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7 Attorneys for Defendants  
TEAM ENTERPRISES, LLC; NEW TEAM, LLC,  
8 doing business as TEAM ENTERPRISES

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11  
12 FELICIA CIPOLLA, ALEXIS WOOD,  
BERNADETTE BLANCHARD, SHIRIN  
13 LESSAN, DENNIS FISHER, and JAMIE  
ARIAS, individually and on behalf of all  
14 others similarly situated,

15 Plaintiff,

16 v.

17 TEAM ENTERPRISES, LLC; NEW  
TEAM LLC, doing business as TEAM  
18 ENTERPRISES,

19 Defendants.  
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Case No. 3:18-cv-06867-WHA

**DEFENDANTS' ANSWER TO  
PLAINTIFFS' FOURTH  
AMENDED COMPLAINT**

Trial Date: January 22, 2024

[Demand for Jury Trial]

1 Defendants TEAM ENTERPRISES, LLC, and NEW TEAM LLC doing business as TEAM  
2 ENTERPRISES (“Defendants”) hereby answer the Fourth Amended Complaint (“Complaint”) filed  
3 by Plaintiffs Felicia Cipolla, Alexis Wood, Bernadette Blanchard, Shirin Lessan, Dennis Fisher and  
4 Jamie Arias (“Plaintiffs”) on or about April 13, 2023.

5 **INTRODUCTION**

6 1. Answering Paragraph 1 of the Complaint, this paragraph contains a description of  
7 Plaintiffs’ lawsuit as alleged in Plaintiffs’ Complaint, as well as legal conclusions, and does not contain  
8 factual allegations that require a response. To the extent that Paragraph 1 contains factual allegations,  
9 Defendants deny each and every allegation contained therein and allege that this matter is not suitable  
10 for collective or class treatment.

11 2. Answering Paragraph 2 of the Complaint, this paragraph contains a description of  
12 Plaintiffs’ lawsuit as alleged in Plaintiffs’ Complaint, as well as legal conclusions, and does not contain  
13 factual allegations that require a response. To the extent that Paragraph 2 contains factual allegations,  
14 Defendants deny each and every allegation contained therein.

15 3. Answering Paragraph 3 of the Complaint, this paragraph contains a description of  
16 Plaintiffs’ lawsuit as alleged in Plaintiffs’ Complaint and does not contain factual allegations that  
17 require a response. To the extent that Paragraph 3 contains factual allegations, Defendants deny each  
18 and every allegation contained therein.

19 4. Answering Paragraph 4 of the Complaint, to the extent this paragraph pleads DOE  
20 Defendants, Defendants allege that DOE Defendant pleading is impermissible in Federal Court.  
21 Defendants deny each and every allegation contained in Paragraph 4.

22 5. Answering Paragraph 5 of the Complaint, this paragraph contains a description of  
23 Plaintiffs’ lawsuit as alleged in Plaintiffs’ Complaint and does not contain factual allegations that  
24 require a response. To the extent that Paragraph 5 contains factual allegations, Defendants deny each  
25 and every allegation contained therein.

26 **THE PARTIES**

27 6. Answering Paragraph 6 of the Complaint, Defendants lack sufficient knowledge or  
28 information to form a belief as to the truth or falsity of Plaintiffs’ allegations regarding Plaintiff Felicia

1 Cipolla's residence, and on that basis, deny the allegations. Defendants admit that Defendant New  
2 Team, LLC employed Ms. Cipolla as a Promotional Specialist within the Northern District of  
3 California. Defendants also admit that Defendant New Team, LLC employed Ms. Cipolla as of  
4 January 1, 2015. Except as expressly admitted, Defendants deny each and every allegation contained  
5 in Paragraph 6.

