



Client #41401

September 2, 2021

**Via Online Filing to LWDA and Certified Mail to Defendant**

**Labor and Workforce Development Agency**

Online Filing

**CORE COMMUNITY ORGANIZED RELIEF EFFORT**

c/o DAWN RENEE OLSEN

6464 W. Sunset Blvd., Suite 530

Los Angeles, CA 90028

***Via Certified Mail with Return Receipt No. 7021 0350 0000 8465 0812***

**Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiff BRITTANI POWELL (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against CORE COMMUNITY ORGANIZED RELIEF EFFORT, a California Nonprofit Corporation (“Defendant”). Plaintiff was employed by Defendant in California between January of 2021 to May of 2021 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.**

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,



Shani O. Zakay  
Attorney for Plaintiff

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Attorneys for Plaintiff BRITTANI POWELL

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN FRANCISCO**

BRITTANI POWELL, an individual, on behalf  
of herself, and on behalf of all persons similarly  
situated,

Plaintiffs,

vs.

CORE COMMUNITY ORGANIZED RELIEF  
EFFORT, a California Nonprofit Corporation  
and DOES 1 through 50, Inclusive;

DEFENDANTS.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE FOR REQUIRED EXPENSES IN

VIOLATION OF CAL. LAB. CODE § 2802;

7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§ 226 and 226.2;

8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;

9. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;

**DEMAND FOR JURY TRIAL**

Plaintiff BRITTANI POWELL (“PLAINTIFF”) an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

**THE PARTIES**

1. Defendant CORE COMMUNITY ORGANIZED RELIEF EFFORT (“DEFENDANT” and/or “DEFENDANTS”) is a California nonprofit corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of San Francisco, city of Hayward, CA, and owns, manages and operates a crisis response organization.

2. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief allege, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive (hereinafter collectively “DEFENDANT” and/or “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

3. The agents, servants and/or employees of the DEFENDANTS and each of them acting on behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the DEFENDANTS, and personally participated in the conduct alleged

herein on behalf of the DEFENDANTS with respect to the conduct alleged herein. Consequently, the acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS are jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a proximate result of the conduct of the DEFENDANTS' agents, servants and/or employees.

4. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

5. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of PLAINTIFF's employer either individually or as an officer, agent, or employee of another person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any employee a wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for each underpaid employee.

6. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on an hourly basis and entitled to minimum wages, overtime pay, and legally compliant meal and rest periods from January of 2021 to May of 2021.

7. PLAINTIFF brings this Class Action on behalf of herself and a California class, defined as all individuals who are or previously were employed by DEFENDANTS and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four years from the date of the filing of this Complaint and ending on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00). PLAINTIFF reserves the right to amend the following class definitions before the Court determines whether class certification is appropriate, or thereafter upon leave of Court.

8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which

(1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to provide accurate itemized wage statements in violation of California Labor Code Sections 226 and 226.2.

9. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable relief.

#### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

12. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, and DEFENDANTS (i) currently maintain and at all relevant times, maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

#### **THE CONDUCT**

13. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally

compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked, , and failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

**A. Meal Period Violations**

14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS members to work without paying them for all the time they were under DEFENDANTS' control. Specifically, as a result of PLAINTIFF's demanding work requirements, and DEFENDANTS' under staffing, DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS members forfeited minimum wage and overtime wages by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS members for all time worked is evidenced by DEFENDANTS' business records.

15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work schedules, and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA

1 CLASS members were from time to time unable to take thirty (30) minute off duty meal breaks and  
2 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS  
3 members were required from time to time to perform work as ordered by DEFENDANTS for more  
4 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from  
5 time to time failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-  
6 duty meal period for some workdays in which these employees were required by DEFENDANTS to  
7 work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF  
8 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed  
9 “on-duty” meal period exception. When they were provided with meal periods, PLAINTIFF and other  
10 CALIFORNIA CLASS Members were, from time to time, required to remain on the premises, on duty  
11 and/or on call. PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal  
12 breaks without additional compensation and in accordance with DEFENDANTS’ strict corporate  
13 policy and practice.

