

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: INTERNATIONAL BONDED COURIERS, INC.,
(AVISO AL DEMANDADO): a Florida corporation, and DOES 1
 through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: BYRON HIGUERA, on behalf
(LO ESTÁ DEMANDANDO EL DEMANDANTE): of himself and a
 class of similarly situated employees

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

FILED

2020 OCT 23 PM 1:25

BRANDON E. RILEY, CLERK

BY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California, County of San Joaquin

180 E. Weber Avenue

Stockton, California 95202

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq.; SBN 202754

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gaines & Gaines, APLC

27200 Agoura Road, Suite 101, Calabasas, CA 91301

DATE:

(Fecha) OCT 23 2020

BRANDON E. RILEY

Clerk, by
 (Secretario)

818-703-8985

Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

FOR COURT USE ONLY

Alex P. Katofsky, Esq. SBN: 202754
 Gaines & Gaines, APLC
 27200 Agoura Road, Suite 101, Calabasas, CA 91301
 TELEPHONE NO.: 818-703-8985 FAX NO.: 818-703-8984

ATTORNEY FOR (Name): Plaintiff, Byron Higuera

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

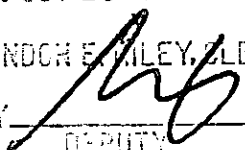
STREET ADDRESS: 180 E. Weber Avenue

MAILING ADDRESS: 180 E. Weber Avenue

CITY AND ZIP CODE: Stockton, 95202

BRANCH NAME: Stockton Courthouse

CASE NAME: Higuera v. International Bonded Couriers, Inc., et al.

FILED
 2020 OCT 23 PM 1:25
 BRANDON E. WILEY, CLERK
 BY  DEPUTY

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

STK-CV-40E-2020-8988

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): Eight (8)

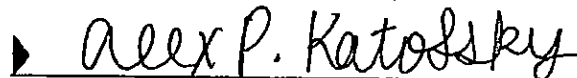
5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 10/22/2020

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice–Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
- Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease
 - Contract (*not unlawful detainer or wrongful eviction*)
- Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case–Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ–Administrative Mandamus
 - Writ–Mandamus on Limited Court Case Matter
- Writ–Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
- Abstract of Judgment (Out of County)
- Confession of Judgment (*non-domestic relations*)
- Sister State Judgment
- Administrative Agency Award (*not unpaid taxes*)
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
- Declaratory Relief Only
- Injunctive Relief Only (*non-harassment*)
- Mechanics Lien
- Other Commercial Complaint Case (*non-tort/non-complex*)
- Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
- Other Civil Petition

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Attorneys for Plaintiff Byron Higuera, on behalf of himself and a class of similarly situated employees,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

BYRON HIGUERA, on behalf of himself and
a class of similarly situated employees,

Plaintiffs,

v.

INTERNATIONAL BONDED COURIERS,
INC., a Florida corporation, and DOES 1
through 10, inclusive,

Defendants.

STK-CV-1106-2020-8988

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

1. **FAILURE TO PAY ALL WAGES DUE
(LABOR CODE §§ 510, 1174, 1194, 1197,
1197.1, 1198 AND 1198.5)**
2. **FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 9-2001)**
3. **FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7 AND
512; IWC WAGE ORDER 9-2001)**
4. **KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e), (h))**
5. **FAILURE TO PAY WAGES DUE AT
SEPARATION OF EMPLOYMENT
(LABOR CODE §§ 201-203)**
6. **FAILURE TO REIMBURSE
EXPENSES (LABOR CODE § 2802)**
7. **VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**
8. **PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF**

DEMAND FOR JURY TRIAL

I.

4. Plaintiff, on behalf of himself and members of the Class and pursuant to Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, expense reimbursement,

1 and disgorgement of all benefits Defendants enjoyed from their failure to pay all wages to Class
2 Members.

3 5. Plaintiff, on behalf of himself and all aggrieved employees pursuant to Labor Code §§
4 2698 *et seq.*, seeks penalties for Defendants' various violations of the California Labor Code.

