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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN MATEO**

16  
17 ALIDA MAZARIEGOS, PAULA  
18 GONZALEZ, and JAIME AMAYA

19 Plaintiffs, on behalf of themselves  
20 and all others similarly situated,  
21 v.

22 VANGUARD CLEANING SYSTEMS,  
INC.; RR FRANCHISING, INC., D/B/A  
23 VANGUARD CLEANING SYSTEMS  
OF SOUTHERN CALIFORNIA AND  
24 D/B/A VANGUARD CLEANING  
SYSTEMS OF NORTHERN  
25 CALIFORNIA; BUDDHA CAPITAL  
CORPORATION, D/B/A VANGUARD  
26 CLEANING SYSTEMS OF  
27 SACRAMENTO, D/B/A VANGUARD  
CLEANING SYSTEMS OF THE  
28

Case No. 20-CIV-04267

**CLASS ACTION COMPLAINT FOR:**

- 29 **(1) FAILURE TO PROVIDE  
REIMBURSEMENT FOR BUSINESS  
EXPENSES (CALIFORNIA LABOR  
CODE §§ 2802, 2810.3 AND IWC  
WAGE ORDER 5);**
- 30 **(2) UNLAWFUL WITHHOLDING AND  
RECEIPT OF EARNED WAGES  
(CALIFORNIA LABOR CODE §§ 221,  
400-410, 450, 2810.3 AND IWC WAGE  
ORDER NO. 5);**
- 31 **(3) FAILURE TO PROVIDE MEAL  
PERIODS (CALIFORNIA LABOR  
CODE §§ 226.7, 512, 2810.3 AND IWC  
WAGE ORDER NO. 5);**

1 CENTRAL VALLEY, AND D/B/A  
2 VANGUARD CLEANING SYSTEMS  
3 OF THE CENTRAL COAST; AND  
4 WINE COUNTRY VENTURES, INC.  
5 D/B/A VANGUARD CLEANING  
6 SYSTEMS OF THE NORTH BAY,  
7 AND DOES 1 THROUGH 10,  
8 INCLUSIVE,

9 Defendants.

(4) **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS (CALIFORNIA LABOR CODE §§ 226.7, 1194, 1194.2, 2810.3 AND IWC WAGE ORDER NO. 5);**

(5) **FAILURE TO PAY CALIFORNIA OVERTIME COMPENSATION (CALIFORNIA LABOR CODE §§ 510, 1194, 2810.3, AND IWC WAGE ORDER NO. 5);**

(6) **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS (CALIFORNIA LABOR CODE §§ 226, 1174 AND IWC WAGE ORDER NO. 5);**

(7) **FAILURE TO PAY EARNED WAGES UPON DISCHARGE – WAITING TIME PENALTIES (CALIFORNIA LABOR CODE §§ 201-03);**

(8) **VIOLATIONS OF THE UNFAIR COMPETITION LAW (UCL) (BUSINESS AND PROFESSIONS CODE §§ 17200 *ET SEQ.*); and**

(9) **REPRESENTATIVE ACTION PURSUANT TO PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CALIFORNIA LABOR CODE §2698, *ET SEQ.*).**

**DEMAND FOR JURY TRIAL**



1           4.       By misclassifying Plaintiffs and similarly situated Cleaners as independent  
2 contractors, Defendants have sought to avoid various duties and obligations owed to employees  
3 under California’s Labor Code and Industrial Welfare Commission (“IWC”) wage orders,  
4 including: (1) the duty to pay overtime compensation for hours worked in excess of eight hours  
5 in a day or forty hours in a week and the duty to pay state minimum wage for all hours worked  
6 (Cal. Labor Code §§ 510, 1194, 1194.2, 1194.5, 1197; IWC Wage Order No. 5, §§ 3-4); (2) the  
7 duty to reimburse employees for all expenses and losses necessarily incurred in connection with  
8 their employment (Cal. Labor Code § 2802 and IWC Wage Order 5; Wage Order No. 5, §§ 8-9);  
9 (3) unlawful withholding and receipt of earned wages (Cal. Labor Code §§ 221, 400-410; IWC  
10 Wage Order No. 5, §§ 8-9); (4) the duty to authorize and provide meal and rest periods (Cal.  
11 Labor Code §§ 226.7, 512, 1194; IWC Wage Order No. 5, §§ 11-12); (5) the duty to furnish  
12 accurate wage statements (Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 5, § 7); (6) the  
13 duty to pay an employee all wages owed upon termination (Cal. Labor Code §§ 201-203); (7)  
14 the duty to pay wages twice during each calendar month (Cal. Labor Code § 204); (8) unlawful  
15 coercing of employees to patronize their employer (Cal. Labor Code § 450); and (9) unlawfully  
16 compelling employees to put up a cash bond as an investment (Cal. Labor Code §§ 400-410).

17           5.       Plaintiffs challenge Defendants’ policy of willfully and unlawfully misclassifying  
18 their Cleaners as “independent contractors” and thereby refusing to reimburse them for  
19 employment-related expenses and losses, wrongfully collecting compensation from wages,  
20 failing to provide off-duty meal periods, failing to authorize and permit rest paid periods, failing  
21 to document actual hours worked on pay statements, failing to pay them overtime compensation,  
22 failing to pay them state minimum wage, wrongfully coercing them to purchase necessary  
23 services and items, and wrongfully coercing them to put up a cash bond in order to be able to  
24 work.

25           6.       Plaintiffs bring the above-stated claims pursuant to Code of Civil Procedure §  
26 382 on behalf of the following class of Cleaners: all California owner-operator franchisee  
27 cleaners who signed a franchise agreement with Vanguard Cleaning Systems, Inc., or any of its  
28 master franchisors, and who personally performed cleaning work during the period commencing

1 four years prior to April 6, 2020.<sup>1</sup>

2 7. Plaintiffs will also amend their complaint upon exhaustion with the LWDA to  
3 bring a claim under the PAGA for the above-described violations and other violations described  
4 below.

5 **JURISDICTION AND VENUE**

6 8. This Court has jurisdiction over all causes of action asserted herein pursuant to  
7 the California Constitution, Article VI, Section 10, which grants the Superior Court original  
8 jurisdiction in all cases except those given to other trial courts. The Court also has jurisdiction  
9 over certain causes of action pursuant to Business & Professions Code §§ 17203 and 17204,  
10 which provide for exclusive jurisdiction for enforcement of this statute in any court of competent  
11 jurisdiction.

12 9. The amount in controversy herein, excluding interest, costs, penalties, and  
13 attorneys' fees, exceeds the minimum jurisdictional limit of this court.

14 10. Venue in San Mateo is proper under Business & Professions Code § 17203 and  
15 California Code of Civil Procedure § 395.5 because Defendants' unlawful conduct occurred in  
16 this county, Defendants conduct substantial business in this County, a substantial part of the  
17 transactions at issue took place in this County, and Defendants' liability arose in, in part, in this  
18 County.