6 7. Answering Paragraph 7 of the Complaint, Defendants lack sufficient knowledge or  
7 information to form a belief as to the truth or falsity of Plaintiffs' allegations regarding Plaintiff Alexis  
8 Wood's residence, and on that basis, deny the allegations. Defendants admit that Defendant New  
9 Team, LLC employed Ms. Wood as a Promotional Specialist within the Northern District of  
10 California. Defendants also admit that Defendant New Team LLC employed Ms. Wood as of January  
11 1, 2015. Except as expressly admitted, Defendants deny each and every allegation contained in  
12 Paragraph 7.

13 8. Answering Paragraph 8 of the Complaint, Defendants lack sufficient knowledge or  
14 information to form a belief as to the truth or falsity of Plaintiffs' allegations regarding Plaintiff  
15 Bernadette Blanchard's residence, and on that basis, deny the allegations. Defendants admit that  
16 Defendant New Team, LLC employed Ms. Blanchard as a Promotional Specialist within the Northern  
17 District of California. Defendants also admit that Defendant New Team LLC employed Ms. Blanchard  
18 as of January 1, 2015. Except as expressly admitted, Defendants deny each and every allegation  
19 contained in Paragraph 8.

20 9. Answering Paragraph 9 of the Complaint, Defendants lack sufficient knowledge or  
21 information to form a belief as to the truth or falsity of Plaintiffs' allegations regarding Plaintiff Shirin  
22 Lessan's residence, and on that basis, deny the allegations. Defendants admit that Defendant New  
23 Team, LLC employed Ms. Lessan as a Promotional Specialist within the Northern District of  
24 California. Defendants also admit that Defendant New Team LLC employed Ms. Lessan as of April  
25 27, 2015. Except as expressly admitted, Defendants deny each and every allegation contained in  
26 Paragraph 9.

27 10. Answering Paragraph 10 of the Complaint, Defendants lack sufficient knowledge or  
28 information to form a belief as to the truth or falsity of Plaintiffs' allegations regarding Plaintiff Dennis

1 Fisher’s residence, and on that basis, deny the allegations. Defendants admit that Defendant New  
2 Team, LLC employed Mr. Fisher as a Promotional Specialist in California. Defendants also admit that  
3 Defendant New Team LLC employed Mr. Fisher as of June 2019. Except as expressly admitted,  
4 Defendants deny each and every allegation contained in Paragraph 10.

5 11. Answering Paragraph 11 of the Complaint, Defendants lack sufficient knowledge or  
6 information to form a belief as to the truth or falsity of Plaintiffs’ allegations regarding Plaintiff Jamie  
7 Arias’ residence, and on that basis, deny the allegations. Defendants admit that Defendant New Team,  
8 LLC employed Ms. Arias as a Promotional Specialist within the San Francisco Bay Area of California.  
9 Defendants also admit that Defendant New Team LLC employed Ms. Arias from approximately  
10 March 2019 to the present. Except as expressly admitted, Defendants deny each and every allegation  
11 contained in Paragraph 11.

12 12. Answering Paragraph 12 of the Complaint, Defendants admit that Team Enterprises,  
13 LLC is a Limited Liability Company registered in Florida as a foreign Limited Liability Company.  
14 Defendants further admit that Team Enterprises, LLC has its principal place of business in Florida and  
15 does business in Florida. Except as expressly admitted, Defendants deny each and every allegation  
16 contained in Paragraph 12.

17 13. Answering Paragraph 13 of the Complaint, Defendants admit that New Team LLC is a  
18 Delaware Limited Liability Company. Defendants further admit that New Team LLC has its principle  
19 place of business in Florida and does business in California, including the Northern District of  
20 California, and in other states throughout the United States. Except as expressly admitted, Defendants  
21 deny each and every allegation contained in Paragraph 13.

22 14. Answering Paragraph 14 of the Complaint, Defendants admit that they provide  
23 advertising and marketing services, including physical and digital brand engagement services, to their  
24 customers. Defendants further admit that Defendant New Team LLC employed Plaintiffs and other  
25 promotional specialists. Except as expressly admitted, Defendants deny each and every allegation  
26 contained in Paragraph 14.