14 **B. Rest Period Violations**

15 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA  
16 CLASS members were also required from time to time to work in excess of four (4) hours without  
17 being provided ten (10) minute rest periods as a result of their rigorous work schedules, and  
18 DEFENDANTS’ inadequate staffing. Further, for the same reasons these employees were denied their  
19 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours  
20 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of  
21 between six (6) and eight (8) hours from time to time, and a first, second, and third rest period of at  
22 least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they  
23 were provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from  
24 time to time, required to remain on the premises, on duty and/or on call. As a result of their rigorous  
25 work schedules and DEFENDANTS’ inadequate staffing, PLAINTIFF and other CALIFORNIA  
26 CLASS members were from time to time denied their proper rest periods by DEFENDANTS and  
27 DEFENDANTS’ managers.

28 ///

1 **C. Unreimbursed Business Expenses**

2 17. DEFENDANTS as a matter of corporate policy, practice and procedure, intentionally,  
3 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the members of the  
4 CALIFORNIA CLASS for required business expenses they incurred in direct consequence of  
5 discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802,  
6 employers are required to indemnify employees for all expenses incurred in the course and scope of  
7 their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her  
8 employee for all necessary expenditures or losses incurred by the employee in direct consequence of  
9 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even  
10 though unlawful, unless the employee, at the time of obeying the directions, believed them to be  
11 unlawful."

12 18. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the  
13 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones as  
14 a result of and in furtherance of their job duties as employees for DEFENDANTS. But for the use of  
15 their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not  
16 complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify  
17 PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their  
18 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment  
19 with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred  
20 unreimbursed business expenses which included, but were not limited to, costs related to the use of  
21 their personal cellular phones, all on behalf of and for the benefit of DEFENDANTS.

22 **D. Wage Statement Violations**

23 19. California Labor Code Section 226 requires an employer to furnish its employees an  
24 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the  
25 number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages  
26 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the  
27 employee and only the last four digits of the employee's social security number or an employee  
28 identification number other than a social security number, (8) the name and address of the legal entity

1 that is the employer and, (9) all applicable hourly rates in effect during the pay period and the  
2 corresponding number of hours worked at each hourly rate by the employee.

3 20. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
4 CALIFORNIA CLASS members missed meal and rest breaks, were paid inaccurate missed meal and  
5 rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide  
6 PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage  
7 statements which failed to show, among other things, all applicable hourly rates in effect during the  
8 pay period and the corresponding amount of time worked at each hourly rate, correct rates of pay for  
9 penalty payments or missed meal and rest periods. Further, from time to time during the CLASS  
10 PERIOD, DEFENDANTS issued wage statements to PLAINTIFF and other CALIFORNIA CLASS  
11 members that failed to comply with all the requirements of Cal. Lab. Code § 226.

12 21. In addition to the violations described above, DEFENDANTS, from time to time, failed  
13 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply  
14 with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and the other members of  
15 the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. DEFENDANTS'  
16 violations are knowing and intentional, were not isolated or due to an unintentional payroll error due  
17 to clerical or inadvertent mistake.

18 **E. Plaintiff's Individual Claims**

19 22. PLAINTIFF was employed by DEFENDANTS from January 8, 2021 to May 27, 2021.

20 23. On May 27, 2021, PLAINTIFF was terminated from her employment for exercising a  
21 protected right .

22 24. PLAINTIFF is informed, believes and upon such information and belief, alleges, that,  
23 during PLAINTIFF'S employment with DEFENDANT and at the time of her termination,  
24 DEFENDANT was treated differently and unfairly by DEFENDANT and its agents, all in retaliation  
25 for PLAINTIFF'S complaints, protests and/or resistance thereof, and complaints and grievances  
26 regarding the working conditions as described herein.

