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8 Attorneys for Defendants
 PAYCOM SOFTWARE, INC. and PAYCOM
 9 PAYROLL, LLC

10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

13 CAMERON ROSETTA (on behalf of
 himself and all others similar situated),

14 Plaintiff,

15 v.

16 PAYCOM SOFTWARE, INC. and
 17 PAYCOM PAYROLL, LLC,

18 Defendants.
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Case No. 2:19-cv-8994-DSF (ASx)

**DEFENDANTS' AMENDED ANSWER
 TO PLAINTIFF'S FIRST AMENDED
 CLASS ACTION COMPLAINT**

Complaint Filed: October 18, 2019
 Trial Date: None
 District Judge: Hon. Dale S. Fischer
 Courtroom 7D, First St.
 Magistrate Judge: Hon. Alka Sagar
 Courtroom 540, Roybal

1 TO PLAINTIFF(S) CAMERON ROSETTA AND HIS ATTORNEYS OF
2 RECORD:

3 Defendants Paycom Software, Inc. and Paycom Payroll, LLC (“Defendants”)
4 hereby submit this amended answer plaintiff Cameron Rosetta’s (“Plaintiff”) First
5 Amended Class Action Complaint (“Complaint”) as follows:

6 **INTRODUCTION**

7 1. Answering Paragraph 1, Defendants do not respond to the conclusions
8 and/or statements of law contained therein, for which no response is required.
9 Further answering Paragraph 1, Defendants admit that they employ sales
10 professionals that are exempt from California’s overtime laws. Further answering
11 Paragraph 1, Defendants admit that they require their sales professionals to sign
12 certain policies and agreements. Except as expressly admitted herein, Defendants
13 deny each and every allegation contained in Paragraph 1.

14 2. Answering Paragraph 2, Defendants do not respond to the conclusions
15 and/or statements of law contained therein, for which no response is required.
16 Further answering Paragraph 2, Defendants admit that, through the Complaint,
17 Plaintiff purports to bring this action as a class action, but Defendants deny that this
18 action is properly maintainable as a class action, as alleged. Further answering
19 Paragraph 2, Defendants admit that, through the Complaint, Plaintiff purports that he
20 will amend the Complaint to allege additional claims under the Private Attorney
21 General Act (“PAGA”) pursuant to the labor code upon expiration of the notice
22 period(s), but Defendants deny that the PAGA claim is sustainable in this action.
23 Except as expressly admitted herein, Defendants deny each and every allegation
24 contained in Paragraph 2.

25 **PARTIES**

26 3. Answering Paragraph 3, Defendants admit that Plaintiff worked as a
27 sales professional for defendant Paycom Payroll, LLC in Los Angeles, California
28 from approximately December 10, 2018 to April, 19, 2019. Further answering

1 Paragraph 3, Defendants lack knowledge and/or information sufficient to form a
2 belief as to the truth of Plaintiff's assertion that it was his second job out of college,
3 and on that basis Defendants deny those allegations. Further answering Paragraph 3,
4 Defendants deny that Plaintiff's work, job duties, and terms and conditions of
5 employment were similar to all other sales professionals. Except as expressly
6 admitted herein, Defendants deny each and every allegation contained in Paragraph
7 3.

8 4. Answering Paragraph 4, Defendants admit that defendant Paycom
9 Software, Inc. is a publicly traded payroll and human resources technology provider
10 based in Oklahoma City, Oklahoma. Further answering Paragraph 4, Defendants
11 admit that defendant Paycom Payroll, LLC has at least 3,050 employees nationwide.
12 Further answering Paragraph 4, Defendants admit that employees are required to
13 sign certain policies and agreements at hire. Except as expressly admitted herein,
14 Defendants deny each and every allegation contained in Paragraph 4.

15 5. Answering Paragraph 5, defendant Paycom Payroll, LLC is a subsidiary
16 of defendant Paycom Software, Inc. Further answering Paragraph 5, Defendants
17 admit that defendant Paycom Payroll, LLC is described as Plaintiff's employer in his
18 wage statements. Further answering Paragraph 5, Defendants admit that certain
19 employees, including Plaintiff, signed certain policies and agreements at hire.
20 Except as expressly admitted herein, Defendants deny each and every allegation
21 contained in Paragraph 5.

22 6. Answering Paragraph 6, Defendants do not respond to the conclusions
23 and/or statements of law contained therein, for which no response is required.
24 Except as expressly admitted herein, Defendants deny each and every allegation
25 contained in Paragraph 6.

26 7. Answering Paragraph 7, Defendants do not respond to the conclusions
27 and/or statements of law contained therein, for which no response is required.
28 Further answering Paragraph 7, Defendants deny each and every allegation contained

1 therein.

2 **JURISDICTION & VENUE**

3 8. Answering Paragraph 8, Defendants do not respond to the conclusions
4 and/or statements of law contained therein, for which no response is required.
5 Further answering Paragraph 8, Defendants admit that the United States District
6 Court for the Central District of California has jurisdiction over Plaintiff’s action
7 against Defendants. Further answering Paragraph 8, Defendants admit on
8 information and belief that Plaintiff was a Los Angeles resident at the time of his
9 employment with Paycom Payroll, LLC, but lack knowledge and/or information
10 sufficient to form a belief as to the truth of Plaintiff’s allegation that he is presently a
11 California resident, and on that basis Defendants deny that allegation. Further
12 answering Paragraph 8, Defendants admit that their principal places of business are
13 in Oklahoma and that they are incorporated in Delaware. Except as expressly
14 admitted herein, Defendants deny each and every allegation contained in Paragraph
15 8.

16 **FACTS**

17 9. Answering Paragraph 9, Defendants admit that they sell products and
18 services to a range of clients, from small to large. Further answering Paragraph 9,
19 Defendants admit that they seek to increase their client base through various sales
20 efforts. Further answering Paragraph 9, defendant Paycom Payroll, LLC admits that
21 it has multiple sales offices staffed with a sales team comprised of various
22 professionals. Except as expressly admitted herein, Defendants deny each and every
23 allegation contained in Paragraph 9.

24 10. Answering Paragraph 10, Defendants admit that defendant Paycom
25 Payroll LLC recruits broadly from many sources. Further answering Paragraph 10,
26 Defendants lacks knowledge and/or information sufficient to form a belief as to the
27 truth of the allegation that “this is the Sales Professionals’ first or second job out of
28 college,” and on that basis Defendants deny those allegations. Except as expressly

1 admitted herein, Defendants deny each and every allegation contained in Paragraph
2 10.

3 11. Answering Paragraph 11, Defendants admit that defendant Paycom
4 Payroll, LLC has locations in San Francisco, San Jose, Sacramento, Pasadena, Los
5 Angeles, Irvine, and San Diego. Further answering Paragraph 11, Defendants admit
6 that sales professionals are issued laptops so that they can work remotely when out in
7 the field. Except as expressly admitted herein, Defendants deny each and every
8 allegation contained in Paragraph 11.

9 12. Answering Paragraph 12, Defendants deny that they experience high
10 turnover by design. Further answering Paragraph 12, Defendants lack knowledge
11 and/or information sufficient to form a belief as to the truth of the remaining
12 allegations contained in Paragraph 12, and on that basis Defendants deny those
13 allegations.

14 13. Answering Paragraph 13, Defendants deny that class treatment is
15 appropriate in this action. Further answering Paragraph 13 and without admitting
16 that class treatment is appropriate in this action, Defendants object to the term
17 “putative class members” as vague, ambiguous, and unintelligible because no class
18 has been certified. Except as expressly admitted herein, Defendants deny each and
19 every allegation contained in Paragraph 13.

20 14. Answering Paragraph 14, Defendants admit that sales professionals
21 must attend several hours of training upon hire regarding topics relevant to the role.
22 Except as expressly admitted herein, Defendants deny each and every allegation
23 contained in Paragraph 14.

24 15. Answering Paragraph 15, Defendants deny each and every allegation
25 contained therein.

26 16. Answering Paragraph 16, Defendants deny that any overtime payments
27 are owed. Defendants deny the remaining allegations contained in paragraph 16.

28 17. Answering Paragraph 17, Defendants deny that any overtime payments

1 are owed. Further answering Paragraph 17, Defendants deny the remaining
2 allegations alleged therein.

3 18. Answering Paragraph 18, Defendants deny each and every allegation
4 contained therein.

5 19. Answering Paragraph 19, Defendants deny each and every allegation
6 contained therein.

7 20. Answering Paragraph 20, Defendants deny each and every allegation
8 contained therein.

9 21. Answering Paragraph 21, Defendants deny each and every allegation
10 contained therein.

11 22. Answering Paragraph 22, Defendants deny that any overtime payments
12 are owed. Defendants deny the remaining allegations contained in paragraph 22.

13 23. Answering Paragraph 23, Defendants deny that the wage statements are
14 inaccurate. Further answering Paragraph 23, Defendants deny the remaining
15 allegations alleged therein.

