

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

IRIS ASTUDILLO, and CRYSTAL
DELGADO, individuals, on behalf of
themselves, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

TORRANCE HEALTH ASSOCIATION,
INC., a California Corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No. **20STCV18424**

FIRST AMENDED CLASS ACTION

COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
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 PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [15 U.S.C. § 1681, *et seq.*];
10. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO OBTAIN PROPER AUTHORIZATION [15 U.S.C. § 1681, *et seq.*];
11. VIOLATION OF THE INVESTIGATIVE CONSUMER REPORTING AGENCIES ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [California Civil Code § 1786, *et seq.*];
12. VIOLATION OF THE CONSUMER CREDIT REPORTING AGENCIES ACT FOR FAILURE TO OBTAIN PROPER DISCLOSURES [California Civil Code § 1785, *et seq.*]; and
13. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE § 2699, *et seq.*].

DEMAND FOR A JURY TRIAL

1 Plaintiffs Iris Astudillo and Crystal Delgado (“PLAINTIFFS”), individuals, on behalf
2 of themselves and all other similarly situated current and former employees, allege on
3 information and belief, except for their own acts and knowledge, which are based on personal
4 knowledge, the following:

5
6 **THE PARTIES**

7 1. Defendant Torrance Health Association, Inc. (“DEFENDANT”) is a California
8 corporation that at all relevant times mentioned herein conducted and continues to conduct
9 substantial and regular business throughout the State of California.

10 2. DEFENDANT provides medical and surgical hospital services. The Hospital
11 offers hospice, emergency care, clinical research, laboratory testing, bariatric surgery, and other
12 medical services. Torrance Health Association serves patients and communities of Torrance,
13 California.

14 3. Plaintiff Astudillo was employed by DEFENDANT in California and was
15 classified as a non-exempt employee entitled to overtime pay and meal and rest periods from
16 May 2019 to October of 2019. Plaintiff Astudillo was at all times relevant mentioned herein
17 classified by DEFENDANT as a non-exempt employee paid on an hourly basis. In connection
18 with Plaintiff Astudillo’s employment application, Plaintiff Astudillo completed
19 DEFENDANT’s standard application materials. Among other things, these application materials
20 included a background investigation disclosure and authorization form.

21 4. Plaintiff Delgado was employed by DEFENDANT in California and was classified
22 as a non-exempt employee entitled to overtime pay and meal and rest periods from November
23 2016 to November 1, 2018. Plaintiff Delgado was at all times relevant mentioned herein
24 classified by DEFENDANT as a non-exempt employee paid on an hourly basis. In connection
25 with Plaintiff Delgado’s employment application, Plaintiff Delgado completed DEFENDANT’s
26 standard application materials. Among other things, these application materials included a
27 background investigation disclosure and authorization form.

1 5. PLAINTIFFS bring this Class Action on behalf of themselves and a California
2 class, defined as all individuals who are or previously were employed by DEFENDANT in
3 California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time
4 during the period beginning on the date four (4) years prior to the filing of this Complaint and
5 ending on the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The
6 amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five
7 million dollars (\$5,000,000.00).

8 6. During the employment application process PLAINTIFFS executed the
9 background check disclosure and authorization form permitting DEFENDANT to have a third-
10 party obtain a consumer report, which form included, among other things, extraneous
11 information pertaining to the background check to be “all encompassing,” and additional state
12 law notices.

