalf of themselves and all others)
14 similarly situated, and the general public)

15 Plaintiff,

vs.

16 COUNTY OF ALAMEDA, a political)
17 subdivision of the State of California,)

18 Defendant.
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) Case No. 3:23-cv-00792
) **SECOND AMENDED CLASS,**
) **REPRESENTATIVE, AND COLLECTIVE**
) **ACTION COMPLAINT FOR DAMAGES,**
) **LIQUIDATED DAMAGES, AND**
) **DECLARATORY RELIEF; DEMAND FOR**
) **JURY TRIAL**
) **(1) COLLECTIVE ACTION UNDER THE**
) **FLSA – FAILURE TO PAY**
) **OVERTIME (29 U.S.C. § 201, et seq.)**
) **(2) FAILURE TO PAY MINIMUM WAGE**
) **(Cal. Lab. Code section 1194, et seq.,**
) **IWC Wage Order No. 4-2001 sections 1,**
) **2, 4, Minimum Wage Order MW 2023)**
) **(3) LABOR CODE PRIVATE**
) **ATTORNEYS GENERAL ACT (Cal.**
) **Lab. Code section 2698, et seq.)**
) **Orig. Compl. filed: Feb. 22, 2023**
) **FAC Filed: December 4, 2023**
) **DEMAND FOR JURY TRIAL**

1 **COLLECTIVE ACTION COMPLAINT**

2 Named Plaintiffs Antonio Loera, Jr. and Charlotte Daniels (“Named Plaintiffs”), along with
3 other similarly situated employees who may join this action, allege as follows:

4 **INTRODUCTION**

5 1. Named Plaintiffs bring this lawsuit as a collective action pursuant to the Fair Labor
6 Standards Act of 1938 (“FLSA”), as amended 29 U.S.C. § 201, *et seq.*, on behalf of themselves and all
7 other persons similarly situated against Defendant County of Alameda (“Defendant”) for violations of
8 the FLSA.

9 2. As more fully described below, during the relevant time period, Defendant willfully
10 violated the FLSA by failing to pay Sheriff’s Safety Aides assigned to work shifts at the Oakland
11 International Airport, including Named Plaintiffs, for all of their overtime hours worked.

12 3. Named Plaintiffs also bring this lawsuit against Defendant as a class and representative
13 action under California law.

14 4. During the relevant time period, Defendant willfully violated California law by failing to
15 pay Sheriff’s Safety Aides assigned to work shifts at the Oakland International Airport, including Named
16 Plaintiffs, for their off-the-clock work, including at the appropriate minimum wage rate.

17 5. Plaintiffs filed the original complaint on February 22, 2023. Plaintiffs filed the first
18 amended complaint on December 4, 2023. Plaintiffs file this Second Amended Complaint as a matter
19 of right pursuant to Labor Code section 2699.3, subd. (a)(2)(C) to add a representative action under the
20 Labor Code Private Attorneys General Act (PAGA). Pursuant to Standing Order for Magistrate Judge
21 Laurel Beeler, Case Management Rule No. 3 re Amended Pleadings, a redlined comparison of the first
22 and second amended complaints is attached hereto as **Exhibit 1**.

23 **THE PARTIES**

24 6. Named Plaintiff Antonio Loera, Jr. is an individual residing in the City of Oakland,
25 California, in Alameda County. Defendant has employed Loera since approximately July 5, 2005 as a
26 Sheriff’s Safety Aide for the Alameda County Sheriff’s Office (“ACSO”). In that role, he has worked
27 off-the-clock hours including overtime hours for which he has not been compensated either at the
28 overtime rate or at a minimum wage rate. While employed by Defendant, Loera has performed his work

1 in the County of Alameda, California. Plaintiff has given written consent to be a party plaintiff in this
2 action pursuant to 29 U.S.C. §§ 216(b) and 256.

3 7. Named Plaintiff Charlotte Daniels is an individual residing in the State of California.
4 Defendant employed Plaintiff Daniels from approximately November 14, 2010 to September 3, 2021 as
5 a Sheriff's Safety Aide for the ACSO. In the role, she has worked off-the-clock hours including overtime
6 hours for which she has not been compensated either at the overtime rate or at a minimum wage rate.
7 While employed by Defendant, Plaintiff Daniels performed her work in the County of Alameda,
8 California. Plaintiff has given written consent to be a party plaintiff in this action pursuant to 29 U.S.C.
9 §§ 216(b) and 256.