16 24. Answering Paragraph 24, Defendants do not respond to the conclusions
17 and/or statements of law contained therein, for which no response is required.
18 Further answering Paragraph 24, Defendants deny the remaining allegations alleged
19 therein.

20 25. Answering Paragraph 25, Defendants admit that they maintain
21 policy(ies) related to photo and video releases. Except as expressly admitted herein,
22 Defendants deny each and every allegation contained in Paragraph 25.

23 26. Answering Paragraph 26, Defendants deny each and every allegation
24 contained therein.

25 27. Answering Paragraph 27, Defendants admit that it maintains policy(ies)
26 related to photo and video releases. Except as expressly admitted herein, Defendants
27 deny each and every allegation contained in Paragraph 27.

28 (a) Answering Paragraph 27(a), Defendants admit that it maintains

1 policy(ies) related to photo and video releases. Except as expressly admitted herein,
2 Defendants deny each and every allegation contained in Paragraph 27(a).

3 (b) Answering Paragraph 27(b), Defendants admit that it maintains
4 policy(ies) related to photo and video releases. Except as expressly admitted herein,
5 Defendants deny each and every allegation contained in Paragraph 27(b).

6 (c) Answering Paragraph 27(c), Defendants admit that it maintains
7 policy(ies) related to photo and video releases. Except as expressly admitted herein,
8 Defendants deny each and every allegation contained in Paragraph 27(c).

9 (d) Answering Paragraph 27(d), Defendants admit that it maintains
10 policy(ies) related to photo and video releases. Except as expressly admitted herein,
11 Defendants deny each and every allegation contained in Paragraph 27(d).

12 (e) Answering Paragraph 27(e), Defendants admit that it maintains
13 policy(ies) related to photo and video releases. Except as expressly admitted herein,
14 Defendants deny each and every allegation contained in Paragraph 27(e).

15 28. Answering Paragraph 28, Defendants deny each and every allegation
16 contained therein.

17 29. Answering Paragraph 29, Defendants deny each and every allegation
18 contained therein.

19 30. Answering Paragraph 30, Defendants lack knowledge and/or
20 information sufficient to form a belief as to the truth of Plaintiff's allegations in
21 Paragraph 30, and on that basis Defendants deny those allegations.

22 31. Answering Paragraph 31, Defendants deny each and every allegation
23 contained therein.

24 32. Answering Paragraph 22, Defendants deny each and every allegation
25 contained therein.

26 33. Answering Paragraph 33, Defendants admit that they maintain
27 confidentiality policy(ies). Except as expressly admitted herein, Defendants deny
28 each and every allegation contained in Paragraph 33.

1 34. Answering Paragraph 34, Defendants admit that they maintain
2 policy(ies) related to insider trading. Except as expressly admitted herein,
3 Defendants deny each and every allegation contained in Paragraph 34.

4 35. Answering Paragraph 35, Defendants admit that they maintain
5 policy(ies) related to employee conduct. Except as expressly admitted herein,
6 Defendants deny each and every allegation contained in Paragraph 35.

7 36. Answering Paragraph 36, Defendants admit that they maintain an
8 employee handbook. Except as expressly admitted herein, Defendants deny each
9 and every allegation contained in Paragraph 36.

10 37. Answering Paragraph 37, Defendants admit that they maintain policies
11 related to confidentiality, non-disparagement, non-disclosure, and proprietary
12 information. Except as expressly admitted herein, Defendants deny each and every
13 allegation contained in Paragraph 37.

14 38. Answering Paragraph 38, Defendants admit that they maintain policies
15 related to confidentiality, non-disparagement, non-disclosure, and proprietary
16 information. Except as expressly admitted herein, Defendants deny each and every
17 allegation contained in Paragraph 38.

18 (a) Answering Paragraph 38(a), Defendants admit that they maintain
19 policies related to confidentiality, non-disparagement, non-disclosure, and
20 proprietary information. Except as expressly admitted herein, Defendants deny each
21 and every allegation contained in Paragraph 38(a).

22 (b) Answering Paragraph 38(b), Defendants admit that they maintain
23 policies related to confidentiality, non-disparagement, non-disclosure, and
24 proprietary information. Except as expressly admitted herein, Defendants deny each
25 and every allegation contained in Paragraph 38(b).

26 (c) Answering Paragraph 38(c), Defendants admit that they maintain
27 policies related to confidentiality, non-disparagement, non-disclosure, and
28 proprietary information. Except as expressly admitted herein, Defendants deny each

1 and every allegation contained in Paragraph 38(c).

2 (d) Answering Paragraph 38(d), Defendants admit that they maintain
3 policies related to confidentiality, non-disparagement, non-disclosure, and
4 proprietary information. Except as expressly admitted herein, Defendants deny each
5 and every allegation contained in Paragraph 38(d).

6 39. Answering Paragraph 39, Defendants admit that they maintain policies
7 related to confidentiality, non-disparagement, non-disclosure, and proprietary
8 information. Except as expressly admitted herein, Defendants deny each and every
9 allegation contained in Paragraph 39.

10 40. Answering Paragraph 40, Defendants admit that they maintain policies
11 related to confidentiality, non-disparagement, non-disclosure, and proprietary
12 information. Except as expressly admitted herein, Defendants deny each and every
13 allegation contained in Paragraph 40.

14 41. Answering Paragraph 41, Defendants lack knowledge and/or
15 information sufficient to form a belief as to the truth of Plaintiff's assertion he felt,
16 and continues to feel, constrained in what he can disclose about Defendants, and on
17 that basis Defendants deny those allegations. Further answering Paragraph 41,
18 Defendants deny the remaining allegations contained in Paragraph 41.

19 42. Answering Paragraph 42, Defendants admit that they maintain policies
20 related to indemnification. Except as expressly admitted herein, Defendants deny
21 each and every allegation contained in Paragraph 42.

22 43. Answering Paragraph 43, Defendants admit that they maintain policies
23 related to indemnification. Except as expressly admitted herein, Defendants deny
24 each and every allegation contained in Paragraph 43.

25 44. Answering Paragraph 44, Defendants deny each and every allegation
26 contained therein.

27 45. Answering Paragraph 45, Defendants admit that they maintain non-
28 solicitation policy(ies) related to confidential commercial business information.

1 Except as expressly admitted herein, Defendants deny each and every allegation
2 contained in Paragraph 45.

3 46. Answering Paragraph 46, Defendants admit that they maintain non-
4 solicitation policy(ies) related to confidential commercial business information.

5 Except as expressly admitted herein, Defendants deny each and every allegation
6 contained in Paragraph 46.

7 47. Answering Paragraph 47, Defendants admit that they maintain non-
8 solicitation policy(ies) related to confidential commercial business information.

9 Except as expressly admitted herein, Defendants deny each and every allegation
10 contained in Paragraph 47.

11 48. Answering Paragraph 48, Defendants lack knowledge and/or
12 information sufficient to form a belief as to the truth of Plaintiff's assertion that he
13 felt, and continues to feel, constrained in what he can disclose about former co-
14 workers, and on that basis Defendants deny those allegations. Further answering
15 Paragraph 48, Defendants deny the remaining allegations contained in Paragraph 48.

16 49. Answering Paragraph 49, Defendants deny each and every allegation
17 contained therein.

18 50. Answering Paragraph 50, Defendants admit that they provide payroll
19 and human resources services across the country, including in California. Except as
20 expressly admitted herein, Defendants deny each and every allegation contained in
21 Paragraph 50.

22 51. Answering Paragraph 51, Defendants deny each and every allegation
23 contained therein.

24 **PLAINTIFF'S CLASS ALLEGATIONS**

25 51. Answering Paragraph 51[sic], Defendants admit that, through the
26 Complaint, Plaintiff purports to bring this action as a class action, but Defendants
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28

1 deny that this action is properly maintainable as a class action, as alleged.¹ Except as
2 expressly admitted herein, Defendants deny each and every allegation contained in
3 Paragraph 51[sic].

4 52. Answering Paragraph 52, Defendants do not respond to the conclusions
5 and/or statements of law contained therein, for which no response is required.
6 Further answering Paragraph 52, Defendants admit that, through the Complaint,
7 Plaintiff purports to bring this action on behalf of a “Sales Professional Class,” but
8 Defendants deny that this action is properly maintainable as a class action, as
9 alleged. Except as expressly admitted herein, Defendants deny each and every
10 allegation contained in Paragraph 52, and further deny that this case is properly
11 maintainable as a class action.

12 53. Answering Paragraph 53, Defendants do not respond to the conclusions
13 and/or statements of law contained therein, for which no response is required.
14 Further answering Paragraph 53, Defendants admit that, through the Complaint,
15 Plaintiff purports to bring this action on behalf of a “Sales Professional Subclass,”
16 but Defendants deny that this action is properly maintainable as a class action, as
17 alleged. Except as expressly admitted herein, Defendants deny each and every
18 allegation contained in Paragraph 53, and further deny that this case is properly
19 maintainable as a class action.