27 25. DEFENDANTS' job location had two areas where PLAINTIFF and other employees  
28 would carry out their job duties; (1) the walk-through side; and (2) the drive-through side. At the start

1 of her employment, PLAINTIFF was assigned to work at the drive-through side of the job location  
2 where she carried out her duties without issue.

3 26. From the beginning of her employment, however, PLAINTIFF's manager made it  
4 apparent that he did not like PLAINTIFF by targeting her and repeatedly placing PLAINTIFF in  
5 situations that fostered tension, harassment and/or confrontation.

6 27. PLAINTIFF was transferred to the walk-through side where she quickly encountered  
7 hostility from other employees working on the walk-through side. Despite repeated requests to be  
8 transferred back to the drive-through side, DEFENDANT refused to address PLAINTIFF'S concerns  
9 and/or transfer PLAINTIFF back to the drive-through side and away from the hostility PLANITIFF was  
10 experiencing in the walk-through side of the job site.

11 28. Thereafter, in early May 2021, PLAINTIFF showed up to work and saw she had been  
12 assigned to the drive-through side. Upon seeing PLAINTIFF being assigned to the drive-through side,  
13 PLAINTIFF'S manager arbitrarily erased her name from the drive-through side and re-assigned her to  
14 the walk-through side without an explanation.

15 29. Additionally, when PLAINTIFF took a rest break she was legally entitled to,  
16 PLAINTIFF'S manager made an announcement that employees were taking too many breaks.  
17 PLAINTIFF believes this announcement was directed towards her as this was the first announcement  
18 regarding employees taking too many breaks.

19 30. On May 21, 2021, PLAINTIFF filed a complaint with DEFENDANT'S Human Resources  
20 department alleging PLAINTIFF'S manager had a personal vendetta against her, micro-managed her,  
21 watched her work all day, kept her exclusively on the walk-through despite repeated requests to be  
22 transferred to the drive-through side, and "nitpicked" her work.

23 31. As a result of her formal complaint, Human Resources, recommended and in fact did,  
24 transfer her to the drive-through side which temporarily eased her concerns, harassment and tension  
25 while at work.

26 32. Thereafter, on May 27, 2021, PLAINTIFF was once again assigned to the walk-through  
27 side by her manager despite Human Resources previously transferring her to the drive-through side.  
28 PLAINTIFF asked her manager why she was assigned to the walk-through side. PLAINTIFF'S manager

1 failed to provide any reasonable explanation and replied, “because that’s where I wanted you.”  
2 PLAINTIFF indicated she would like to speak with Human Resources when her manager began  
3 screaming at her and indicated PLAINTIFF was going to be terminated. PLAINTIFF was immediately  
4 terminated for allegedly being disrespectful and for insubordination. PLAINTIFF was not given an  
5 opportunity discuss the incident with Human Resources nor had she ever been given a written warning  
6 regarding her performance prior to being terminated.

7 33. PLAINTIFF was informed that a week prior to her being terminated, another employee  
8 had caused a disruption that included the employee swearing at the job site. Rather than being  
9 immediately terminated, the employee was transferred to another location.

10 34. PLAINTIFF filed a complaint with the California Department of Fair Employment and  
11 Housing and received a “right to sue” letter on [REDACTED], thereby exhausting her administrative  
12 remedies.

13 **F. CLASS ACTION ALLEGATIONS**

14 35. PLAINTIFF brings the First through Eighth Causes of Action as a class action pursuant  
15 to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS, defined *supra*, that  
16 worked for DEFENDANT in California at any time beginning four (4) years prior to the filing of this  
17 Complaint and ending on the date as determined by the Court (“CLASS PERIOD”).

18 36. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been  
19 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid  
20 minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal  
21 and rest period policies, failure to separately compensate rest periods, , failure to provide accurate  
22 itemized wage statements, failure to maintain required records, and interest, statutory and civil penalties,  
23 attorney’s fees, costs, and expenses.

24 37. The members of the class are so numerous that joinder of all class members is impractical.