10 8. Defendant County of Alameda is a government entity in California. Defendant County
11 of Alameda is, and during the relevant time period was, a political subdivision of the State of California,
12 duly organized and existing under the laws of the State of California. Defendant County of Alameda is
13 named as the legal employer of all persons employed and working in the Alameda County Sheriff's
14 Office. Defendant is a public agency within 29 U.S.C. § 203(x), is an employer as defined by 29 U.S.C.
15 § 203(d), is an "enterprise" as defined by 29 U.S.C. § 203(r).

16 **JURISDICTION AND VENUE**

17 9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as the action
18 arises under the FLSA.

19 10. Venue is proper in the United States District Court, Northern District of California,
20 pursuant to 28 U.S.C. § 1391, because Defendant resides in this district and because the events giving
21 rise to the claims occurred in this district. Pursuant to L.R. 3-2(c) and (d), this action is properly assigned
22 to the Oakland or San Francisco Division of the Northern District of California because events giving
23 rise to the dispute occurred in Alameda County, California.

24 **CERTIFIED FLSA COLLECTIVE**

25 11. On July 13, 2023, the Court certified the following FLSA Collective:

26 All Sheriff's Safety Aides and individuals in similar or related positions who worked for
27 the Alameda County Sheriff's Office in and around the Oakland International Airport at
any time three years prior to the filing of the Complaint through the present.

COMMON FACTUAL ALLEGATIONS

12. During the relevant time period, the ACSO employed Sheriff’s Safety Aides to perform security work at a number of locations in and around the Oakland International Airport.

13. In or around 2008, ACSO adopted an alternative work schedule for Sheriff’s Safety Aides that involved four shifts per week. This schedule has persisted. During the relevant period, Sheriff’s Safety Aides typically have been scheduled to work three 11.5-hour shifts and one shorter 5.5-hour shift. Sheriff’s Safety Aides are typically scheduled to work 40 hours and are typically compensated for 40 hours per workweek.

14. In reality, Defendant has maintained a policy, plan, and/or practice of requiring Sheriff’s Safety Aides to work uncompensated off-the-clock hours, including overtime hours. During the relevant time period, Defendant has required Sheriff’s Safety Aides to arrive at a station at least 15 minutes before their scheduled shifts to perform job duties, including the following:

- A. Attend a “muster” meeting where they were briefed on recent incidents and advised of issues affecting upcoming or future shifts;
- B. Pick up the body cameras they are required to wear for their shifts;
- C. Arrive in uniform or put on their uniform; and
- D. Board a van to be driven to their posts in the airport.

Other work performed by Sheriff’s Safety Aides during the time before their scheduled shift has included picking up the radios they need for their shifts, reading emails, messages, and memorandums relating to matters affecting upcoming or future shifts, checking their schedules, filling out timesheets, and completing training modules.

15. During the relevant time-period, Defendant has also required Sheriff’s Safety Aides to perform work after the end of their scheduled shifts. Defendants utilize a one-for-one system to drop off and pick up Sheriff’s Safety Aides from their work posts. Sheriff’s Safety Aides for an upcoming shift are driven from the muster station to their posts in a van and dropped off, one-by-one to their posts, while the Sheriff’s Safety Aides they are relieving are simultaneously picked up by the van one-by-one.

A Sheriff’s Safety Aide cannot leave their post at the end of a shift until a replacement arrives, even if the van arrives late to drop off the Sheriff’s Safety Aide’s replacement long after the end of their

1 scheduled shift.

2 16. Due to this one-for-one system of drop off and pick up, Sheriff’s Safety Aides typically
3 arrive back at the station between 15 and 30 minutes after their shift is scheduled to end. Back at the
4 station, Sheriff’s Safety Aides drop off their body cameras and complete other work tasks similar to
5 those performed prior to the beginning of their scheduled shift before the true end of their shifts.