13 7. The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.* (“FCRA”), Investigative
14 Consumer Reporting Agencies Act Cal. Civ. Code § 1786, *et seq.* (“ICRAA”), and the
15 Consumer Credit Reporting Agencies Act Cal. Civ. Code § 1785, *et seq.* (“CCRAA”), provide
16 individuals with a number of rights. Specifically, pertaining to employment-related background
17 checks, the FCRA, ICRAA, and CCRAA provide that a prospective employee must give valid
18 consent to the background check. The FCRA, ICRAA, and CCRAA require a signed
19 authorization and disclosure from the applicant, sometimes referred to as a “consent” form. The
20 authorization and disclosure form must be executed and signed by the applicant prior to an
21 employer requesting or conducting a background check. Importantly, no extraneous information
22 can be attached or included on the consent form. *The authorization and disclosure must stand*
23 *alone.*

24 8. PLAINTIFFS also bring this Class Action on behalf of themselves and a
25 nationwide class, defined as all employees or prospective employees of DEFENDANT in the
26 United States who executed DEFENDANT’s standard background check disclosure form (the
27 “FCRA CLASS”) at any time during the period beginning on the date five (5) years prior to the
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1 filing of this Complaint and ending on the date as determined by the Court (the “FCRA CLASS
2 PERIOD”). The amount in controversy for the aggregate claim of FCRA CLASS Members is
3 under five million dollars (\$5,000,000.00).

4 9. PLAINTIFFS also bring this Class Action on behalf of themselves and a
5 California class, defined as all persons in California who executed DEFENDANT’s standard
6 background check disclosure form (the “ICRAA CLASS”) at any time during the period
7 beginning five (5) years prior to the filing of this Complaint and ending on the date as
8 determined by the Court (the “ICRAA CLASS PERIOD”). The amount in controversy for the
9 aggregate claim of ICRAA CLASS Members is under five million dollars (\$5,000,000.00).

10 10. PLAINTIFFS also bring this Class Action on behalf of themselves and a
11 California class, defined as all persons in California who executed DEFENDANT’s standard
12 background check disclosure form that were not provided a valid written notice compliant with
13 the terms of Cal. Civ. Code § 1785.20.5(a) (the “CCRAA Class”) at any time during the period
14 beginning seven (7) years prior to the filing of this Complaint and ending on the date as
15 determined by the Court (the “CCRAA CLASS PERIOD”). The amount in controversy for the
16 aggregate claim of CCRAA CLASS Members is under five million dollars (\$5,000,000.00).

17 11. PLAINTIFFS bring this Class Action on behalf of themselves and a
18 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
19 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s uniform policy
20 and practice which failed to lawfully compensate these employees for all their overtime worked
21 and meal and rest breaks missed. DEFENDANT’s uniform policy and practice alleged herein
22 was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and
23 continues to retain wages due PLAINTIFFS and the other members of the CALIFORNIA
24 CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction
25 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and
26 the other members of the CALIFORNIA CLASS who have been economically injured by
27 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and
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1 equitable relief.

2 12. The true names and capacities, whether individual, corporate, subsidiary,
3 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
4 unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names
5 pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint
6 to allege the true names and capacities of Does 1 through 50, inclusive, when they are
7 ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief
8 allege, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive,
9 are responsible in some manner for one or more of the events and happenings that proximately
10 caused the injuries and damages hereinafter alleged.

11 13. The agents, servants and/or employees of the Defendants and each of them acting
12 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
13 agent, servant and/or employee of the Defendants, and personally participated in the conduct
14 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
15 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
16 all Defendants are jointly and severally liable to PLAINTIFFS and the other members of the
17 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
18 Defendants' agents, servants and/or employees.

19
20 **THE CONDUCT**

21 14. In violation of 15 U.S.C. § 1681b(b)(2)(A)(I), Cal. Civ. Code § 1786.16(a)(2), and
22 Cal. Civ. Code § 1785.20.5(a), DEFENDANT has unlawfully inserted extraneous language,
23 including but not limited to, additional state law notices that do not relate to the Fair Credit
24 Reporting Act, as well as extraneous language that does not relate to the ICRRA and CCRAA.
25 DEFENDANT included the additional state law notices and extraneous language into its form
26 purporting to grant DEFENDANT and its third-party background checking company the
27 authority to obtain and use consumer report information for employment purposes. The FCRA,
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1 ICRAA, and CCRAA prohibit this practice and require that the form granting the authority to
2 access and use consumer report information for employment purposes be a stand alone form,
3 and not include any additional information or agreements. DEFENDANT's form is contrary
4 to the plain language of the statute and unambiguous regulatory guidance from the Federal
5 Trade Commission ("FTC"), ICRAA, and CCRAA.