5 6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395
6 because Defendants employed Class Members in San Joaquin County, California.

7 **II.**

8 **PARTIES**

9 **A. Plaintiff**

10 7. Plaintiff Byron Higuera was employed by Defendants from 2016 through May 2019
11 as a non-exempt employee in California.

12 8. During his work with Defendants, Plaintiff was:

- 13 a. Willfully denied the payment of all wages due;
- 14 b. Willfully denied rest periods or compensation in lieu thereof;
- 15 c. Willfully denied meal periods or compensation in lieu thereof;
- 16 d. Willfully denied the payment of all expense reimbursement due;
- 17 e. Willfully denied accurately itemized wage statements; and
- 18 f. Denied the timely payment of wages upon separation of his employment.

19 **B. Defendants**

20 9. Defendant INTERNATIONAL BONDED COURIERS, INC., is a Florida
21 corporation. Defendants employed Aggrieved Employees in San Joaquin County, California.

22 10. The true names and capacities, whether individual, corporate, associate, or otherwise,
23 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
24 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
25 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
26 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
27 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
28 designated hereinafter as DOES when such identities become known.

11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

12. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

III.

CLASS ACTION ALLEGATIONS

13. Plaintiff brings this action on behalf of himself and all others similarly situated as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the following class composed of and defined as follows:

THE CLASS

All current and former non-exempt California employees of Defendant International Bonded Couriers, Inc. employed from January 27, 2016 through October 31, 2020.

14. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or modify this class description with greater specificity or further division into subclasses or limitation to particular issues.

15. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

16. The potential members of the Class as defined are so numerous that joinder of all the members the Class is impracticable. While the precise number of members of the Class has not been ascertained at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently employ, and during the relevant time periods employed, over 75 persons in the State of California who fall within the Class definition.

1 17. Accounting for employee turnover during the relevant period necessarily increases this
2 number. Plaintiff alleges Defendants' employment records would provide information as to the
3 number and location of members of the Class. Joinder of members of the Class is not practicable.

4 **B. Commonality**

5 18. There are questions of law and fact common to the Class that predominate over any
6 questions affecting only individual Class Members. These common questions of law and fact include,
7 without limitation:

- 8 a. Whether Defendants failed to pay Plaintiff and Class Members all wages due,
9 in violation of Labor Code Labor Code §§ 510, 1174, 1194, 1197, 1197.1, 1198
10 and 1198.5;
- 11 b. Whether Defendants failed to properly provide rest periods or compensation in
12 lieu thereof to Plaintiff and Class Members, in violation of Labor Code § 226.7
13 and IWC Wage Order 9-2001;
- 14 c. Whether Defendants failed to properly provide meal periods or compensation
15 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §§
16 226.7 and 512, and IWC Wage Order 9-2001;
- 17 d. Whether Defendants failed to provide Plaintiff and members of the Class with
18 accurately itemized wage statements, in accordance with Labor Code § 226(a)
19 and (e);
- 20 e. Whether Defendants failed to reimburse Plaintiff and Class Members for
21 necessary business expenses incurred in direct consequence of the discharge
22 of their duties, in violation of Labor Code § 2802;
- 23 f. Whether Defendants failed to timely pay Plaintiff and members of the Class
24 all wages due and owing at the separation of their employment, in violation of
25 Labor Code §§ 201-203; and
- 26 g. Whether Plaintiff and Class Members are entitled to equitable relief pursuant
27 to Business & Professions Code § 17200 *et seq.*

28 ///

1 **C. Typicality**

2 19. The claims of the named Plaintiff are typical of the claims of members of the Class.
3 Plaintiff and members of the Class sustained injuries and damages arising out of and caused by
4 Defendants' common course of conduct in violation of laws, regulations that have the force and effect
5 of law, and statutes as alleged herein.

6 **D. Adequacy of Representation**

7 20. Plaintiff will fairly and adequately represent and protect the interests of members of
8 the Class. Counsel who represents Plaintiff are competent and experienced in litigating large
9 employment class actions.