6 17. Defendant’s uniform policy, plan, and/or practice results in Sheriff’s Safety Aides
7 regularly working 30 minutes or more of uncompensated time per shift, which typically amounts to more
8 than two-hours of uncompensated overtime per week per employee. Sheriff’s Safety Aides are not
9 compensated for their off the clock work time, including at the minimum wage rate or at their overtime
10 rate of 1.5 times their regular rate of pay.

11 18. In the last three years, while assigned to work at the Oakland International Airport,
12 Plaintiff Loera regularly worked 30 minutes or more of uncompensated off-the-clock time per shift.

13 19. In the last three years, while assigned to work at the Oakland International Airport,
14 Plaintiff Daniels regularly worked 30 minutes or more of uncompensated off-the-clock time per shift.

15 20. Defendant was aware, or should have been aware, that Plaintiffs and similarly situated
16 Sheriff’s Safety Aides performed work that required payment of overtime compensation. For example,

17 A. Defendant knew Plaintiffs and similarly situated Sheriff’s Safety Aides worked
18 overtime hours because Defendant required Sheriff’s Safety Aides to attend
19 muster meetings and implemented the one-for-one drop-off and pick-up system;

20 B. Over the years, Sheriff’s Safety Aides complained to Defendant that they were
21 not compensated for the time they worked before and after their scheduled shifts;

22 C. On November 21, 2022, an ACSO Sheriff’s Technician emailed Sheriff Yesenia
23 Sanchez directly to alert her to the issue, and on November 28, 2022, the Sheriff
24 replied to the email stating that she had asked someone “to look into the matter.”

25 However, the system of failing to pay Aides for all hours worked has not changed
26 as of the date of filing this complaint.

27 21. Defendant’s conduct, as set forth in this Complaint, was willful. Defendant operated
28 under a scheme that has caused significant damage\$ to Plaintiffs and the similarly situated individuals.

1 22. Defendant is liable under the FLSA for failing to properly compensate Plaintiffs and the
2 similarly situated employees. The Court should and has ordered FLSA notice to issue to the Collective
3 Class. There are numerous similarly situated current and former employees of Defendant who have been
4 denied overtime pay in violation of the FLSA who would benefit from the issuance of Court-supervised
5 notice of this lawsuit and the opportunity to join. Those similarly situated employees are known to
6 Defendant and are readily identifiable through Defendant's records.

7 **CLASS ACTION ALLEGATIONS**

8 23. Plaintiffs bring a class action, on behalf of the following Class:

9
10 All Sheriff's Safety Aides who worked uncompensated time off-the-clock for the Alameda
11 County Sheriff's Office in and around the Oakland International Airport at any time three
12 years prior to the filing of the First Amended Complaint through the final disposition of
13 this action.

14 24. The Class claims herein have been brought and may properly be maintained as a class
15 action under California Code of Civil Procedure section 382 because there is a well-defined community
16 of interest among Class members with respect to the claims asserted herein and the proposed Class is
17 easily ascertainable. The Class defined herein satisfies all class action requirements.

18 25. Numerosity: The proposed Class is so numerous that joinder of all members is
19 impracticable. During the last three years, Defendant employed 85 or more people who satisfy the
20 definition of the Class. The names and addresses of the Class members are available to Defendant.
21 Notice can be provided to Class members via first-class mail using techniques and a form of notice
22 similar to those customarily used in class action lawsuits of this nature.

23 26. Typicality: Plaintiffs' claims are typical of the Class. Plaintiffs like other Class members,
24 were subjected to Defendant's common, unlawful policies, practices, and procedures. The claims of
25 Plaintiffs are typical of the claims of the Sheriff's Safety Aides who worked for Defendant. Defendant's
26 unlawful practices described here were applied to Sheriff's Safety Aides when they were assigned to
27 work shifts at the Oakland International Airport. Plaintiffs' job duties were the same as those of other
28 Class members. Defendant's common course of unlawful conduct caused Plaintiffs and similarly
situated Class members to sustain the same or similar injuries and damages caused by the same practices

1 of Defendant. Plaintiffs' claims are thereby representative of and co-extensive with the claims of the
2 Class.