19 **PARTIES**

20 11. Plaintiff Alida Mazariegos resides in San Rafael, California. She began working  
21 for Vanguard in approximately 2011. To work for Vanguard, Plaintiff Mazariegos entered into  
22 Vanguard's Unit Franchise Agreement. Plaintiff Mazariegos provided cleaning services for  
23 Defendants' accounts in Petaluma, Marin, and San Rafael. In order to meet Vanguard's stringent  
24 policies, procedures, and operational standards, Plaintiff Mazariegos has worked up to five hours  
25 a day, three to five days a week. Plaintiff Mazariegos left her work with Vanguard around

26 \_\_\_\_\_  
27 <sup>1</sup> Pursuant to Emergency Rule 9, the statute of limitations for civil causes of action was tolled  
28 beginning April 6, 2020, due to the emergency related to COVID-19. That tolling ends on  
October 1, 2020 for civil causes of action that exceed 180 days, which would encompass the  
civil causes of action in this case.

1 February of 2017.

2 12. Plaintiff Paula Gonzalez resides in La Puente, California. She began working for  
3 Vanguard in approximately 2010. To work for Vanguard, Plaintiff Gonzalez entered into  
4 Vanguard's Unit Franchise Agreement. Plaintiff provided cleaning services for Defendants'  
5 accounts in La Puente, Walnut, La Brea, Covina, Pico Rivera, Pomona, and other areas in the  
6 Los Angeles area. In order to meet Vanguard's stringent policies, procedures, and operational  
7 standards, Plaintiff Gonzalez has worked up to 10 to 12 hours a day, six days a week. While  
8 Plaintiff Gonzalez still has a contract with Vanguard, she stopped personally performing work  
9 for them in December of 2019, when she was injured at work.

10 13. Plaintiff Jaime Amaya resides in Sacramento, California. He began working for  
11 Vanguard in approximately 2003. To work for Vanguard, Plaintiff Amaya entered into  
12 Vanguard's Unit Franchise Agreement. Plaintiff provided cleaning services for Defendants'  
13 accounts in Sacramento. To meet Vanguard's stringent policies, procedures, and operational  
14 standards, Plaintiff Amaya has worked up to nine or ten hours a day, five to six days a week.  
15 Plaintiff Amaya still works for Vanguard.

16 14. Defendant Vanguard Cleaning Systems, Inc., is a California corporation with its  
17 principal place of business in San Mateo, California. Vanguard contracts with "master  
18 franchisors," who in turn contract with "unit franchises" to provide cleaning services to its  
19 customers across California. Vanguard provides the same standard contracts and training  
20 materials to all its master franchisors and requires that master franchisors use these materials  
21 with unit franchises ("Cleaners"). Vanguard is, and at all relevant times was, an employer subject  
22 to California state wage-and-hour laws.

23 15. Defendant RR Franchising, Inc., d/b/a Vanguard Cleaning Systems of Southern  
24 California and d/b/a Vanguard Cleaning Systems of Northern California is a California  
25 corporation with its principal place of business in Buena Park, California. Defendant RR  
26 Franchising, Inc., is a master franchisor serving various areas in Northern and Southern  
27 California, including San Mateo County. Plaintiff Gonzalez has been listed as a unit franchisee  
28 of RR Franchising, Inc. Upon information and belief, Plaintiff Gonzalez entered into a janitorial

1 franchise agreement with Vanguard Cleaning Systems, Inc., which was later transferred to RR  
2 Franchising, Inc. RR Franchising Inc. is, and at all relevant times was, an employer subject to  
3 California state wage-and-hour laws.

4 16. Defendant Buddha Capital Corp., d/b/a Vanguard Cleaning Systems of  
5 Sacramento, d/b/a Vanguard Cleaning Systems of the Central Valley, and d/b/a Vanguard  
6 Cleaning Systems of the Central Coast is a California corporation with its principal place of  
7 business in Lathrop, California. Defendant Buddha Capital Corp., is a master franchisor serving  
8 various areas in the Central Valley and Sacramento areas. Plaintiff Amaya has been listed as a  
9 unit franchisee of Defendant Buddha Capital Corporation. Plaintiff Amaya entered into a  
10 janitorial franchise agreement with Vanguard Cleaning Systems, Inc., which later transferred its  
11 contracts to Buddha Capital Corp. Buddha Capital Corp. is, and at all relevant times was, an  
12 employer subject to California state wage-and-hour laws.

13 17. Defendant Wine Country Ventures, Inc. d/b/a Vanguard Cleaning Systems of the  
14 North Bay is a California corporation with its principal place of business in San Rafael,  
15 California. Defendant Wine Country Ventures, Inc., is a master franchisor serving the North Bay.  
16 Plaintiff Mazariegos has been listed as a unit franchisee of Wine Country Ventures, Inc. Upon  
17 information and belief, Plaintiff Mazariegos entered into a janitorial franchise agreement with  
18 Wine Country Ventures, Inc., or another Vanguard entity, which later transferred its contracts to  
19 Wine Country Ventures, Inc. Wine Country Ventures, Inc., is, and at all relevant times was, an  
20 employer subject to California state wage-and-hour laws.

## 21 **FACTUAL ALLEGATIONS**

### 22 **A. Cleaners Perform Work Within Vanguard’s Usual Course of Business And Are Not** 23 **Engaged in An Independent Trade, Occupation, or Business.**

24 18. Vanguard provides janitorial services to commercial offices, car dealerships,  
25 gyms, warehouses, and many other businesses throughout the United States, including in  
26 California. On its website, Vanguard advertises its ability to provide customers with “high-  
27 quality, consistent commercial cleaning services” and notes that it has provided “consistent  
28 commercial cleaning services to over 18,000 satisfied customers throughout the U.S. and

1 Canada.”<sup>2</sup> Its advertised commercial cleaning services include green cleaning, commercial floor  
2 cleaning, cleaning for health, window washing, commercial pressure washing, among others.<sup>3</sup>

3 19. To carry out its business in California, Vanguard engages hundreds of persons  
4 like Plaintiffs, who provide cleaning services to Vanguard’s clients. Plaintiffs and Class  
5 Members provide routine services to Vanguard customers.

6 20. Vanguard establishes the contracts with Plaintiffs’ and Class Members’ cleaning  
7 accounts, decides which accounts to offer Cleaners, collects payment directly from these  
8 accounts before paying Cleaners, makes deductions from Cleaners’ pay before compensating  
9 them, and determines when Cleaners are ultimately paid. Vanguard also retains the right to  
10 handle account complaints and remove accounts from Cleaners. And while Vanguard charges  
11 Cleaners for the privilege of working these Vanguard accounts, Plaintiffs and Class Members  
12 have no rights to these accounts. For example, after paying to work an account, Vanguard can  
13 remove the account from Plaintiffs at its discretion and sell it to another Cleaner without  
14 providing Plaintiffs any compensation.

15 21. Cleaners do not operate truly independent cleaning companies serving many  
16 different clients. Instead, Vanguard restricts cleaners’ ability to solicit and perform independent  
17 work. Vanguard requires Plaintiffs to agree to a covenant not to compete, prohibiting them from  
18 soliciting janitorial business from accounts that are already doing business with Vanguard. It  
19 further prohibits cleaners from bidding against Vanguard for any account. For two years after the  
20 term of the franchise agreement, cleaners are prohibited from soliciting any account for which  
21 Cleaners have performed work while at Vanguard.

22 22. Vanguard further reserves for itself the right to transfer or assign all of its rights  
23 under the franchise agreement, but Plaintiffs cannot transfer or assign their rights without  
24 Vanguard’s prior written consent, as Vanguard views the rights under the franchise agreement as  
25

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26 <sup>2</sup> Vanguard Cleaning Systems, Inc., “Upgrade to Vanguard Janitorial Services,” located at  
27 <https://www.vanguardcleaning.com> (last accessed September 18, 2020).