20 54. Answering Paragraph 54, Defendants do not respond to the conclusions
21 and/or statements of law contained therein, for which no response is required.
22 Further answering Paragraph 54, Defendants admit that, through the Complaint,
23 Plaintiff purports to bring this action on behalf of a “Likeness Waiver Class,” but
24 Defendants deny that this action is properly maintainable as a class action, as
25 alleged. Except as expressly admitted herein, Defendants deny each and every
26 allegation contained in Paragraph 54, and further deny that this case is properly
27

28 ¹ The Complaint contains two “Paragraph 51”s.

1 maintainable as a class action.

2 55. Answering Paragraph 55, Defendants do not respond to the conclusions
3 and/or statements of law contained therein, for which no response is required.

4 Further answering Paragraph 55, Defendants admit that, through the Complaint,
5 Plaintiff purports to bring this action on behalf of a “NDA Class,” but Defendants
6 deny that this action is properly maintainable as a class action, as alleged. Except as
7 expressly admitted herein, Defendants deny each and every allegation contained in
8 Paragraph 55, and further deny that this case is properly maintainable as a class
9 action.

10 56. Answering Paragraph 56, Defendants do not respond to the conclusions
11 and/or statements of law contained therein, for which no response is required.

12 Further answering Paragraph 56, Defendants admit that, through the Complaint,
13 Plaintiff purports to bring this action on behalf of a “Non-Solicit Class,” but
14 Defendants deny that this action is properly maintainable as a class action, as
15 alleged. Except as expressly admitted herein, Defendants deny each and every
16 allegation contained in Paragraph 56, and further deny that this case is properly
17 maintainable as a class action.

18 57. Answering Paragraph 57, Defendants do not respond to the conclusions
19 and/or statements of law contained therein, for which no response is required.

20 Further answering Paragraph 57, Defendants admit that, through the Complaint,
21 Plaintiff purports to bring this action on behalf of a “Forum Selection/Choice of Law
22 Class,” but Defendants deny that this action is properly maintainable as a class
23 action, as alleged. Except as expressly admitted herein, Defendants deny each and
24 every allegation contained in Paragraph 57, and further deny that this case is
25 properly maintainable as a class action.

26 58. Answering Paragraph 58, Defendants do not respond to the conclusions
27 and/or statements of law contained therein, for which no response is required

28 59. Answering Paragraph 59, Defendants do not respond to the conclusions

1 and/or statements of law contained therein, for which no response is required.

2 Further answering Paragraph 59, Defendants deny each and every allegation therein,
3 and further deny that this case is properly maintainable as a class action.

4 60. Answering Paragraph 60, Defendants do not respond to the conclusions
5 and/or statements of law contained in Paragraph 60 to which no response is required.
6 Further answering Paragraph 60, Defendants deny each and every factual allegation
7 contained in Paragraph 60, and further deny that this case is properly maintainable as
8 a class action.

9 61. Answering Paragraph 61, Defendants do not respond to the conclusions
10 and/or statements of law contained in Paragraph 61 to which no response is required.
11 Further answering Paragraph 61, Defendants deny each and every factual allegation
12 contained in Paragraph 61, and further deny that this case is properly maintainable as
13 a class action.

14 (a) Answering Paragraph 61(a), Defendants do not respond to the
15 conclusions and/or statements of law contained in Paragraph 61(a) to which no
16 response is required. Further answering Paragraph 61(a), Defendants deny each and
17 every factual allegation contained in Paragraph 61(a), and further deny that this case
18 is properly maintainable as a class action.

19 (b) Answering Paragraph 61(b), Defendants do not respond to the
20 conclusions and/or statements of law contained in Paragraph 61(b) to which no
21 response is required. Further answering Paragraph 61(b), Defendants deny each and
22 every factual allegation contained in Paragraph 61(b), and further deny that this case
23 is properly maintainable as a class action.

24 (c) Answering Paragraph 61(c), Defendants do not respond to the
25 conclusions and/or statements of law contained in Paragraph 61(c) to which no
26 response is required. Further answering Paragraph 61(c), Defendants deny each and
27 every factual allegation contained in Paragraph 61(c), and further deny that this case
28 is properly maintainable as a class action.

1 (d) Answering Paragraph 61(d), Defendants do not respond to the
2 conclusions and/or statements of law contained in Paragraph 61(d) to which no
3 response is required. Further answering Paragraph 61(d), Defendants deny each and
4 every factual allegation contained in Paragraph 61(d), and further deny that this case
5 is properly maintainable as a class action.

6 (e) Answering Paragraph 61(e), Defendants do not respond to the
7 conclusions and/or statements of law contained in Paragraph 61(e) to which no
8 response is required. Further answering Paragraph 61(e), Defendants deny each and
9 every factual allegation contained in Paragraph 61(e), and further deny that this case
10 is properly maintainable as a class action.

11 (f) Answering Paragraph 61(f), Defendants do not respond to the
12 conclusions and/or statements of law contained in Paragraph 61(f) to which no
13 response is required. Further answering Paragraph 61(f), Defendants deny each and
14 every factual allegation contained in Paragraph 61(f), and further deny that this case
15 is properly maintainable as a class action.

16 (g) Answering Paragraph 61(g), Defendants do not respond to the
17 conclusions and/or statements of law contained in Paragraph 61(g) to which no
18 response is required. Further answering Paragraph 61(g), Defendants deny each and
19 every factual allegation contained in Paragraph 61(g), and further deny that this case
20 is properly maintainable as a class action.

21 (h) Answering Paragraph 61(h), Defendants do not respond to the
22 conclusions and/or statements of law contained in Paragraph 61(h) to which no
23 response is required. Further answering Paragraph 61(h), Defendants deny each and
24 every factual allegation contained in Paragraph 61(h), and further deny that this case
25 is properly maintainable as a class action.

26 (i) Answering Paragraph 61(i), Defendants do not respond to the
27 conclusions and/or statements of law contained in Paragraph 61(i) to which no
28 response is required. Further answering Paragraph 61(i), Defendants deny each and

1 every factual allegation contained in Paragraph 61(i), and further deny that this case
2 is properly maintainable as a class action.

3 (j) Answering Paragraph 61(j), Defendants do not respond to the
4 conclusions and/or statements of law contained in Paragraph 61(j) to which no
5 response is required. Further answering Paragraph 61(j), Defendants deny each and
6 every factual allegation contained in Paragraph 61(j), and further deny that this case
7 is properly maintainable as a class action.

8 (k) Answering Paragraph 61(k), Defendants do not respond to the
9 conclusions and/or statements of law contained in Paragraph 61(k) to which no
10 response is required. Further answering Paragraph 61(k), Defendants deny each and
11 every factual allegation contained in Paragraph 61(k), and further deny that this case
12 is properly maintainable as a class action.

13 (l) Answering Paragraph 61(l), Defendants do not respond to the
14 conclusions and/or statements of law contained in Paragraph 61(l) to which no
15 response is required. Further answering Paragraph 61(l), Defendants deny each and
16 every factual allegation contained in Paragraph 61(l), and further deny that this case
17 is properly maintainable as a class action.

18 (m) Answering Paragraph 61(m), Defendants do not respond to the
19 conclusions and/or statements of law contained in Paragraph 61(m) to which no
20 response is required. Further answering Paragraph 61(m), Defendants deny each and
21 every factual allegation contained in Paragraph 61(m), and further deny that this case
22 is properly maintainable as a class action.

23 (n) Answering Paragraph 61(n), Defendants do not respond to the
24 conclusions and/or statements of law contained in Paragraph 61(n) to which no
25 response is required. Further answering Paragraph 61(n), Defendants deny each and
26 every factual allegation contained in Paragraph 61(n), and further deny that this case
27 is properly maintainable as a class action.

28 (o) Answering Paragraph 61(o), Defendants do not respond to the

1 conclusions and/or statements of law contained in Paragraph 61(o) to which no
2 response is required. Further answering Paragraph 61(o), Defendants deny each and
3 every factual allegation contained in Paragraph 61(o), and further deny that this case
4 is properly maintainable as a class action.

5 62. Answering Paragraph 62, Defendants do not respond to the conclusions
6 and/or statements of law contained in Paragraph 62 to which no response is required.
7 Further answering Paragraph 62, Defendants deny each and every factual allegation
8 contained in Paragraph 62, and further deny that this case is properly maintainable as
9 a class action.

10 63. Answering Paragraph 63, Defendants do not respond to the conclusions
11 and/or statements of law contained in Paragraph 63 to which no response is required.
12 Further answering Paragraph 63, Defendants deny each and every factual allegation
13 contained in Paragraph 63, and further deny that this case is properly maintainable as
14 a class action.