25 38. Common questions of law and fact regarding DEFENDANTS’ conduct, including but not  
26 limited to, the off-the-clock work, unpaid meal and rest period premiums, , failure to accurately calculate  
27 the regular rate of compensation for missed meal and rest period premiums, failing to provide legally  
28 compliant meal and rest periods, failure to provide accurate itemized wage statements accurate, and

1 failure ensure they are paid at least minimum wage and overtime, exist as to all members of the class  
2 and predominate over any questions affecting solely any individual members of the class. Among the  
3 questions of law and fact common to the class are:

- 4 a. Whether DEFENDANTS maintained legally compliant meal period  
5 policies and practices;
- 6 b. Whether DEFENDANTS maintained legally compliant rest period  
7 policies and practices;
- 8 c. Whether DEFENDANTS failed to pay PLAINTIFF and the  
9 CALIFORNIA CLASS members accurate premium payments for missed  
10 meal and rest periods;
- 11 d. Whether DEFENDANTS failed to pay PLAINTIFF and the  
12 CALIFORNIA CLASS members accurate overtime wages and sick pay;
- 13 e. Whether DEFENDANTS failed to pay PLAINTIFF and the  
14 CALIFORNIA CLASS members at least minimum wage for all hours  
15 worked;
- 16 f. Whether DEFENDANTS issued legally compliant wage statements;
- 17 g. Whether DEFENDANTS committed an act of unfair competition by  
18 systematically failing to record and pay PLAINTIFF and the other members  
19 of the CALIFORNIA CLASS for all time worked;
- 20 h. Whether DEFENDANTS committed an act of unfair competition by  
21 systematically failing to record all meal and rest breaks missed by  
22 PLAINTIFF and other CALIFORNIA CLASS members, even though  
23 DEFENDANTS enjoyed the benefit of this work, required employees to  
24 perform this work and permits or suffers to permit this work;
- 25 i. Whether DEFENDANTS committed an act of unfair competition in  
26 violation of the UCL, by failing to provide the PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS with the legally required meal and  
28 rest periods; and,

1           39.     PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result  
2 of DEFENDANTS' conduct and actions alleged herein.

3           40.     PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same  
4 interests as the other members of the class.

5           41.     PLAINTIFF will fairly and adequately represent and protect the interests of the  
6 CALIFORNIA CLASS members.

7           42.     PLAINTIFF retained able class counsel with extensive experience in class action  
8 litigation.

9           43.     Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests  
10 of the other CALIFORNIA CLASS members.

11          44.     There is a strong community of interest among PLAINTIFF and the members of the  
12 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient  
13 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

14          45.     The questions of law and fact common to the CALIFORNIA CLASS members  
15 predominate over any questions affecting only individual members, including legal and factual issues  
16 relating to liability and damages.

17          46.     A class action is superior to other available methods for the fair and efficient adjudication  
18 of this controversy because joinder of all class members is impractical. Moreover, since the damages  
19 suffered by individual members of the class may be relatively small, the expense and burden of  
20 individual litigation makes it practically impossible for the members of the class individually to redress  
21 the wrongs done to them. Without class certification and determination of declaratory, injunctive,  
22 statutory and other legal questions within the class format, prosecution of separate actions by individual  
23 members of the CALIFORNIA CLASS will create the risk of:

24               a.     Inconsistent or varying adjudications with respect to individual members of the  
25 CALIFORNIA CLASS which would establish incompatible standards of conduct for the  
26 parties opposing the CALIFORNIA CLASS; and/or,

27               b.     Adjudication with respect to individual members of the CALIFORNIA CLASS  
28 which would as a practical matter be dispositive of the interests of the other members not

1 party to the adjudication or substantially impair or impeded their ability to protect their  
2 interests.

3 47. Class treatment provides manageable judicial treatment calculated to bring an efficient  
4 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of  
5 DEFENDANTS.