3 27. Adequacy: Plaintiffs are both members of the Class, do not have any conflicts of interest
4 with other Class members, and will prosecute the case vigorously on behalf of the Class. Plaintiffs will
5 fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained counsel
6 competent and experienced in complex actions, and California employment litigation. Plaintiffs are not
7 subject to any individual defenses, unique from those conceivably applicable to the Class as a whole.
8 Plaintiffs anticipate no management difficulties in this litigation.

9 28. Commonality: There are questions of law and fact common to Plaintiffs and the Class
10 that predominate over any questions affecting only individual members of the Class. The common
11 questions of law and fact include, without limitation:

- 12 (a) Whether Defendant has required, encouraged, or permitted Class members to
13 perform work off-the-clock;
- 14 (b) Whether Defendant knew or should have known that Class members regularly
15 performed work off-the-clock;
- 16 (c) Whether Defendant violated IWC Wage Order No. 4-2001, section 4 and California
17 Labor Code section 1194, et seq. by failing to pay Class members at least the
18 minimum wage rate for all hours worked;
- 19 (d) The proper formula for calculating restitution, damages, and other statutory penalties
20 owed to Plaintiffs and the Class alleged herein.

21 29. This action is appropriate and practical as a class action because the prosecution of
22 individual actions for the Class would likely result in inconsistent and varying rulings that could and
23 likely would impede the interests of other Class members in protecting their rights, as well as potentially
24 establishing incompatible patterns of conduct for Defendant.

25 **FIRST CLAIM FOR RELIEF**

26 **FAIR LABOR STANDARDS ACT**

27 **29 U.S.C. § 201, et seq.**

28 **(On Behalf of Plaintiffs and the FLSA Collective)**

1 30. Plaintiffs incorporate by reference all preceding allegations.

2 31. Defendant has engaged in a widespread pattern and practice of violating the FLSA, as
3 described in this Complaint.

4 32. Named Plaintiffs consented in writing to be parties to this action, pursuant to 29 U.S.C.
5 § 216(b). Other opt-in Plaintiffs have also consented in writing to join this action.

6 33. The overtime wage provisions set forth in §§ 201 *et seq.* of the FLSA apply to Defendant.

7 34. At all times relevant, Plaintiffs and the FLSA Collective were employees within the
8 meaning of the FLSA. Defendant has failed to pay Plaintiffs and the FLSA Collective overtime wages
9 to which they were entitled under the FLSA.

10 35. Defendant's violations of the FLSA, as described in this Collective Action Complaint,
11 have been willful and intentional.

12 36. Defendant failed to make a good faith effort to comply with the FLSA with respect to
13 compensation of Plaintiffs and the FLSA Collective.

14 37. Because Defendant's violations of the FLSA have been willful, a three-year statute of
15 limitations applies, pursuant to 29 U.S.C. § 255.

16 38. As a result of Defendant's willful violations of the FLSA, Plaintiff and the FLSA
17 Collective have suffered damages by being denied overtime wages in accordance with 29 U.S.C. §§
18 201, *et seq.*

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PAY MINIMUM WAGE**

21 **California Labor Code §§ 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, *et seq.*; IWC**

22 **Wage Order 4-2001 sections 1, 2, 4; Minimum Wage Order MW-2023**

23 **(On Behalf of Plaintiffs and the Putative Class)**

24 39. Plaintiffs incorporate by reference in this cause of action the allegations of the preceding
25 paragraphs as though fully set forth herein.

26 40. At all times relevant to this complaint, California Labor Code sections 1194, *et seq.* and
27 Wage Order 4-2001, were in full force and effect and required that Defendant's California nonexempt
28 employees receive the minimum wage for all hours worked: at the rate of \$13.00 per hour commencing

1 January 1, 2020; at a rate of \$14.00 per hour commencing January 1, 2021; at a rate of \$15.00 per hour
2 commencing January 1, 2022; at a rate of \$15.50 per hour commencing January 1, 2023; and
3 commensurate with periodic increases.

4 41. Plaintiffs and Class members routinely performed work off-the-clock. As alleged above,
5 Defendant knew Plaintiff and Class members were regularly working off-the-clock.