27 15. Answering Paragraph 15 of the Complaint, Defendants deny each and every allegation  
28 contained therein.

**JURISDICTION AND VENUE**

1  
2 16. Answering Paragraph 16 of the Complaint, to the extent the allegations state a legal  
3 conclusion, these do not require a response. To the extend Paragraph 16 contains factual allegations,  
4 Defendants deny each and every allegation therein, except that most class members are citizens of  
5 California while Defendants are citizens of Florida.

6 17. Answering Paragraph 17 of the Complaint, to the extent the allegations state a legal  
7 conclusion, these do not require a response. To the extend Paragraph 17 contains factual allegations,  
8 Defendants deny each and every allegation therein.

9 18. Answering Paragraph 18 of the Complaint, Plaintiffs’ statement that the claims are  
10 properly venued in the Northern District of California, is a legal conclusion that does not require a  
11 response. Defendants admit that Defendant New Team, LLC conducts business within the Northern  
12 District of California. Except as expressly admitted, Defendants deny each and every allegation  
13 contained in Paragraph 18.

14 19. Answering Paragraph 19 of the Complaint, Defendants admit that Defendant New  
15 Team LLC does business in California, including the Northern District of California. Defendants  
16 further admit that Defendant New Team LLC paid Plaintiffs and other Promotional Specialists an  
17 hourly rate, but otherwise deny each and every allegation contained in Paragraph 19. Plaintiffs’  
18 allegations regarding the applicability of California Labor Laws and the Business and Professions  
19 Code are legal conclusions that do not require a response.

**FACTUAL ALLEGATIONS**

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21 20. Answering Paragraph 20 of the Complaint, Defendants admits that Plaintiffs worked  
22 for Defendant New Team LLC. Defendants further admit that Promotional Specialists are also  
23 sometimes referred to as Promotional Models and Brand Ambassadors. Plaintiffs’ statement regarding  
24 the statutory period is a legal conclusion that does not require a response. To the extent a response is  
25 required, Defendants deny the allegations regarding the statutory period. Except as expressly admitted,  
26 Defendants, deny each and every allegation contained in Paragraph 20.

27 21. Answering Paragraph 21 of the Complaint, Defendants admit that Defendant New  
28 Team LLC paid Plaintiffs on an hourly basis. Defendants further admit that Defendant New Team

1 LLC paid other Promotional Specialists on an hourly basis. Except as expressly admitted, Defendants  
2 deny each and every allegation contained in Paragraph 21.

3 22. Answering Paragraph 22 of the Complaint, Defendants deny each and every allegation  
4 contained therein.

5 23. Answering Paragraph 23 of the Complaint, Defendants deny each and every allegation  
6 contained therein.

7 24. Answering Paragraph 24 of the Complaint, Defendants deny each and every allegation  
8 contained therein.

9 25. Answering Paragraph 25 of the Complaint, Defendants deny each and every allegation  
10 contained therein.

11 26. Answering Paragraph 26 of the Complaint, Defendants deny each and every allegation  
12 contained therein.

13 **CLASS ALLEGATIONS**

14 27. Answering Paragraph 27 of the Complaint, this paragraph contains legal conclusions  
15 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
16 27 contains factual allegations, Defendants deny each and every allegation contained therein.

17 28. Answering Paragraph 28 of the Complaint, Defendants deny each and every allegation  
18 contained therein and allege that this matter is not suitable for class action treatment.

19 29. Answering Paragraph 29 of the Complaint, this paragraph contains legal conclusions  
20 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
21 29 contains factual allegations, Defendants deny each and every allegation contained therein.

22 30. Answering Paragraph 30 of the Complaint, this paragraph contains legal conclusions  
23 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
24 30 contains factual allegations, Defendants deny each and every allegation contained therein.