15 64. Answering Paragraph 64, Defendants do not respond to the conclusions
16 and/or statements of law contained in Paragraph 64 to which no response is required.
17 Further answering Paragraph 64, Defendants deny each and every factual allegation
18 contained in Paragraph 64, and further deny that this case is properly maintainable as
19 a class action.

20 65. Answering Paragraph 65, Defendants do not respond to the conclusions
21 and/or statements of law contained in Paragraph 65 to which no response is required.
22 Further answering Paragraph 65, Defendants deny each and every factual allegation
23 contained in Paragraph 65, and further deny that this case is properly maintainable as
24 a class action.

25 66. Answering Paragraph 66, Defendants do not respond to the conclusions
26 and/or statements of law contained in Paragraph 66, to which no response is
27 required. Further answering Paragraph 66, Defendants deny each and every factual
28 allegation contained in Paragraph 66, and further deny that this case is properly

1 maintainable as a class action or representative action.

2 **PLAINTIFF'S CLAIMS**

3 **PLAINTIFF'S FIRST CLAIM**

4 **OVERTIME**

5 **(On Behalf of Plaintiff and the Sales Professional Class)**

6 67. Answering Paragraph 67, Defendants repeat and re-allege their
7 responses to paragraphs 1 through 66 in the Complaint as though set forth in full
8 herein, and incorporate their responses herein by reference. Further answering
9 Paragraph 67, Defendants do not respond to the conclusions and/or statements of law
10 contained in Paragraph 67 to which no response is required.

11 68. Answering Paragraph 68, Defendants deny each and every factual
12 allegation contained in Paragraph 68, and further deny that this case is properly
13 maintainable as a class action.

14 69. Answering Paragraph 69, Defendants deny each and every factual
15 allegation contained in Paragraph 69, and further deny that this case is properly
16 maintainable as a class action.

17 70. Answering Paragraph 70, Defendants deny each and every factual
18 allegation contained in Paragraph 70, and further deny that this case is properly
19 maintainable as a class action.

20 **PLAINTIFF'S SECOND CLAIM**

21 **(WAITING TIME PENALTIES)**

22 **(On Behalf of Plaintiff and the Sales Professional Subclass)**

23 71. Answering Paragraph 71, Defendants repeat and re-allege their
24 responses to paragraphs 1 through 70 in the Complaint as though set forth in full
25 herein, and incorporate their responses herein by reference. Further answering
26 Paragraph 71, Defendants do not respond to the conclusions and/or statements of law
27 contained in Paragraph 71 to which no response is required. Further answering
28 Paragraph 71, Defendants deny each and every factual allegation contained in

1 Paragraph 71, and further deny that this case is properly maintainable as a class
2 action.

3 72. Answering Paragraph 72, Defendants do not respond to the conclusions
4 and/or statements of law contained in Paragraph 72 to which no response is required.
5 Further answering Paragraph 72, Defendants deny each and every factual allegation
6 contained in Paragraph 72, and further deny that this case is properly maintainable as
7 a class action.

8 73. Answering Paragraph 73, Defendants do not respond to the conclusions
9 and/or statements of law contained in Paragraph 73 to which no response is required.
10 Further answering Paragraph 73, Defendants deny each and every factual allegation
11 contained in Paragraph 73, and further deny that this case is properly maintainable as
12 a class action.

13 74. Answering Paragraph 74, Defendants do not respond to the conclusions
14 and/or statements of law contained in Paragraph 74 to which no response is required.
15 Further answering Paragraph 74, Defendants deny each and every factual allegation
16 contained in Paragraph 74, and further deny that this case is properly maintainable as
17 a class action.

18 **PLAINTIFF'S THIRD CLAIM**

19 **(FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS)**

20 **(On Behalf of Plaintiff and the Sales Professionals Class)**

21 75. Answering Paragraph 75, Defendants repeat and re-allege their
22 responses to paragraphs 1 through 74 in the Complaint as though set forth in full
23 herein, and incorporate their responses herein by reference. Further answering
24 Paragraph 75, Defendants do not respond to the conclusions and/or statements of law
25 contained in Paragraph 75 to which no response is required. Further answering
26 Paragraph 75, Defendants deny each and every factual allegation contained in
27 Paragraph 75, and further deny that this case is properly maintainable as a class
28 action.

1 76. Answering Paragraph 76, Defendants do not respond to the conclusions
2 and/or statements of law contained in Paragraph 76 to which no response is required.
3 Further answering Paragraph 76, Defendants deny each and every factual allegation
4 contained in Paragraph 76, and further deny that this case is properly maintainable as
5 a class action.

6 77. Answering Paragraph 77, Defendants do not respond to the conclusions
7 and/or statements of law contained in Paragraph 77 to which no response is required.
8 Further answering Paragraph 77, Defendants deny each and every factual allegation
9 contained in Paragraph 77, and further deny that this case is properly maintainable as
10 a class action.

11 **PLAINTIFF’S FOURTH CLAIM**

12 **(Declaratory and Injunctive Relief as to the Likeness Waiver)**

13 **(On Behalf of Plaintiff and the Likeness Waiver Class)**

14 78. Answering Paragraph 78, Defendants repeat and re-allege their
15 responses to paragraphs 1 through 77 in the Complaint as though set forth in full
16 herein, and incorporate their responses herein by reference. Further answering
17 Paragraph 78, Defendants do not respond to the conclusions and/or statements of law
18 contained in Paragraph 78 to which no response is required. Further answering
19 Paragraph 78, Defendants deny each and every factual allegation contained in
20 Paragraph 78, and further deny that this case is properly maintainable as a class
21 action.

22 79. Answering Paragraph 79, Defendants do not respond to the conclusions
23 and/or statements of law contained in Paragraph 79 to which no response is required.
24 Further answering Paragraph 79, Defendants deny each and every factual allegation
25 contained in Paragraph 79, and further deny that this case is properly maintainable as
26 a class action.

27 80. Answering Paragraph 80, Defendants do not respond to the conclusions
28 and/or statements of law contained in Paragraph 80 to which no response is required.

1 Further answering Paragraph 80, Defendants deny each and every factual allegation
2 contained in Paragraph 80, and further deny that this case is properly maintainable as
3 a class action.

4 81. Answering Paragraph 81, Defendants do not respond to the conclusions
5 and/or statements of law contained in Paragraph 81 to which no response is required.
6 Further answering Paragraph 81, Defendants deny each and every factual allegation
7 contained in Paragraph 81, and further deny that this case is properly maintainable as
8 a class action.

9 82. Answering Paragraph 82, Defendants do not respond to the conclusions
10 and/or statements of law contained in Paragraph 82 to which no response is required.
11 Further answering Paragraph 82, Defendants deny each and every factual allegation
12 contained in Paragraph 82, and further deny that this case is properly maintainable as
13 a class action.

14 83. Answering Paragraph 83, Defendants do not respond to the conclusions
15 and/or statements of law contained in Paragraph 83 to which no response is required.
16 Further answering Paragraph 83, Defendants deny each and every factual allegation
17 contained in Paragraph 83, and further deny that this case is properly maintainable as
18 a class action.

19 (a) Answering Paragraph 83(a), Defendants do not respond to the
20 conclusions and/or statements of law contained in Paragraph 83(a) to which no
21 response is required. Further answering Paragraph 83(a), Defendants deny each and
22 every factual allegation contained in Paragraph 83(a), and further deny that this case
23 is properly maintainable as a class action.

24 (b) Answering Paragraph 83(b), Defendants do not respond to the
25 conclusions and/or statements of law contained in Paragraph 83(b) to which no
26 response is required. Further answering Paragraph 83(b), Defendants deny each and
27 every factual allegation contained in Paragraph 83(b), and further deny that this case
28 is properly maintainable as a class action.

1 (c) Answering Paragraph 83(c), Defendants do not respond to the
2 conclusions and/or statements of law contained in Paragraph 83(c) to which no
3 response is required. Further answering Paragraph 83(c), Defendants deny each and
4 every factual allegation contained in Paragraph 83(c), and further deny that this case
5 is properly maintainable as a class action.

6 (d) Answering Paragraph 83(d), Defendants do not respond to the
7 conclusions and/or statements of law contained in Paragraph 83(d) to which no
8 response is required. Further answering Paragraph 83(d), Defendants deny each and
9 every factual allegation contained in Paragraph 83(d), and further deny that this case
10 is properly maintainable as a class action.

11 (e) Answering Paragraph 83(e), Defendants do not respond to the
12 conclusions and/or statements of law contained in Paragraph 83(e) to which no
13 response is required. Further answering Paragraph 83(e), Defendants deny each and
14 every factual allegation contained in Paragraph 83(e), and further deny that this case
15 is properly maintainable as a class action.

16 (f) Answering Paragraph 83(f), Defendants do not respond to the
17 conclusions and/or statements of law contained in Paragraph 83(f) to which no
18 response is required. Further answering Paragraph 83(f), Defendants deny each and
19 every factual allegation contained in Paragraph 83(f), and further deny that this case
20 is properly maintainable as a class action.