10 **E. Superiority of Class Action**

11 21. A class action is superior to other available means for the fair and efficient adjudication
12 of this controversy. Individual joinder of all proposed members of the Class is not practicable, and
13 questions of law and fact common to the proposed Class predominate over any questions affecting
14 only individual members of the proposed Class. Each member of the proposed Class has been
15 damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

16 22. Class action treatment will allow those similarly situated persons to litigate their
17 claims in the manner that is most efficient and economical for the parties and the judicial system.
18 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
19 action that would preclude its maintenance as a class action.

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1 IV.

2 CAUSES OF ACTION

3 FIRST CAUSE OF ACTION

4 PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

5 FAILURE TO PAY ALL WAGES DUE

6 (LABOR CODE §§ 510, 1174, 1194, 1197, 1197.1, 1198 AND 1198.5)

7 23. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set
8 forth herein.

9 24. Labor Code § 510 provides that, "any work in excess of eight hours in one workday
10 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
11 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
12 one-half times the regular rate of pay for an employee." Labor Code § 1194 provides that "any
13 employee receiving less than the legal minimum wage or the legal overtime compensation applicable
14 to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this
15 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and
16 costs of suit."

17 25. During the liability period, Defendants failed to compensate Plaintiff and Class
18 Members with all minimum and overtime wages earned during the course of employment, in violation
19 of Labor Code §§ 510 and 1194. Defendants rounded down the hours reflected on Plaintiff's and
20 Class Members' time records to pay fewer hours than were actually worked. On a weekly basis, this
21 rounding deprived Plaintiff and Class Members of significant hours worked. These failures to pay all
22 minimum and overtime wages due constitute violations of Labor Code §§ 510, 1174, 1194, 1197,
23 1197.1, 1198 and 1198.5.

24 26. As a result of the unlawful acts of Defendants in willfully failing to pay all wages,
25 Plaintiff and Class Members have been deprived of wages in amounts to be determined at trial, and
26 are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and
27 costs pursuant to Labor Code §§ 510, 1174, 1194, 1197, 1197.1, 1198 and 1198.5.

28 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

V.

SECOND CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE § 226.7 AND IWC WAGE ORDER 9-2001)

27. Plaintiff incorporates paragraphs 1 through 25 of this Complaint as though fully set forth herein.

28. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 9-2001.

29. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order 9-2001. Plaintiff and Class Members were routinely not authorized and unable to take an off-duty, 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Plaintiff and Class Members were simply not authorized and unable to take off-duty rest periods during their employment as their rest periods were routinely interrupted, they were required to work or otherwise be under Defendant's control during their rest periods, or they were not offered rest periods. This violates Labor Code § 226.7 and IWC Wage Order No. 9-2001.

30. Pursuant to Labor Code § 226.7 and IWC Wage Order 9-2001, Plaintiff seeks the payment of all rest period compensation which he and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

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VI.

THIRD CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE §§ 226.7 AND 512 AND IWC WAGE ORDER 9-2001)

31. Plaintiff incorporates paragraphs 1 through 30 of this Complaint as though fully set forth herein.

32. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7, 512 and IWC Wage Order 9-2001.

33. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied meal periods, in violation of Labor Code §§ 226.7, 512 and IWC Wage Order 9-2001. Plaintiff and Class Members were routinely denied, and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, and a second meal period when they worked shifts greater than ten hours, but were not paid premium wages of one hour's pay for each missed meal period. When they were provided with a meal period, it would be after the fifth hour of work, they would be required to clock out for their meal period and continue working, or it would be interrupted, requiring the, to perform work duties while they were on their meal period. This violates Labor Code §§ 226.7, 510, 512 1194 and IWC Wage Order 9-2001.

34. Pursuant to Labor Code §§ 226.7, 512 and IWC Wage Order 9-2001, Plaintiff seeks the payment of all meal period compensation which he and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

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VII.

FOURTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED

EMPLOYEE WAGE STATEMENT PROVISIONS

(LABOR CODE § 226(a), (e))

35. Plaintiff incorporates paragraphs 1 through 34 of this Complaint as though fully set forth herein.

36. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

37. Defendants failed to issue Plaintiff and Class Members wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiff and Class Members were not paid all wages due, including premium wages for unauthorized meal and rest periods, and all minimum and overtime wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3. Moreover, and independent of the above allegations,

1 the wage statements issued to Plaintiff and non-exempt Aggrieved Employees failed to accurately set
2 forth all applicable hourly rates in effect during the pay period and the corresponding number of hours
3 worked, in violation of Labor Code §§ 226(a)(9) and 226.3. Independent of the above allegations, the
4 wage statements provided to Plaintiff and Class Members failed to set forth the accurate double-time
5 rates of pay, in violation of Labor Code §§ 226(a)(9) and 226.3. When double-time hours were
6 worked, the wage statements did not set forth the correct premium double-time rate. Instead, the
7 double-time rate was listed as the regular rate of pay, instead of the proper rate of twice the regular
8 rate of pay.

9 38. As a consequence of Defendants' willful conduct in failing to provide Class Members
10 with accurate itemized wage statements, Plaintiff and members of the Class have been injured because
11 they have not been paid all wages due and were issued wage statements which do not reflect, and fail
12 to state, all information required by Labor Code § 226(a). The missing information cannot be
13 discerned at all from the face of the wage statements themselves. As a result, Plaintiff and members
14 of the Class are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all
15 actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee
16 for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per
17 employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code
18 § 226(h).

19 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

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VIII.

FIFTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

39. Plaintiff incorporates paragraphs 1 through 38 of this Complaint as though fully set forth herein.

40. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

41. Defendants paid Plaintiff and members of the Class their final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. Plaintiff and members of Class were not paid all wages due and owing throughout the course of their employment, including all wages due and premium wages for missed and denied meal and rest periods, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment.

42. More than 30 days have passed since Plaintiff and certain Class Members have left Defendants' employ.

43. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff and certain members of the Class are entitled to up to 30 days' wages as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

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IX.

SIXTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO REIMBURSE EXPENSES (LABOR CODE § 2802)

44. Plaintiff incorporates paragraphs 1 through 43 of this Complaint as though fully set forth herein.

45. Pursuant to California Labor Code § 2802, Defendants are required to fully reimburse Plaintiff and Class Members for all out-of-pocket expenses incurred by them in the performance of their job duties.

46. Plaintiff and Class Members were required to use their personal cellular phones to perform their work tasks for Defendants, but were not fully reimbursed by Defendants for these expenses.

47. As a proximate result of the aforementioned violations, Plaintiff and members of the Class have been damaged in an amount according to proof at the time of trial.

48. Pursuant to Labor Code § 2802, Plaintiff and members of the Class are entitled to recover from Defendants the full amount of the expenses they incurred in the performance of their job duties that have not been reimbursed, plus interest, reasonable attorney's fees, and costs of suit.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

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X.
SEVENTH CAUSE OF ACTION
PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS
UNFAIR COMPETITION PURSUANT TO
BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

49. Plaintiff incorporates paragraphs 1 through 48 of this Complaint as though fully set forth herein.

50. This is a Class Action for Unfair Business Practices. Plaintiff, on his own behalf and on behalf of the general public, and on behalf of others similarly situated, bring this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public, and members of the Class. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

51. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

52. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

53. Wage and hour laws express fundamental public policies. Properly providing employees with all wages and expense reimbursement due are fundamental public policies of this State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and its employees from competitors who lower their costs by failing to comply with minimum labor standards.

54. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair

1 business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff,
2 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
3 guaranteed to all employees under law.

4 55. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
5 §17200 *et seq.* of the Business & Professions Code.

6 56. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
7 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
8 17200 *et seq.* of the Business & Professions Code.

9 57. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others
10 similarly situated have been damaged in a sum as may be proven.