28 <sup>3</sup> Vanguard Cleaning Systems, Inc., “Commercial Cleaning Services,” located at  
<https://www.vanguardcleaning.com/commercial-cleaning-services/> (last accessed June 11, 2020).



1 “personal.”

2 23. Cleaners enter into a 10-year agreement with Vanguard, which is subject to  
3 renewal. However, upon renewal, Vanguard retains the right to require Cleaners to sign its most  
4 recent agreement, which may be materially different from Cleaners’ prior agreement. Vanguard  
5 also requires, as a term of renewal, for Cleaners to sign a general release of any claims against  
6 Vanguard.

7 24. Plaintiffs and Class Members’ work for Vanguard does not require any special  
8 skill and is performed under the training, supervision, and instruction of Vanguard management.

9 **B. Vanguard Required Cleaners To Sign Form Agreements That Give Vanguard All**  
10 **Necessary Control Over the Manner and Means by Which Plaintiffs Performs Their**  
11 **Work.**

12 25. As part of their work for Vanguard, Plaintiffs and Class Members were required  
13 to enter into Vanguard’s form franchise agreement. These agreements and related policy  
14 documents dictate in detail how Cleaners are required to perform their work.

15 26. Vanguard requires Plaintiffs and Class Members to work according to Vanguard  
16 specifications, standards, policies, and procedures, including those published in its  
17 volumes/manuals on various subjects (“Manuals”). Vanguard retains the right to make additions,  
18 deletions or modifications to its Manuals at any time, and cleaners are responsible for being  
19 aware of these changes and implementing them. For example, the Manuals inform Cleaners  
20 about chemical safety, green cleaning processes (including proper chemical usage, attention to  
21 building entryways, effective vacuuming and dusting, and safeguarding indoor air quality), and  
22 the quadrant system method for cleaning.

23 27. Vanguard also requires Cleaners to comply with the contracts that Vanguard  
24 negotiates with Cleaners’ accounts. These contracts, which govern the work that Plaintiffs and  
25 Class Members perform, dictate:

- 26 a. The days and times that Cleaners will perform cleaning work;
- 27 b. The tasks that Cleaners perform. For example, they specify whether Cleaners  
28 are to dust and clean all fixtures and office furniture, empty wastepaper  
receptacles and replace liners, wash internal and entrance class windows,

1 dust/remove cobwebs from all ceilings, clean window sills, vacuum carpeted  
2 areas, clean restroom mirrors and glass, among many other detailed  
3 instructions;

4 c. The amount that the account will be charged;

5 d. The days on which Vanguard will bill the account;

6 e. The term limits of the contract;

7 f. Whether Vanguard or the account will provide certain cleaning supplies. For  
8 example, one account serviced by Plaintiff Gonzalez required her to provide  
9 all cleaning supplies except for toiletries, liners, and paper supplies, which  
10 Vanguard stated the account could purchase through Vanguard.

11 28. Vanguard requires Cleaners to provide accounts with those services that  
12 Vanguard has approved and require Cleaners to obtain Vanguard's approval before providing  
13 any other services to the account.

14 29. Vanguard may provide equipment and supplies, such as mops, brooms, floor  
15 signs, toilet brushes, All Purpose Cleaner, among other supplies, when Cleaners begin their work  
16 for the company; however, Vanguard thereafter requires that Cleaners supply the supplies,  
17 materials, and equipment that each Vanguard account requires pursuant to the contracts that  
18 Vanguard has entered into with these accounts. Vanguard retains the right to modify its  
19 specifications and requirements for supplies and equipment.

20 30. Cleaners must purchase the types and amounts of insurance that Vanguard  
21 requires and name Vanguard as an additional insured.

22 31. Vanguard retains the right to perform a background check on Cleaners or anyone  
23 else employed by Cleaners.

24 32. Vanguard retains broad termination rights under its agreements with Cleaners,  
25 including, among many others, the right to terminate for providing unapproved services to  
26 accounts, for failure to service customer accounts as scheduled, and failure to comply with  
27 mandatory provisions in the Manuals.

28 33. Vanguard classifies Plaintiffs and Class Members as "independent contractors," a

1 designation that it made voluntarily and knowingly as a subterfuge to circumvent the  
2 requirements of the California Labor Code.

3 **C. Vanguard Cleaning Systems, Inc., is liable for the violations against Plaintiffs and**  
4 **all other aggrieved California Cleaners.**

5 34. Vanguard Cleaning Systems, Inc. (referred to as “VCS”) designed and  
6 implemented the contractual framework under which Plaintiffs and Class Members were  
7 misclassified.

8 35. Plaintiffs and other Class Members purchased “janitorial franchises” from a  
9 regional “master franchisor,” which in Plaintiff Gonzalez’s case was RR Franchising, Inc., d/b/a  
10 Vanguard Cleaning Systems of Northern California, and d/b/a Vanguard Cleaning Systems of  
11 Southern California; in Plaintiff Amaya’s case was Buddha Capital Corp., d/b/a Vanguard  
12 Cleaning Systems of Sacramento, d/b/a Vanguard Cleaning Systems of the Central Valley, and  
13 d/b/a Vanguard Cleaning Systems of the Central Coast; and in Plaintiff Mazariegos’s case was  
14 Wine Country Ventures, Inc., d/b/a Vanguard Cleaning Systems of the North Bay.

15 36. Plaintiffs seek to recover damages and penalties against VCS on behalf of all  
16 Class Members, regardless of their “master franchisor” entity.

17 37. Master franchisors are required to use their best efforts to actively recruit and  
18 maintain unit franchises, like Plaintiffs and Class Members. VCS requires master franchisors to  
19 solicit, generate, and maintain sufficient janitorial accounts in their area and sets a minimum  
20 monthly account volume for master franchisors.

21 38. VCS requires master franchisors to investigate the qualifications of each unit  
22 franchise pursuant to VCS’s standards, policies and procedures and requires the master  
23 franchisor to provide VCS with any documentation and information relating to the unit  
24 franchises that it requires.

25 39. VCS requires master franchisors to adapt its form franchise disclosure document,  
26 and it further requires the master franchisor to enter into an agreement with the unit franchise  
27 upon VCS’s then-current unit franchise form. VCS prohibits master franchisors from modifying  
28 or offering to modify these agreements without VCS’s prior written approval.

1           40.     VCS requires master franchisors to provide initial training to unit franchises and  
2 make available billing and collections of accounts according to VCS’s specifications.

3           41.     VCS provides master franchisors with a copy of its Manuals and requires that  
4 master franchisors provide these Manuals to unit franchisees, like Plaintiffs and Class Members.  
5 VCS further requires master franchisors to ensure that unit franchises will perform their work in  
6 accordance with the Manuals, the unit franchise agreement, and all other mandatory operating  
7 procedures. VCS also requires master franchisors to comply with the terms of the Subfranchisor  
8 Manual that it provides master franchisors.

9           42.     Master franchisors are obligated to pay VCS up to 5% of the revenues which they  
10 collect from Cleaners’ customers for their cleaning services, which include revenue received  
11 from the sale of unit franchises to Cleaners, revenue from the accounts serviced by Cleaners, and  
12 any other revenue received from the Vanguard system.