25 31. Answering Paragraph 31 of the Complaint, this paragraph contains legal conclusions  
26 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
27 31 contains factual allegations, Defendants deny each and every allegation contained therein.

28 32. Answering Paragraph 32 of the Complaint, this paragraph contains legal conclusions

1 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
2 32 contains factual allegations, Defendants deny each and every allegation contained therein.

3 33. Answering Paragraph 33 of the Complaint, this paragraph contains legal conclusions  
4 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
5 33 contains factual allegations, Defendants deny each and every allegation contained therein.

6 34. Answering Paragraph 34 of the Complaint, this paragraph contains legal conclusions  
7 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
8 34 contains factual allegations, Defendants deny each and every allegation contained therein.

9 35. Answering Paragraph 35 of the Complaint, this paragraph contains a description of the  
10 alleged class Plaintiffs seek to represent, as defined by Plaintiffs, and does not contain factual  
11 allegations that require a response. To the extend Paragraph 35 contains factual allegations,  
12 Defendants deny each and every allegation contained therein.

13 36. Answering Paragraph 36 of the Complaint, this paragraph contains a description of the  
14 alleged sub-class Plaintiffs seek to represent, as defined by Plaintiffs, and does not contain factual  
15 allegations that require a response. To the extend Paragraph 36 contains factual allegations,  
16 Defendants deny each and every allegation contained therein.

17 37. Answering Paragraph 37 of the Complaint, this paragraph contains a description of the  
18 alleged sub-class Plaintiffs seek to represent, as defined by Plaintiffs, and does not contain factual  
19 allegations that require a response. To the extend Paragraph 37 contains factual allegations,  
20 Defendants deny each and every allegation contained therein.

21 38. Answering Paragraph 38 of the Complaint, this paragraph contains legal conclusions  
22 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
23 38 contains factual allegations, Defendants deny each and every allegation contained therein.

24 **FIRST CAUSE OF ACTION**

25 **(Labor Code §§ 510, 1194 on behalf of the California Class)**

26 39. Answering Paragraph 39 of the Complaint, Defendants incorporate all of the preceding  
27 paragraphs of this Answer as though fully set forth herein.

28 40. Answering Paragraph 40 of the Complaint, this paragraph contains legal conclusions

1 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
2 40 contains factual allegations, Defendants deny each and every allegation contained therein.

3 41. Answering Paragraph 41 of the Complaint, Defendants deny each and every allegation  
4 contained therein.

5 42. Answering Paragraph 42 of the Complaint, Defendants admit that Defendant New  
6 Team LLC paid Plaintiffs on an hourly basis. Except as expressly admitted, Defendants deny each and  
7 every allegation contained therein.

8 43. Answering Paragraph 43 of the Complaint, Defendants deny each and every allegation  
9 contained therein.

10 44. Answering Paragraph 44 of the Complaint, Defendants deny each and every allegation  
11 contained therein.

12 45. Answering Paragraph 45 of the Complaint, this paragraph contains legal conclusions  
13 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
14 45 contains factual allegations, Defendants deny each and every allegation contained therein.

15 **SECOND CAUSE OF ACTION**

16 **(Labor Code §§ 226.7 and 512 – Meal Period Violations –**  
17 **on behalf of the California Class)**

18 46. Answering Paragraph 46 of the Complaint, Defendants incorporate all of the preceding  
19 paragraphs of this Answer as though fully set forth herein.

20 47. Answering Paragraph 47 of the Complaint, Defendants deny each and every allegation  
21 contained therein.

22 48. Answering Paragraph 48 of the Complaint, Defendants deny each and every allegation  
23 contained therein.

24 **THIRD CAUSE OF ACTION**

25 **(Labor Code § 226.7 – Rest Period Violations – on behalf of the California Class)**

26 49. Answering Paragraph 49 of the Complaint, Defendants incorporate all of the preceding  
27 paragraphs of this Answer as though fully set forth herein.