6 15. In violation of 15 U.S.C. § 1681b(b)(2)(A)(ii) , Cal. Civ. Code § 1786.16(a)(2),
7 and Cal. Civ. Code § 1785.20.5(a), DEFENDANT has obtained consumer reports without
8 proper authorization because the authorization and disclosure form signed by PLAINTIFFS and
9 other members of the FCRA CLASS, ICRAA CLASS, and CCRAA CLASS failed to comply
10 with the requirements of the FCRA, ICRAA, and CCRAA. The inclusion of, including but not
11 limited to, additional state law notices and other extraneous language in DEFENDANT's
12 disclosure and authorization form invalidates the purported consent and also triggers statutory
13 damages under the FCRA in the amount of up to \$1,000, and under the ICRAA in the amount
14 of \$10,000, for each applicant that DEFENDANT obtained a consumer report without a facially
15 valid authorization or proper disclosures, as well as actual damages, punitive damages, equitable
16 relief, and attorneys' fees and costs.

17 16. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
18 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
19 meaning the time during which an employee is subject to the control of an employer, including
20 all the time the employee is suffered or permitted to work. DEFENDANT from time to time
21 required PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for
22 all the time they were under DEFENDANT's control. PLAINTIFFS were from time to time
23 interrupted by work assignments while clocked out of DEFENDANT's timekeeping system,
24 during what should have been PLAINTIFFS' off duty meal period. Indeed there were many
25 days where PLAINTIFFS did not even receive a partial lunch. As a result, the PLAINTIFFS
26 and other CALIFORNIA CLASS Members forfeited minimum wage and overtime
27 compensation by regularly working without their time being accurately recorded and without
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1 compensation at the applicable minimum wage and overtime rates. DEFENDANT's uniform
2 policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all
3 time worked is evidenced by DEFENDANT's business records

4 17. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed and continues
5 to fail to accurately calculate and pay PLAINTIFFS and the other members of the
6 CALIFORNIA CLASS for their overtime worked. DEFENDANT systematically, unlawfully
7 and unilaterally failed to accurately calculate minimum and overtime wages for time worked
8 by PLAINTIFFS and other members of the CALIFORNIA CLASS in order to avoid paying
9 these employees the correct compensation. As a result, PLAINTIFFS and the other members
10 of the CALIFORNIA CLASS forfeited wages due them for working without compensation at
11 the correct rates. DEFENDANT's uniform policy and practice to not pay the members of the
12 CALIFORNIA CLASS the correct minimum and overtime wages for all time worked in
13 accordance with applicable law is evidenced by DEFENDANT's business records.

14 18. As a result of their rigorous work schedules, PLAINTIFFS and other
15 CALIFORNIA CLASS Members were also from time to time unable to take thirty (30) minute
16 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFFS
17 and other CALIFORNIA CLASS Members were required to perform work as ordered by
18 DEFENDANT for more than five (5) hours during some shifts without receiving a meal break
19 from time to time. Further, DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA
20 CLASS Members with a second off-duty meal period for some workdays in which these
21 employees were required by DEFENDANT to work ten (10) hours of work from time to time.
22 PLAINTIFFS and other members of the CALIFORNIA CLASS therefore forfeited meal breaks
23 without additional compensation and in accordance with DEFENDANT's strict corporate policy
24 and practice.