13           43.     VCS prohibits master franchisors from permitting unit franchises to contract  
14 directly with any customer. Instead, VCS requires that all accounts contract with the master  
15 franchisor, and VCS reserves the right to require the master franchisor to use required forms and  
16 mandatory language for customer contracts and invoices.

17           44.     In a similar case against VCS in Massachusetts, the trial court found that  
18 Vanguard could not satisfy two of the three prongs of the ABC test.<sup>4</sup>

19           45.     That court also found that VCS was liable for violations against aggrieved  
20 cleaners because “Vanguard's revenue is derived from initial franchise fees, [some] percent of  
21 the gross billings from work performed by unit franchisees, and various fees imposed on unit  
22 franchisees. Vanguard's revenue, therefore, is directly dependent on commercial cleaning work  
23 of the plaintiffs and other [cleaners].”<sup>5</sup>

24           46.     VCS’s business ultimately depends on someone performing the cleaning, which  
25 in this case is janitorial franchise Cleaners. It relies on these Cleaners to continuously perform

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26  
27 <sup>4</sup> *Da Costa v. Vanguard Cleaning Systems, Inc.* (Mass. Super., Sept. 29, 2017) 34 Mass.L.Rptr.  
483.

28 <sup>5</sup> *Id.*

1 cleaning services.

2 47. VCS is directly liable for the violations described herein. See *Vazquez v. Jan-Pro*  
3 *Franchising International, Inc.* (9<sup>th</sup> Cir. 2019) 923 F.3d 575, 598, *reh'g granted, opinion*  
4 *withdrawn* (9<sup>th</sup> Cir. 2019) 930 F.3d 1107, and *on reh'g* (9<sup>th</sup> Cir. 2019) 939 F.3d 1045, and  
5 *opinion reinstated in part on reh'g* (9<sup>th</sup> Cir. 2019) 939 F.3d 1050 (finding that in a three-tiered  
6 cleaning franchise model, the top-tier franchise could be held liable as an employer under the  
7 ABC test even though it was not a party to any of the contracts with the alleged employees).  
8 VCS is also liable to Plaintiffs and Class Members under Labor Code § 2810.3 as a “client  
9 employer” who “obtains or is provided workers to perform labor within its usual course of  
10 business from a labor contractor” – here, master franchisors like RR Franchising, Buddha  
11 Capital, and Wine Country Ventures, Inc.

#### 12 CLASS ACTION ALLEGATIONS

13 48. Plaintiffs bring this action individually and as a class action on behalf of a class  
14 defined as follows: all California owner-operator franchisee cleaners who signed a franchise  
15 agreement with Vanguard Cleaning Systems, Inc., or any of its master franchisors, and who  
16 personally performed cleaning work during the period commencing four years prior to April 6,  
17 2020 (individually referred to as “Class Members” and collectively as the “Class”).

18 49. This action is brought, and may properly be maintained, as a class action pursuant  
19 to California Code of Civil Procedure § 382 because there is a well-defined community of  
20 interest in the litigation and the proposed class is easily ascertainable. This action presents  
21 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,  
22 predominance, and superiority requirements of this provision.

#### 23 Numerosity:

24 50. The size of the proposed Class makes individual joinder of all members  
25 impracticable. While Plaintiffs do not presently know the exact number of Class Members,  
26 Plaintiffs are informed and believe, and thereon allege, that as many as 700 persons have been  
27 subjected to the unlawful practices alleged herein during the class period.

1 **Commonality:**

2 51. Common questions of law and fact exist as to all members of the Class and  
3 predominate over any questions that affect only individual members of the Class. These common  
4 questions of law and fact include, without limitation:

- 5 a. Whether Defendants have retained sufficient rights to control Class Members’  
6 work so as to render the Class Members employees under California law;
- 7 b. Whether Cleaners are free from Defendants’ control and direction in  
8 connection with the performance of their work, both under Defendants’  
9 contract and in fact;
- 10 c. Whether Cleaners perform work that is outside the usual course of  
11 Defendants’ business;
- 12 d. Whether Cleaners are customarily engaged in an independently established  
13 trade, occupation, or business;
- 14 e. Whether Class Members have incurred employment-related expenses and  
15 losses in carrying out their duties for Defendants;
- 16 f. Whether Defendants have failed to indemnify Class Members for their  
17 necessary employment-related expenses and losses in violation of California  
18 Labor Code § 2802 and IWC Wage Order No. 5;
- 19 g. Whether Defendants’ collection and deduction of fees and requiring a cash  
20 bond violated California Labor Code §§ 221, 400-410, and IWC Wage Order  
21 No. 5;
- 22 h. Whether Defendants have violated California Labor Code § 1174 and IWC  
23 Wage Order No. 5 by failing to maintain documentation of actual hours that  
24 Class Members worked each day;
- 25 i. Whether Defendants knew or should have known that Class Members  
26 regularly worked for over 40 hours per week and/or eight hours per day;
- 27 j. Whether Defendants failed to pay Class Members overtime wages for time  
28 worked in excess of 40 hours per week or eight hours per day;

- 1 k. Whether Defendants failed to provide Class Members with adequate off-duty  
2 meal periods and compensation for missed meal periods in violation of  
3 California Labor Code §§ 226.7 and 512 and IWC Wage Order No. 5;
- 4 l. Whether Defendants have failed to provide Class Members with adequate rest  
5 periods and failed to separately compensate Class Members for each hour  
6 worked in violation of California Labor Code §§ 226.7, 1194, and IWC Wage  
7 Order No. 5;
- 8 m. Whether Defendants had a policy or practice of not paying meal and rest  
9 period premiums when meal and rest periods were not provided;
- 10 n. Whether Defendants have violated California Labor Code §§ 201-203 by  
11 failing, upon termination, to timely pay Class Members wages that were due  
12 for overtime and missed meal periods;
- 13 o. Whether Defendants' misclassification of Class Members was willful and in  
14 violation of California Labor Code § 226.8;
- 15 p. Whether Defendants, in violation of California Labor Code § 226 failed to  
16 provide accurate, itemized wage statements reflecting, among other items,  
17 Class Members' hours of work and rates of pay;
- 18 q. Whether Defendants' failures to: (a) indemnify and reimburse Class Members  
19 for necessary employment-related expenses, (b) pay Class Members for all  
20 hours worked; (c) pay Class Members overtime compensation; (d) provide  
21 Class Members with adequate off-duty meal periods and meal period  
22 compensation; (e) provide Class Members with rest periods, separately  
23 compensated Class Members for rest periods, and provide compensation for  
24 missed rest periods; (f) provide Class Members with accurate itemized wage  
25 statements; (g) maintain documentation of the actual hours worked each day;  
26 and (h) timely pay Class Members all wages that were due upon termination,  
27 along with Defendants' collection and deduction of fees and expenses from  
28 Class Members' compensation and their misclassification of Class Members

1 as independent contractors, and their charging fees and/or making deductions  
2 from Plaintiffs' and Class Members' compensation constitute unlawful,  
3 unfair, and/or fraudulent business practices under Cal. Business & Professions  
4 Code § 17200, *et seq.*;

- 5 r. What amounts Plaintiffs and Class Members are entitled to receive in interest  
6 on unpaid compensation due and owed to them.