21 84. Answering Paragraph 84, Defendants do not respond to the conclusions
22 and/or statements of law contained in Paragraph 84 to which no response is required.
23 Further answering Paragraph 84, Defendants deny each and every factual allegation
24 contained in Paragraph 84, and further deny that this case is properly maintainable as
25 a class action.

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PLAINTIFF’S FIFTH CLAIM

(Declaratory and Injunctive Relief as to the Confidentiality Requirements)

(On Behalf of Plaintiff and the NDA Class)

85. Answering Paragraph 85, Defendants repeat and re-allege their responses to paragraphs 1 through 84 in the Complaint as though set forth in full herein, and incorporate their responses herein by reference. Further answering Paragraph 85, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 85 to which no response is required. Further answering Paragraph 85, Defendants deny each and every factual allegation contained in Paragraph 85, and further deny that this case is properly maintainable as a class action.

86. Answering Paragraph 86, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 86 to which no response is required. Further answering Paragraph 86, Defendants deny each and every factual allegation contained in Paragraph 86, and further deny that this case is properly maintainable as a class action.

87. Answering Paragraph 87, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 87 to which no response is required. Further answering Paragraph 87, Defendants deny each and every factual allegation contained in Paragraph 87, and further deny that this case is properly maintainable as a class action.

88. Answering Paragraph 88, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 88 to which no response is required.

89. Answering Paragraph 89, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 89 to which no response is required.

90. Answering Paragraph 90, Defendants do not respond to the conclusions and/or statements of law contained in Paragraph 90 to which no response is required.

91. Answering Paragraph 91, Defendants do not respond to the conclusions

1 and/or statements of law contained in Paragraph 91 to which no response is required.
2 Further answering Paragraph 91, Defendants deny each and every factual allegation
3 contained in Paragraph 91, and further deny that this case is properly maintainable as
4 a class action.

5 92. Answering Paragraph 92, Defendants do not respond to the conclusions
6 and/or statements of law contained in Paragraph 92 to which no response is required.
7 Further answering Paragraph 92, Defendants deny each and every factual allegation
8 contained in Paragraph 92, and further deny that this case is properly maintainable as
9 a class action.

10 (a) Answering Paragraph 92(a), Defendants do not respond to the
11 conclusions and/or statements of law contained in Paragraph 92(a) to which no
12 response is required. Further answering Paragraph 92(a), Defendants deny each and
13 every factual allegation contained in Paragraph 92(a), and further deny that this case
14 is properly maintainable as a class action.

15 (b) Answering Paragraph 92(b), Defendants do not respond to the
16 conclusions and/or statements of law contained in Paragraph 92(b) to which no
17 response is required. Further answering Paragraph 92(b), Defendants deny each and
18 every factual allegation contained in Paragraph 92(b), and further deny that this case
19 is properly maintainable as a class action.

20 (c) Answering Paragraph 92(c), Defendants do not respond to the
21 conclusions and/or statements of law contained in Paragraph 92(c) to which no
22 response is required. Further answering Paragraph 92(c), Defendants deny each and
23 every factual allegation contained in Paragraph 92(c), and further deny that this case
24 is properly maintainable as a class action.

25 (d) Answering Paragraph 92(d), Defendants do not respond to the
26 conclusions and/or statements of law contained in Paragraph 92(d) to which no
27 response is required. Further answering Paragraph 92(d), Defendants deny each and
28 every factual allegation contained in Paragraph 92(d), and further deny that this case

1 is properly maintainable as a class action.

2 (e) Answering Paragraph 92(e), Defendants do not respond to the
3 conclusions and/or statements of law contained in Paragraph 92(e) to which no
4 response is required. Further answering Paragraph 92(e), Defendants deny each and
5 every factual allegation contained in Paragraph 92(e), and further deny that this case
6 is properly maintainable as a class action.

7 (f) Answering Paragraph 92(f), Defendants do not respond to the
8 conclusions and/or statements of law contained in Paragraph 92(f) to which no
9 response is required. Further answering Paragraph 92(f), Defendants deny each and
10 every factual allegation contained in Paragraph 92(f), and further deny that this case
11 is properly maintainable as a class action.

12 93. Answering Paragraph 93, Defendants do not respond to the conclusions
13 and/or statements of law contained in Paragraph 93 to which no response is required.
14 Further answering Paragraph 93, Defendants deny each and every factual allegation
15 contained in Paragraph 93, and further deny that this case is properly maintainable as
16 a class action.

17 **PLAINTIFF'S SIXTH CLAIM**

18 **(Declaratory and Injunctive Relief as to the Indemnity**

19 **Provision in the Paycom NDA)**

20 **(On Behalf of Plaintiff and the NDA Class)**

21 94. Answering Paragraph 94, Defendants repeat and re-allege their
22 responses to paragraphs 1 through 93 in the Complaint as though set forth in full
23 herein, and incorporate their responses herein by reference. Further answering
24 Paragraph 94, Defendants do not respond to the conclusions and/or statements of law
25 contained in Paragraph 94 to which no response is required. Further answering
26 Paragraph 94, Defendants deny each and every factual allegation contained in
27 Paragraph 94, and further deny that this case is properly maintainable as a class
28 action.

1 95. Answering Paragraph 95, Defendants do not respond to the conclusions
2 and/or statements of law contained in Paragraph 95 to which no response is required.

3 96. Answering Paragraph 96, Defendants do not respond to the conclusions
4 and/or statements of law contained in Paragraph 96 to which no response is required.

5 97. Answering Paragraph 97, Defendants do not respond to the conclusions
6 and/or statements of law contained in Paragraph 97 to which no response is required.

7 98. Answering Paragraph 98, Defendants do not respond to the conclusions
8 and/or statements of law contained in Paragraph 98 to which no response is required.

9 99. Answering Paragraph 99, Defendants do not respond to the conclusions
10 and/or statements of law contained in Paragraph 99 to which no response is required.

11 Further answering Paragraph 99, Defendants deny each and every factual allegation
12 contained in Paragraph 99, and further deny that this case is properly maintainable as
13 a class action.

14 100. Answering Paragraph 100, Defendants do not respond to the
15 conclusions and/or statements of law contained in Paragraph 100 to which no
16 response is required. Further answering Paragraph 100, Defendants deny each and
17 every factual allegation contained in Paragraph 100, and further deny that this case is
18 properly maintainable as a class action.

19 (a) Answering Paragraph 100(a), Defendants do not respond to the
20 conclusions and/or statements of law contained in Paragraph 100(a) to which no
21 response is required. Further answering Paragraph 100(a), Defendants deny each
22 and every factual allegation contained in Paragraph 100(a), and further deny that this
23 case is properly maintainable as a class action.

24 (b) Answering Paragraph 100(b), Defendants do not respond to the
25 conclusions and/or statements of law contained in Paragraph 100(b) to which no
26 response is required. Further answering Paragraph 100(b), Defendants deny each
27 and every factual allegation contained in Paragraph 100(b), and further deny that this
28 case is properly maintainable as a class action.

1 (c) Answering Paragraph 100(c), Defendants do not respond to the
2 conclusions and/or statements of law contained in Paragraph 100(c) to which no
3 response is required. Further answering Paragraph 100(c), Defendants deny each
4 and every factual allegation contained in Paragraph 100(c), and further deny that this
5 case is properly maintainable as a class action.

6 (d) Answering Paragraph 100(d), Defendants do not respond to the
7 conclusions and/or statements of law contained in Paragraph 100(d) to which no
8 response is required. Further answering Paragraph 100(d), Defendants deny each
9 and every factual allegation contained in Paragraph 100(d), and further deny that this
10 case is properly maintainable as a class action.

11 101. Answering Paragraph 101, Defendants do not respond to the
12 conclusions and/or statements of law contained in Paragraph 101 to which no
13 response is required. Further answering Paragraph 101, Defendants deny each and
14 every factual allegation contained in Paragraph 101, and further deny that this case is
15 properly maintainable as a class action.

16 **PLAINTIFF'S SEVENTH CLAIM**

17 **(Declaratory and Injunctive Relief as to the Non-Solicitation Agreement)**

18 **(On Behalf of Plaintiff and the Non-Solicit Class)**

19 102. Answering Paragraph 102, Defendants repeat and re-allege their
20 responses to paragraphs 1 through 101 in the Complaint as though set forth in full
21 herein, and incorporate their responses herein by reference. Further answering
22 Paragraph 102, Defendants do not respond to the conclusions and/or statements of
23 law contained in Paragraph 102 to which no response is required. Further answering
24 Paragraph 102, Defendants deny each and every factual allegation contained in
25 Paragraph 102, and further deny that this case is properly maintainable as a class
26 action.

27 103. Answering Paragraph 103, Defendants do not respond to the
28 conclusions and/or statements of law contained in Paragraph 103 to which no

1 response is required.