6 **FIRST CAUSE OF ACTION**

7 **For Unlawful Business Practices**

8 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

9 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

10 48. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

12 49. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
13 17021.

14 50. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines unfair  
15 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes  
16 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

17 Any person who engages, has engaged, or proposes to engage in unfair  
18 competition may be enjoined in any court of competent jurisdiction. The  
19 court may make such orders or judgments, including the appointment of a  
20 receiver, as may be necessary to prevent the use or employment by any  
21 person of any practice which constitutes unfair competition, as defined in  
22 this chapter, or as may be necessary to restore to any person in interest any  
23 money or property, real or personal, which may have been acquired by  
24 means of such unfair competition.

25 Cal. Bus. & Prof. Code § 17203.

26 51. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA  
27 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in  
28 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the

“UCL”), by engaging and continuing to engage in business practices which violates California law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor Code including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

52. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and unfair in that these practices violated public policy, were immoral, unethical, oppressive, unscrupulous or substantially injurious to employees, and were without valid justification or utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California Business & Professions Code, including restitution of wages wrongfully withheld.

53. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and fraudulent in that DEFENDANTS’ uniform policy and practice failed to, *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of compensation for missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage statements, due to a systematic business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

54. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and deceptive in that DEFENDANTS’ employment practices caused PLAINTIFF and the other members of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANTS.

55. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to, *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of compensation for missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal. Labor Code.

1           56.     Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal period  
3 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in  
4 which a second off-duty meal period was not timely provided for each ten (10) hours of work.

5           57.     PLAINTIFF further demands on behalf of himself and on behalf of each CALIFORNIA  
6 CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not  
7 timely provided as required by law.

8           58.     PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
9 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
10 calculated overtime and missed meal and rest periods premiums.

11          59.     By and through the unlawful and unfair business practices described herein,  
12 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other  
13 members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has  
14 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of  
15 these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly  
16 compete against competitors who comply with the law.

17          60.     All the acts described herein as violations of, among other things, the Industrial Welfare  
18 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were  
19 unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were  
20 deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal.  
21 Bus. & Prof. Code §§ 17200, *et seq.*

22          61.     PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do,  
23 seek such relief as may be necessary to restore to them the money and property which DEFENDANTS  
24 has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been  
25 deprived, by means of the above described unlawful and unfair business practices, including earned but  
26 unpaid wages for all overtime worked.

27          62.     PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,  
28 and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and

that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful and unfair business practices in the future.

63. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair business practices.

## **SECOND CAUSE OF ACTION**

### **For Failure to Pay Overtime Compensation**

**[Cal. Lab. Code §§ 510, *et seq.*]**

**(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

64. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

65. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”) bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

66. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked.

67. Cal. Lab. Code § 510 further provides that employees in California shall not be employed more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

68. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages, including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code § 1198

1 further states that the employment of an employee for longer hours than those fixed by the Industrial  
2 Welfare Commission is unlawful.

3 69. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members were  
4 required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked  
5 or were not accurately compensated for all overtime hours worked.

6 70. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
7 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
8 uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other  
9 CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the other  
10 members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed  
11 in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours  
12 in any workweek.

13 71. In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
14 calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid  
15 the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS.  
16 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits  
17 in violation of the California Labor Code, the Industrial Welfare Commission requirements and other  
18 applicable laws and regulations.

19 72. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
20 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
21 all overtime worked.

22 73. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the  
23 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other  
24 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude  
26 the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on  
27 behalf of himself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-  
28 negotiable, non-waivable rights provided by the State of California.

1           74.     During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA  
2 CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned  
3 wages.

4           75.     DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the  
5 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum  
6 hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF  
7 and the other members of the CALIFORNIA CLASS were required to work, and did in fact work,  
8 overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime  
9 rate as evidenced by DEFENDANTS' business records and witnessed by employees.

10          76.     By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation  
11 to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked,  
12 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to  
13 suffer an economic injury in amounts which are presently unknown to them and which will be  
14 ascertained according to proof at trial.