7 **Typicality:**

8 52. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class  
9 Members sustained injuries and damages arising out of and caused by Defendants' common  
10 course of conduct in violation of law as alleged herein.

11 **Adequacy of Representation:**

12 53. Plaintiffs are adequate representatives of the Class in that their claims are typical  
13 of those of the Class. Plaintiffs have the same interests in the litigation of this case as the Class  
14 Members; they are committed to vigorous prosecution of this case and have retained competent  
15 counsel experienced in class action and wage and hour litigation of this nature. Plaintiffs are not  
16 subject to any individual defenses unique from those conceivably applicable to the Class as a  
17 whole and anticipate no management difficulties in this litigation.

18 **Predominance:**

19 54. Defendants have engaged in a common course of wage-and-hour abuse toward  
20 Plaintiffs and Class Members. The common issues arising from this conduct that affect Plaintiffs  
21 and Class Members predominate over any individual issues. Adjudication of these common  
22 issues in a single action has important and desirable advantages of judicial economy.

23 **Superiority of Class Action:**

24 55. A class action is superior to other available methods for the fair and efficient  
25 adjudication of this controversy because individual litigation of the claims of all Class Members  
26 is impracticable. It would be unduly burdensome to the courts in which individual litigation of  
27 numerous cases would proceed. Individualized litigation would also present the potential for  
28 varying, inconsistent, or contradictory judgments and would magnify the delay and expense to



1 all parties and to the court system resulting from multiple trials of the same complex factual  
2 issues. Moreover, individual actions by Class Members may establish inconsistent standards of  
3 conduct for Defendants. By contrast, the conduct of this action as a class action, with respect to  
4 some or all of the issues presented herein, presents fewer management difficulties, conserves the  
5 resources of the parties and the court system, and protects the rights of each Class Member.

6 56. Defendants have acted or refused to act in respects generally applicable to the  
7 class, thereby making appropriate relief with regard to the members of the Class as a whole, as  
8 requested herein.

9 **FIRST CAUSE OF ACTION**  
10 **FAILURE TO PROVIDE REIMBURSEMENT FOR BUSINESS EXPENSES**  
11 **(CALIFORNIA LABOR CODE §§ 2802, 2810.3 AND IWC WAGE ORDER 5, §§ 8-9)**  
12 **(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS)**

13 57. The allegations of each of the preceding paragraphs are re-alleged and  
14 incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of  
15 themselves and all Class Members.

16 58. While acting on the instructions of Defendants and discharging their duties for  
17 them, Plaintiffs and Class Members have incurred and paid work-related expenses. Such  
18 expenses include, but are not limited to, cleaning supplies, cleaning equipment, mandatory  
19 insurance, gas and vehicle maintenance, and other necessary expenses. Plaintiffs and Class  
20 Members were also required to pay thousands of dollars in franchise fees and business support  
21 and service fees to perform their work.

22 59. Defendants failed to indemnify or in any manner reimburse Plaintiffs and Class  
23 Members for these expenditures and losses even though these necessary expenditures were  
24 incurred as a direct consequence of their work requirements, either as a de facto cost (e.g. gas  
25 and cleaning supplies) or a requirement of the agreements Defendants force cleaners to accept as  
26 a condition of employment.

27 60. California Labor Code § 2810.3, effective January 1, 2015, states that “A client  
28 employer shall share with a labor contractor all civil legal responsibility and civil liability for all  
workers supplied by that labor contractor for...the payment of wages.”



1 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while  
2 purporting to pay the wage designated by statute or by contract.”

3 69. Labor Code §§ 400-410 (“Employee Bond Law”) provide the limited  
4 circumstances under which an employer can exact a cash bond from its employees. These  
5 provisions are designed to protect employees against the very real danger of an employer taking  
6 or misappropriating employee funds held by the employer in trust.

7 70. Labor Code § 450 states “No employer, or agent or officer thereof, or other  
8 person, may compel or coerce any employee, or applicant for employment, to patronize his or  
9 her employer, or any other person, in the purchase of any thing of value.”

10 71. IWC Wage Order No. 5, § 8 provides that the only circumstance under which an  
11 employer can make a deduction from an employee’s wage for cash shortage, breakage, or loss of  
12 equipment is if the employer can show that the shortage, breakage, or loss was the result of the  
13 employee’s gross negligence or dishonest or willful act.

14 72. IWC Wage Order No. 5, § 9 provides that when tools or equipment are required  
15 by the employer or are necessary to the performance of a job, such tools and equipment shall be  
16 provided and maintained by the employer

17 73. These and related statutes, along with California’s fundamental public policy  
18 protecting wages and wage scales, prohibit employers from subjecting employees to  
19 unanticipated or unpredicted reductions in their wages; making employees the insurers of their  
20 employer’s business losses; otherwise passing the ordinary business losses of the employer onto  
21 the employee; taking deductions from wages for business losses unless the employer can  
22 establish that the loss was caused by a dishonest or willful act, or gross negligence of the  
23 employee; or taking other unpredictable deductions that may impose a special hardship on  
24 employees.

25 74. Defendants have violated Cal. Labor Code §§ 221, 223, 400-410, 450 and IWC  
26 wage order No. 5, §§ 8-9 by unlawfully taking deductions from Plaintiffs’ and Class Members’  
27 compensation to cover certain ordinary business expenses of Defendants, including but not  
28 limited to franchise fees, fees for new accounts, business support and service fees, insurance, and

1 a number of other fees.

2 75. In addition to being liable as an employer, Vanguard Cleaning Systems, Inc. is  
3 also liable to Plaintiffs as a client employer for the violations detailed herein under Labor Code §  
4 2810.3.

5 76. Because Defendants took unlawful deductions from Plaintiffs' and Class  
6 Members' compensation, they are liable to Plaintiffs for the compensation that should have been  
7 paid but for the unlawful deductions, pursuant to Cal. Labor Code §§ 221, 223, 400-410, 450 and  
8 IWC Wage Order No. 5, §§ 8-9.

9 77. By unlawfully deducting wages and failing to pay Plaintiffs and Class Members,  
10 Defendants are also liable for penalties, reasonable attorneys' fees, and costs as described below.

11 **THIRD CAUSE OF ACTION**  
12 **FAILURE TO PROVIDE MEAL PERIODS**  
13 **(CALIFORNIA LABOR CODE §§ 226.7, 512, 2810.3 AND IWC WAGE ORDER NO. 5, § 11)**  
14 **(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS)**

15 78. The allegations of each of the preceding paragraphs are re-alleged and  
16 incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of  
17 themselves and all Class Members.

18 79. Labor Code § 226.7 states in pertinent part: "An employer shall not require an  
19 employee to work during a meal or rest or recovery period mandated pursuant to an applicable  
20 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission."

21 80. Labor Code § 512 likewise states: "An employer may not employ an employee  
22 for a work period of more than five hours per day without providing the employee with a meal  
23 period of not less than 30 minutes," and "[a]n employer may not employ an employee for a work  
24 period of more than 10 hours per day without providing the employee with a second meal period  
25 of not less than 30 minutes."