28 50. Answering Paragraph 50 of the Complaint, this paragraph contains legal conclusions



1 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
2 50 contains factual allegations, Defendants deny each and every allegation contained therein.

3 51. Answering Paragraph 51 of the Complaint, Defendants deny each and every allegation  
4 contained therein.

5 52. Answering Paragraph 52 of the Complaint, Defendants deny each and every allegation  
6 contained therein.

7 **FOURTH CAUSE OF ACTION**

8 **(Bus. And Prof. Code § 17203 – Unpaid Overtime and Minimum Wages– on behalf of the**  
9 **California Class)**

10 53. Answering Paragraph 53 of the Complaint, Defendants incorporate all of the preceding  
11 paragraphs of this Answer as though fully set forth herein.

12 54. Answering Paragraph 54 of the Complaint, Defendants deny each and every allegation  
13 contained therein.

14 55. Answering Paragraph 55 of the Complaint, this paragraph contains legal conclusions  
15 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
16 55 contains factual allegations, Defendants deny each and every allegation contained therein.

17 **FIFTH CAUSE OF ACTION**

18 **(Bus. And Prof. Code § 17203 – Meal and Rest Breaks – on behalf of the California Class)**

19 56. Answering Paragraph 56 of the Complaint, Defendants incorporate all of the preceding  
20 paragraphs of this Answer as though fully set forth herein.

21 57. Answering Paragraph 57 of the Complaint, Defendants deny each and every allegation  
22 contained therein.

23 58. Answering Paragraph 58 of the Complaint, this paragraph contains legal conclusions  
24 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
25 58 contains factual allegations, Defendants deny each and every allegation contained therein.

26 **SIXTH CAUSE OF ACTION**

27 **(Labor Code § 203 on behalf of the California Sub-Class)**

28 59. Answering Paragraph 59 of the Complaint, Defendants incorporate all of the preceding

1 paragraphs of this Answer as though fully set forth herein.

2 60. Answering Paragraph 60 of the Complaint, Defendants admit that there was no contract  
3 for employment but that all employees were at-will, and otherwise expressly deny each and every  
4 allegation contained therein.

5 **SEVENTH CAUSE OF ACTION**

6 **(Labor Code §§ 226 and 1174 on behalf of the California Class)**

7 61. Answering Paragraph 61 of the Complaint, Defendants incorporate all of the preceding  
8 paragraphs of this Answer as though fully set forth herein.

9 62. Answering Paragraph 62 of the Complaint, Defendants deny each and every allegation  
10 contained therein.

11 63. Answering Paragraph 63 of the Complaint, Defendants deny each and every allegation  
12 contained therein.

13 64. Answering Paragraph 64 of the Complaint, Defendants deny each and every allegation  
14 contained therein.

15 **EIGHTH CAUSE OF ACTION**

16 **(Labor Code § 2802 on behalf of the California Class)**

17 65. Answering Paragraph 65 of the Complaint, Defendants incorporate all of the preceding  
18 paragraphs of this Answer as though fully set forth herein.

19 66. Answering Paragraph 66 of the Complaint, this paragraph contains legal conclusions  
20 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
21 66 contains factual allegations, Defendants deny each and every allegation contained therein.

22 67. Answering Paragraph 67 of the Complaint, Defendants deny each and every allegation  
23 contained therein.

24 68. Answering Paragraph 68 of the Complaint, Defendants deny each and every allegation  
25 contained therein.

26 69. Answering Paragraph 69 of the Complaint, Defendants deny each and every allegation  
27 contained therein.

28 70. Answering Paragraph 70 of the Complaint, this paragraph contains legal conclusions

1 and argument and does not contain factual allegations that require a response. To the extent Paragraph  
2 70 contains factual allegations, Defendants deny each and every allegation contained therein.

3 **NINTH CAUSE OF ACTION**

4 **(Labor Code § 2699 et seq. on behalf of the California Class)**

5 **(Brought by Cipolla and Wood Only)**

6 71. Answering Paragraph 71 of the Complaint, Defendants incorporate all of the preceding  
7 paragraphs of this Answer as though fully set forth herein.

8 72. Answering Paragraph 72 of the Complaint, Defendants deny each and every allegation  
9 contained therein.

10 73. Answering Paragraph 73 of the Complaint, Defendants lack sufficient knowledge or  
11 information to form a belief as to the truth or falsity of Plaintiffs Cipolla and Wood’s allegations  
12 regarding Plaintiffs’ interaction with the Labor and Workforce Development Agency, and on that  
13 basis, deny the allegations. To the extent Paragraph 73 contains factual allegations, Defendants deny  
14 each and every allegation contained therein.

15 74. Answering Paragraph 74 of the Complaint, Defendants lack sufficient knowledge or  
16 information to form a belief as to the truth or falsity of Plaintiffs’ allegations regarding Plaintiffs’  
17 interaction with the Labor and Workforce Development Agency, and on that basis, deny the  
18 allegations.

19 **PLAINTIFFS’ PRAYER FOR RELIEF**

20 Plaintiffs’ Prayer for Relief does not contain factual allegations to which Defendants are  
21 required to respond. To the extent Plaintiffs’ Prayer for Relief may be deemed to require a response,  
22 Defendants deny each and every allegation contained therein.

23 **PLAINTIFFS’ DEMAND FOR JURY TRIAL**

24 Plaintiffs’ Demand for Jury Trial does not contain factual allegations to which Defendants are  
25 required to respond. To the extent Plaintiffs’ Demand for Jury Trial may be deemed to require a  
26 response, Defendants deny each and every allegation contained therein.

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1 **AFFIRMATIVE DEFENSES**

2 Defendants assert the following affirmative and other defenses, which they have designated as  
3 “affirmative defenses.” Defendants’ designation of its defenses as “affirmative” is not intended in any  
4 way to alter Plaintiffs’ burden of proof with regard to any element of their causes of action. Defendants  
5 also expressly deny the existence of any alleged putative group of persons or “aggrieved employees”  
6 that Plaintiffs purport to represent in this lawsuit. Defendants incorporate (as if set forth therein) this  
7 express denial each and every time it references “Plaintiffs.”

8 **FIRST AFFIRMATIVE DEFENSE**

9 Defendants allege that the Complaint, and each and every claim alleged therein, fail to state  
10 facts sufficient to constitute a cause of action upon which relief may be granted.

11 **SECOND AFFIRMATIVE DEFENSE**

12 Defendants allege that the Court lacks subject matter jurisdiction over the Complaint because  
13 there are no federal claims nor are the requirements under the Class Act Fairness Act satisfied, nor  
14 does the amendment of the Complaint comport with the requirements of 28 U.S. C., section 1653.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Defendants allege that Plaintiffs’ claims and the claims of the putative classes are barred in  
17 whole or in part by the applicable statute(s) of limitations, including but not limited to, 29 U.S.C. §  
18 255(a), California Code of Civil Procedure §§ 338, 340(a-b), Business and Professions Code § 17208,  
19 and Labor Code § 226(a).

20 **FOURTH AFFIRMATIVE DEFENSE**

21 Defendants allege that Plaintiffs’ Complaint, and each cause of action therein, fails to state a  
22 cognizable class under Rule 23 of the Federal Rules of Civil Procedure, Section 382 of the California  
23 Rules of Civil Procedure or any other applicable rule or law regulating the maintenance of class,  
24 including but not limited to, Plaintiffs’ and each of their failures to establish the requisite numerosity,  
25 commonality, typicality of claims and defenses, and representative status and/or standing.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 Defendants alleges that this suit is not appropriate for class certification under Rule 23 of the  
28 Federal Rules of Civil Procedure and Section 382 of the California Rules of Civil Procedure, because

1 Plaintiffs are not able to fairly and adequately protect the interests of all members of the putative class.

2 **SIXTH AFFIRMATIVE DEFENSE**

3 Defendants allege that Plaintiffs' claims and the claims of the putative classes and/or the  
4 alleged aggrieved employees' claims for statutory penalties are barred in whole or in part because  
5 Defendants acted in a reasonable and good faith belief that they complied with their obligations, if  
6 any, under the California Labor Code, and all other applicable state and federal laws and regulations,  
7 as to Plaintiffs.

8 **SEVENTH AFFIRMATIVE DEFENSE**

9 Defendants allege that Plaintiffs' claims and the claims of the putative Rule 23 class for  
10 liquidated damages are barred in whole or in part by the provisions of 29 U.S.C. § 260 and under  
11 California law because any acts or omissions giving rise to this action were done in good faith and  
12 with reasonable grounds for believing that the actions or omissions did not violate the law.

13 **EIGHTH AFFIRMATIVE DEFENSE**

14 Defendants allege that the Complaint fails to properly state a claim upon which prejudgment  
15 interests may be awarded, as the damages claimed are not sufficiently certain to allow an award of  
16 prejudgment interests.

17 **NINTH AFFIRMATIVE DEFENSE**

18 Defendants allege that if Plaintiffs and/or members of the Rule 23 putative class succeed in  
19 establishing any violation of the law, and to the extent any sums are found due and owing to Plaintiffs  
20 and/or members of the putative class, Defendants are entitled to a set-off against said sum to the extent  
21 paid, tendered, waived, compromised, and/or released prior to the adjudication herein, including but  
22 not limited to those amounts paid, tendered, waived, compromised, and/or released through any other  
23 proceeding, either formal or informal, or to the extent any additional compensation was paid to  
24 Plaintiffs over and above their wages

25 **TENTH AFFIRMATIVE DEFENSE**

26 Defendants allege that any damages suffered were the result of failure by Plaintiffs and/or the  
27 members of the Rule 23 putative class to comply with the reasonable expectations of Defendants  
28 and/or follow Defendants' reasonable instructions and/or policies.

1 **ELEVENTH AFFIRMATIVE DEFENSE**

2 Defendants allege that Plaintiffs' Complaint fails to state a claim for penalties under the  
3 California Labor Code because there exists a *bona fide* dispute as to the existence and/or extent of  
4 Defendants' obligations to Plaintiffs under any applicable California Labor Code provision.

5 **TWELFTH AFFIRMATIVE DEFENSE**

6 Defendants allege that Plaintiffs' claim and the claim of the putative class for failure to provide  
7 accurate itemized wage statements fails because Plaintiffs and/or the putative class did not suffer any  
8 injury as a result of any such failures, to the extent they occurred.

9 **THIRTEENTH AFFIRMATIVE DEFENSE**

10 Defendants allege that Plaintiffs' claim and the claim of the putative class alleging overtime  
11 liability, fail because travel time is not compensable pursuant to the Portal-to-Portal Act 29 U.S.C. §  
12 251 et seq. nor under California law.

13 **FOURTEENTH AFFIRMATIVE DEFENSE**

14 Defendants allege that Plaintiffs lack standing to assert the claims in the Complaint.

15 **FIFTEENTH AFFIRMATIVE DEFENSE**

16 Defendants alleges that Defendants cannot be liable for any alleged violation of the Unfair  
17 Competition Law, Cal. Bus. & Prof. §§ 17200 *et seq.*, because their actions were not unfair, fraudulent,  
18 nor likely to mislead, and their conduct and dealings were lawful, as authorized by applicable state  
19 and federal statutes, rules, and regulations, and such actions, conduct, and dealings were carried out  
20 in good faith and for legitimate business purposes. Defendants also allege that Plaintiffs are not  
21 entitled to equitable relief insofar as they have adequate remedies at law.

22 **SIXTEENTH AFFIRMATIVE DEFENSE**

23 Defendants allege that some or all of the hours claimed by Plaintiffs and/or the putative class  
24 are not "hours worked" within the meaning of any Wage Order(s) issued by the California Industrial  
25 Welfare Commission and/or under applicable California law, such that minimum wage and/or  
26 overtime compensation need not be paid for those hours.

27 **SEVENTEENTH AFFIRMATIVE DEFENSE**

28 Defendants allege that Plaintiffs' claims are barred to the extent Plaintiffs failed to place

1 Defendants on notice of the alleged violation of Defendants’ and/or Defendants lacked knowledge of  
2 the alleged violations.

3 **EIGHTEENTH AFFIRMATIVE DEFENSE**

4 Defendants allege that Plaintiffs’ Complaint and each purported cause of action therein, or  
5 some of them, are barred because prior to January 1, 2015, Plaintiffs were not Defendants’  
6 “employees.”

7 **NINETEENTH AFFIRMATIVE DEFENSE**

8 Defendants allege that Plaintiffs’ claims on behalf of themselves and the putative class  
9 members or alleged aggrieved employees whom Plaintiffs seek to represent for civil penalties fail, in  
10 whole or in part, for lack of standing to the extent Plaintiffs are not “aggrieved employees” under the  
11 Private Attorneys General Act, (“PAGA”), California Labor Code Section 2699 et seq.

12 **TWENTIETH AFFIRMATIVE DEFENSE**

13 Defendants allege that Plaintiffs’ Complaint, and each cause of action set forth therein, or some  
14 of them, cannot proceed as a PAGA action because of difficulties likely to be encountered that render  
15 the action unmanageable.

16 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

17 Defendants allege that Plaintiffs’ Complaint, and each cause of action set forth therein seeking  
18 redress through Labor Code Section 2699 are barred to the extent that Plaintiffs have failed to satisfy  
19 the prerequisites specified in Labor Code Section 2699.3.

20 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

21 Defendants allege that Plaintiffs’ claims for penalties under PAGA are not suitable for  
22 determination/litigation on a representative basis.

23 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

24 Defendants allege that any civil penalties awarded to Plaintiffs or some, or all, of the alleged  
25 “aggrieved employees” Plaintiffs seek to represent under the PAGA must be limited to those penalties  
26 applicable to an initial violation.

27 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

28 Defendants allege that Plaintiffs are subject to an agreement requiring them to submit their

1 claims against Defendants to binding arbitration. Defendants, by answering the Complaint, do not  
2 waive their right to demand arbitration.

3 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

4 Defendants presently have insufficient knowledge or information upon which to form a belief  
5 as to whether additional defenses may be warranted and reserves the right to assert additional defenses  
6 or affirmative defenses in the event discovery indicates such defenses are appropriate.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Defendants pray for relief as follows:

9 1. That this action not be certified as a class or collective action or otherwise decertify to  
10 the extent a class is certified;

11 2. That Plaintiffs and any putative plaintiffs, class members, or sub-class members take  
12 nothing and that the Complaint be dismissed in its entirety with prejudice;

13 3. That judgment be entered in Defendants' favor;

14 4. That Defendants be awarded their attorneys' fees and costs of suit herein to the extent  
15 allowed by law; and

16 5. That Defendants be awarded such other and further relief as the Court deems just and  
17 proper.

18 **JURY DEMAND**

19 Defendants hereby request a jury trial on all issues so triable.

20 Dated: July 12, 2023

LITTLER MENDELSON P.C.

21 /s/ YESENIA GARCIA PEREZ

22 William Hays Weissman  
23 Yesenia Garcia Perez

24 Attorneys for Defendants  
25 TEAM ENTERPRISES, LLC; NEW TEAM,  
26 LLC, doing business as TEAM ENTERPRISES

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