15          77.     DEFENDANTS knew or should have known that PLAINTIFF and the other members of  
16 the CALIFORNIA CLASS were under compensated for all overtime worked. DEFENDANTS  
17 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay  
18 employees for their labor as a matter of uniform company policy, practice and procedure, and  
19 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other  
20 members of the CALIFORNIA CLASS for overtime worked.

21          78.     In performing the acts and practices herein alleged in violation of California labor laws,  
22 and refusing to compensate the members of the CALIFORNIA CLASS for all time worked and provide  
23 them with the requisite overtime compensation, DEFENDANTS acted and continues to act intentionally,  
24 oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA CLASS  
25 with a conscious of and utter disregard for their legal rights, or the consequences to them, and with the  
26 despicable intent of depriving them of their property and legal rights, and otherwise causing them injury  
27 in order to increase company profits at the expense of these employees.

28          79.     PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request

1 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as  
2 well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the  
3 California Labor Code and/or other applicable statutes. To the extent overtime compensation is  
4 determined to be owed to the CALIFORNIA CLASS Members who have terminated their employment,  
5 DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals  
6 are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought  
7 herein on behalf of these CALIFORNIA CLASS members. DEFENDANTS' conduct as alleged herein  
8 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS  
9 Members are entitled to seek and recover statutory costs.

10 **THIRD CAUSE OF ACTION**

11 **For Failure to Pay Minimum Wages**

12 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

13 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

14 80. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

16 81. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
17 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial  
18 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay  
19 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the  
20 CLASS PERIOD.

21 82. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy,  
22 an employer must timely pay its employees for all hours worked.

23 83. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
24 commission is the minimum wage to be paid to employees, and the payment of a less wage than the  
25 minimum so fixed is unlawful.

26 84. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including  
27 minimum wage compensation and interest thereon, together with the costs of suit.

28 85. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other

1 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For  
2 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to  
3 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without  
4 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to  
5 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members  
6 of the CALIFORNIA CLASS.

7 86. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
8 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
9 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members  
10 of the CALIFORNIA CLASS in regard to minimum wage pay.

11 87. In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
12 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF  
13 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid  
14 the payment of all earned wages, and other benefits in violation of the California Labor Code, the  
15 Industrial Welfare Commission requirements and other applicable laws and regulations.

16 88. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
17 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct minimum  
18 wage compensation for their time worked for DEFENDANTS.

19 89. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA  
20 CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned  
21 wages.

22 90. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation  
23 to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked,  
24 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to  
25 suffer an economic injury in amounts which are presently unknown to them and which will be  
26 ascertained according to proof at trial.

27 91. DEFENDANTS knew or should have known that PLAINTIFF and the other members of  
28 the CALIFORNIA CLASS were under compensated for their time worked. DEFENDANTS

1 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay  
2 employees for their labor as a matter of uniform company policy, practice and procedure, and  
3 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other  
4 members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

5 92. In performing the acts and practices herein alleged in violation of California labor laws,  
6 and refusing to compensate the members of the CALIFORNIA CLASS for all time worked and provide  
7 them with the requisite compensation, DEFENDANTS acted and continues to act intentionally,  
8 oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA CLASS  
9 with a conscious and utter disregard for their legal rights, or the consequences to them, and with the  
10 despicable intent of depriving them of their property and legal rights, and otherwise causing them injury  
11 in order to increase company profits at the expense of these employees.

12 93. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request  
13 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of  
14 any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code  
15 and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed  
16 to the CALIFORNIA CLASS members who have terminated their employment, DEFENDANTS'  
17 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled  
18 to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of  
19 these CALIFORNIA CLASS members. DEFENDANTS' conduct as alleged herein was willful,  
20 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS members are  
21 entitled to seek and recover statutory costs.