2 104. Answering Paragraph 104, Defendants do not respond to the
3 conclusions and/or statements of law contained in Paragraph 104 to which no
4 response is required.

5 105. Answering Paragraph 105, Defendants do not respond to the
6 conclusions and/or statements of law contained in Paragraph 105 to which no
7 response is required.

8 106. Answering Paragraph 106, Defendants do not respond to the
9 conclusions and/or statements of law contained in Paragraph 106 to which no
10 response is required.

11 107. Answering Paragraph 107, Defendants do not respond to the
12 conclusions and/or statements of law contained in Paragraph 107 to which no
13 response is required. Further answering Paragraph 107, Defendants deny each and
14 every factual allegation contained in Paragraph 107, and further deny that this case is
15 properly maintainable as a class action.

16 108. Answering Paragraph 108, Defendants do not respond to the
17 conclusions and/or statements of law contained in Paragraph 108 to which no
18 response is required. Further answering Paragraph 108, Defendants deny each and
19 every factual allegation contained in Paragraph 108, and further deny that this case is
20 properly maintainable as a class action.

21 (a) Answering Paragraph 108(a), Defendants do not respond to the
22 conclusions and/or statements of law contained in Paragraph 108(a) to which no
23 response is required. Further answering Paragraph 108(a), Defendants deny each
24 and every factual allegation contained in Paragraph 108(a), and further deny that this
25 case is properly maintainable as a class action.

26 (b) Answering Paragraph 108(b), Defendants do not respond to the
27 conclusions and/or statements of law contained in Paragraph 108(b) to which no
28 response is required. Further answering Paragraph 108(b), Defendants deny each

1 and every factual allegation contained in Paragraph 108(b), and further deny that this
2 case is properly maintainable as a class action.

3 (c) Answering Paragraph 108(c), Defendants do not respond to the
4 conclusions and/or statements of law contained in Paragraph 108(c) to which no
5 response is required. Further answering Paragraph 108(c), Defendants deny each
6 and every factual allegation contained in Paragraph 108(c), and further deny that this
7 case is properly maintainable as a class action.

8 109. Answering Paragraph 108, Defendants do not respond to the
9 conclusions and/or statements of law contained in Paragraph 108 to which no
10 response is required. Further answering Paragraph 108, Defendants deny each and
11 every factual allegation contained in Paragraph 108, and further deny that this case is
12 properly maintainable as a class action.

13 **PLAINTIFF'S EIGHTH CLAIM**

14 **(Declaratory and Injunctive Relief**

15 **as to the Forum Selection and Choice of Law Provisions)**

16 **(On Behalf of Plaintiff and the Forum Selection/Choice of Law Class)**

17 110. Answering Paragraph 110, Defendants repeat and re-allege their
18 responses to paragraphs 1 through 109 in the Complaint as though set forth in full
19 herein, and incorporate their responses herein by reference. Further answering
20 Paragraph 110, Defendants do not respond to the conclusions and/or statements of
21 law contained in Paragraph 110 to which no response is required. Further answering
22 Paragraph 110, Defendants deny each and every factual allegation contained in
23 Paragraph 110, and further deny that this case is properly maintainable as a class
24 action.

25 111. Answering Paragraph 111, Defendants do not respond to the
26 conclusions and/or statements of law contained in Paragraph 111 to which no
27 response is required.

28 112. Answering Paragraph 112, Defendants do not respond to the

1 conclusions and/or statements of law contained in Paragraph 112 to which no
2 response is required. Further answering Paragraph 112, Defendants deny each and
3 every factual allegation contained in Paragraph 112, and further deny that this case is
4 properly maintainable as a class action.

5 113. Answering Paragraph 113, Defendants do not respond to the
6 conclusions and/or statements of law contained in Paragraph 113 to which no
7 response is required. Further answering Paragraph 113, Defendants deny each and
8 every factual allegation contained in Paragraph 113, and further deny that this case is
9 properly maintainable as a class action.

10 114. Answering Paragraph 114, Defendants do not respond to the
11 conclusions and/or statements of law contained in Paragraph 114 to which no
12 response is required. Further answering Paragraph 114, Defendants deny each and
13 every factual allegation contained in Paragraph 114, and further deny that this case is
14 properly maintainable as a class action.

15 115. Answering Paragraph 115, Defendants do not respond to the
16 conclusions and/or statements of law contained in Paragraph 115 to which no
17 response is required. Further answering Paragraph 115, Defendants deny each and
18 every factual allegation contained in Paragraph 115, and further deny that this case is
19 properly maintainable as a class action.

20 **PLAINTIFF'S NINTH CLAIM**

21 **UNFAIR BUSINESS PRACTICES**

22 **(On Behalf of Plaintiff and the Sales Professional Class)**

23 116. Answering Paragraph 116, Defendants repeat and re-allege their
24 responses to paragraphs 1 through 115 in the Complaint as though set forth in full
25 herein, and incorporate their responses herein by reference. Further answering
26 Paragraph 116, Defendants do not respond to the conclusions and/or statements of
27 law contained in Paragraph 116 to which no response is required.

28 117. Answering Paragraph 117, Defendants do not respond to the

1 conclusions and/or statements of law contained in Paragraph 117 to which no
2 response is required. Further answering Paragraph 117, Defendants deny each and
3 every factual allegation contained in Paragraph 117, and further deny that this case is
4 properly maintainable as a class action.

5 118. Answering Paragraph 118, Defendants do not respond to the
6 conclusions and/or statements of law contained in Paragraph 118 to which no
7 response is required. Further answering Paragraph 118, Defendants deny each and
8 every factual allegation contained in Paragraph 118, and further deny that this case is
9 properly maintainable as a class action.

10 **PLAINTIFF'S TENTH CLAIM**

11 **PAGA**

12 **(On Behalf of Plaintiff and the State of California)**

13 119. Answering Paragraph 119, Defendants repeat and re-allege their
14 responses to paragraphs 1 through 118 in the Complaint as though set forth in full
15 herein, and incorporate their responses herein by reference. Further answering
16 Paragraph 119, Defendants do not respond to the conclusions and/or statements of
17 law contained in Paragraph 119 to which no response is required.

18 120. Answering Paragraph 120, Defendants deny each and every factual
19 allegation contained in Paragraph 120, and further deny that this case is properly
20 maintainable as a collective action under the PAGA.

21 121. Answering Paragraph 121, Defendants lack knowledge and/or
22 information sufficient to form a belief as to the truth of Plaintiff's assertion that
23 Plaintiff provided notice to the Labor Workforce and Development Agency
24 ("LWDA") via an online filing or that Plaintiff paid the required filing fee to the
25 LWDA, and on that basis Defendants deny those allegations. Further answering
26 Paragraph 121, Defendants deny each and every other factual allegation contained in
27 Paragraph 121, and further deny that this case is properly maintainable as a
28 collective action under the PAGA.

1 122. Answering Paragraph 122, Defendants admit that the LWDA did not
2 response to any PAGA notice filed by Plaintiff in this action. Further answering
3 Paragraph 122, Defendants deny each and every factual allegation contained in
4 Paragraph 122, and further deny that this case is properly maintainable as a
5 collective action under the PAGA.

6 123. Answering Paragraph 123, Defendants do not respond to the
7 conclusions and/or statements of law contained in Paragraph 119 to which no
8 response is required. Further answering Paragraph 123, Defendants deny each and
9 every factual allegation contained in Paragraph 123.

10 (a) Answering Paragraph 123(a), Defendants do not respond to the
11 conclusions and/or statements of law contained in Paragraph 123(a) to which no
12 response is required. Further answering Paragraph 123(a), Defendants deny each
13 and every factual allegation contained in Paragraph 123(a), and further deny that this
14 case is properly maintainable as a collective action.

15 (b) Answering Paragraph 123(b), Defendants do not respond to the
16 conclusions and/or statements of law contained in Paragraph 123(b) to which no
17 response is required. Further answering Paragraph 123(b), Defendants deny each
18 and every factual allegation contained in Paragraph 123(b), and further deny that this
19 case is properly maintainable as a collective action.

20 (c) Answering Paragraph 123(c), Defendants do not respond to the
21 conclusions and/or statements of law contained in Paragraph 123(c) to which no
22 response is required. Further answering Paragraph 123(c), Defendants deny each
23 and every factual allegation contained in Paragraph 123(c), and further deny that this
24 case is properly maintainable as a collective action.

25 (d) Answering Paragraph 123(d), Defendants do not respond to the
26 conclusions and/or statements of law contained in Paragraph 123(d) to which no
27 response is required. Further answering Paragraph 123(d), Defendants deny each
28 and every factual allegation contained in Paragraph 123(d), and further deny that this

1 case is properly maintainable as a collective action.