26 81. IWC Wage Order No. 5, § 11 provides in part that "[n]o employer shall employ  
27 any person for a work period of more than five (5) hours without a meal period of not less than  
28 30 minutes," and "[a]n employer may not employ an employee for a work period of more than  
ten (10) hours per day without providing the employee with a second meal period of not less than

1 30 minutes.”

2 82. Defendants have not promulgated a policy for the provision of meal breaks for  
3 employees like Plaintiffs and Class Members. Plaintiffs and Class Members have regularly  
4 worked in excess of five hours a day without being provided a half-hour meal break in which  
5 they are relieved of all duties.

6 83. Plaintiffs are informed and believe, and on that basis allege, that Defendants have  
7 never paid the one hour of compensation as a premium payment to any Class Member pursuant  
8 to California Labor Code § 226.7 for not providing proper meal periods.

9 84. In addition to being liable as an employer, Vanguard Cleaning Systems, Inc. is  
10 also liable to Plaintiffs as a client employer for the violations detailed herein under Labor Code §  
11 2810.3.

12 85. Because Defendants failed to afford proper and timely meal periods, they are  
13 liable to Plaintiffs and Class Members for one hour of additional pay at the regular rate of  
14 compensation for each workday that the proper meal periods were not provided, pursuant to Cal.  
15 Labor Code § 226.7(b) and IWC Wage Order No. 5, § 11(B).

16 86. By violating Cal Labor Code §§ 226.7 and 512, and IWC Wage Order No. 5, §  
17 11, Defendants are also liable for penalties, reasonable attorneys’ fees, and costs as described  
18 below.

19 **FOURTH CAUSE OF ACTION**  
20 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**  
21 **(CALIFORNIA LABOR CODE §§ 226.7, 1194, 1194.2, 2810.3 AND IWC WAGE ORDER**  
22 **NO. 5, § 12)**  
23 **(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS)**

24 87. The allegations of each of the preceding paragraphs are re-alleged and  
25 incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of  
26 themselves and all Class Members.

27 88. IWC Wage Order No. 5, § 12 provides in relevant part: “(A) Every employer shall  
28 authorize and permit employees to take rest periods, which insofar as practicable shall be in the  
middle of each work period. The authorized rest period time shall be based on the total hours  
worked daily at the rate of ten (10) minutes net rest time per four (4) hour or major fraction

1 thereof. However, a rest period need not be authorized for employees whose total daily work  
2 time is less than three and one-half (3 ½) hours). Authorized rest period time shall be counted as  
3 hours worked for which there shall be no deduction of wages.”

4 89. Defendants are legally required to compensate Plaintiffs and other employees for  
5 non-productive rest periods; however, Defendants’ piece rate compensation system only  
6 compensates employees for productive work time spent cleaning for Accounts. *See Bluford v.*  
7 *Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864, 870-71.

8 90. On information and belief, Defendants have not promulgated a compliant rest  
9 break policy.

10 91. Plaintiffs and Class Members have regularly worked in excess of three and one-  
11 half hours without Defendants authorizing and permitting them to take at least a 10-minute rest  
12 period or paying them separately for rest periods, as required by Labor Code §§ 226.7 and 1194  
13 and IWC Wage Order No. 5. Plaintiffs and Class Members have also worked in excess of six  
14 hours a day without being provided a second, paid 10-minute rest period in which they were  
15 relieved of all duties, as required by Labor Code §§ 226.7 and 1194 and IWC Wage Order No. 5.

16 92. In addition to being liable as an employer, Vanguard Cleaning Systems, Inc. is  
17 also liable to Plaintiffs as a client employer for the violations detailed herein under Labor Code §  
18 2810.3.

19 93. Because Defendants failed to authorize and permit Plaintiffs and Class Members  
20 compliant rest periods, they are liable to Plaintiffs and Class Members for one hour of additional  
21 pay at the regular rate of compensation for each workday that the compliant rest periods were not  
22 provided, minimum wages and liquidated for not being separately compensated for their rest  
23 periods, attorneys’ fees, penalties, and interest, as described below.

24 **FIFTH CAUSE OF ACTION**  
25 **FAILURE TO PAY CALIFORNIA OVERTIME COMPENSATION**  
26 **(CALIFORNIA LABOR CODE §§ 510, 1194, 2810.3, AND IWC WAGE ORDER NO. 5, § 3)**  
27 **(ON BEHALF OF PLAINTIFFS GONZALEZ, AMAYA, AND CLASS MEMBERS)**

28 94. The allegations of each of the preceding paragraphs are re-alleged and  
incorporated herein by reference, and Plaintiffs Gonzalez and Amaya allege as follows a claim of

1 relief on behalf of themselves and all Class Members who worked overtime.

2 95. Defendants maintained a policy and practice of giving many Class Members  
3 Accounts that required them to work in excess of eight hours in a day or forty hours in a week.

4 96. Plaintiffs Gonzalez and Amaya estimate that they have worked up to sixty hours a  
5 week or more, well in excess of eight hours in a workday and/or forty hours in a work week in  
6 violation of California Labor Code §§ 510, 1194, and IWC Wage Order No. 5, § 3, which require  
7 overtime compensation for non-exempt employees. The precise number of unpaid overtime  
8 hours will be proven at trial.

9 97. In addition to being liable as an employer, Vanguard Cleaning Systems, Inc. is  
10 also liable to Plaintiffs as a client employer for the violations detailed herein under Labor Code §  
11 2810.3.

12 98. Defendants' actions were willful and in knowing violation of the California Labor  
13 Code. As a direct and proximate result of Defendants' unlawful conduct as set forth herein,  
14 Plaintiffs and Class Members have sustained damages, including loss of earnings for hours of  
15 overtime work, in an amount to be determined at trial. Pursuant to California Labor Code §  
16 1194(a), Plaintiffs and Class Members are entitled to recover their unpaid overtime and double  
17 time compensation, including interest thereon. Plaintiffs and Class Members are also entitled to  
18 recover reasonable attorneys' fees and costs and penalties as described below.

19 **SIXTH CAUSE OF ACTION**  
20 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**  
21 **(CALIFORNIA LABOR CODE § 226, 1174 AND IWC WAGE ORDER NO. 5, § 7)**  
22 **(ON BEHALF OF PLAINTIFFS GONZALEZ, AMAYA, AND CLASS**  
23 **MEMBERS)**

24 99. The allegations of each of the preceding paragraphs are re-alleged and  
25 incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of  
26 themselves and all Class Members.

27 100. Pursuant to Labor Code § 226(a) and Wage Order No. 5, § 7, Defendants are  
28 required to provide – semimonthly or at the time of each payment of wages – itemized written  
statements containing all information described in § 226 and IWC Wage Order No. 5, including,  
but not limited to, the total hours worked by the employee.

1           101. Defendants have failed to comply with the Labor Code by knowingly and  
2 intentionally failing to provide Plaintiffs and Class Members with accurate written statements  
3 showing their actual and total hours worked and their applicable hourly rates.

4           102. Defendants also failed to accurately record meal periods as detailed above, to pay  
5 meal and rest period premium wages for missed meal and rest periods, and to report those meal  
6 period premium payments on wage statements.

7           103. Under California Labor Code § 226(e), an employee suffering injury as a result of  
8 knowing and intentional failure of an employer to comply with 226(a) is entitled to recover the  
9 greater of all actual damages or fifty (\$50) for the initial pay period in which a violation occurs  
10 and one hundred dollars (\$100) for each violation in a subsequent pay period, up to a maximum  
11 amount of \$4,000.