#### 22 **FOURTH CAUSE OF ACTION**

#### 23 **For Failure to Provide Required Meal Periods**

24 **[Cal. Lab. Code §§ 226.7 & 512]**

25 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

26 94. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
27 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

28 95. During the CLASS PERIOD, from time to time, DEFENDANTS failed to provide all the

legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS members as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA CLASS members did not prevent these employees from being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were from time to time not fully relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from time to time. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal period in some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

96. DEFENDANTS further violates California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not provided a meal period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of compensation for each workday that a meal period was not provided.

97. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

### **FIFTH CAUSE OF ACTION**

#### **For Failure to Provide Required Rest Periods**

**[Cal. Lab. Code §§ 226.7 & 512]**

**(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

98. PLAINTIFF, and the members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

99. During the CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS Members

1 were from time to time required to work in excess of four (4) hours without being provided ten (10)  
2 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10)  
3 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at  
4 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second  
5 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from  
6 time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-  
7 hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
8 CALIFORNIA CLASS Members were periodically denied their proper rest periods by DEFENDANTS  
9 and DEFENDANTS' managers.

10 100. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC  
11 Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not  
12 provided a rest period, in accordance with the applicable Wage Order, one additional hour of  
13 compensation at each employee's regular rate of compensation for each workday that rest period was  
14 not provided.

15 101. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA  
16 CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned  
17 and due, interest, penalties, expenses and costs of suit.

18 **SIXTH CAUSE OF ACTION**

19 **For Failure to Reimburse Employees for Required Expenses**

20 **[Cal. Lab. Code § 2802]**

21 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

22 102. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
23 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

24 103. Cal. Lab. Code § 2802 provides, in relevant part, that:

25 An employer shall indemnify his or her employee for all necessary expenditures or  
26 losses incurred by the employee in direct consequence of the discharge of his or her  
27 duties, or of his or her obedience to the directions of the employer, even though  
28

unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

104. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their personal cellular phone all on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using their personal cellular phones for DEFENDANTS within the course and scope of their employment for DEFENDANTS. These expenses were necessary to complete their principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and regulations of California.

105. PLAINTIFF therefore demands reimbursement on behalf of the members of the CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

#### **SEVENTH CAUSE OF ACTION**

##### **For Failure to Provide Accurate Itemized Statements**

**[Cal. Lab. Code §§ 226 and 226.2]**

**(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

106. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1           107. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
2 “accurate itemized” statement in writing showing:

- 3           1. Gross wages earned;
- 4           2. Total hours worked by the employee, except for any employee  
5 whose compensation is solely based on a salary and who is exempt from  
6 payment of overtime under subdivision (a) of Section 515 or any applicable  
7 order of the Industrial Welfare Commission;
- 8           3. The number of piece-rate units earned and any applicable piece rate  
9 if the employee is paid on a piece-rate basis;
- 10          4. All deductions, provided that all deductions made on written orders  
11 of the employee may be aggregated and shown as one item;
- 12          5. Net wages earned;
- 13          6. The inclusive dates of the period for which the employee is paid;
- 14          7. The name of the employee and his or her social security number,  
15 except that by January 1, 2008, only the last four digits of his or her social  
16 security number or an employee identification number other than a social  
17 security number may be shown on the itemized statement;
- 18          8. The name and address of the legal entity that is the employer; and
- 19          9. All applicable hourly rates in effect during the pay period and the  
20 corresponding number of hours worked at each hourly rate by the employee.

21           108. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the  
22 other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed  
23 to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3)  
24 gross wages earned and (7) all applicable hourly rates in effect during the pay period and the  
25 corresponding number of hours worked at each hourly rate by the employee in violation of California  
26 Labor Code Section 226. Further, from time to time during the CLASS PERIOD, DEFENDANTS  
27 issued wage statements to PLAINTIFF and other CALIFORNIA CLASS members that failed to  
28 comply with all the requirements of Cal. Lab. Code § 226.

109. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code § 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for the overtime worked and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein.