6 42. As a direct and proximate result of the acts and/or omissions of Defendant, Plaintiffs and
7 Class Members were deprived of minimum wages due in amounts to be determined at trial, and to
8 additional amounts as liquidated damages and interest, pursuant to California Labor Code sections 1194,
9 1194.2, and 1197.1. By violating California Labor Code sections 1182.11, 1182.12, 1194, 1194.2, 1197
10 and IWC Wage Order No. 4, § 4, Defendants are also liable for reasonably attorneys' fees and costs
11 under California Labor Code sections 1194 and California Code of Civil Procedure section 1021.5.

12 **REPRESENTATIVE ACTION**

13 **PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**

14 **California Labor Code § 2698, et seq.**

15 **(By Plaintiff Antonio Loera, Jr. on behalf of the California Labor Commissioner)**

16 43. Plaintiffs incorporate by reference in this cause of action the allegations of the preceding
17 paragraphs as though fully set forth herein.

18 44. The California Labor Code Private Attorneys General Act of 2004 (PAGA), California
19 Labor Code section 2698 *et seq.*, grants California employees the right to bring a civil action for the
20 violation of one or more provisions of the California Labor Code on behalf of themselves and other
21 current or former aggrieved employees in order to recover civil penalties. PAGA is intended to assist in
22 the achievement of compliance with state labor laws by empowering aggrieved employees to act as
23 private attorneys general in order to recover civil penalties for Labor Code violations that would
24 otherwise be prosecuted by the State. *See Sargent v. Board of Trustees of California State University*,
25 61 Cal.App.5th 658, 669 (2021); *Stone v. Alameda Health System*, 88 Cal. App. 5th 84 (2023), as
26 modified (Feb. 6, 2023), *petition for review granted*, 528 P.3d 872 (May 17, 2023).

27 45. PAGA permits aggrieved employees to collect the civil penalty authorized by law and
28 normally collectable by the LWDA. To address the minimum wage violations alleged in this complaint,
SECOND AMENDED CLASS, REPRESENTATIVE, AND COLLECTIVE ACTION COMPLAINT FOR DAMAGES,
LIQUIDATED DAMAGES, PENALTIES, AND DECLARATORY RELIEF; DEMAND FOR JURY TRIAL

1 Plaintiff will seek to collect appropriate civil penalties for Defendant’s California Labor Code violations
2 under California Labor Code sections 1194, 1197.1(a), 1199, and IWC Wage Order No. 4-2001, section
3 20, Minimum Wage Order MW 2024.

4 46. Specifically, Plaintiff alleges that Defendant has failed to compensate Sheriff’s Safety
5 Aides for off-the-clock time worked consistently before and after their scheduled shifts, and that
6 Sheriff’s Safety Aides are owed damages under the California Labor Code for these violations at the
7 California minimum wage rate.

8 47. Plaintiff is an “aggrieved employee” as defined by PAGA and seeks to represent all other
9 Sheriff’s Safety Aides who worked uncompensated time off-the-clock for the Alameda County Sheriff’s
10 Office in and around the Oakland International Airport at any time one year prior to the filing of the
11 Second Amended Complaint through the final disposition of this action. Plaintiff contends that
12 Defendant is liable to each of the Sheriff’s Safety Aides described in this paragraph.

13 48. Based on the violations set forth herein, on behalf of himself and the other current and
14 former employees, Plaintiff seeks recovery pursuant to California Labor Code section 1197.1(a) of either
15 one hundred dollars (\$100) or two hundred fifty dollars (\$250) for each underpaid employee for each
16 pay period for which the employee is underpaid, to be distributed 75 percent to LWDA and 25 percent
17 to the aggrieved employees.

18 49. Based on the violations set forth herein, on behalf of himself and the other current and
19 former employees, Plaintiff seeks civil penalties pursuant to California Labor Code section 1199 which
20 provides for a civil penalty of one-hundred dollars (\$100) against an employer that “[r]equires or causes
21 any employee to work . . . under conditions of labor prohibited by an order of the commission” (§
22 1199(a)), “[p]ays or causes to be paid to any employee a wage less than the minimum fixed by an order
23 of the commission” (§ 1199(b)), as well as IWC Wage Order No. 4-2001, section 20, which provides
24 for fifty dollars (\$50) or one hundred dollars (\$100) for each underpaid employee for each pay period
25 during which the employee is underpaid, to be distributed 75 percent to LWDA and 25 percent to the
26 aggrieved employees.