11 58. Unless restrained by this Court, Defendants will continue to engage in the unlawful
12 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court
13 should make such orders or judgments, including the appointment of a receiver, as may be necessary
14 to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or
15 deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited
16 to, disgorgement of profits which may be necessary to restore Plaintiff and members of the Class to
17 the money Defendants have unlawfully failed to pay.

18 **XI.**

19 **EIGHTH CAUSE OF ACTION**

20 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**

21 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF**

22 **LABOR CODE §§ 201-202, 226(a), 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, AND 2802**

23 **AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF**

24 **LABOR CODE §§ 226.3 AND 1198.5**

25 59. Plaintiff incorporates paragraphs 1 through 58 of this Complaint as though fully set
26 forth herein.

27 60. As a result of the acts alleged above, including the Labor Code violations set forth
28 herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.*

1 5. For reimbursement of all expenses incurred by Plaintiff and Class Members pursuant
2 to Labor Code § 2802;

3 6. An award of prejudgment and post-judgment interest;

4 7. For restitution for unfair competition pursuant to Business & Professions Code §
5 17200 *et seq.* for Plaintiff and Class Members;

6 8. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
7 Aggrieved Employees;

8 9. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
9 and other applicable law;

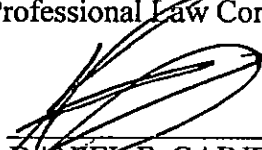
10 10. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
11 law; and

12 11. Such other and further relief as this Court may deem just and proper.

13 Dated: October 22, 2020

Respectfully submitted,

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15 GAINES & GAINES
A Professional Law Corporation

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17 By: 
18 DANIEL F. GAINES
EVAN S. GAINES
19 Attorney for Plaintiff

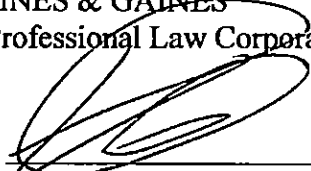
20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

22 Dated: October 22, 2020

Respectfully submitted,

23 GAINES & GAINES
A Professional Law Corporation

24
25 By: 
26 DANIEL F. GAINES
EVAN S. GAINES
27 Attorney for Plaintiff
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SUPERIOR COURT OF CALIFORNIA

County of San Joaquin
180 E Weber Avenue
Stockton, CA 95202

NOTICE OF CASE ASSIGNMENT AND NOTICE OF HEARING

Case Number: **STK-CV-UOE-2020-0008988**

A Case Management Conference has been scheduled for your case as indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlying action. Disregard hearing date if that date has expired.

Hearing: Case Management Conference	Date: 04/21/2021	Time: 8:45 AM Department: 10A
JUDGE	COURT LOCATION	PHONE Numbers:
THIS CASE HAS BEEN ASSIGNED TO JUDGE GEORGE J. ABDALLAH IN DEPARTMENT 10A FOR ALL PURPOSES, INCLUDING TRIAL.	Stockton	Stockton: 209-992-5693 Lodi: 209-992-5522

[**X**] ADR & Scheduling Information is available on court website @ sjcourts.org/self-help

1. You must:
 - a. **Serve** all named defendant's and file proofs of service on those defendants with the court Within 60 days of the filing of the complaint. (CRC 3.110)
 - b. **File and serve** a completed Case Management Conference Statement (use of JC form CM-110 is mandatory) at least 15 days before the Case Management Conference.
 - c. **Meet and Confer**, in person or by telephone, to consider each of the issues identified in CRC 3.727 no later than 30 calendar days before the date set for the Case Management Conference. (CRC 3.724)
 - d. **Collection cases** are managed pursuant to CRC 3.740.
2. As of May 4, 2020, all civil hearings scheduled in Departments 10A, 10B, 10C, 10D and 11B will be held remotely by telephone using the court's system until further notice. Requests to appear telephonically for civil hearings in other departments may be made by contacting the Clerks Office. For mandatory telephonic appearance information and instructions visit @ <https://www.sjcourts.org/how-to-appear-remotely-civil/>.
3. If this case was eFiled, the plaintiff/petitioner or their attorney must access their copy of this notice and the issued summons for service from the court's case management system at the following link: cms.sjcourts.org/fullcourtweb/start.do. Disregard hearing date if that date has expired.
4. **Courtesy Copies:** Courtesy copies are required for all Motions for Summary Judgment, Summary Adjudication and for all CEQA cases. Individual Judges/Departments have additional requirements for courtesy copies. Please review this information located on the public website @ <https://www.sjcourts.org/divisions/civil/>.