25 19. As a result of their rigorous work schedules, PLAINTIFFS and other
26 CALIFORNIA CLASS Members were also from time to time unable to take rest breaks.
27 During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA CLASS
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1 Members were also 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
3 (10) minutes for every shift worked of at least two (2) to four (4) hours, a first and second rest
4 period of at least ten (10) minutes for every shift worked of between six (6) and eight (8) hours,
5 and a first, second and third rest period of at least ten (10) minutes for every shift worked of ten
6 (10) hours or more from time to time. PLAINTIFFS and other CALIFORNIA CLASS
7 Members were also not provided with one hour wages in lieu thereof. As a result of their
8 rigorous work schedules, PLAINTIFFS and other CALIFORNIA CLASS Members were from
9 time to time denied their proper rest periods by DEFENDANT and DEFENDANT's managers.
10 Additionally, the applicable California Wage Order requires employers to provide employees
11 with off-duty rest periods, which the California Supreme Court defined as time during which
12 an employee is relieved from all work related duties and free from employer control. In so
13 doing, the Court held that the requirement under California law that employers authorize and
14 permit all employees to take rest period means that employers must relieve employees of all
15 duties and relinquish control over how employees spend their time which includes control over
16 the locations where employees may take their rest period. Employers cannot impose controls
17 that prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,
18 DEFENDANT's uniform policy restricted PLAINTIFFS and other CALIFORNIA CLASS
19 Members from unconstrained walks and was unlawful based on Defendant's rule which stated
20 PLAINTIFFS and other CALIFORNIA CLASS Members could not leave the work premises
21 during their rest period.

22 20. Plaintiff Astudillo sought employment with DEFENDANT in December of 2018.
23 Plaintiff Delgado sought employment with DEFENDANT in or around November of 2016. In
24 connection with their employment applications, PLAINTIFFS completed DEFENDANT's
25 standard application materials. These application materials included a background check
26 disclosure and authorization form and included on the form was extraneous information as
27 described herein. Following their submission of the employment application materials,
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1 DEFENDANT's third party conducted a background check on PLAINTIFFS and PLAINTIFFS
2 were subsequently hired to work for DEFENDANT. PLAINTIFFS discovered DEFENDANT's
3 violations only when they obtained and reviewed their personnel files from DEFENDANT and
4 discovered that DEFENDANT had procured and/or caused to be procured a consumer report
5 regarding them for employment purposes based on the illegal disclosure and authorization form.
6 PLAINTIFFS were not aware and were confused that the form they signed authorized the credit
7 check as it contained the all encompassing language and additional state law notice amongst
8 other language. PLAINTIFFS would not have signed DEFENDANT's authorization form had
9 it contained a sufficiently clear disclosure, as required in the statute.

10 21. The background check disclosure and authorization form disclosed that
11 DEFENDANT intended to conduct a background investigation on the applicant that would
12 involve investigating the applicant's work record, references and education.

13 22. The inclusion of the extraneous information in the background check disclosure
14 and authorization form violates the FCRA, 15 U.S.C. § 1681, *et seq.*, ICRAA, Cal. Civ. Code
15 § 1786, *et seq.*, and CCRAA, Cal. Civ. Code § 1785, *et seq.*.

16 23. Under the FCRA, it is unlawful to procure a consumer report or cause a consumer
17 report to be procured for employment purposes, unless:

- 18 (i) a clear and conspicuous disclosure has been made in writing to the consumer at
19 any time before the report is procured or caused to be procured, ***in a document***
20 ***that consists solely of the disclosure***, that a consumer report may be obtained for
21 employment purposes; and
22 (ii) the consumer has authorized in writing (which authorization may be made on the
23 document referred to in clause(I)) the procurement of the report.

24 15 U.S.C. §§ 1681b(b)(2)(A)(I)-(ii) (emphasis added).

25 24. Under the ICRAA, it is unlawful to procure a consumer report or cause a
26 consumer report to be procured for employment purposes, unless:

27 (B) The person procuring or causing the report to be made provides a ***clear and***
28 ***conspicuous*** disclosure in writing to the consumer at any time before the report
is procured or caused to be made ***in a document that consists solely of the***
disclosure, that:

- (i) An investigative consumer report may be obtained.

1 (ii) The permissible purpose of the report is identified.

2 (iii) The disclosure may include information on the consumer's character,
3 general reputation, personal characteristics, and mode of living.

4 (iv) Identifies the *name, address, and telephone number of the*
5 *investigative consumer reporting agency* conducting the investigation.

6 (v) Notifies the consumer in writing of the nature and scope of the
7 investigation requested, including the provisions of Section 1786.22.

8 (vi) *Notifies the consumer of the Internet Web site address of the*
9 *investigative consumer reporting agency* identifies in clause (iv), or, *if*
10 *the agency has no Internet Web site address, the telephone number of*
11 *the agency*, where the consumer may find information about the
12 investigative reporting agency's privacy practices, including whether the
13 consumer's personal information will be sent outside the United States or
14 its territories and information that complies with subdivision (d) of Section
15 1786.20. This clause shall become operative on January 1, 2012.

16 (C) The consumer has authorized in writing the procurement of the report Cal.
17 Civ. Code 1786.16(a)(2) (emphasis added).

18 25. Under the CCRAA, it is unlawful to procure a consumer report or cause a
19 consumer report to be procured for employment purposes, unless:

20 Prior to requesting a consumer credit report for employment purposes, the user
21 of the report shall provide written notice to the person involved. The notice shall
22 inform the person that a report will be used, and *shall identify the specific basis*
23 *under subdivision (a) of Section 1024.5 of the Labor Code for use of the report.*
24 *The notice shall also inform the person of the source of the report. . . .*

25 Cal. Civ. Code 1785.20.5(a) of the CCRAA (emphasis added).

26 26. After PLAINTIFFS executed the background check disclosure and authorization
27 form in late 2018, DEFENDANT obtained a consumer report on PLAINTIFFS notwithstanding
28 the fact that the background check disclosure and authorization form was invalid under the
requirements of the FCRA, ICRAA, and CCRAA.

29 27. Although the disclosure and the authorization form required by the FCRA and
30 ICRAA may be combined in a single document, federal and state laws delineated herein have
31 warned that the form should not include any extraneous information. Further, the federal and
32 state laws delineated herein have also specifically warned that the inclusion of such extraneous
33 information in a disclosure form will violate Section 604(b)(2)(A) of the FCRA [15 U.S.C. §§
34 1681b(b)(2)(A)], Cal. Civ. Code § 1786.16(a)(2), and/or Cal. Civ. Code § 1785.20.5(a), which

1 require that a disclosure consist solely of the disclosure that a consumer report may be obtained
2 for employment purposes.

3 28. By including additional state law notices and the “all Encompassing” extraneous
4 information in its background check disclosure and authorization form, DEFENDANT willfully
5 disregarded the FTC’s regulatory guidance and violated 15 U.S.C. §§ 1681b(b)(2)(A), as well
6 Cal. Civ. Code § 1786.16(a)(2) and Cal. Civ. Code § 1785.20.5(a).

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

18 30. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS
19 Members as a business expense, were required by DEFENDANT to use personal cellular
20 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but
21 were not reimbursed or indemnified by DEFENDANT for the cost associated with the use of
22 the personal cellular phones for DEFENDANT’s benefit. As a result, in the course of their
23 employment with DEFENDANT, PLAINTIFFS and other members of the CALIFORNIA
24 CLASS incurred unreimbursed business expenses which included, but were not limited to, costs
25 related to the use of their personal cellular phones all on behalf of and for the benefit of
26 DEFENDANT. As a result, in the course of their employment with DEFENDANT,
27 PLAINTIFFS and other members of the CALIFORNIA CLASS incurred unreimbursed business
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1 expenses which included, but were not limited to, costs related to travel all on behalf of and for
2 the benefit of DEFENDANT.

3 31. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
4 employees with an accurate itemized wage statement in writing showing, among other things,
5 gross wages earned and all applicable hourly rates in effect during the pay period and the
6 corresponding amount of time worked at each hourly rate. From time to time, DEFENDANT
7 violated Cal. Lab. Code § 226 by failing to provide wage statements that identified the correct
8 net and gross wages earned. Aside from the violations listed above, DEFENDANT failed to
9 issue to Plaintiff Astudillo an itemized wage statement that lists all the requirements under
10 California Labor Code 226 *et seq.* As a result, from time to time DEFENDANT provided
11 Plaintiff Astudillo and the other members of the CALIFORNIA CLASS with wage statements
12 which violated Cal. Lab. Code § 226.

13 32. Specifically as to PLAINTIFFS, as a result of the rigorous work schedule imposed
14 by DEFENDANT, PLAINTIFFS were also from time to time unable to take off duty meal and
15 rest breaks and was not fully relieved of duty for her meal and rest periods. PLAINTIFFS were
16 required to perform work as ordered by DEFENDANT for more than five (5) hours during a
17 shift without receiving an off-duty meal break. Further, DEFENDANT failed to provide
18 PLAINTIFFS with a second off-duty meal period each workday in which they were required
19 by DEFENDANT to work ten (10) hours of work. PLAINTIFFS therefore forfeited meal and
20 rest breaks without additional compensation and in accordance with DEFENDANT's strict
21 corporate policy and practice. When PLAINTIFFS worked overtime in the same pay period
22 they earned incentive wages and/or missed meal and rest breaks, DEFENDANT also provided
23 PLAINTIFFS with a paystub that failed to accurately display PLAINTIFFS' correct rates of
24 overtime pay for certain pay periods in violation of Cal. Lab. Code § 226(a). To date,
25 DEFENDANT has not fully paid PLAINTIFFS the overtime compensation still owed to them
26 or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy for
27 PLAINTIFFS individually does not exceed the sum or value of \$75,000.

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1 in excess of eight hours in one workday and any work in excess of 40 hours in any one
2 workweek . . . shall be compensated at the rate of no less than one and one-half times the
3 regular rate of pay for an employee.” (Lab. Code § 204 and § 510(a).) The Industrial Welfare
4 Commission (IWC), however, is statutorily authorized to “establish exemptions from the
5 requirement that an overtime rate of compensation be paid... ..for executive, administrative, and
6 professional employees, provided [inter alia] that the employee is primarily engaged in duties
7 that meet the test of the exemption, [and] customarily and regularly exercises discretion and
8 independent judgment in performing those duties...” (Lab. Code § 510(a).) Neither
9 PLAINTIFFS nor the other members of the CALIFORNIA CLASS and/or the CALIFORNIA
10 LABOR SUB-CLASS qualify for exemption from the above requirements.

11 38. DEFENDANT has the legal burden to establish that each and every
12 CALIFORNIA CLASS Member was paid for all time worked and wages for missed meal and
13 rest breaks. The DEFENDANT, however, as a matter of uniform and systematic policy and
14 procedure fails to have in place during the CALIFORNIA CLASS PERIOD and still fails to
15 have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member
16 is paid the appropriate minimum and overtime wages, so as to satisfy their burden. This
17 common business practice applicable to each and every CALIFORNIA CLASS Member can
18 be adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business
19 & Professions Code §§ 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not
20 elements of this claim.

21 39. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
22 CLASS Members is impracticable.

23 40. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
24 California law by:

- 25 (a) Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code
26 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in
27 place company policies, practices and procedures that failed to pay all
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1 minimum and overtime wages due the CALIFORNIA CLASS for all time
2 worked;

3 (b) Committing an act of unfair competition in violation of the California
4 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by
5 unlawfully, unfairly, and/or deceptively having in place a company policy,
6 practice and procedure that failed to correctly compensation due to
7 PLAINTIFFS and the members of the CALIFORNIA CLASS;

8 (c) Committing an act of unfair competition in violation of the California
9 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by
10 failing to provide mandatory meal and rest breaks to PLAINTIFFS and the
11 CALIFORNIA CLASS members;

12 (d) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code
13 §§ 17200, *et seq.* the ("UCL") by violating Cal. Lab. Code § 2802 by
14 failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS
15 members with necessary expenses incurred in the discharge of their job
16 duties; and,

17 (e) Violating The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, by
18 unlawfully, unfairly and/or deceptively having in place company policies,
19 practices and procedures that uniformly obtained credit reports on
20 prospective employees without first obtaining valid authorization consent
21 forms.