27 50. Plaintiff seeks attorney fees and costs pursuant to California Labor Code section
28 2699(g)(1) which provides that, “Any employee who prevails in any [PAGA] action shall be entitled to
SECOND AMENDED CLASS, REPRESENTATIVE, AND COLLECTIVE ACTION COMPLAINT FOR DAMAGES,
LIQUIDATED DAMAGES, PENALTIES, AND DECLARATORY RELIEF; DEMAND FOR JURY TRIAL

1 an award of reasonable attorney's fees and costs."

2 51. Plaintiff has exhausted his administrative remedies. On November 10, 2023, Plaintiff
3 sent notice to the LWDA via the LWDA's online filing system for PAGA letters of the specific
4 provisions of the Labor Code that Plaintiff alleges Defendant has violated, including facts and theories
5 to support the violations. The LWDA received Plaintiff's notice that same day. The sixty-five-day time
6 limit for the agency to respond has expired. Plaintiff also submitted an amended LWDA letter on January
7 25, 2024. Both notices were sent via certified mail to County of Alameda at the County's address for
8 service of process and at the address for the County's counsel of record in this matter on January 26,
9 2024. The notices were delivered to the County's counsel of record in this matter on January 29, 2024.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs and the FLSA Collective seek the following relief:

12 A. The Court has allowed Plaintiffs to give notice of this collective action to members of
13 the FLSA Collective. Plaintiffs request any further notice that should be required to informed FLSA
14 members that this civil action has been filed, the nature of the action, and of their right to join this
15 lawsuit, among other things.

16 B. Unpaid overtime pay and an additional and equal amount as liquidated damages
17 pursuant to the FLSA and the supporting United States Department of Labor regulations;

18 C. That the Court determine that this action may be maintained as a class action under
19 Code of Civil Procedure 382;

20 D. That Plaintiffs be designated as representatives of the Class and their counsel as counsel
21 for the Class;

22 F. That the Court issue declaratory relief that Defendant's challenged policies were
23 unlawful;

24 G. A declaratory judgment that Defendant knowingly and intentionally violated the
25 following provisions of the California Labor Code and/or IWC Wage Order 4-2001 as to Plaintiffs and
26 the Class: California Labor Code sections 1194, 1197, IWC Wage Order No. 4-2001 and Minimum
27 Wage Order MW-2024 by failing to pay minimum wages to Plaintiff and the Class;

28 H. That Defendant's actions are found to be willful and/or in bad faith;

SECOND AMENDED CLASS, REPRESENTATIVE, AND COLLECTIVE ACTION COMPLAINT FOR DAMAGES,
LIQUIDATED DAMAGES, PENALTIES, AND DECLARATORY RELIEF; DEMAND FOR JURY TRIAL

1 I. Unpaid minimum wages and an additional amount as liquidated damages pursuant to
2 the California Labor Code;

3 J. Pre-judgment interest and post-judgment interest as provided by law;

4 K. For an award of any penalties that may be applied pursuant to Wage Order No. 4-2001
5 and/or the California Labor Code;

6 L. Appropriate equitable and injunctive relief to remedy violations, including but not
7 necessarily limited to an order enjoining Defendant from continuing their unlawful practices;

8 M. Attorneys' fees and costs of the action;

9 N. An appropriate service award for Plaintiff Loera and Plaintiff Daniels' efforts and
10 service to the FLSA Collective and Class; and

11 O. Such other injunctive and equitable relief as this Court shall deem just and proper.

12 **DEMAND FOR TRIAL BY JURY**

13 Plaintiffs and the FLSA Collective demand a trial by jury.

14 Respectfully submitted,

15 DATED: February 22, 2024

16 TERP LAW

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19 RACHEL TERP
20 Attorneys for Plaintiffs Antonio Loera, Jr. and
21 Charlotte Daniels and the Collective Class
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