Visit our website @ www.sjcourts.org for more information regarding civil cases, local rules and forms.

Date: 10/23/2020

Irving Jimenez, Deputy Clerk

NOTICE OF CASE ASSIGNMENT AND NOTICE OF HEARING



Superior Court of California, County of San Joaquin Alternative Dispute Resolution (ADR) Information Packet

The person who files a civil lawsuit (plaintiff) must include the ADR Information Packet with the complaint when serving the defendant. Cross complainants must serve the ADR Information Packet on any new parties named to the action.

The Court *strongly encourages* the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

- *Indicating your preference on Case Management Statement form CM-110;
- *Filing the Stipulation and Order to Participate in Alternative Dispute Resolution (ADR) *local court form Sup Crt 441*; or
- *Agree to ADR at your initial Case Management Conference.

Questions? Call (209) 992-5693 and ask for the ADR Clerk,
email at adr@sjcourts.org or visit the court website at www.sjcourts.org

What is Alternative Dispute Resolution?

Alternative Dispute Resolution (ADR) is the general term applied to a wide variety of dispute resolution processes which are alternatives to lawsuits. Trained impartial persons, called 'neutrals', resolve disputes or help parties resolve disputes without having to go to court. The most common forms of ADR are mediation and arbitration. There are several other types of ADR such as case evaluation, conciliations, settlement conferences, fact finding, mini-trials and summary jury trials. It is important to find the type or types of ADR that are most likely to resolve your dispute.

What are the Advantages of using ADR?

- **Faster** – Litigation can take years to complete but ADR usually takes weeks or months.
- **Cheaper** – Parties can save on attorney's fees and litigation costs.
- **More control and flexibility** – Parties choose the ADR process appropriate for their case.
- **Cooperative and less stressful** – In mediation, parties cooperate to find a mutually agreeable resolution.
- **Preserve Relationships** – A mediator can help you effectively communicate your interests and point of view to the other side. This is an important benefit when you want to preserve a relationship.

What is the Disadvantage of using ADR?

- **You may go to court anyway** – If you cannot resolve your dispute using ADR, you may still have to spend time and money resolving your lawsuit through the courts.
- **Cost** – The neutral may charge a fee for their services.
- **Timelines** – Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in and ADR process.

What ADR options are available?

- **Mediation** – The Civil Mediation Program is a voluntary court-connected program designed to deliver high-quality affordable mediation services to attorneys and litigants in all general civil cases. Mediation gives litigants a voice in settlement decisions and thereby allows them to play a more direct role in managing the outcome of their own case. The Superior Court of California, County of San Joaquin, is pleased to offer this important and valuable option for resolution of litigation.
 - Mediation is an informal, confidential, flexible and non-binding process which a neutral person (mediator) helps the parties to understand the interest of everyone involved, and their practical and legal choices. The mediator does not decide the dispute, but helps the parties communicate so they can try to settle the dispute themselves. **Mediation leaves control of the outcome with the parties.**
 - Mediators are experienced attorneys who have completed a Court-approved formal mediation training program. A copy of the Civil Mediation Program Panelist is available on the court website at www.sjcourts.org
See Local Rule 3-123 for additional Civil Mediation Program information.
- **Arbitration** – A neutral person (arbitrator) hears arguments and evidence from each side and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit.
 - **Judicial Arbitration Program** (non-binding): The judge can refer a case or the parties can agree to use judicial arbitration. The parties select an arbitrator from a list provided by the court. If the parties cannot agree on an arbitrator, one will be assigned by the court. The arbitrator must send the decision (award of the arbitrator) to the court. The parties have the right to reject the award **and proceed to trial**. See Local Rule 3-122 for additional Judicial Arbitration information.
 - **Private Arbitration** (binding and non-binding): Occurs when parties involved in a dispute either agree or are contractually obligated. This option takes place outside of the courts and is normally binding meaning the arbitrator's decision is final.
- **Additional Information** regarding San Joaquin County Superior Court's ADR programs is available on the Court's website at www.sjcourts.org

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
CASE MANAGEMENT STATEMENT (Check one): ☐ UNLIMITED CASE (Amount demanded exceeds \$25,000) ☐ LIMITED CASE (Amount demanded is \$25,000 or less)	
CASE NUMBER: _____	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ ☐ Notice of Intent to Appear by Telephone, by (name): _____	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted **jointly** by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☐ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. ☐ The trial has been set for *(date)*:

b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. ☐ days *(specify number)*:

b. ☐ hours (short causes) *(specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	☐	☐ Mediation session not yet scheduled ☐ Mediation session scheduled for (date): ☐ Agreed to complete mediation by (date): ☐ Mediation completed on (date):
(2) Settlement conference	☐	☐ Settlement conference not yet scheduled ☐ Settlement conference scheduled for (date): ☐ Agreed to complete settlement conference by (date): ☐ Settlement conference completed on (date):
(3) Neutral evaluation	☐	☐ Neutral evaluation not yet scheduled ☐ Neutral evaluation scheduled for (date): ☐ Agreed to complete neutral evaluation by (date): ☐ Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	☐	☐ Judicial arbitration not yet scheduled ☐ Judicial arbitration scheduled for (date): ☐ Agreed to complete judicial arbitration by (date): ☐ Judicial arbitration completed on (date):
(5) Binding private arbitration	☐	☐ Private arbitration not yet scheduled ☐ Private arbitration scheduled for (date): ☐ Agreed to complete private arbitration by (date): ☐ Private arbitration completed on (date):
(6) Other (<i>specify</i>):	☐	☐ ADR session not yet scheduled ☐ ADR session scheduled for (date): ☐ Agreed to complete ADR session by (date): ☐ ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

☐ Additional cases are described in Attachment 13a.

- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. ☐ The party or parties have completed all discovery.

- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

Party

Description

Date

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

20. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: EMAIL ADDRESS (Optional): ATTORNEY FOR (Name): FAX NO.:	COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN ☐ LODI Branch 315 W. Elm St. Lodi, CA 95240 ☐ MANTECA Branch 315 E. Center St. Manteca, CA 95336 ☐ TRACY Branch 475 E. 10th St. Tracy, CA 95376 ☐ STOCKTON Branch 222 E. Weber Ave. Stockton, CA 95202	
Plaintiff(s)/Petitioner(s):	
Defendant(s)/Respondent(s):	CASE NUMBER:

STIPULATION AND ORDER TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)

Pursuant to California Rules of Court §3.726 the parties stipulate that all claims pursuant in this action shall be submitted to (select one):

- ☐ Voluntary Mediation

☐ Non-Binding Judicial Arbitration CCP 1141.12

☐ Binding Arbitration (private)

☐ Other (specify):

Case Type: _____

Is the Neutral you selected listed on the Court's Panel of Mediators? ☐ Yes ☐ No

Neutral's name and telephone number: _____ / (_____) _____

Date/Time of ADR Session: _____ / _____ a.m./p.m. **Location of ADR Session:** _____

Identify by name ALL individuals (litigants and attorneys) who will attend the ADR session:

Attorneys signing on behalf of their client(s) have been given the authority to stipulate to ADR. Original signatures required.

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

IT IS SO ORDERED: Dated: _____

Judge of the Superior Court

An ADR Review Hearing is scheduled for _____ at _____ a.m/p.m. in Dept. No. _____.

In the event that the case is resolved and a dismissal-entire action, a notice of settlement or judgment is on file 5 days before the hearing, the ADR Hearing will be dropped and all appearances will be excused.