**EIGHTH CAUSE OF ACTION**

**FAILURE TO PAY WAGES WHEN DUE**

**(Cal Lab. Code §§ 201, 202, 203)**

**(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

110. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

111. Cal. Lab. Code § 200 provides that:

As used in this article: (a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation. (b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

112. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

113. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

114. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members' employment contract.

115. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

116. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANTS has not tendered payment of wages, to these employees who missed meal and rest breaks, as required by law.

117. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty days of pay as penalty for not paying all wages due at time of termination for all employees who terminated

1 employment during the CLASS PERIOD, and demands an accounting and payment of all wages due,  
2 plus interest and statutory costs as allowed by law.

3 **NINTH CAUSE OF ACTION**

4 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

5 **(By PLAINTIFF and against all DEFENDANTS)**

6 118. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,  
7 the prior paragraphs of this Complaint.

8 119. PLAINTIFF's wrongful termination on or about May 27, 2021 was for a pretextual  
9 reason(s) to disguise DEFENDANTS' unlawful employment practices directed at PLAINTIFF.

10 120. Within the State of California there exists a substantial and fundamental public policy,  
11 set forth in the California Government Code §12900 et seq., which forbids disability  
12 harassment/discrimination, retaliation, and wrongful termination. Unlawful harassment includes the  
13 right to be free from unwanted, offensive harassment, and the right to protest such conduct without fear  
14 of retaliation or further harm. This public policy of the state is one that benefits the public at large and  
15 guarantees the rights of an employee to perform their work free from disability  
16 harassment/discrimination/retaliation.

17 121. The motivating reason(s) for PLAINTIFF's termination was PLAINTIFF's protests  
18 and/or resistance thereof. PLAINTIFF's discharge from her position of employment was in violation  
19 of the public policies of the State of California.

20 122. As a result of DEFENDANTS' actions, PLAINTIFF has suffered substantial losses in  
21 earnings and employment benefits and emotional distress in an amount to be determined according to  
22 proof at trial.

23 123. In doing the acts herein alleged, DEFENDANTS acted with malice and oppression, and  
24 with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary and  
25 punitive damages from DEFENDANT in an amount to be determined to punish DEFENDANT and to  
26 deter such wrongful conduct in the future.

27 124. PLAINTIFF was harmed by DEFENDANT'S wrongful and illegal termination of her  
28 employment.

126. On [REDACTED], PLAINTIFF filed a complaint with the Department of Fair Employment & Housing (“DFEH”), and received an immediate Right to Sue that same day. (See Exhibit #1).

### PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANT, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS;

D) Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS; and,

E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth, Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

1. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus interest thereon at the statutory rate;

2. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation  
2 of Cal. Lab. Code § 226;

3 3. Meal and rest period compensation pursuant to California Labor Code Sections  
4 226.7, 512 and the applicable IWC Wage Order; and

5 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and  
6 1197.

7 2. On Plaintiff's Ninth Cause of Action

- 8 a. For all special damages which were sustained as a result of DEFENDANTS' conduct,  
9 including but not limited to, back pay, front pay, lost compensation and job benefits that  
10 PLAINTIFF would have received but for the practices of DEFENDANTS;
- 11 b. For all exemplary damages, according to proof, which were sustained as a result of  
12 DEFENDANTS' conduct;
- 13 c. An award of interest, including prejudgment interest at the legal rate;
- 14 d. Such other and further relief as the Court deems just and equitable; and
- 15 e. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

16 3. On all claims:

- 17 A) An award of interest, including prejudgment interest at the legal rate;
- 18 B) Such other and further relief as the Court deems just and equitable; and,
- 19 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,  
20 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

21  
22 Dated: \_\_\_\_\_

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

24 By:   
25 Jean-Claude Lapuyade  
26 Attorneys for PLAINTIFF  
27  
28

**DEMAND FOR JURY TRIAL**

PLAINTIFF demands a jury trial on all issues triable to a jury.

Dated: \_\_\_\_\_

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

By:  \_\_\_\_\_  
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF