SUPREME COURT OF THE STATE OF
NEW YORK COUNTY OF NEW YORK

ALEX SHANKLIN, LOUISA RASKE, MELISSA BAKER, ELENI TZIMAS, MARCELLE ALMONTE, GRECIA PALOMARES, CARINA VRETMAN, MICHELLE GRIFFIN TROTTER, VANESSA PERRON, ROBERTA LITTLE, and TATIANA ESMERALDA SEAY-REYNOLDS

Individually and as Class Representatives

Plaintiffs,

v.

WILHELMINA MODELS, INC., WILHELMINA INTERNATIONAL LTD., ELITE MODEL MANAGEMENT CORPORATION, CLICK MODEL MANAGEMENT, INC., MC2 MODEL AND TALENT MIAMI LLC, MC2 MODELS MANAGEMENT LLC, NEXT MANAGEMENT, LLC, MAJOR MODEL MANAGEMENT INC.,

Defendants.

Index No. 653702/2013

FOURTH AMENDED CLASS ACTION COMPLAINT
Demand for Trial by Jury

Plaintiffs, individually and in their representative capacities on behalf of all others similarly situated, by their undersigned attorneys, make the following allegations against Defendants Wilhelmina Models, Inc., Wilhelmina International Ltd, and Next Management, LLC (collectively "Defendants").

INTRODUCTION

1. There is nothing beautiful about the way the modeling industry in New York City treats its models. The Defendants – some of the largest and most powerful modeling agencies in the City and the world – have systematically taken advantage of the models they claim to

represent by unlawfully diverting millions of dollars in value from the models to themselves. For years, Defendants mischaracterized the models they employed as "independent contractors" rather than employees. In doing so, they denied the models the wages they were due for work performed at Defendants' direction. Defendants also avoided state wage and hour laws — including payment of a minimum wage, timely payment of all wages due, and recordkeeping requirements. Even when the models were paid, they were not paid in full; Defendants routinely deducted unauthorized and largely unsubstantiated expenses from their models' paychecks.

2. Employee protection laws generally, and New York Labor Law in particular, were designed to protect workers from just these types of abusive employment practices, to ensure that workers were treated fairly despite unequal bargaining power and relatively limited means to uncover and combat unlawful conduct by employers.

3. By failing to pay models in full for work performed at the direction of Defendants—including, for example, by authorizing the use of their models' images without their knowledge or consent and without compensating them for the use—and by refusing to abide by wage and hour laws—including, for example, by not paying for attendance at mandatory meetings, not paying minimum wages, not paying overtime, paying wages after a delay of many months, as well as improperly deducting unauthorized and unsubstantiated amounts from the models' paychecks—Defendants unfairly and unlawfully reaped millions of dollars in profits on the backs of the models, who had little to no bargaining power and were forced to take whatever compensation Defendants saw fit.

4. Despite misclassifying their models as independent contractors, Defendants exercised substantial control and direction over the careers, and even the personal details, of their models' lives. Among other things, Defendants:

- Required that the models enter into exclusive relationships with them, precluding their models from working with any other agencies in New York (and sometimes nationwide or even worldwide);
- Prohibited their models from obtaining modeling assignments from any source other than Defendants;
- Controlled all negotiations concerning the terms and conditions of the assignments to which they sent their models, including the rate of pay, the hours, and the location of those assignments;
- Instructed their models on what to discuss (or not to discuss) with clients, and required that Defendants, and not the models, resolve any issues or concerns that arose with clients during assignments;
- Required their models to check in with them on a regular, often daily basis;
- Compelled their models to clear with them all times they were unavailable to work, including for medical appointments and vacations;
- Regularly measured and scrutinized the models' physical appearances, instructing them on diet, how much to exercise, how to style their hair, and even (in some cases) telling models to see a dermatologist or plastic surgeon.

5. In addition to misclassifying their models and depriving them of the benefits and protections of applicable wage and hour laws, Defendants also failed and refused to pay their models the amounts they were due under the contracts that Defendants required their models to sign. When Defendants did pay their models for at least some amounts due under their contracts for the use of the models' images, they routinely delayed making these payments for many

months (and in some cases, years) at a time, financing themselves interest-free with their models' money.

6. Defendants also systematically failed to obtain the models' consent for the reuse or renewal of their images, hiding such re-usages from the models so that they could avoid compensating the models as required.

7. Defendants also regularly deducted significant amounts from the models' paychecks for largely undocumented "expenses." In some instances, these deductions reached 70% of a model's gross earnings within an individual paycheck. For example, in 2014, Plaintiff Grecia Palomares, who had worked for Defendants Wilhelmina Models, Inc. and Wilhelmina International Ltd (together, "Wilhelmina") several years earlier, received a check from the agency for approximately $300 related to the reuse of her photograph. The check indicated that Ms. Palomares had earned approximately $1,000 in income, but Wilhelmina had deducted $700 for "expenses." However, Wilhelmina provided virtually no supporting detail or documentation for its 70% expense deduction, making it impossible for Ms. Palomares to gauge whether the deduction was accurate and justified. Ms. Palomares was only informed that Wilhelmina deducted $450 dollars from the paycheck for "WRITTEN OFF REVENUES" and another $250 for "APLD BAL WEST ACCT." Wilhelmina provided no explanation of these deductions beyond their opaque labels.

8. Defendants found other ways to exploit their models and deprive them of their earned income. In one prevalent scheme, Defendants would ensure the models had little to no cash to pay for their expenses. Many of the models were young men and women from modest backgrounds who moved to New York without substantial assets or financial resources. When the models needed money, Defendants granted the models "advances" against their next

paychecks and charged substantial interest in doing so. The models' subsequent paychecks, reduced by these interest charges and substantial additional "expense" deductions, kept the models in a perpetual state of dependence on Defendants to meet their basic living expenses. This practice is particularly insidious because the models only needed the "advances" in the first place because of Defendants' unlawful practice of not paying a model his or her wages until many months after the work had been performed (if ever).

9. Defendants also exploited the models to improperly divert their earnings by putting them in "model apartments." Many of the models who were starting in the business and who were moving to New York from other states did not have a place to stay in New York, and being young, without much in means or income, could not qualify for many other housing options. In other cases, models were sent to different locations, such as Miami, for work and needed housing while they were there. Defendants provided such housing where the models stayed until they could obtain more permanent housing or until their assignment at a particular location had ended, but charged the models outrageous amounts for renting these models apartments.

10. The models, many of whom began work in the business before they turned 18, were largely trapped by these circumstances if they wanted to continue to pursue a career in modeling. The standard modeling contracts Defendants required them to sign were exclusive in a particular geographic area, such as New York. Models who had not been paid their wages for extended periods of time, or who had been paid wages drastically reduced by exorbitant and unauthorized expenses, were forced to continue to work for Defendants so could pay for their daily living expenses in notoriously expensive New York City. Thus, aside from the fortunate few who reached the top of the industry or became "supermodels," the majority of models were

living paycheck to paycheck and were totally dependent on Defendants, thereby stripping them of what little bargaining power they had to begin with.

11. As a result of Defendants' unlawful conduct, models in New York with low bargaining power were frequently paid only a portion of their earned wages, after months' long delays, often only after complaining about non-payment, or were not paid their wages at all. Defendants' pattern and practice of evading applicable wage and hour laws, making unlawful wage deductions, and failing to perform the terms of their contracts resulted in millions of dollars in lost wages and benefits to the models who worked for Defendants, and in millions of dollars of illegal profits for Defendants.

12. Plaintiffs are professional models who bring this action individually and as representatives of all models who were misclassified as independent contractors, were not paid in full (or at all) by Defendants for the use/reuse of their images (or otherwise not compensated in full for their work), and were subject to improper or unauthorized paycheck deductions, from 2001 to the present for Wilhelmina (the "Wilhelmina Class Period"); from 2000 through the present for Next (the "Next Class Period").[1]

13. This action seeks to recover for Plaintiffs, and for similarly situated models, minimum wages, wages currently due, late wages, unlawful deductions, and associated damages pursuant to New York Labor Law ("NYLL"), Article 6, §§ 190 *et seq*. and Article 19, §§ 650 *et seq*. Plaintiffs also seek to recover, on their own behalf and for those similarly situated, monetary damages for conversion based on Defendants' theft of wages and delayed payments. Plaintiffs

[1] On May 8, 2020, the Court granted certification to the Wilhelmina and Next classes on the Third Cause of Action for Unlawful Wage Deductions in Violation of NYLL Section 193 and the Fifth Cause of Action for Failure to Furnish Accurate Wage Statements and Explanations Thereof, in Violation of NYLL Section 195(3) for claims accruing on or after October 27, 2007. NYSECF 998.

also seek to recover, on their own behalf and for those similarly situated, monetary damages for breach of contract, based on Defendants' systemic failure to pay their models all amounts due under their written contracts, the material terms of which Plaintiffs are informed and believe are standard within a particular agency, and within the industry as a whole. In the alternative to their claim for breach of contract, Plaintiffs seek, on behalf of themselves and for those similarly situated, equitable relief for unjust enrichment. Plaintiffs also seek an injunction or other relief pursuant to NYLL § 198, ordering Defendants to remedy their record-keeping violations and failure to furnish the models with accurate wage statements, as well as the Defendants' failure to furnish an explanation of the manner in which the models' wages and expenses were computed, by furnishing Plaintiffs with accurate records, including wage statements and explanations. Finally, Plaintiffs seek an award of interest, costs, and attorneys' fees.

JURISDICTION AND VENUE

14. This Court has personal jurisdiction over the Defendants pursuant to New York Civil Practice Law and Rules ("CPLR") §§ 301 and 302 (a)(1) because Defendants are doing business in the State of New York and the causes of action described herein arise out of the transaction of business within the State of New York.

15. Venue in this Court is proper pursuant to CPLR §§ 503 (a) and (c) because the Defendants' principal place of business is located in New York County.

PARTIES

16. Plaintiff Alex Shanklin is an individual currently residing in the State of Texas. During the Class Period, Mr. Shanklin worked as a professional model with Defendant Wilhelmina.

17. Plaintiff Louisa Raske is an individual currently residing in the State of Florida. During the Class Period, Ms. Raske worked as a professional model with Defendants Wilhelmina and Next Management, LLC..

18. Plaintiff Grecia Palomares is an individual currently residing in the State of New York. During the Class Period, Ms. Palomares worked as a professional model with Defendant Wilhelmina.

19. Plaintiff Carina Vretman (sometimes spelled "Wretman") is an individual currently residing in the State of Pennsylvania. During the Class Period, Ms. Vretman worked as a professional model with Defendant Wilhelmina.

20. Plaintiff Michelle Griffin Trotter is an individual currently residing in the State of New Jersey. During the Class Period, Ms. Griffin Trotter worked as a professional model with Defendant Wilhelmina.

21. Plaintiff Roberta Little is an individual currently residing in the State of New York. During the Class Period, Ms. Little worked as a professional model with Defendants Wilhelmina and Next.[2]

22. Plaintiff Vanessa Perron is an individual currently residing in the State of New York. During the Class Period, Ms. Perron worked as a professional model with Defendant Next.

23. Plaintiff Tatiana Esmeralda Seay-Reynolds is an individual currently residing in the State of Pennsylvania. During the Class Period, Ms. Seay-Reynolds worked as a professional model with Defendant Next.[3]

[2] Ms. Little brings class certified claims only against Defendant Wilhelmina.

[3] Ms. Seay-Reynolds brings class certified claims only against Defendant Next.

24. Defendant Wilhelmina Models, Inc. and Wilhelmina International Ltd. (together, "Wilhelmina") are domestic business corporations with their principal place of business in New York, New York. At all relevant times, Wilhelmina was in the business of acting as an agent and manager for professional models.

25. Next Management, LLC ("Next") is a domestic limited liability company with its principal place of business in New York, New York. At all relevant times, Next was in the business of acting as an agent and manager for professional models.

CLASS ACTION ALLEGATIONS

26. Plaintiffs bring this action on behalf of themselves and as a class action on behalf of all those similarly situated, pursuant to Article 9 of the New York Civil Practice Law and Rules on behalf of the following separate classes that they seek to represent, defined as follows:

The Wilhelmina Class

All persons who entered into modeling contracts with Wilhelmina during the Wilhelmina Class Period who (i) were classified as independent contractors rather than employees, (ii) did not receive compensation for one or more uses and/or reuses of images created as part of their relationship with Wilhelmina; (iii) attended a casting, go-see, meeting, check-in, or test shoot, or performed any other uncompensated work or service at the direction of Wilhelmina; and/or (iv) received a paycheck from Wilhelmina.

The Next Class

All persons who entered into modeling contracts with Next during the Next Class Period who (i) were classified as independent contractors rather than employees, (ii) did not receive compensation for one or more uses and/or reuses of images created as part of their relationship with Next; (iii) attended a casting, go-see, meeting, check-in, or test shoot, or performed any other uncompensated work or service at the direction of Next; and/or (iv) received a paycheck from Next.

27. The Wilhelmina Class and the Next Class are referred to collectively herein as the "Classes" unless otherwise identified.

28. Numerosity. Each of the Classes is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable. Upon information and belief, the class members are thousands of models who have been misclassified as independent contractors; who have suffered unlawful paycheck deductions; whose images, portraits, and pictures have been used/reused for advertising and other purposes without appropriate compensation, and who have worked for modeling agencies that have a policy or practice of failing to maintain adequate wage records and of failing to supply adequate wage statements and wage explanations.

29. Commonality. Questions of law or fact exist that are common to the entire class and that predominate over any questions that affect only individual members. These questions include:

- whether Defendants misclassified Plaintiffs and the other members of the Classes as independent contractors;
- whether all or some categories of Defendants' deductions from the wages of Plaintiffs and the other members of the Classes violated New York Labor Law ("NYLL") Section 193, or were otherwise improper or unauthorized;
- whether the Defendants had a policy or practice of failing to pay to their models amounts due for the use/reuse of the models' images;
- whether the Defendants had a policy and/or practice of failing to maintain adequate wage records;
- whether the Defendants had a policy and/or practice of failing to furnish adequate wage statements;
- whether the Defendants had a policy and/or practice of making paycheck deductions on terms that were not fully disclosed to Plaintiffs in advance and were not expressly agreed to in writing by Plaintiffs, or were not for the benefit of the employee as required by NYLL Section 193;
- whether attendance at go-sees (meetings with prospective clients), castings (meetings with prospective clients), meetings with bookers and other employees of Defendants or test shoots was compensable work and/or work that Defendants "suffered or permitted" within the meaning of the

NYLL and supporting regulations, including 12 New York Comp. Codes Rules & Regulations § 142-2.14;

- whether the Defendants had a policy and/or practice of delaying payments to Plaintiffs and the members of the Classes;
- whether Defendants are liable for violations of NYLL, including its minimum wage provisions, with respect to their failure to pay earned wages in a timely manner;
- whether the Defendants had a policy and/or practice of not paying Plaintiffs and the members of the Classes their minimum wages as required by the NYLL, including NYLL Section 650, *et seq*;
- whether Plaintiffs and the members of the Classes were "manual workers" or "clerical or other workers" within the meaning of NYLL Section 191; and
- whether Defendants are liable for violations of NYLL with respect to their failure to pay minimum wages and/or earned wages under NYLL Sections 191 and 650, *et seq*.

30. Typicality. The claims of the representative Plaintiffs typify those of the members of the Classes. Plaintiffs and the other members of the Classes have been subject to the same or very similar unlawful policies and practices, and have sustained the same or similar types of damages as a result of Defendants' legal violations.

31. Adequate Representation. The nominative Plaintiffs will fairly and adequately protect the interests of the entire Class, and have retained counsel competent and experienced in complex class actions.

32. Superiority of Class Action. Alternatives are not available that are superior to a class action in terms of insuring a "fair and efficient" adjudication of the controversy.

FACTUAL ALLEGATIONS COMMON TO CLASS MEMBERS

Each Defendant Required The Models To Enter Into Standard Form Contracts

33. Each Defendant had a standard form contract that it required its models to sign. These contracts provided that the Defendants would act as the models' exclusive agents within a

defined geographic area. The contracts also provided that Defendants would be responsible for negotiating and entering into agreements with prospective clients for the models' services, collecting and receiving monies on the models' behalf, and approving the use of their models' images and likenesses pursuant to the terms of the written contract.

34. Plaintiffs are informed and believe that while there might have been some differences in the terms of each of the Defendants' standard contracts, the material terms of the contracts were, for the most part, substantially similar to those of the other contracts and that the material terms were standard across the industry as a whole. Plaintiffs are further informed and believe that Defendants required their models to sign these contracts without significantly modifying the terms of the contracts, and that any modification did not significantly change the terms that were material to these claims. Further, Plaintiffs are informed and believe that in all respects material to these claims, the contract terms remained substantially similar to the terms of the other contracts entered into between Defendants and their respective models.

35. Defendants' contracts with models were typically for a term of two to three years. Plaintiffs are informed and believe that in most cases, the contracts automatically renewed on materially identical terms without any action required or taken by the models. That is, unless the models or the agencies provided advance notice of their intent to terminate, the contracts would renew instead of expiring at the stated end date, either through the operation of an explicit contract term or through the parties' course of conduct. In some instances, however, models were asked to "re-sign" new, written contracts that were identical (or virtually identical) in all material respects to their previous contracts.

Each Defendant Required That Its Models Work Exclusively For That Defendant

36. Defendants included in their modeling contracts exclusivity provisions, which prohibited their models from obtaining work from any other modeling agency or manager within

a specified geographic area. Some of the contracts were exclusive as to a particular state, often New York, or to the United States, while others required worldwide exclusivity. For example, a 2003 contract from Defendant Wilhelmina stated that Wilhelmina was to be the model's "sole and exclusive USA Manager."

37. Defendants also prohibited their models from obtaining modeling assignments on their own. Instead, the only modeling work that the models were permitted to do was work they were assigned by the particular Defendant with whom they had signed. If a model was contacted directly by a prospective client about a project, the model was required to refer the inquiry to his or her Defendant agency. For example, a 2002 Wilhelmina contract provided that a model "agree[d] to seek your counsel in regard to all matters concerning my endeavors in the field of modeling. I shall advise you of all offers of employment submitted to me anywhere in the world with respect to modeling and will refer any inquiries concerning my services to you." The modeling contracts expressly stated that if models booked work without going through their agencies, the models were nevertheless obligated to pay a fee of 20% of the gross sums that the models received. For example, a 2003 contract from Wilhelmina stated that a model would pay the agency 20% "of any and all gross monies or other consideration which I receive as a result of agreements (and any renewals or renegotiations thereof) relating to my modeling throughout the world, which agreements are entered into during the term hereof." Defendants also reiterated these contractual provisions by orally advising their models that they were not permitted to obtain work independently and, if they did so, Defendants could cease representing the model or could or collect their standard agency fees (20%) on whatever work the model procured on his or her own or with another modeling agency.

38. By prohibiting their models from booking their own assignments or working with other agencies within a given geographic region (and sometimes worldwide), each of the Defendants directed and controlled the work that was assigned to each of their respective models.

Each Defendant Directed And Controlled Virtually Every Aspect Of Its Models' Employment

39. Each Defendant exerted significant control over its models' careers, their work assignments, their appearance, and sometimes even their personal lives.

40. Each Defendant negotiated directly with prospective clients concerning the terms and conditions of each modeling assignment, including the rate of pay, the hours to be worked, the location of the assignment, and whether travel expenses would be paid for by the client, etc. Defendants also prohibited the models from participating in these negotiations. Once the terms were agreed upon by Defendants and their respective clients, the assignment was presented to a model as a fait accompli. Defendants labeled models "troublemakers" or "difficult" if they rejected such assignments, and, on information and belief, retaliated against models who turned down assignments, including by not offering the models desirable work in the future. As a result, a model rarely turned down such an assignment even if the terms were not favorable to him or her.

41. Each Defendant specified for its models the details of their assignments, including the location of the assignments, what the models would be paid, the hours they should expect to work, what they should wear, and what they would be expected to do. Defendants Wilhelmina and Next likewise controlled all aspects of the negotiation with clients concerning the terms of the modeling job, and then scheduled castings and bookings for their models on a take-it-or leave-it basis.

42. Defendants also negotiated with clients and agreed to have some of their models paid "in kind," that is, through clothing, accessories, or other merchandise, rather than in currency, for certain assignments, typically fashion shows. Those decisions were negotiated and controlled by Defendants. Often, the model was not consulted first on what clothes or other in-kind compensation he or she would receive or the value of any such in-kind compensation. In some cases, the model did not even receive the in-kind compensation that was agreed to on his or her behalf, and the particular Defendant who negotiated and agreed to the in-kind compensation did not secure monetary or other compensation to make up for the failure to provide what was originally promised. Moreover, on information and belief, Defendants received compensation for booking the models to work these jobs even though the models themselves received only a few items of clothing or, nothing at all.

43. Each Defendant also was responsible for paying its models for modeling assignments. The models never received paychecks directly from clients, nor did Defendants permit the models to review detailed backup information about the monies that Defendants had collected from clients on their behalf. Thus, the models relied exclusively on Defendants to collect the amount owed to them, and were dependent upon the Defendants to distribute the full and accurate amount that was owed.

44. Each Defendant also restricted its models' communications with clients, instructing the models not to discuss fees with clients and discouraging them from resolving any work problems directly with clients. Instead, Defendants ordered the models to direct all client questions and problems to their respective agencies for resolution. For example, the models were often asked by clients to sign releases or similar documents while on set. Defendants instructed the models not to sign these documents or address them directly with the clients. Instead,

Defendants ordered their models to give the paperwork to Defendants, or ask the client to do so. Defendants then reviewed the documents on behalf of the models, negotiated any changes and, if Defendants chose, signed the documents themselves, typically without informing or consulting the models.

45. Each Defendant also demanded that its models keep it apprised of the models' whereabouts and check in with the Defendant on an ongoing basis. Each Defendant required that its models inform the Defendant whenever they wanted to take a vacation, and required them to "book out" whenever they were unavailable to work, including for short personal appointments like medical visits and lunch dates.

46. Defendants also instructed their models to "drop in" to the modeling agencies in person. Some Defendants required their models to check in personally several times a week, if not daily. During these visits, Defendants often weighed, measured and/or examined the models to ensure they fit the image that Defendants desired.

47. Each Defendant also exercised substantial control over its models' appearance. Each Defendant counseled its models concerning the "look" and physical build they should maintain. Some models were told to do more strength training, others to diet, to get a personal trainer, to gain or lose weight, or to see a dermatologist. Other models were offered referrals to particular plastic surgeons. Defendants also exercised control over their models' hair styles, by forbidding them to cut it or instructing them to cut or style it in a particular way. Some Defendants booked appointments for their models (at the model's expense) to cut their hair, and even spoke to the hairstylist in advance as to the particular cut the Defendant wanted for its model.

48. Each Defendant also controlled the various marketing tools used to promote its models. When the models arrived at assignments and castings, they were required to bring composite cards (photographic calling cards) and lookbooks (portfolios). These promotional materials were stamped with the particular Defendant's name, and the Defendants, not the models, ultimately controlled their format and even decided which of the models' photographs should be included in them. And while Defendants controlled the content of the models' composite cards and lookbooks, the models were charged any related expenses, including printing fees.

Each Defendant Improperly Withheld And Delayed Payments To Its Models

49. Each Defendant was legally obligated to collect from its clients money that was due to its models for the modeling work that they performed. Each Defendant was also required to timely pay its models the amounts they were due for the work they performed. Each Defendant routinely breached these obligations by failing to timely pay its models their earnings and, on some occasions, by not paying them at all.

50. Plaintiffs uncovered numerous instances in which their images were used or reused (both, "usages") without the models' receiving payment from the Defendants. In some cases, Defendants did not pay their models at all, while in others, payment was made belatedly, but only after the models discovered the usage and demanded payment. Because Defendants did not regularly inform their models when their image was being used, particularly when the uses occurred years after the original images were taken (and often after the model and Defendant terminated their relationship), the models had (and still have) no way of knowing if Defendants compensated them for all uses of their images. Instead, they relied on Defendants to properly and honestly account for all usages. Unfortunately, this did not happen.

51. Each Defendant also engaged in a pattern and practice of improperly delaying paying its models for income they had earned. The models were told that the "standard" payment period was 90 days, months longer than what is required under New York wage and hour laws. In many cases, however, Defendants did not even meet their own self-imposed 90-day payment requirement. Defendants regularly waited in excess of six months, if not longer, to pay their models the wages they were due. Even then, Defendants often failed to pay the full amount that was owed, or made improper deductions against the model's earnings.

52. It is impossible for the Plaintiffs to uncover the full extent of Defendants' non-payments and delayed payments without judicial intervention, because each of the Defendants provided its models with inadequate records that concealed the details of the expenses for which the models were charged, and because each of the Defendants rebuffed Plaintiffs' inquiries regarding the non-payments and delayed payments, as well as their requests for additional documentation. Defendants' conduct prevented Plaintiffs from discovering the full extent of the non-payments, and this conduct was the cause of any delay by Plaintiffs in bringing this action to recover payments that were due.

Defendants Made Unlawful Deductions From The Models' Paychecks

53. Each of the Defendants made numerous improper deductions from its models' paychecks, without proper authorization and without providing appropriate documentation or supporting detail, even when requested.

54. Each of the Defendants deducted from its models' earnings numerous charges and expenses, including: commission payments, messenger and mail fees, reimbursement of paycheck advances (with interest), costs for test shoots, online hosting fees, cars service fees and airline tickets. None of the Defendants provided the models with backup detail regarding the expenses it had deducted from their paychecks. Further, Defendants also failed to comply with

procedures required under New York law for paycheck deductions. Consequently, the deductions were unlawful, and the models did not—and, indeed, could not—provide informed consent to them.

55. Making matters worse, each of the Defendants appears to have consistently inflated the amount of the expenses it deducted from its models' wages. For example, Defendants often sent to a client promotional materials for several models. The promotional materials were combined in the same package and, therefore, was subject to one fee for overnight shipping. Rather than divide that fee among the models whose promotional materials were included in the package, Defendants charged each model the full amount of the shipping cost. As a result, each model was forced to pay more than his or her share of shipping costs, with Defendants pocketing the overage.

56. It was impossible for the models to uncover the full extent of the unlawful deductions without Court intervention, because Defendants provided the models with inadequate records that concealed the details of the expenses for which the models were charged, and Defendants repeatedly rebuffed the models' inquiries regarding the charges. For example, many Defendants used internal codes or vague descriptions to denote the nature of expenses, making it difficult for models to gauge whether expenses were justified. When the models inquired about the expenses they were charged, Defendants consistently failed to respond or simply brushed them off.

ALLEGATIONS CONCERNING THE "WILHELMINA" CLASS

57. The "Wilhelmina" Class is represented by Plaintiffs Alex Shanklin, Grecia Palomares, Carina Vretman, Louisa Raske, Michelle Griffin Trotter, and Roberta Little, each of whom had a contract with Defendant Wilhelmina during the Class Period.[4]

58. Wilhelmina misclassified these Plaintiffs and other members of the Wilhelmina Class as independent contractors; made improper and unauthorized deductions from their paychecks for largely undocumented "expenses;" and failed to pay them money received by Wilhelmina on their behalf. Upon information and belief, Plaintiffs were not paid in full for the use of their images.

59. In addition, Wilhelmina failed to pay a minimum wage for all hours Wilhelmina required, suffered, or permitted Plaintiffs to work, including for castings, go-sees, meetings, check-ins, test shoots, and/or other work or services performed at Wilhelmina's direction. Wilhelmina also delayed payments to Plaintiffs in violation of minimum wage laws. Upon information and belief, Wilhelmina also failed to implement the payroll deduction procedures required by New York Labor Law, and did not supply Plaintiffs with adequate wage statements or explanations thereof.

60. Mr. Shanklin, Ms. Palomares, Ms. Vretman, Ms. Raske, Ms. Griffin Trotter, and Ms. Little bring this action in their individual capacities as well as on behalf of all other models who are similarly situated.

[4] On May 8, 2020, the Court granted certification to the Wilhelmina Classes, naming Grecia Palomares, Carina Vretman, and Michelle Griffin Trotter as class representatives. NYSECF 998. Roberta Little has been designated a class representative of the Wilhelmina Classes as well by stipulation between Plaintiffs and Wilhelmina NYSECF 1160.

Alex Shanklin

61. Alex Shanklin had a contract with Wilhelmina from 2002 until 2004. While working for Wilhelmina, Mr. Shanklin worked on several advertising campaigns for a variety of major Wilhelmina clients, including J. Crew, Neiman Marcus, Target, Macy's, K-Mart, and others.

Wilhelmina Employed Mr. Shanklin:

62. Wilhelmina employed Mr. Shanklin, although it misclassified him as an independent contractor rather than an employee. Wilhelmina entered into a written modeling contract with Mr. Shanklin that provided for exclusivity in the state of New York. Thus, Wilhelmina expressly prohibited Mr. Shanklin from working with any other modeling manager or agency in New York during the term of his contract. Wilhelmina also prohibited Mr. Shanklin from booking assignments on his own.

63. Wilhelmina exercised substantial control over all aspects of Mr. Shanklin's employment. During his tenure with Wilhelmina, Wilhelmina provided Mr. Shanklin with all of his New York modeling assignments. Wilhelmina also instructed him about the location of the shoots, how much he would be paid, what he would be expected to do, and who the clients were.

64. Mr. Shanklin was not involved in negotiating the details of his modeling assignments, such as the fee; the manner in which his image would be used; the right to reuse or publish his image; or the hours, location, or dates of the jobs. Instead, Wilhelmina negotiated and controlled all those elements of his assignments and presented them to Mr. Shanklin as a fait accompli.

65. Wilhelmina discouraged Mr. Shanklin from turning down assignments, even informing him on one occasion (after Mr. Shanklin refused a job for financial reasons), that Mr. Shanklin shouldn't be surprised if he did not get another job from the client. Wilhelmina also

controlled other material aspects of Mr. Shanklin's employment. Wilhelmina, and not clients, provided paychecks to Mr. Shanklin for his work, and Mr. Shanklin had no control over the form or the timing of these payments. Wilhelmina instructed Mr. Shanklin about things he should or shouldn't alter about his appearance, including his hair and weight, and developing a "six pack." Wilhelmina also required Mr. Shanklin to keep it informed of his whereabouts at all times. Mr. Shanklin was required to tell Wilhelmina when he wanted to take a vacation, and he had to check in with Wilhelmina twice a day—once in the morning and once toward the end of the day—to confirm his schedule. To the extent any issues or concerns arose during an assignment with a client, Wilhelmina required that it, and not Mr. Shanklin, handle those issues.

Wilhelmina Deducted Numerous "Expenses" From Mr. Shanklin's Paychecks:

66. During the entire time that Mr. Shanklin worked for Wilhelmina, Wilhelmina charged him for expenses by deducting them directly from his paycheck. These charges included fees for the circulation of lookbooks and pictures, FedEx, shipping and messenger fees, interest on wage advances (sometimes described as "check advances," "cash advances," and/or "finance fees"), and test shoots. Wilhelmina did not furnish Mr. Shanklin with supporting documentation or detail for the charges that were deducted from his paycheck, and Mr. Shanklin was not informed beforehand of the precise nature of the charges and the amount that would be deducted. Thus, Mr. Shanklin could not, and did not, provide informed consent for these deductions.

Wilhelmina Delayed And Withheld Mr. Shanklin's Paychecks:

67. During his employment with Wilhelmina, Wilhelmina routinely waited for 45 to 90 days, if not longer, before paying Mr. Shanklin for work he had performed. Wilhelmina informed Mr. Shanklin that a 90-day delay purportedly was "standard."

68. On October 9, 2003, Mr. Shanklin sent Wilhelmina a contract termination letter wherein he specifically did not renew his contract beyond January 2, 2004.

69. After the expiration of his contract with Wilhelmina, in 2006, Mr. Shanklin learned that images of him that had been taken while he was with Wilhelmina, including pictures taken for a Kenneth Cole job, were still being used without his prior knowledge or consent, and without compensation. Wilhelmina had informed Mr. Shanklin that the Kenneth Cole pictures would be used "in store only for a period of two years," and that he would be paid $2,500 for that in-store usage. However, Mr. Shanklin later identified the Kenneth Cole pictures in numerous other locations, including buses and billboards. Mr. Shanklin contacted Wilhelmina to inquire about these and other usages, and to secure the payment that was due him for the use of his image. Wilhelmina never compensated Mr. Shanklin for these usages (or for any subsequent or continued use) of this image.

70. Upon information and belief, Mr. Shanklin has not been paid in full and there are additional usages, domestic and foreign, that are unpaid and due to Mr. Shanklin.

Grecia Palomares

71. Ms. Grecia Palomares had a contract with Wilhelmina from approximately 2004 until 2009.

Wilhelmina Employed Ms. Palomares:

72. Wilhelmina employed Ms. Palomares, although it misclassified her as an independent contractor rather than an employee. Wilhelmina entered into a written modeling contract with Ms. Palomares that provided for exclusivity in the state of New York. Thus, Wilhelmina expressly prohibited Ms. Palomares from working with any other modeling manager or agency in New York during the term of her contract. Wilhelmina also prohibited Ms. Palomares from booking assignments on her own.

73. Wilhelmina exercised substantial control over all aspects of Ms. Palomares' employment. During her tenure with Wilhelmina, Wilhelmina provided Ms. Palomares with all

of her New York modeling assignments. Wilhelmina also instructed her about the location of the shoots, how much she would be paid, what she would be expected to do, and who the clients were. Each day, Wilhelmina provided Ms. Palomares with a schedule of her appointments that Wilhelmina had booked for her.

74. Ms. Palomares was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Wilhelmina negotiated and controlled all those elements of her assignments, and presented them to Ms. Palomares as a fait accompli.

75. Wilhelmina also controlled other material aspects of Ms. Palomares' employment. Wilhelmina, and not clients, provided paychecks to Palomares for her work with Wilhelmina, and Ms. Palomares had no control over the form or timing of the payments she received. Wilhelmina also ordered Ms. Palomares to alter particular aspects of her appearance, including by instructing her to gain weight. In addition, Wilhelmina required Ms. Palomares to keep the agency informed of her whereabouts at all times. Wilhelmina insisted that Ms. Palomares tell the agency when she wanted to take a vacation, and check in whenever she would be unavailable.

76. To the extent any issues or concerns arose during an assignment, Wilhelmina required that they be handled between Wilhelmina and the client, not Ms. Palomares. In addition, on occasions when Ms. Palomares reported to a shoot and was asked by clients to sign certain documents, such as releases, Wilhelmina instructed Ms. Palomares not to sign the documents but to send them to Wilhelmina for review and approval. Wilhelmina reviewed and often signed these documents without informing or involving Ms. Palomares.

Wilhelmina Deducted Numerous "Expenses" From Ms. Palomares' Paychecks:

77. During the entire time that Ms. Palomares worked for Wilhelmina, Wilhelmina charged Ms. Palomares for expenses by deducting them directly from her paycheck. These charges included fees for travel, for the circulation of lookbooks and other pictures, charges for composite cards, and fees for maintaining Ms. Palomares' pictures on Wilhemina's website. Wilhelmina did not furnish Ms. Palomares with supporting documentation or detail for the charges that were deducted from her paycheck, and she was not informed beforehand of the exact nature of the charges and the amount that would be deducted. Thus, Ms. Palomares could not, and did not, provide informed consent for these deductions. *Wilhelmina Delayed And Withheld Ms. Palomares' Paychecks:*

78. While Ms. Palomares worked for Wilhelmina, Wilhelmina repeatedly failed to pay her timely for money she had earned on modeling assignments secured by Wilhelmina.

79. Ms. Palomares' statements from Wilhelmina reflected that on March 15, 2006 and March 16, 2006, Ms. Palomares' image was captured and used in connection with an advertising campaign for Proctor and Gamble. Upon information and belief, Wilhemina subsequently collected a fee from the client on Ms. Palomares' behalf for her work during the photoshoot and for the use of her image in the advertising campaign. However, Wilhemina did not pay her in full for the use of her image.

80. Ms. Palomares' statements from Wilhelmina reflected that on January 17, 2007, advertising agency Saatchi and Saatchi contracted for the use of Ms. Palomares' image. Upon information and belief, Wilhemina subsequently collected a fee from the client on her behalf for the use of Ms. Palomares' image by Saatchi and Saatchi. However, Wilhemina did not pay her in full, if at all, for such use.

81. Upon information and belief, there were additional uses of her image, both domestic and foreign, which Wilhelmina negotiated and agreed to with clients, and for which Wilhemina received compensation, but for which Wilhelmina did not pay Ms. Palomares in full (or at all). Compensation for these usages was due and owing to Ms. Palomares.

Carina Vretman

82. The Plaintiff Carina Vretman had a contract with Wilhelmina from approximately 2003 through approximately 2007.

Wilhelmina Employed Ms. Vretman:

83. Wilhelmina employed Ms. Vretman, although it misclassified her as an independent contractor, rather than an employee. Wilhelmina entered into a written modeling contract with Ms. Vretman that provided for exclusivity in the state of New York. Thus, Wilhelmina expressly prohibited Ms. Vretman from working with any other modeling manager or agency in New York during the term of her contract. Wilhelmina also prohibited Ms. Vretman from booking assignments on her own.

84. Wilhelmina exercised substantial control over all aspects of Ms. Vretman's employment. During her tenure with Wilhelmina, Wilhelmina provided Ms. Vretman with all of her New York modeling assignments. Wilhelmina also instructed her about the location of the shoots, how much she would be paid, what she would be expected to do, and who the clients were.

85. Ms. Vretman was not involved in negotiating the details of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Wilhelmina negotiated and controlled all those elements of her assignments, and presented them to Ms. Vretman as a fait accompli.

86. Wilhelmina also controlled other material aspects of Ms. Vretman's employment. Wilhelmina, and not clients, provided paychecks to Ms. Vretman for her work for Wilhelmina, and Ms. Vretman had no control over the timing of the payments she received. Wilhelmina instructed Ms. Vretman about things she should alter or monitor about her physical appearance, including when her hair should be trimmed or its color tweaked. Wilhelmina was responsible for handling any problems or issues that might arise while working for a client. Wilhelmina required Ms. Vretman to keep the agency informed of her whereabouts, including when she wanted to take a vacation and when she would not be available due to medical appointments or other such reasons. Wilhemina required Ms. Vretman to check in every day to obtain her regular schedule, and informed Ms. Vretman of when she should arrive at jobs and what assignments Wilhelmina had booked for her.

Wilhelmina Deducted Numerous "Expenses" From Ms. Vretman's Paychecks:

87. During the entire time that Ms. Vretman worked for Wilhelmina, Wilhelmina charged her for expenses. These charges included fees for travel, for the circulation of lookbooks and pictures, and for test shoots. Wilhelmina deducted expenses directly from Ms. Vretman's paychecks. Wilhelmina did not furnish Ms. Vretman with supporting documentation or detail for the charges that were deducted from her paycheck, and she was not informed beforehand of the precise nature of the charges and the amount that would be deducted. Thus, Ms. Vretman could not, and did not, provide informed consent for these deductions.

Wilhelmina Delayed And Withheld Ms. Vretman's Paychecks:

88. In approximately 2011 or 2012, Ms. Vretman was advised by her former agent that Wilhelmina had money in its possession that had been paid to Wilhelmina for usages related to Ms. Vretman.

89. Ms. Vretman contacted Wilhelmina about these unpaid usages and approximately one year later, within a month after the initial verified class action complaint was filed on November 12, 2012 (index no. 653619/2012), Wilhelmina sent Ms. Vretman a check in the amount of $19,410 for usages that Wilhelmina had received on Ms. Vretman's behalf from 2005 until 2012. Most of the payment was for usages of Ms. Vretman's image by Proctor and Gamble.

90. The substantial delays in these payments, and the fact that they were made only after this lawsuit was filed, raise serious questions as to Wilhelmina's record-keeping practices and whether Wilhelmina retained other funds owed to Ms. Vretman.

91. Upon information and belief, Wilhelmina authorized the use of Ms. Vretman's image and collected fees from its clients in connection with those uses but did not pay Ms. Vretman in full for all those uses, domestic and foreign

Louisa Raske

92. Louisa Raske had a contract with Wilhelmina from 2001 through 2005.

Wilhelmina Employed Ms. Raske:

93. Wilhelmina employed Ms. Raske, although the agency misclassified her as an independent contractor rather than an employee. Wilhelmina entered into a written modeling contract with Ms. Raske that provided for exclusivity in the state of New York. Thus, Wilhelmina expressly prohibited Ms. Raske from working with any other modeling manager or agency in New York during the term of her contract. Wilhelmina also prohibited Ms. Raske from booking assignments on her own.

94. Wilhelmina exercised substantial control over all aspects of Ms. Raske's employment. During her tenure with Wilhelmina, Wilhelmina provided Ms. Raske with all of her New York modeling assignments. Wilhelmina also instructed her about the location of the

shoots, how much she would be paid, what she would be expected to do, and who the clients were.

95. Ms. Raske was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Wilhelmina negotiated and controlled all those elements of her assignments, and then presented them to Ms. Raske as a fait accompli.

96. Wilhelmina strongly discouraged Ms. Raske from turning down assignments that it booked for her even if the terms were not favorable, and caused Ms. Raske to fear that if she turned down jobs from Wilhelmina, Wilhelmina would retaliate against her by refusing to promote her for work in the future.

97. Wilhelmina also controlled other material aspects of Ms. Raske's employment. Wilhelmina, not clients, provided paychecks to Ms. Raske for her work with Wilhelmina, and Ms. Raske had no control over the form or the timing of the payments she did receive. Wilhelmina also instructed Ms. Raske about things she should alter or monitor about her physical appearance, including by ordering her to change her hairstyle, weight, and "look." In addition, Wilhelmina required Ms. Raske to keep it apprised of her whereabouts at all times. Ms. Raske was required to inform Wilhelmina when she wanted to take a vacation, and when she would be unavailable due to doctors' appointments, lunch dates, weekend trips and the like. Wilhelmina also required her to check in twice daily, once in the morning and once in the afternoon.

98. Wilhelmina also directed Ms. Raske about what she should not discuss with clients. For example, Wilhelmina instructed her not to provide clients with her personal information, even if the clients requested it.

Wilhelmina Deducted Numerous "Expenses" From Ms. Raske's Paychecks:

99. During the entire time that Ms. Raske worked for Wilhelmina, Wilhelmina charged her for various fees and expenses. These charges included fees for travel, rent/housing, the distribution of lookbooks and pictures, test shoots, composite cards, booking programs, and FedEx, shipping and messenger fees. Wilhelmina also charged Ms. Raske fees for posting her pictures on its website. These charges were deducted directly from Ms. Raske's paychecks. Ms. Raske received no supporting detail for the expenses she was charged and was not always aware of their exact amount or type before they were deducted from her paycheck. Many of the expenses were overstated. For example, when Wilhelmina charged Ms. Raske for the circulation of lookbooks, Wilhelmina charged her for cost of the entire shipment, even if Ms. Raske was only one of several models with items included in the shipment, and even though Wilhelmina charged each of the other models whose materials were in the shipment for full cost of the shipping fee. Ms. Raske was not informed of the precise nature and amount of these charges before they were deducted from her paycheck, so she did not and could not provide informed consent for such deductions.

Wilhelmina Delayed And Withheld Ms. Raske's Paychecks:

100. Wilhelmina booked Ms. Raske for numerous jobs that involved domestic and foreign usages. For example, Ms. Raske's images were used by Schwarzkopf Hair Care and J.C. Penney, among other of Wilhelmina's clients.

101. Wilhelmina often provided Ms. Raske with belated payments, making it difficult to ascertain what jobs she was being paid for in any given paycheck.

102. On March 8, 2011, Ms. Raske emailed Wilhelmina inquiring about usages of her image and payments for such usages. Ms. Raske provided an updated address to Wilhelmina to insure that she would receive the payments that were due.

103. Upon information and belief, Wilhelmina did not pay Ms. Raske in full (if at all) for usages of her image by various clients of Wilhelmina, including Schwarzkopf Hair Care and J.C. Penney. Upon information and belief, Wilhelmina authorized the use of Ms. Raske's image to these clients and collected fees for such usages, but failed to pay Ms. Raske what she was owed for such usages.

Michelle Griffin Trotter

104. Michelle Griffin Trotter (Ms. Griffin) had a contract with Wilhelmina until approximately 2009.

Wilhelmina Employed Ms. Griffin:

105. Wilhelmina employed Ms. Griffin, although it misclassified her as an independent contractor rather than an employee. Wilhelmina entered into a written modeling contract with Ms. Griffin that provided for exclusivity in the state of New York. Thus, Wilhelmina expressly prohibited Ms. Griffin from working with any other modeling manager or agency in New York during the term of her contract. Wilhelmina also prohibited Ms. Griffin from booking assignments on her own.