2 (e) Answering Paragraph 123(e), Defendants do not respond to the
3 conclusions and/or statements of law contained in Paragraph 123(e) to which no
4 response is required. Further answering Paragraph 123(e), Defendants deny each
5 and every factual allegation contained in Paragraph 123(e), and further deny that this
6 case is properly maintainable as a collective action.

7 (f) Answering Paragraph 123(f), Defendants do not respond to the
8 conclusions and/or statements of law contained in Paragraph 123(f) to which no
9 response is required. Further answering Paragraph 123(f), Defendants deny each and
10 every factual allegation contained in Paragraph 123(f), and further deny that this case
11 is properly maintainable as a collective action.

12 (g) Answering Paragraph 123(g), Defendants do not respond to the
13 conclusions and/or statements of law contained in Paragraph 123(g) to which no
14 response is required. Further answering Paragraph 123(g), Defendants deny each
15 and every factual allegation contained in Paragraph 123(g), and further deny that this
16 case is properly maintainable as a collective action.

17 (h) Answering Paragraph 123(h), Defendants do not respond to the
18 conclusions and/or statements of law contained in Paragraph 123(h) to which no
19 response is required. Further answering Paragraph 123(h), Defendants deny each
20 and every factual allegation contained in Paragraph 123(h), and further deny that this
21 case is properly maintainable as a collective action.

22 124. Answering Paragraph 124, Defendants deny each and every factual
23 allegation contained in Paragraph 124, and further deny that this case is properly
24 maintainable as a collective action.

25 125. Answering Paragraph 125, Defendants do not respond to the
26 conclusions and/or statements of law contained in Paragraph 125 to which no
27 response is required. Further answering Paragraph 125, Defendants deny each and
28 every factual allegation contained in Paragraph 125, and further deny that this case is

1 properly maintainable as a collective action.

2 **PLAINTIFF’S DEMAND FOR JURY TRIAL**

3 126. Answering Paragraph 121, Defendants admit that Plaintiff requests a
4 jury trial, but hereby request a bench trial.

5 **PLAINTIFF’S PRAYER FOR RELIEF**

6 In response to Plaintiff’s Prayer for Relief and all sections and/or paragraphs
7 alleged therein, Defendants deny that Plaintiff and members of the putative class and
8 /or collective action and representative action alleged in the Complaint have been
9 damaged in the amount alleged, or in any amount, or at all, and further deny that
10 Plaintiff and members of the putative class alleged in the Complaint are entitled to
11 any relief whatsoever, including, but not limited to, for damages of any kind, for
12 interest thereon, for penalties of any kind, for restitution, for disgorgement of
13 Defendants’ profits, for injunctive relief, for declaratory relief, for costs, for
14 attorneys’ fees, and/or for relief of any other description or nature.

15 **AFFIRMATIVE DEFENSES**

16 Without waiving the foregoing, Defendants assert the following separate and
17 distinct affirmative defenses to the Complaint, and to each purported claim therein,
18 and pray for judgment as set forth below:

19 **FIRST AFFIRMATIVE DEFENSE**

20 **Failure to State a Claim**

21 1. As a separate affirmative defense to Plaintiff’s Complaint and to each
22 claim alleged therein, Defendants allege that the Complaint is conclusory and
23 therefore fails to state facts sufficient to constitute a claim upon which relief can be
24 granted against Defendants.

25 **SECOND AFFIRMATIVE DEFENSE**

26 **Statute of Limitations**

27 2. As a separate and affirmative defense to Plaintiff’s Complaint and to
28 each claim alleged therein, Defendants allege that the claims brought by Plaintiff

1 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
2 whole or in part, by one or more of the applicable statutes of limitations, including,
3 without limitation, Cal. Code Civ. Proc. §§ 337, 338, 339, 340, Cal. Labor Code §
4 203, and Cal. Bus. & Prof. Code § 17208.

5 **THIRD AFFIRMATIVE DEFENSE**

6 **Estoppel**

7 3. As a separate and affirmative defense to Plaintiff’s Complaint and to
8 each claim alleged therein, Defendants allege that the claims brought by Plaintiff
9 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
10 whole or in part, by the doctrine of estoppel because Plaintiff and the aggrieved
11 employees and/or putative class never complained prior to filing this Complaint.
12 Specifically, Defendants allege that Paycom Payroll, LLC established written
13 policies and procedures that Plaintiff, and/or the allegedly “aggrieved employees”
14 and/or putative class, could- and should- have utilized to report any complaints
15 regarding each and every allegedly unlawful policy and/or practice asserted in this
16 action, but did not.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 **Avoidable Consequences**

19 4. As a separate and affirmative defense to Plaintiff’s Complaint and to
20 each claim alleged therein, Defendants allege that the claims brought by Plaintiff
21 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
22 whole or in part, under California law by the doctrine of avoidable consequences on
23 the grounds that they unreasonably failed to make use of Defendants’ practices
24 and/or procedures by failing to timely and properly report any purportedly unlawful
25 actions and/or omissions alleged in the Complaint. Specifically, Defendants allege
26 that Paycom Payroll, LLC established written policies and procedures that Plaintiff,
27 and/or the allegedly “aggrieved employees” and/or putative class, could- and should-
28 have utilized to report any complaints regarding each and every allegedly unlawful

1 policy and/or practice asserted in this action, but did not.

2 **FIFTH AFFIRMATIVE DEFENSE**

3 **Failure to Mitigate**

4 5. As a separate and affirmative defense to Plaintiff’s Complaint and to
5 each claim alleged therein, Defendants allege that Plaintiff and/or the allegedly
6 “aggrieved employees” and/or putative class are barred from recovery, in whole or in
7 part, by their failure to exercise diligence to mitigate any damages allegedly
8 incurred, if any. Specifically, Defendants allege that Paycom Payroll, LLC
9 established written policies and procedures that Plaintiff, and/or the allegedly
10 “aggrieved employees” and/or putative class, could- and should- have utilized to
11 report any complaints regarding each and every allegedly unlawful policy and/or
12 practice asserted in this action, but did not.

13 **SIXTH AFFIRMATIVE DEFENSE**

14 **Laches**

15 6. As a separate and affirmative defense to Plaintiff’s Complaint and to
16 each claim alleged therein, Defendants allege that the claims brought by Plaintiff
17 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
18 whole or in part, by the doctrine of laches. Specifically, Defendants allege that
19 Paycom Payroll, LLC established written policies and procedures that Plaintiff,
20 and/or the allegedly “aggrieved employees” and/or putative class, could- and should-
21 have utilized to report any complaints regarding each and every allegedly unlawful
22 policy and/or practice asserted in this action, but did not.

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 **Negligence, Misconduct, and Unclean Hands**

25 7. As a separate and affirmative defense to Plaintiff’s Complaint and to
26 each claim alleged therein, Defendants allege that Plaintiff’s purported claims set
27 forth in the Complaint are barred by virtue of Plaintiff’s own negligence,
28 misconduct, and/or unclean hands in not report any unlawful actions. Specifically,

1 Defendants allege that Paycom Payroll, LLC established written policies and
2 procedures that Plaintiff, and/or the allegedly “aggrieved employees” and/or putative
3 class, could- and should- have utilized to report any complaints regarding each and
4 every allegedly unlawful policy and/or practice asserted in this action, but did not.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 **Waiver**

7 8. As a separate and affirmative defense to Plaintiff’s Complaint and to
8 each claim alleged therein, Defendants allege that the claims brought by Plaintiff
9 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
10 whole or in part, because such claims have been waived, discharged, and/or
11 abandoned by individual putative class members/allegedly aggrieved employees.
12 Specifically, Defendants allege that Paycom Payroll, LLC established written
13 policies and procedures that Plaintiff, and/or the allegedly “aggrieved employees”
14 and/or putative class, could- and should- have utilized to report any complaints
15 regarding each and every allegedly unlawful policy and/or practice asserted in this
16 action, but did not.

17 **NINTH AFFIRMATIVE DEFENSE**

18 **Releases**

19 9. As a separate and affirmative defense to Plaintiff’s Complaint and to
20 each claim alleged therein, Defendants allege that the claims brought by Plaintiff
21 and/or the allegedly “aggrieved employees” and/or putative class are barred, in
22 whole or in part, to the extent that individuals who Plaintiff wishes to represent may
23 have released some or all of the claims against Defendants that are being asserted in
24 Plaintiff’s Complaint. Plaintiff seeks to represent absent putative class members
25 and/or allegedly “aggrieved employees,” some of whom have entered into severance
26 and release agreements, settlement agreements, or other forms of agreement that
27 contained a release of the claims asserted in this action. The putative class members
28 and/or aggrieved employees who entered into these agreements are precluded, in

1 whole or in part, from recovering damages from Defendants as a matter of law.

2 **TENTH AFFIRMATIVE DEFENSE**

3 **Accord and Satisfaction**

4 10. As a separate and affirmative defense to Plaintiff’s Complaint and to
5 each purported claim therein, Defendants allege that Plaintiff’s purported claims set
6 forth in the Complaint and the claims of some or all of the putative class are barred,
7 in whole or in part, by the principles of accord and satisfaction, and payment.

8 Plaintiff seeks to represent absent putative class members and/or allegedly
9 “aggrieved employees,” some of whom have entered into severance and release
10 agreements, settlement agreements, or other forms of agreement that contained a
11 release of the claims asserted in this action. The putative class members and/or
12 aggrieved employees who entered into these agreements are precluded, in whole or
13 in part, from recovering damages from Defendants as a matter of law.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **Setoff, Offset, and/or Recoupment**

16 11. As a separate and affirmative defense to Plaintiff’s Complaint and to
17 each claim alleged therein, Defendants allege that, if any damages have been
18 sustained by Plaintiff and/or the allegedly “aggrieved employees” and/or putative
19 class he purports to represent, although such is specifically denied, Defendants are
20 entitled under the equitable doctrine of setoff and recoupment to offset all extra
21 payments or overpayments and/or all obligations of Plaintiff and/or the allegedly
22 “aggrieved employees” and/or putative class owed to Defendants against any
23 judgment that may be entered against Defendants. Plaintiff seeks to represent absent
24 putative class members and/or allegedly “aggrieved employees,” some of whom
25 have entered into severance and release agreements, settlement agreements, or other
26 forms of agreement that contained a release of the claims asserted in this action. The
27 putative class members and/or aggrieved employees who entered into these
28 agreements are precluded, in whole or in part, from recovering damages from

1 Defendants as a matter of law.

2 **TWELFTH AFFIRMATIVE DEFENSE**

3 **No Willful Failure to Pay**

4 12. As a separate and affirmative defense to Plaintiff’s claim for waiting
5 time penalties under Labor Code section 203, Defendants allege that Plaintiff and/or
6 the allegedly “aggrieved employees” and/or putative class are not entitled to any
7 penalty award under the California Labor Code because at all relevant times,
8 Defendants did not willfully, knowingly, and/or intentionally fail to comply with the
9 compensation provisions of the California Labor Code, but rather acted in good faith
10 and had reasonable grounds for believing that they did not violate those provisions.
11 Defendants believe, and allege, in good faith that Plaintiff and/or the allegedly
12 “aggrieved employees” and/or putative class were properly classified based upon
13 their respective job responsibilities as outside sales people.

14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **Good Faith Dispute that Wages Are Due**

16 13. As a separate and affirmative defense to Plaintiff’s claims for violation
17 of California Labor Code §§ 201 and 202, Defendants allege that Plaintiff and/or the
18 allegedly “aggrieved employees” and/or putative class are not entitled to any
19 penalties under California Labor Code § 203 because, at all relevant times, there has
20 been a good faith dispute that any wages are or have been due, thereby precluding
21 the imposition of any waiting time penalties against Defendants. Defendants believe,
22 and allege, in good faith that Plaintiff and/or the allegedly “aggrieved employees”
23 and/or putative class were properly classified based upon their respective job
24 responsibilities as outside sales people.

25 **FOURTEENTH AFFIRMATIVE DEFENSE**

26 **Good Faith**

27 14. As a separate and affirmative defense to Plaintiff’s claim for waiting
28 time penalties under Labor Code section 203, Defendants allege that Plaintiff is not

1 entitled to any penalty award under the California Labor Code because at all relevant
2 times, Defendants did not willfully, knowingly, or intentionally fail to comply with
3 the Labor Code, but rather acted in good faith and had reasonable grounds for
4 believing that they did not violate those provisions. Defendants believe, and allege,
5 in good faith that Plaintiff and/or the allegedly “aggrieved employees” and/or
6 putative class were properly classified based upon their respective job
7 responsibilities as outside sales people.

8 **FIFTEENTH AFFIRMATIVE DEFENSE**

9 **Constitutional Defense to Penalties**

10 15. As a separate and affirmative defense to Plaintiff’s Complaint and to
11 each claim alleged therein, Defendants allege that Plaintiff and/or the allegedly
12 “aggrieved employees” and/or putative class are not entitled to recover any penalties
13 under California or federal law, and any award of penalties would in general or in
14 fact violate Defendants’ rights under the United States and California constitutions,
15 including, but not limited to, the due process clauses of the Fifth and Fourteenth
16 Amendments to the United States Constitution and the excessive fines and cruel and
17 unusual punishment clauses of the Eighth Amendment to the United States
18 Constitution, as well as the due process, excessive fines, and cruel and unusual
19 punishment clauses in the California Constitution.

20 **SIXTEENTH AFFIRMATIVE DEFENSE**

21 **Consent**

22 16. As a separate and affirmative defense to Plaintiff’s Complaint and to
23 each claim alleged therein, Defendants allege that Plaintiff at all times ratified and/or
24 consented to the acts, purported omissions, representations, and/or other conduct of
25 Defendants alleged in the Complaint. Specifically, Defendants allege that Paycom
26 Payroll, LLC established written policies and procedures that Plaintiff, and/or the
27 allegedly “aggrieved employees” and/or putative class, could- and should- have
28 utilized to report any complaints regarding each and every allegedly unlawful policy

1 and/or practice asserted in this action, but did not, thereby waiving, in whole or in
2 part, their claims in this action.

3 **SEVENTEENTH AFFIRMATIVE DEFENSE**

4 **Class Action Not Appropriate**

5 17. As a separate and affirmative defense to Plaintiff’s Complaint and to
6 each claim alleged therein, Defendants allege that Plaintiff’s claims against
7 Defendants are barred, in whole or in part, because Plaintiff has failed to, and cannot,
8 satisfy the requirements for maintenance of a class action, including, but not limited
9 to, the required elements of ascertainability, commonality, typicality, adequacy,
10 predominance, and superiority.

11 **EIGHTEENTH AFFIRMATIVE DEFENSE**

12 **Unjust, Arbitrary, Oppressive, Confiscatory**

13 18. As a separate and affirmative defense to Plaintiff’s Complaint and to
14 each claim alleged therein, Defendants allege that Plaintiff’s claim for civil penalties
15 against Defendants are unjust, arbitrary, oppressive, and confiscatory.

16 **NINETEENTH AFFIRMATIVE DEFENSE**

17 **No Privacy Violations**

18 19. As a separate and affirmative defense to Plaintiff’s Complaint,
19 Defendants allege that Plaintiff’s fourth claim fails because Defendants have not
20 violated any privacy rights of Plaintiff and/or the putative class and/or the allegedly
21 “aggrieved employees.” Specifically, Defendants deny that the Employee, Video,
22 Photo and Recording Release Waiver violates any right to privacy held by Plaintiff
23 and/or the putative class and/or the allegedly “aggrieved employees.” Additionally,
24 to the extent that the policy is not applied and/or enforced, individual issues
25 predominate over any putative class or collective claims.

26 **TWENTIETH AFFIRMATIVE DEFENSE**

27 **Injunctive Relief**

28 20. As a separate and affirmative defense to Plaintiff’s Complaint,

1 Defendants allege (without conceding any merit to Plaintiff’s allegations) that the
2 request for injunctive relief is barred with respect to any and all claims alleged, as
3 any and all alleged claims have discontinued, ceased, or are not likely to recur. On
4 information and belief, Plaintiff and/or the putative class and/or the allegedly
5 “aggrieved employees” were properly classified as exempt outside sales
6 professionals in light of the expectations laid out for them during the course of their
7 employment, both in writing and during on-the-job training and experience. As a
8 result, Plaintiff and/or the putative class and/or the allegedly “aggrieved employees”
9 received all payment due to them under applicable law, and they are not entitled to
10 overtime payments, waiting time penalties, or penalties associated with inaccurate
11 wage statements, thereby rendering injunctive relief inapplicable.

12 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

13 **Exempt Status**

14 21. As a separate and affirmative defense to Plaintiff’s first, second, third,
15 ninth, and tenth claims, Defendants allege that Plaintiff and/or the putative class
16 and/or the allegedly “aggrieved employees” were properly classified as exempt
17 outside sales persons, inside sales persons, and/or executive, administrative or
18 professional employees based on their compensation, job duties and responsibilities.

19 **Additional Affirmative Defenses**

20 Defendants reserve the right to amend their Answer and affirmative defenses
21 to conform to such facts as may be revealed in discovery or otherwise.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Defendants pray for judgment as follows:

- 24 1. That Plaintiff take nothing by the Complaint;
25 2. That Plaintiff’s Complaint herein be dismissed in its entirety, with
26 prejudice;
27 3. That judgment be entered against Plaintiff and in favor Defendants on
28 all claims asserted in the Complaint;

- 1 4. That Defendants be awarded its attorneys’ fees incurred herein;
- 2 5. That Defendants be awarded its costs of suit herein; and
- 3 6. For such other and further relief as the Court deems just and proper.

4 DATED: March 6, 2020

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

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By: /s/ Michael D. Thomas
Linda Claxton
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