12           104. Under California Labor Code § 226(e)(2)(B), an employee is deemed to have  
13 suffered injury if a wage statement does not include the information required by California Labor  
14 Code § 226(a)(1)-(9) and the employee cannot promptly and easily determine from the face of  
15 the wage statement any of the following: the total hours worked; all rates of pay in effect in the  
16 pay period; or the hours worked at each rate of pay.

17           105. In addition, upon information and belief, and in violation of IWC Wage Order No.  
18 5, Defendants failed to keep the required payroll records showing the actual hours worked each  
19 day by Plaintiffs and Class Members.

20           106. As a direct and proximate result of Defendants' actions, Plaintiffs and Class  
21 Members have suffered economic harm as they have been precluded from accurately monitoring  
22 the number of hours worked and thus seeking all accrued pay.

23           107. As a direct and proximate result of Defendants' unlawful conduct as set forth  
24 herein, Plaintiffs and Class Members have been injured by not receiving the information required  
25 by California Labor Code § 226(a), not being paid for their overtime hours, not having records  
26 showing their total hours worked, not being able to ascertain from their wage statements whether  
27 or how they have been lawfully compensated for all hours worked, among other injuries, in an  
28 amount to be determined at trial.





1 fees and costs.

2 **EIGHTH CAUSE OF ACTION**  
3 **VIOLATIONS OF THE UNFAIR COMPETITION LAW (UCL)**  
4 **(CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 *ET SEQ*)**  
5 **(ON BEHALF OF PLAINTIFFS AND CLASS MEMBERS)**

6 115. The allegations of each of the preceding paragraphs are re-alleged and  
7 incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of  
8 themselves and all Class Members.

9 116. California Business & Professions Code § 17200, et. seq. (“UCL”) prohibits  
10 “unfair competition” in the form of any unlawful, unfair, or fraudulent business practice.

11 117. Beginning at an exact date unknown to Plaintiffs but within four years preceding  
12 April 6, 2020, Defendants have engaged in unfair competition as defined by the UCL by, and as  
13 described above: (1) misclassifying Plaintiffs and Class Members as independent contractors in  
14 violation of Labor Code § 2750.3 and § 2775; (2) willfully misclassifying Plaintiffs and Class  
15 Members in violation of Labor Code § 226.8(a)(1) and IWC Wage Order No. 5, § 2; (3)  
16 unlawfully charging Plaintiffs and Class Members, who are willfully misclassified employees, in  
17 violation of Labor Code § 226.8(a)(2) and IWC Wage Order No. 5, §§ 2, 8-9; (4) failing to  
18 reimburse Plaintiffs and Class Members for all expenses and losses necessarily incurred in  
19 connection with their employment in violation of Labor Code § 2802 & IWC Wage Order No. 5;  
20 (5) failing to pay wages to Plaintiffs and Class Members, who were supplied by a labor  
21 contractor in violation of Labor Code § 2810.3; (6) unlawfully withholding and receiving  
22 Plaintiffs’ and Class Members’ earned wages in violation of Labor Code §§ 221, 400-410, 450  
23 and IWC Wage Order No. 5, §§ 8-9; (7) failing to authorize and provide meal and rest periods  
24 and separately compensate rest periods for Plaintiffs and Class Members in violation of Labor  
25 Code §§ 226.7, 512, 1194 and IWC Wage Order No. 5, §§ 11-12; (8) failing to furnish accurate  
26 wage statements to Plaintiffs and Class Members in violation of Labor Code §§ 226, 1174 and  
27 IWC Wage Order No. 5 § 7; (9) failing to pay Plaintiffs and Class Members overtime  
28 compensation for hours worked in excess of eight hours in a day or forty hours in a week in  
violation of Labor Code §§ 510, 1194, 1194.2, 1194.5, 1197 and IWC Wage Order No. 5, §§ 3-

1 4; (10) failing to pay Plaintiffs and Class Members all wages owed upon termination in violation  
2 of Labor Code §§ 201-203; (11) failing to pay Plaintiffs and Class Members wages twice during  
3 each calendar month in violation of Labor Code § 204.

4 118. Defendants' knowing failure to adopt policies in accordance with and/or to adhere  
5 to these laws, all of which are binding upon and burdensome to its competitors, engenders an  
6 unfair competitive advantage to Defendants thereby constituting an unfair business practice  
7 under California Business & Professions Code §§ 17200-17208. Plaintiffs and Class Members  
8 have suffered injury in fact and have lost money as a direct and proximate result of Defendants'  
9 unfair competition, including, but not limited to, money due to them as overtime compensation,  
10 unlawful collection or receipt of wages, unreimbursed necessary expenses, compensation for  
11 missed meal and rest periods, and waiting time penalties, which money has been acquired by  
12 Defendants by means of their unfair competition within the meaning of the UCL.

13 119. In addition to being liable as an employer, Vanguard Cleaning Systems, Inc. is  
14 also liable to Plaintiffs as a client employer for the violations detailed herein under Labor Code §  
15 2810.3.

16 120. Pursuant to California Business & Professions Code §§ 17200 et seq., Plaintiffs  
17 and Class Members are entitled to (i) restitution of all wages and compensation alleged herein  
18 that Defendants withheld and retained during the period commencing four years preceding April  
19 6, 2020, (ii) an award of reasonable attorneys' fees pursuant to Cal. Civ. Proc. Code § 1021.5  
20 and other applicable law, and (iii) an award of costs. All remedies are cumulative pursuant to  
21 California Business & Professions Code § 17205.

22 **REPRESENTATIVE ACTION PURSUANT TO PRIVATE ATTORNEYS GENERAL**  
23 **ACT OF 2004**  
24 **(CALIFORNIA LABOR CODE §2698, *ET SEQ.*)**

25 121. Plaintiffs also intend to bring a claim under California Labor Code §§ 2698–99 in  
26 a representative capacity on behalf of current and former Cleaners/franchise workers of  
27 Defendants who were subjected to the unlawful wage and hour practices alleged herein and  
28 below.

1           122. The California Labor Code Private Attorneys General Act of 2004 (“PAGA”),  
2 California Labor Code § 2698 et seq., grants California employees the right to bring a civil  
3 action for the violation of any provision of the Labor Code on behalf of themselves and other  
4 current or former employees in order to receive civil penalties. PAGA is intended to assist in the  
5 achievement of maximum compliance with state labor laws by empowering aggrieved  
6 employees to act as private attorneys general in order to recover civil penalties for Labor Code  
7 Violations that otherwise would be prosecuted by the state. *See Arias v. Super. Ct.* (2009) 46  
8 Cal.4th 969, 980.

9           123. On October 1, 2020 pursuant to California Labor Code § 2699.3, Plaintiffs filed  
10 their PAGA letter online with the Labor and Workforce Development Agency (LWDA) and sent  
11 notice by certified mail to the Defendants of the specific provisions of the Labor Code that  
12 Plaintiffs allege Defendants have violated, including the facts and theories to support the  
13 violations. The LWDA received Plaintiffs’ notice that same day: October 1, 2020. The sixty-  
14 five-day time limit for the agency to respond has not yet expired, and as such Plaintiffs have not  
15 yet exhausted their administrative remedies. When they do so, however, they intend to amend  
16 this complaint to plead a PAGA representative action.

17           124. PAGA permits an aggrieved employee to collect the civil penalty authorized by  
18 law and normally collectible by the California Labor and Workforce Development Agency. To  
19 address violations for which no penalty has been established, § 2699(f) creates a private right of  
20 action for aggrieved employees and a default penalty in the amount of \$100 for each aggrieved  
21 employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay  
22 period for each subsequent violation. *See Cal. Lab. Code § 2699(f)*. Plaintiffs will seek to collect  
23 these civil penalties for Vanguard’s Labor Code violations under California Labor Code §§ 201-  
24 203, 204, 221, 226, 226.3, 226.7, 226.8, 400-410, 432.5, 450, 510, 512, 558, 1174, 1194, 1194.2,  
25 1197, 1197.1, 1174.5, 2802, 2810.3, 2750.3, and IWC Wage Order No. 5.

26           125. Specifically, Plaintiffs allege that while Vanguard classifies Plaintiffs and  
27 aggrieved employees as “independent contractors,” this designation was made voluntarily and  
28 knowingly as a subterfuge to circumvent the requirements of the California Labor Code.



1           4)    Provision of Notice to all Class Members;

2           5)    A declaratory judgment that Defendants have violated the following provisions of law,  
3 among others:

- 4           a.    California Labor Code §§ 2750.3 and 2775 and IWC Wage Order 5 by  
5           misclassifying Plaintiffs and the Class as independent contractors;
- 6           b.    California Labor Code § 226.8(a)(a) and IWC Wage Order 5 by willfully  
7           misclassifying Plaintiffs and the Class as independent contractors to circumvent  
8           California wage and hour laws;
- 9           c.    California Labor Code § 226.8(a)(2) and IWC Wage Order 5 by making unlawful  
10          charges to Plaintiffs and the Class, who were willfully misclassified employees;
- 11          d.    California Labor Code § 2802 and IWC Wage Order 5 by failing to provide  
12          reimbursement for necessary expenses to Plaintiffs and the Class;
- 13          e.    California Labor Code § 221 and IWC Wage Order 5 by unlawfully collecting  
14          and deducting wages from Plaintiffs and the Class;
- 15          f.    California Labor Code §§ 226.7, 512, 1194, and IWC Wage Order 5 by failing to  
16          authorize and provide meal and rest breaks to Plaintiffs and the Class and by  
17          failing to separately compensate Plaintiffs and the Class for rest breaks;
- 18          g.    California Labor Code §§ 226, 1174, and IWC Wage Orders 5 by failing to  
19          furnish accurate wage statements to Plaintiffs and the Class;
- 20          h.    California Labor Code § 510 and IWC Wage Order 5 by failing to pay Plaintiffs  
21          and the Class for all overtime hours worked;
- 22          i.    California Labor Code §§ 1194, 1197, and IWC Wage Order 5 by failing to pay  
23          Plaintiffs and Class at least minimum wage for all of their hours worked;
- 24          j.    California Labor Code §§ 432.5 and 2802 by including in their contracts with  
25          Plaintiffs and Class Members unlawful written restrictions on competition and  
26          unlawful written requirements that employees indemnify their employer;
- 27          k.    California Labor Code §§ 201-03 by failing to pay Plaintiffs and the Class earned  
28          wages upon discharge;

- 1 1. California Labor Code § 204 by failing to pay wages to Plaintiffs and the Class  
2 twice during each calendar month;
- 3 m. California Labor Code § 450 by compelling Plaintiff and Class to patronize  
4 Defendants' businesses;
- 5 n. California Labor Code §§ 400-410 by compelling Plaintiff and the Class to put up  
6 a cash bond as an investment in exchange for the ability to work;
- 7 o. Cal. Business and Professions Code §§ 17200-17208, by failing to reimburse  
8 Plaintiffs and the Class for necessarily incurred business expenses, by requiring  
9 Plaintiffs and the Class to indemnify Defendants for ordinary business losses, by  
10 requiring Plaintiffs and the Class to patronize their employer and put up a cash  
11 bond, by failing to provide off-duty meal periods and/or pay meal period  
12 compensation to Plaintiffs and the Class, by failing to authorize and permit paid  
13 rest breaks and/or missed rest break compensation to Plaintiffs and the Class, by  
14 failing to provide Plaintiffs and the Class with itemized wage statements showing  
15 all hours worked, by failing to maintain payroll records that document all hours  
16 worked by Plaintiffs and the Class; by failing to pay Plaintiffs and the Class  
17 overtime premium pay; by willfully misclassifying Plaintiffs and the Class under  
18 Labor Code §§ 2750.3 and 226.8; and by charging willfully misclassified  
19 employees fees in violation of 226.8.

20 6) A declaratory judgment that Defendants' violations as described above were willful  
21 and/or knowing and intentional;

22 7) A declaratory judgment that Vanguard Cleaning Systems, Inc., is the employer and  
23 client employer of Plaintiffs and the Class pursuant to Labor Code § 2810.3 and California law.

24 8) An equitable accounting to identify, locate, and restore to all current and former Class  
25 Members the overtime wages due, their wages that were unlawfully deduction, and their  
26 unreimbursed necessary expenses;

27 9) An order requiring Defendants to pay damages to Plaintiffs and the Class for all  
28 amounts owed for Defendants' failure to reimburse for necessary expenses, amounts unlawfully

1 deducted from wages, failure to pay legally required meal and rest period pay, unpaid overtime,  
2 unpaid minimum wages, in an amount according to proof at trial;

3 10) An award of penalties owed, pursuant to California Labor Code § 203, to Plaintiffs  
4 and all Class Members who resigned or whose employment was terminated by Defendants  
5 without receiving all compensation owed at the time of separation;

6 11) An award to Plaintiffs and the Class Members of premium wages for meal and rest  
7 periods, according to proof;

8 12) An award to Plaintiffs and the Class of statutory penalties because of Defendants'  
9 failure to provide Plaintiffs with itemized wage statements that comply with the requirements of  
10 Cal. Labor Code § 226, subject to proof at trial;

11 13) An order requiring Defendants to pay restitution of all amounts owed to Plaintiffs and  
12 similarly situated Class Members for Defendants' misclassification and willful misclassification  
13 of Plaintiffs and the Class under California Labor Code §§ 2750.3, 2775, and 226.8; failure to  
14 pay legally required overtime pay, meal and rest period pay, out-of-pocket employment related  
15 necessary expenditures or losses, unlawful deductions and withholdings, unpaid minimum  
16 wages, waiting time penalties, and interest thereon, in an amount according to proof, pursuant to  
17 California Business & Professions Code § 17203 and other applicable law;

18 14) An award to Plaintiffs and Class Members of reasonable attorneys' fees and costs,  
19 pursuant to California Code of Civil Procedure § 1021.5, California Labor Code §§ 218.5,  
20 226(e), 2802, 1194, 203, and/or other applicable law;

21 15) An award of other and further relief as this Court deems just and proper.

22 **DEMAND FOR JURY TRIAL**

23 Plaintiffs demand a trial by jury.

24 Dated: October 1, 2020

RUKIN HYLAND & RIGGIN LLP

25 By: Valerie Brender  
26 Valerie Brender

27 JESSICA RIGGIN  
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