106. Wilhelmina exercised substantial control over all aspects of Ms. Griffin's employment. During her tenure with Wilhelmina, Wilhelmina provided Ms. Griffin with all of her New York modeling assignments. Wilhelmina also instructed Ms. Griffin about the location of the shoots, how much she would be paid, what she would be expected to do, and who the clients were.

107. Ms. Griffin was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the assignments. Instead, Wilhelmina negotiated and controlled all those elements of her assignments, and presented them to Ms. Griffin as a fait accompli.

108. Wilhelmina also controlled other material aspects of Ms. Griffin's employment. Wilhelmina, and not clients, provided paychecks to Ms. Griffin for her work with Wilhelmina. Wilhelmina also required Ms. Griffin to keep it informed of her whereabouts at all times, and to "book out" when she would be unavailable due to appointments, vacations, doctor's visits and the like. Wilhelmina also restricted what Ms. Griffin could discuss with clients, prohibiting her from discussing fees or other terms of her assignment, and instructing her to let Wilhelmina handle any issues that may arise with a client while on assignment.

Wilhelmina Deducted Numerous "Expenses" From Ms. Griffin's Paychecks:

109. During the entire time that Ms. Griffin worked for Wilhelmina, Wilhelmina charged her for various fees and expenses. These charges included fees for travel, for the circulation of lookbooks and pictures, and for test shoots. Wilhelmina deducted these charges directly from Ms. Griffin's paychecks, without providing supporting documentation. Wilhelmina did not inform Ms. Griffin in advance of the precise nature and amount of all of the fees and charges that would be deducted from her paycheck and, therefore, Ms. Griffin did not and could not provide informed consent for the deductions.

Wilhelmina Delayed And Withheld Ms. Griffin's Paychecks:

110. Wilhelmina booked Ms. Griffin for numerous jobs that involved domestic and foreign usages. Among these included shoots for Pantene (Proctor and Gamble), Oil of Olay (Proctor and Gamble), Lane Bryant and Hanes.

111. Wilhelmina often provided Ms. Griffin with belated payments that were lacking in detail, making it difficult to ascertain what jobs she was being paid for in any given paycheck.

112. Upon information and belief, Wilhelmina did not pay Ms. Griffin in full (if at all) for usages of her image by various clients of Wilhelmina, including Proctor and Gamble, Hanes, and Lane Bryant. Upon information and belief, Wilhelmina authorized the use of Ms. Griffin's image to these clients and collected fees for such usages, but failed to pay Ms. Griffin what she was owed for such usages.

Roberta Little

113. Roberta Little had a contract with Wilhelmina from approximately 2014 through 2016. While working for Wilhelmina, Ms. Little worked for significant Wilhelmina clients, including L'Oreal, Matrix, and Bumble and Bumble.

Wilhelmina Employed Ms. Little:

114. Wilhelmina employed Ms. Little, although it misclassified her as an independent contractor rather than an employee. Wilhelmina entered into a written modeling contract with Ms. Little that provided for exclusivity in New York. Thus, Wilhelmina expressly prohibited Ms. Little from working for any other modeling manager or agency in New York during the term of her contract. Wilhelmina also prohibited Ms. Little from booking assignments on her own, and if she did, required Ms. Little to pay a commission to Wilhelmina for that work. This happened when Ms. Little was forced to pay a 20% commission to Wilhelmina for work she brought in for Wilhelmina's benefit involving a hair salon event.

115. On another occasion, Ms. Little attended an acting audition and met a representative of Deva Curl, who expressed interest in having her model at a hair event for Deva Curl and requested her composite card. Ms. Little informed Wilhelmina of this meeting and the

Deva Curl hair event. Deva Curl booked Ms. Little for the hair event. Wilhelmina deducted a 20% commission from this booking even though Ms. Little had brought in the client on her own.

116. Wilhelmina exercised substantial control over all aspects of Ms. Little's employment. Wilhelmina retained ultimate authority to employ or discharge Ms. Little, and during her tenure with Wilhelmina, Ms. Little did not work for or receive any New York modeling bookings from any other agencies. Wilhelmina also instructed her about the location of the shoots, how much she would be paid, what she would be expected to do, and who the clients were. Wilhelmina also regularly provided Ms. Little with a roster of her appointments, including castings and bookings.

117. Ms. Little was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Wilhelmina negotiated and controlled all those elements of her assignments, and presented them to Ms. Little on a take-it-or-leave-it basis, often just one day before the jobs were to occur. Wilhelmina discouraged Ms. Little and other models from turning down assignments, and indicated that if the models did not accept assignments, Wilhelmina would not promote them for future work.

118. Wilhelmina also controlled other material aspects of Ms. Little's employment. Wilhelmina, and not clients, provided paychecks to Ms. Little for her work with Wilhelmina, and Ms. Little had no control over the form or timing of the payments she received. In addition, Wilhelmina required Ms. Little to keep the agency informed of her whereabouts. Wilhelmina insisted that Ms. Little tell the agency when she wanted to take a vacation, and required her to check in when she would be unavailable.

119. To the extent any issues or concerns arose during an assignment, Wilhelmina required that they be handled between Wilhelmina and the client, not Ms. Little.

120. Wilhelmina also controlled the form and content of promotional images and information concerning Ms. Little. For example, Wilhelmina designed Ms. Little's composite cards and stamped them with the Wilhelmina name. With the exception of the model's photograph and name, these cards were identical for all Wilhelmina models. Wilhelmina charged Ms. Little more than $1 per card to print these cards from its own in-house printers. Wilhelmina also designed the layout of the Wilhelmina webpage on which Ms. Little's photograph appeared, and charged Ms. Little several hundred dollars per year for her photograph to sit on the site. Wilhelmina, and not Ms. Little, decided whether she would be featured on the site. Wilhelmina also imposed uniform requirements for what information would be included on the site for Ms. Little and the other models; this information included each model's measurements and eye color. Wilhelmina presented this information on the site in the identical format for each model.

121. Despite demanding these extensive controls over Ms. Little's career, Wilhelmina failed to adequately promote Ms. Little's work. Approximately two years ago, Wilhelmina transferred Ms. Little from one of its divisions to its "fitness division." Wilhelmina made this transfer against Ms. Little's will. When she found out about the transfer, Ms. Little was concerned because she had been doing well in her current division and was afraid that she might not work as much in Wilhelmina's fitness division. Ms. Little asked Wilhelmina if she had a choice in the matter, and she was told that she did not. Unfortunately, as Ms. Little feared, her transfer to Wilhelmina's fitness division resulted in fewer bookings for Ms. Little, which, of course, adversely affected Ms. Little's pay.

122. Although Ms. Little is a competitive athlete who regularly wins sporting contests and has kept Wilhelmina apprised of her victories, Wilhelmina does not appear to have used that information to promote Ms. Little. For example, it was Ms. Little's running coach, not Wilhelmina, that booked Ms. Little for the cover of Women's Running Magazine (even though Wilhelmina had previously worked with the magazine). Ms. Little repeatedly emailed Wilhelmina requesting the agency to use this shoot to promote her for additional fitness division work, but Wilhelmina ignored Ms. Little's requests. On another occasion, Ms. Little's running coach booked Ms. Little for a running video featuring Ms. Little on behalf of New Balance and the New York Road Running Club. Once again, Ms. Little informed Wilhelmina of the job and even sent the Wilhelmina marketing department a copy of the finished video, requesting that it be used to promote her for additional work. Wilhelmina never bothered to respond to Ms. Little's email. Ms. Little's emails and inquiries to Wilhelmina about these and other issues routinely went unanswered.

Wilhelmina Deducted Numerous "Expenses" From Ms. Little's Paychecks:

123. During the entire time that Ms. Little worked for Wilhelmina, Wilhelmina charged Ms. Little for expenses by deducting them directly from her paycheck. These charges included Wilhelmina's administrative costs, including fees for the circulation of look books and other pictures, composite cards, test shoots, and the Wilhelmina website. These expenses often appeared excessive. For example, in 2014 Wilhelmina charged Ms. Little $650 merely to use an electronic portfolio service called "ePortfolio." In 2015, Wilhelmina charged Ms. Little at least $245 in "Finance Fees." As mentioned above, Wilhelmina also charged Ms. Little more than $1 per card for Wilhelmina composite cards, which Wilhelmina ordered in relatively large batches, such as 25 or 50.

124. Wilhelmina did not furnish Ms. Little with supporting documentation or detail for the charges that were deducted from her paycheck, such as the identity of the client that corresponded to the expense or the underlying support for the cost incurred. Further, Ms. Little was not informed beforehand of the exact nature of the charges or the amount and date the expense would be incurred. Ms. Little also did not agree to the specific deductions at the time they were made. Thus, Ms. Little could not, and did not, provide informed consent for these deductions.

Wilhelmina Failed To Provide Ms. Little With Comprehensive Wage Statements:

125. Wilhelmina failed to provide Ms. Little with complete and timely records of the work she had performed. For example, Wilhelmina did not provide Ms. Little with wage statements documenting the actual hours she had worked. Further, the wage statements Wilhelmina prepared failed to include the work Ms. Little performed at Wilhelmina's direction or for its benefit, but for which Wilhelmina did not pay her, including attending castings and meetings, certain travel, and check-ins with Wilhelmina.

126. In addition, the wage statements Wilhelmina prepared did not provide complete descriptions of the clients associated with each job. For example, although Wilhelmina listed the "title" of the jobs for which Ms. Little had been paid, Wilhelmina routinely cut short or abbreviated these titles, making it difficult to ascertain the clients and duties to which they pertained. Wilhelmina also sometimes listed the advertising agency associated with a job, such as McCann Erickson, rather than the name of the client itself. Further, the statements listed numerous "finance fees"-including during periods in which Ms. Little was bringing in far more cash than Wilhelmina was "spending" on her behalf-but did not explain what these charges were for. Instead, the statements merely provided numerical codes associated with the charges, but did not provide a legend or explanation of what the codes stood for. The deficiencies in the timing

and content of Ms. Little's wage statements made it difficult if not impossible for her to verify the particular jobs for which she had been paid and to ascertain whether she had been paid the full wage to which she was entitled under prevailing law.

127. Based upon the events alleged above, including but not limited to the apparent discrepancies and errors in Wilhelmina's accounts of the compensation owed to Ms. Little, Ms. Little has not been paid in full and there are additional wages that are unpaid and due to her.

ALLEGATIONS CONCERNING THE "NEXT" CLASS

128. The "Next" Class consists of Vanessa Perron and Tatiana Esmeralda Seay-Reynolds, each of whom had contracts with the Defendant Next. Next misclassified these Plaintiffs, and other members of the Next Class, as independent contractors; made unlawful deductions from their paychecks for largely undocumented "expenses;" and failed to pay to them money received by Next on their behalf. Upon information and belief, Plaintiffs were not paid in full for the use of their images.

129. In addition, Next failed to pay a minimum wage for all hours Next required, suffered, or permitted Plaintiffs to work, including for castings, go-sees, meetings, check-ins, test shoots, and/or other work or services performed at Next's direction. Next also delayed payments to Plaintiffs in violation of minimum wage laws. Upon information and belief, Next also failed to implement the payroll deduction procedures required by New York Labor Law, and did not supply Plaintiffs with adequate wage statements or explanations thereof.

130. Ms. Perron and Ms. Seay-Reynolds bring this action in their individual capacities and on behalf of all other models who are similarly situated.

Vanessa Perron

131. Vanessa Perron had a contract with Next from 2002 through approximately 2009 or 2010.

Next Employed Ms. Perron:

132. Next employed Ms. Perron, although it misclassified her as an independent contractor rather than an employee. Next entered into a written modeling contract with Ms. Perron that provided for worldwide exclusivity for three years, and in the United States thereafter. Thus, Next expressly prohibited Ms. Perron from working with any other modeling manager or agency in those territories during the term of her contract. Next also prohibited Ms. Perron from booking assignments on her own.

133. Next exercised substantial control over all aspects of Ms. Perron's employment. During her tenure with Next, Next provided Ms. Perron with all of her New York modeling assignments. Next also instructed her about the details of her assignments, including the location of the shoots, how much she would be paid, and what she would be expected to do.

134. Ms. Perron was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Next negotiated and controlled all those elements of her assignments, and presented them to Ms. Perron as a fait accompli.

135. Next discouraged Ms. Perron from turning down jobs, causing Ms. Perron to believe that if she turned down jobs, Next would be less likely to promote her for work in the future.

136. Next also controlled other material aspects of Ms. Perron's employment, and even her personal life. Next, and not its clients, provided paychecks to Ms. Perron for her work. In addition, Perron was sometimes paid for work "in kind" (for example, with articles of clothing), rather than with monetary compensation. Next negotiated this form of the compensation with its clients and advised Ms. Perron that the jobs would involve payment in kind. Ms. Perron felt she

had no choice but to accept these jobs. Next would label models who turned down work "annoying girls" and not push them for jobs in the future. In addition, Next frequently told its models that they should wear nice clothing and needed the exposure associated with fashion shows, for which many designers compensated models in kind. Typically, this form of payment involved just a few items of clothing, not an entire wardrobe. In addition, Next instructed Ms. Perron about numerous things she should alter or monitor about her physical appearance. For example, Next instructed Ms. Perron that she should have a procedure to make her thighs slimmer (and even offered to recommend a facility to provide this service), along with instructing her that she should lose weight, change her hair, dress differently, and work out more.

137. Next also exerted substantial control over Ms. Perron's schedule. It required Ms. Perron to inform Next of her whereabouts, including when she wished to take a vacation. In addition, Next required Ms. Perron to "book out" whenever she would be unavailable for any reason, including appointments, doctors' visits, and the like.

138. Next also restricted what Ms. Perron could discuss with clients, prohibiting her from discussing fees or other terms of her assignment, and instructing her to let Next handle any issues that might arise with a client while on assignment. Also, whenever clients asked Ms. Perron to sign releases or similar documents during shoots, Next instructed Ms. Perron not to sign the documents but to forward them to Next for its review and approval.

Next Deducted Numerous "Expenses" From Ms. Perron's Paychecks:

139. During the entire time that Ms. Perron worked for Next, the agency charged her for expenses by deducting them directly from her paycheck . These charges included significantly inflated rental charges for a so-called "models apartment." Ms. Perron was also charged for travel, the circulation of lookbooks and pictures, website fees (to maintain her pictures on Next's website), listings on ModelWire (an online portfolio system), and instances in

which Next directed Ms. Perron to get her hair done. Upon information and belief, Next also charged Ms. Perron the full amount of any messenger or shipping fee associated with a shipment for numerous models. Next provided Ms. Perron with only minimal, and insufficient, supporting detail for these expenses. Next did not inform Ms. Perron of the precise nature and amount of each of these charges in advance, and, therefore, Ms. Perron did not, and could not, provide informed consent for the deductions.

140. Next also reduced the amounts that Ms. Perron was paid for work after she performed the work and without her prior knowledge and consent. For example, for an assignment with Harper's Baazar Australia, Ms. Perron was required to travel to Australia for a photoshoot. When she agreed to the assignment, Next informed her that the magazine would pay for her airfare. However, after she had completed the assignment, Ms. Perron discovered that Next had deducted the amount of her airfare from her payment. She was never reimbursed for this charge.

Next Delayed And Withheld Ms. Perron's Paychecks:

141. Next failed to pay Ms. Perron for the use of her image by agency clients in connection with jobs booked by Next. In one such instance, Ms. Perron did a shoot for Ports International, a Canadian fashion house. In 2006 and again in 2007, friends discovered glossy posters of Ms. Perron from this campaign on display in China. In 2007, a friend sent Ms. Perron a photograph of her image, stating: "You are still in China." Ms. Perron had never been paid for the use of her photograph in China.

142. In April 2006 and again in April and August 2007, Ms. Perron contacted Next about the unpaid usage, but Next did not send her a payment for the usage.

143. On about May 2007, Ms. Perron received an email from a Next accountant in response to her inquiry concerning unpaid usages. The email is in French. Translated to English,

it threatens that it will cost Ms. Perron more money to sue for these and other unpaid usages than she would recover in litigation. Next never provided any payment for these usages.

144. On another occasion, Ms. Perron found her picture in a book about American fashion history. The picture was from a magazine shoot Ms. Perron had done in New York City while working for Next. Next never paid Ms. Perron for the use of her photograph in the book.

145. Upon information and belief, Next did not pay Ms. Perron in full for the re-usages of her image alleged above. Upon information and belief, Next authorized the use of Ms. Perron's image to its clients and collected fees for such usages, but then failed to pay Ms. Perron what she was owed for those usages.

146. Upon information and belief, Ms. Perron was not paid in full and Next agreed to additional usages, both domestic and foreign for which clients paid Next but for which Next never paid Ms. Perron.

Tatiana Esmeralda Seay-Reynolds

147. Tatiana Esmeralda Seay-Reynolds had a contract with Next from 2013 through approximately 2016.

Next Employed Ms. Seay-Reynolds:

148. Next employed Ms. Seay-Reynolds, although it misclassified her as an independent contractor rather than an employee. Next entered into a written modeling contract with Ms. Seay-Reynolds that provided for worldwide exclusivity for three years. Thus, Next expressly prohibited Ms. Seay-Reynolds from working with any other modeling manager or agency in those territories during the term of her contract. Next also prohibited Ms. Seay-Reynolds from booking assignments on her own.

149. Next exercised substantial control over all aspects of Ms. Seay-Reynolds's employment. During her tenure with Next, Next provided Ms. Seay-Reynolds with all of her

domestic modeling assignments as well as international modeling assignments through Next's foreign offices. Next provided Ms. Seay-Reynolds with modeling assignments in most of the major fashion capitals, including New York, London, Milan, and Paris. Next also instructed her about the details of her assignments, including the location of the shoots, how much she would be paid, and what she would be expected to do.

150. Ms. Seay-Reynolds was not involved in negotiating the terms of her modeling assignments, such as the fee; the manner in which her image would be used; the right to reuse or publish her image; or the hours, location, or dates of the jobs. Instead, Next negotiated and controlled all those elements of her assignments, and presented them to Ms. Seay-Reynolds as a fait accompli. Next also collected all payments on behalf of Ms. Seay-Reynolds for jobs booked and then remitted the balance to her only after taking substantial deductions.

151. As a result of Next's control of Ms. Seay-Reynolds' bookings, rate negotiations, and payment processing, Ms. Seay-Reynolds was left in the dark as to many aspects of her bookings and their corresponding payment. For example, despite working many foreign fashion weeks and campaign shoots, Ms. Seay-Reynolds never received payment for such work and had no insight into what her rates for those jobs were or the substantial deductions which were taken out of any payment collected on her behalf for such jobs.

152. Next discouraged Ms. Seay-Reynolds from turning down jobs, causing Ms. Seay-Reynolds to believe that if she turned down jobs, Next would be less likely to promote her for work in the future. In the first six months of her contract with Next, Ms. Seay-Reynolds requested not to attend a photo shoot with a photographer who had a reputation for sexually assaulting models. Ms. Seay-Reynolds' concerns were dismissed by Next, who noted there would be multiple people at the event so it was unlikely she would be harmed.

153. Conversely, Next also prevented Ms. Seay-Reynolds from obtaining jobs that she expressed interest in. In or around July 2014, Ms. Seay-Reynolds was initially scheduled for a Chanel resort show and a spread with American Vogue, high-profile opportunities for which Ms. Seay-Reynolds was enthusiastic. Supposedly because Next was dissatisfied with Ms. Seay Reynolds' weight struggles, Next cancelled those opportunities on her behalf, against her consent, falsely telling Chanel and American Vogue that Ms. Seay-Reynolds had a scheduling conflict with school when she did not.

154. Next exerted significant control over Ms. Seay-Reynolds' personal appearance and brand. At the inception of the contractual relationship, Next instructed Ms. Seay-Reynolds that she should go by her middle name—Esmeralda—rather than her first name Tatiana so as not to be perceived as Russian. During her tenure with Next, Ms. Seay-Reynolds, a natural brunette, was told to dye her hair first white, then brown, then black. Next closely monitored Ms. Seay-Reynolds' physical appearance, instructing her to hire a personal trainer, and frequently requesting that she either gain or lose weight within short periods of time to prepare for various fashion weeks, campaign shoots, and Victoria's Secret runway events. On one occasion, Ms. Seay-Reynolds was taken to the bathroom at Next's office and told to remove her pants in order to obtain a more accurate hip measurement. On another occasion, the head and founder of Next took Ms. Seay-Reynolds to her office and instructed her to "just eat half of whatever" Ms. Seay-Reynolds was hungry for.

155. Next's control went beyond material aspects of Ms. Seay-Reynolds's employment, and extended to her personal life. Ms. Seay-Reynolds was instructed by Next to not have serious romantic relationships because they were bad for business. Ms. Seay-Reynolds

was also told by Next that if ever asked about her sexual partners, she should say she had been with eight people.

156. Next also exerted substantial control over Ms. Seay-Reynolds's schedule. It required Ms. Seay-Reynolds to inform Next of her whereabouts, including when she wished to take a vacation. In addition, Next required Ms. Seay-Reynolds to "book out" whenever she would be unavailable for any reason, including her junior prom. As a result of the rigorous scheduling demands, Ms. Seay-Reynolds missed significant amounts of high school and was forced by her school district to convert to homeschooling her senior year.

157. Next also restricted what Ms. Seay-Reynolds could discuss with clients, prohibiting her from discussing fees or other terms of her assignment, and instructing her to let Next handle any issues that might arise with a client while on assignment. Also, whenever clients asked Ms. Seay-Reynolds to sign releases or similar documents during shoots, Next instructed Ms. Seay-Reynolds not to sign the documents but to forward them to Next for its review and approval.

Next Deducted Numerous "Expenses" From Ms. Seay-Reynolds's Paychecks:

158. During the entire time that Ms. Seay-Reynolds worked for Next, the agency charged her for expenses by deducting them directly from her paycheck. Ms. Seay-Reynolds was charged for travel, the circulation of lookbooks and pictures, website fees (to maintain her pictures on Next's website), cell phones, hotels, and instances in which Next directed Ms. Seay-Reynolds to get her hair done. Upon information and belief, Next also charged Ms. Seay Reynolds the full amount of any messenger or shipping fee associated with a shipment for numerous models. Ms. Reynolds did not agree to the specific deductions at the time they were made.

159. Next did not furnish Ms. Seay-Reynolds with supporting documentation or detail for the charges that were deducted from her paycheck, such as the identity of the client that corresponded to expense or the underlying support for the cost incurred. Further, Ms. Seay-Reynolds was not informed beforehand of the exact nature of the charges or the amount and date the expense would be incurred. Because Ms. Seay-Reynolds did not agree to the deductions before they were made, she therefore could not, and did not, provide informed consent for these deductions.

Next Failed to Provide Ms. Seay-Reynolds with Comprehensive Wage Statements:

160. Next failed to provide Ms. Seay-Reynolds with complete and timely records of the work she had performed. For example, Next did not provide Ms. Seay-Reynolds with wage statements documenting the actual hours she had worked. Further, the wage statements Next prepared failed to include the work Ms. Seay-Reynolds performed at Next's direction or for its benefit, but for which Next did not pay her, including castings and meetings, fashion week events, certain travel, and check-ins with Next. In addition, the wage statements Next prepared did not provide complete descriptions of the clients associated with each job.

161. The deficiencies in the timing and content of Next's wage statements made it difficult if not impossible for Ms. Seay-Reynolds to verify the particular jobs for which she had been paid and to ascertain whether she had been paid the full wage to which she was entitled by contract and under prevailing law.

162. Based upon the events alleged above, including but not limited to the apparent discrepancies and errors in Next's accounts of the compensation owed to Ms. Seay-Reynolds, she has not been paid in full and there are additional wages that are unpaid and due to her.

EQUITABLE TOLLING, FRAUDULENT CONCEALMENT, AND CONTINUING VIOLATIONS

163. Plaintiffs and the members of the Classes did not discover and could not discover through the exercise of reasonable diligence the existence of the legal violations and causes of action alleged herein until shortly before the commencement of this action.

164. Since the start of the Class Periods, Defendants have committed continuing legal violations, including of the New York Labor Law, with each violation resulting in monetary and other injury to Plaintiffs and the members of the Classes.

165. Defendants' violations of their contractual obligations and the New York Labor Laws were kept secret through a variety of means. Defendants maintained opaque financial records and refused to provide adequate responses to the models' inquiries about their accounts. Defendants also prohibited Plaintiffs from negotiating the terms of their assignments or from communicating with clients concerning fees and payments, thereby preventing Plaintiffs from learning the full details of how and where their images would be used. In addition, Defendants did not tell Plaintiffs they were delaying payments they had received from clients, were making unlawful or improper deductions from the Plaintiffs' paychecks, or were engaging in the other unlawful practices alleged herein.

166. Plaintiffs, many of whom were young and legally inexperienced during the Class Periods, justifiably relied upon the Defendants' conduct, believing Defendants' job was to represent Plaintiffs' best interests. Further, due largely to Defendants' conduct, Defendants had no means of verifying the payroll statements they had received from Defendants were accurate and complete.

167. As a result of Defendants' conduct, Plaintiffs and the members of the Classes were unaware of the unlawful conduct and causes of action alleged herein and did not know that

they were not receiving all of the funds they were owed until shortly before the commencement of this action.

FIRST CAUSE OF ACTION
(Failure To Pay A Minimum Wage, New York Labor Law Article 19)

168. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

169. Pursuant to New York Labor Law ("NYLL") Section 652, "Every employer shall pay to each of its employees for each hour worked a wage of not less than . . . $5.15 on and after March 31, 2000, $6.00 on and after January 1, 2005, $6.75 on and after January 1, 2006, $7.15 on and after January 1, 2007. . . or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. 206 or its successors, or such other wage as may be established in accordance with the provisions of this article." According to The New York State Department of Labor Statistics, the minimum wage amounts for subsequent years are $7.25 on and after July 24, 2009, $8.00 on and after December 31, 2013, $8.75 on and after December 31, 2014, and $9.00 on and after December 31, 2015.

170. During the Class Periods, Plaintiffs and each of the members of the Classes, were employees of their respective Defendant modeling agencies, and Defendants were employers or joint employers of the models in their respective Classes within the meaning of NYLL Sections 190, 650, 651, and 652, and the supporting New York State Department of Labor Regulations.

171. Defendants violated, and continue to violate, applicable New York Labor Laws and the supporting New York State Department of Labor Regulations by failing to pay Plaintiffs and the other members of the Classes all of the minimum wages to which they are or were entitled under the NYLL.

172. As alleged above, during the Class Periods, Defendants have engaged in a widespread pattern, policy, and/or practice of violating applicable New York Labor Laws. Defendants' unlawful pattern, policies and practices include: (i) misclassifying Plaintiffs and the members of the Classes as independent contractors rather than employees, (ii) failing to pay them the minimum wage for all hours that Defendants required, suffered or permitted them to work, including performing modeling services on "go-sees," castings, test shoots, and/or required meetings with the modeling agencies, and (iii) deliberately delaying payment of earned wages for months at a time, or not paying them at all, in violation of minimum wage laws.

173. The foregoing conduct, as alleged, constitutes a willful violation of the NYLL Section 650 *et seq* and the supporting New York State Department of Labor Regulations.

174. Plaintiffs, on behalf of themselves and the members of the Classes, seek damages in the amount of their respective unpaid wages, reasonable attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

SECOND CAUSE OF ACTION
(Failure To Pay Wages Due, New York Labor Law, Article Six)

175. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

176. Pursuant to Article Six of the NYLL, workers, such as Plaintiffs and the members of the Classes, are protected from wage underpayments and improper employment practices.

177. During the Class Periods, Plaintiffs and each of the members of the Classes, were employees of their respective Defendant modeling agencies, and Defendants were employers or joint employers of the models in their respective Classes within the meaning of NYLL Sections 190, 651, and 652, and the supporting New York State Department of Labor Regulations.

178. During the Class Periods, Plaintiffs and the members of the Classes were "clerical or other workers" or "manual workers" within the meaning of NYLL Sections 190 and 191.

179. As a general rule, NYLL Section 191 requires that employers pay manual workers "weekly and not later than seven calendar days after the end of the week in which the wages are earned." Although Section 191 permits certain employers to pay manual workers less frequently than weekly, it provides that such employers must still pay their manual workers "not less frequently than semi-monthly." Section 191 also requires that employers pay employees who are classified as clerical or other workers "in accordance with the agreed terms of employment, but not less frequently than semi-monthly, on regular pay days designated in advance by the employer." Section 191 further mandates that "[n]o employee shall be required as a condition of employment to accept wages at periods other than as provided in this section."

180. Defendants have repeatedly and willfully violated Section 191, and the supporting New York State Department of Labor regulations, by failing to pay the Plaintiffs and members of the Classes weekly, or in accordance with the terms of their agreements, or even semi-monthly. Rather, during the Class Periods, Defendants routinely delayed for months at a time before paying Plaintiffs and the other members of the Classes the wages that they earned and were due for their modeling assignments, and sometimes, failed to pay them at all. In many cases, although the paychecks were long overdue, Defendants did not pay the Plaintiffs and members of the Classes until after receiving repeated requests from the Plaintiffs and other members of the Class for a paycheck.

181. Plaintiffs and members of the Classes are still owed their unpaid wages, as Defendants have failed to pay all earned wages that are due and owing to Plaintiffs and the members of the Classes.

182. As a result of Defendants' repeated violations of NYLL Section 191, Plaintiffs and the members of the Classes are entitled to recover damages in the amount of their respective unpaid wages, as well as reasonable attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

THIRD CAUSE OF ACTION
(Unlawful Wage Deductions in Violation of NYLL Section 193)

183. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

184. During the Class Periods, Plaintiffs and each of the members of the Classes, were employees of their respective Defendant modeling agencies, and Defendants were employers or joint employers of the models in their respective Classes within the meaning of NYLL Sections 190, 651, and 652, and the supporting New York State Department of Labor Regulations.

185. Section 193 of the NYLL governs the deductions that employers, including Defendants, may make from employee wages. Section 193 prohibits employers from deducting any amounts from employee wages except deductions that are authorized by law, or are that expressly authorized in writing by the employee and are for the employee's benefit. Even where an employee authorizes deductions, Section 193 states that "[s]uch authorized deductions shall be limited to payments for insurance premiums, pension or health and welfare benefits, contributions to charitable organizations, payments for United States bonds, payments for dues or assessments to a labor organization, and similar payments for the benefit of the employee." Moreover, employers are prohibited from making "any charge against wages, or [requiring] an employee to make any payment by separate transaction unless such charge or payment is permitted as a deduction from wages under [Section 193 (1)]."

186. As employers of Plaintiffs and the members of the Classes, Defendants were bound by the wage deduction provisions of NYLL Section 193, and the supporting New York State Department of Labor Regulations.

187. Defendants have willfully and/or intentionally violated Section 193 by improperly deducting from the wages of Plaintiffs and members of the Classes amounts that were not permitted by law or by any rule or regulation issued by any governmental agency.

188. Defendants further willfully and/or intentionally violated Section 193 by improperly deducting from the wages of Plaintiff and members of the Classes amounts that were not properly authorized by, nor made for the benefit of, Plaintiffs or the members of the Classes.

189. Defendants' widespread pattern and practice of making improper wage deductions included deductions for (i) interest on wage advances, (ii) above-market apartment leases, (iii) airline tickets, (iv) car services, (v) messengers, (vi) shipping charges, (vii) website hosting fees, and (viii) various other charges. These deductions were not authorized by applicable law or government agency regulation. Likewise, these deductions were not properly authorized, if authorized at all, by the Plaintiffs or members of the Classes. Even if such deductions had been authorized by the models (which they weren't) and even if they were arguably for the benefit of the models (which they weren't), they were still unlawful because Section 193 only permits employee authorized deductions "for insurance premiums, pension or health and welfare benefits, contributions to charitable organizations, payments for United States bonds, payments for dues or assessments to a labor organization, and similar payments for the benefit of the employee."

190. A deduction is deemed authorized by the employee if it is agreed to between the employer and the employee and if it is set forth in an agreement " that is express, written,

voluntary, and informed." 12 New York Codes Rules and Regulations ("NYCRR") Section 195-4.2. An authorization will not be considered "informed" unless the "employee is provided with written notice of all terms and conditions of the deduction, its benefit and the details of the manner in which deductions shall be made." *Id*. Moreover, written notice must be provided to the employee before he or she executes the initial authorization, before any wage deduction is made. Also, an additional notice must be given to an employee if any change in the amount of the deduction is to be made, or if there will be a substantial change in the benefits of a deduction. *Id*.

191. Here, any purported authorizations provided by Plaintiffs or the members of the Classes was not informed, and thus not effective, because Defendants failed to provide proper notice of the nature or amount of the deductions. Indeed, Plaintiffs and members of the Classes were not informed before executing any initial authorization, and before any deduction was made, of all of the terms or conditions of the deductions to be charged, their benefits to Plaintiffs and members of the Classes, and/or the details of the manner in which the deductions would be made. Thus, any authorizations obtained from Plaintiffs or members of the Classes was not informed and, consequently, is not effective, pursuant to 12 NYCRR Section 195-4.2.

192. To the contrary, Plaintiffs and the members of the Classes typically were unaware of the type and amount of the deductions that would be made against their wages until after the deductions were made. Even then, Defendants failed to provide supporting documentation or detail to explain or substantiate the deductions.

193. Defendants' deductions, including but not limited to those for interest on wage advances, for above-market housing fees, for and shipping and website fees, were not authorized by NYLL Section 193 and the supporting New York State Department of Labor Regulations. For example, 12 NYCRR Section 195-5.2 expressly prohibits deducting from wages any interest

charged on an advance of wages: "***Any provision of money which is accompanied by interest***, fee(s) or a repayment amount consisting of anything other than the strict amount provided, ***is not an advance, and may not be reclaimed through the deduction of wages***. (Emphasis added.) Moreover, Defendants improperly deducted the amount of the advance from the wages of Plaintiffs and the members of the Classes because, upon information and belief, they did not comply with the requirements of 12 NYCRR Section 195-5.2, including obtaining proper authorization and implementing proper dispute resolution procedures. Defendants also failed to comply with various other legal requirements for payroll deductions, including that certain forms of deductions be capped for each pay period, and that employees be provided with access to information detailing individual expenditures within these categories of deductions. *See* NYLL Section 193. Similarly, Defendants' charges for shipping and other such administrative fees were improper because an employer may not charge its employees for the employer's administrative costs. *See* 12 NYCRR Section 195-4.5. Likewise, cramming seven to nine models in a two bedroom models apartment and charging them significantly more than market rates to rent that apartment could hardly be deemed to be a benefit to an employee, particularly where the employer was making a profit at the employee's expense. As Section 195-4.3 explains: "deductions that result in financial gain to the employer at the expense of the employee call into question whether the deduction provides a benefit to the employee." Accordingly, Defendants were not authorized to deduct such housing expenses from the paychecks of the Plaintiffs or other members of the Classes.

194. Defendants' conduct, as alleged above, constitutes a willful violation of NYLL Section 193, and the supporting New York State Department of Labor Regulations.

195. As a result of Defendants' violations of NYLL Section 193 and the supporting regulations, Plaintiffs and the members of the Classes are entitled to recover damages in the amount of the unlawful deductions charged against their wages, as well as reasonable attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

FOURTH CAUSE OF ACTION
(Failure to Maintain Accurate Records in Violation of NYLL Section 195(4))

196. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

197. Pursuant to NYLL Section 195(4), an employer is required to "establish, maintain and preserve for not less than six years contemporaneous, true, and accurate payroll records showing for each week worked the hours worked, the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages for each employee."

198. During the Class Periods, Plaintiffs and each of the members of the Classes, were employees of their respective Defendant modeling agencies, and Defendants were employers or joint employers of the models in their respective Classes within the meaning of NYLL Sections 190, 651, and 652, and the supporting New York State Department of Labor Regulations.

199. Plaintiffs are informed and believe, and on that basis allege, that Defendants failed to maintain adequate payroll records pursuant to NYLL § 195(4), particularly with respect to all of the hours that Plaintiffs and the members of the Classes spent at meetings with their respective agencies, at "go-sees," at castings, at test shoots, as well at photoshoots and other

assignments and required check-ins, weigh-ins or other activities performed at the direction of the Defendants.

200. Due to Defendants' violations of the NYLL, Plaintiffs and the members of the Classes are entitled to recover attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

201. Plaintiffs and other members of the Classes also seek an order, pursuant to this Court's equitable powers, requiring Defendants to provide them with copies of the records Defendants were required to maintain pursuant to NYLL § 195(4) for Plaintiffs and for members of the Classes.

FIFTH CAUSE OF ACTION
(Failure to Furnish Accurate Wage Statements and Explanations Thereof, in Violation of NYLL Section 195(3))

202. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

203. Pursuant to NYLL § 195(3), an employer is required to "furnish each employee with a statement with every payment of wages, listing gross wages, deductions and net wages, and upon the request of an employee furnish an explanation of how such wages were computed."

204. During the Class Periods, Plaintiffs and each of the members of the Classes, were employees of their respective Defendant modeling agencies, and Defendants were employers or joint employers of the models in their respective Classes within the meaning of NYLL Sections 190, 651, and 652, and the supporting New York State Department of Labor Regulations.

205. Plaintiffs and the members of the Classes repeatedly asked Defendants for accurate statements of their wages, including statements of their gross wages, deductions, and net wages, along with explanations of how those wages were computed.

206. Defendants have repeatedly failed to respond to Plaintiffs' requests, and when they have furnished Defendants with wage statements, have provided those statements late and without a full explanation of how the wages were computed.

207. Defendants have repeatedly failed to respond to requests by Plaintiffs and members of the Classes for copies of their payroll records or to provide a sufficient explanation of how their wages and deductions were computed, in violation of NYLL Section 195(3).

208. Therefore, and upon information and belief, Plaintiffs assert that Defendants have failed to furnish them with adequate wage statements pursuant to NYLL § 195(3).

209. Due to Defendants' violations of the NYLL, Plaintiffs and the members of the Classes are entitled to recover attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

210. Plaintiffs and other members of the Classes also seek an order, pursuant to this Court's equitable powers and pursuant to NYLL § 198(1-d), requiring Defendants to provide them with the records Defendants were required to furnish to them pursuant to NYLL § 195(3), including wage statements and full explanations of how such wages were computed.

SIXTH CAUSE OF ACTION
(Conversion)

211. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs.

212. Plaintiffs and the members of the Classes have a right and interest in the money they have earned through their modeling work. Throughout the Class Periods, and in violation of their duties to Plaintiffs and the members of the Classes, Defendants have adopted a pattern and practice of interfering with Plaintiffs' rights and interest in these wages. Defendants did so by: (1) intentionally and unlawfully withholding Plaintiffs' wages; (2) intentionally and unlawfully

delaying payment of Plaintiffs' wages; and (3) intentionally making phantom or otherwise unlawful deductions from Plaintiffs' wages. Defendants' conduct, including Defendants' practice of deducting excessive fees from Plaintiffs' paychecks, fell outside the scope of Defendants' contractual duties and obligations. Therefore, throughout the Class Periods, Defendants intentionally converted to their own use property owned by Plaintiffs and the members of the Classes.

213. Plaintiffs and the members of the Classes seek payment of the funds converted by Defendants, along with interest on any wrongfully withheld payments. Plaintiffs and the members of the Classes also seek attorneys' fees and the costs of the action.

SEVENTH CAUSE OF ACTION
(IN THE ALTERNATIVE TO THE CLAIMS LABOR LAW CLAIMS AND THE CLAIM FOR BREACH OF CONTRACT)
(Breach of the Covenant of Good Faith and Fair Dealing)

214. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs 1-275.

215. The modeling representation agreements were valid and binding contracts.

216. Plaintiffs performed in full under the contracts, which encompassed an implied covenant of good faith and fair dealing.

217. In the alternative to their claims for breach of contract and violation of the New York Labor Law, and assuming the model representation agreements are not found to be "employment" contracts, Plaintiffs allege that Defendants breached the covenant of good faith and fair dealing. Defendants frustrated the purpose of the representation agreements by: (1) failing to pay Plaintiffs the money owed to them for their services; (2) making excessive, unauthorized, and phantom deductions from Plaintiffs' paychecks, including for airfare, inflated

shipping costs, and above-market rent; (3) delaying payments to Plaintiffs; and (4) engaging in other unauthorized or unlawful conduct.

218. As a result of Defendants' violation of the covenant of good faith and fair dealing, Plaintiffs and the members of the Classes have suffered damages and will continue to suffer damages in the future. Plaintiffs and the members of the Classes seek payment of these damages, along with interest, attorneys' fees, and the costs of the action,

EIGHTH CAUSE OF ACTION
(IN THE ALTERNATIVE TO THE CLAIMS FOR CONVERSION, BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING, AND UNJUST ENRICHMENT)
(Breach of Contract)

219. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs 1-.275

220. Plaintiffs entered into initial contracts with the modeling agency Defendants, who assert that these contracts are valid and enforceable.

221. The modeling agency Defendants breached the contracts by failing to pay to Plaintiffs, moneys received as agents on Plaintiffs' behalf.

222. Plaintiffs performed their obligations by providing their images.

223. Defendants failed to perform when they failed to pay to Plaintiffs, moneys received as agents on Plaintiffs' behalf.

224. Plaintiffs and the members of the Classes seek payment of the moneys owed them for their modeling work, along with attorney's fees and costs of the action, interest, and such other legal and equitable relief as the Court deems proper.

NINTH CAUSE OF ACTION
(IN THE ALTERNATIVE TO THE CLAIM FOR BREACH OF CONTRACT)
(Unjust Enrichment)

225. Plaintiffs re-allege and incorporate by reference all allegations in the preceding paragraphs 1-275.

226. Upon information and belief, the contracts between the models and the modeling agencies are not valid and enforceable because they have been terminated or expired.

227. Should the Court ultimately find that the contracts are not valid and enforceable, as asserted by Plaintiffs, then the Plaintiffs request the alternative relief of unjust enrichment.

228. A cause of action for unjust enrichment does not require the performance of a wrongful act by the party enriched.

229. The modeling agency Defendants have unjustly enriched themselves at the expense and detriment of the models.

230. The modeling agency Defendants continued dominion and control over and use of the funds is a breach of contract or unjustly enriches Defendants and equity and good conscience require restitution.

231. The models have made demand for such immediate restitution.

232. The models have an immediate superior right to the funds paid for usages in the possession of Defendants.

233. Defendants have interfered with and took unauthorized control over the funds paid for usages to the exclusion of the models' rights.

234. Once the funds paid for usages were in control of Defendants and the character and purpose of the funds were identified and known to Defendants, they intentionally interfered with the rights of the models in that property.

235. It is against equity and good conscience to permit Defendants to retain the funds paid for usages that are owed to the models.

236. Plaintiffs and the members of the Classes seek disgorgement of the payments Defendants retained that were owed to Plaintiffs and the members of the Classes for the modeling work they performed, along with attorney's fees and costs of the action, interest, and such other relief as the Court deems proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants in an amount to be determined at trial on all causes of action plus an award of interest, costs, attorneys fees and disbursements, as follows:

a. Unpaid minimum wages pursuant to NYLL § 650 and the supporting New York State Department of Labor regulations;

b. Minimum wages pursuant to NYLL § 650 and the supporting New York State Department of Labor regulations for periods in which Defendants delayed wage payments;

c. Unpaid wages due pursuant to NYLL § 191, and the supporting New York State Department of Labor regulations;

d. Compensation for unlawful deductions from their wages pursuant to NYLL § 191;

e. A Court order requiring Defendants to furnish Plaintiffs and members of the Classes with accurate payroll records from Plaintiffs and the members of the Classes ;

f. A Court order requiring Defendants to furnish Plaintiffs and members of the Classes with the wage statements that Defendants were required to furnish to

them pursuant to NYLL § 195(3), including full explanations of how the wages and deductions were computed, pursuant to NYLL § 198(1-d);

g. The unpaid funds due to Plaintiffs and the members of the Classes for their modeling work;

h. The funds retained by Defendants as a result of nonpayment or late payment to the Plaintiffs and the members of the Classes for their modeling work;

i. Certification of the Wilhelmina and Next Classes set forth above pursuant to Article 9 of the New York Civil Practice Law;

j. Designation of the Plaintiffs' counsel of record as Class counsel;

k. Interest on wages whose payments were delayed;

l. Pre-judgment interest and post-judgment interest;

m. Attorney fees and other costs of bringing this action, including pursuant to NYLL § 198.

DATED: New York, New York
July 24, 2024

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