22 41. This Class Action meets the statutory prerequisites for the maintenance of a Class
23 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

24 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
25 that the joinder of all such persons is impracticable and the disposition of
26 their claims as a class will benefit the parties and the Court;

27 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
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1 that are raised in this Complaint are common to the CALIFORNIA
2 CLASS will apply uniformly to every member of the CALIFORNIA
3 CLASS;

4 (c) The claims of the representative PLAINTIFFS are typical of the claims of
5 each member of the CALIFORNIA CLASS. PLAINTIFFS, like all the
6 other members of the CALIFORNIA CLASS, were non-exempt
7 employees paid on an hourly basis who was subjected to the
8 DEFENDANT's practice and policy which failed to pay the correct rate
9 of overtime wages due to the CALIFORNIA CLASS for all overtime
10 worked by the CALIFORNIA CLASS and thereby systematically
11 underpaid overtime compensation to the CALIFORNIA CLASS.
12 PLAINTIFFS sustained economic injury as a result of DEFENDANT's
13 employment practices. PLAINTIFFS and the members of the
14 CALIFORNIA CLASS were and are similarly or identically harmed by
15 the same unlawful, deceptive, unfair and pervasive pattern of misconduct
16 engaged in by DEFENDANT; and,

17 (d) The representative PLAINTIFFS will fairly and adequately represent and
18 protect the interest of the CALIFORNIA CLASS, and have retained
19 counsel who are competent and experienced in Class Action litigation.
20 There are no material conflicts between the claims of the representative
21 PLAINTIFFS and the members of the CALIFORNIA CLASS that would
22 make class certification inappropriate. Counsel for the CALIFORNIA
23 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
24 Members.

25 42. In addition to meeting the statutory prerequisites to a Class Action, this action
26 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

27 (a) Without class certification and determination of declaratory, injunctive,
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1 statutory and other legal questions within the class format, prosecution of
2 separate actions by individual members of the CALIFORNIA CLASS will
3 create the risk of:

4 1) Inconsistent or varying adjudications with respect to individual
5 members of the CALIFORNIA CLASS which would establish
6 incompatible standards of conduct for the parties opposing the
7 CALIFORNIA CLASS; and/or,

8 2) Adjudication with respect to individual members of the
9 CALIFORNIA CLASS which would as a practical matter be
10 dispositive of interests of the other members not party to the
11 adjudication or substantially impair or impede their ability to
12 protect their interests.

13 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to
14 act on grounds generally applicable to the CALIFORNIA CLASS, making
15 appropriate class-wide relief with respect to the CALIFORNIA CLASS
16 as a whole in that DEFENDANT uniformly failed to pay all wages due.
17 Including the correct overtime rate, for all worked by the members of the
18 CALIFORNIA CLASS as required by law;

19 1) With respect to the First Cause of Action, the final relief on behalf
20 of the CALIFORNIA CLASS sought does not relate exclusively to
21 restitution because through this claim PLAINTIFFS seek
22 declaratory relief holding that the DEFENDANT's policy and
23 practices constitute unfair competition, along with declaratory
24 relief, injunctive relief, and incidental equitable relief as may be
25 necessary to prevent and remedy the conduct declared to constitute
26 unfair competition;

27 (c) Common questions of law and fact exist as to the members of the
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1 CALIFORNIA CLASS, with respect to the practices and violations of
2 California law as listed above, and predominate over any question
3 affecting only individual CALIFORNIA CLASS Members, and a Class
4 Action is superior to other available methods for the fair and efficient
5 adjudication of the controversy, including consideration of:

- 6 1) The interests of the members of the CALIFORNIA CLASS in
7 individually controlling the prosecution or defense of separate
8 actions in that the substantial expense of individual actions will be
9 avoided to recover the relatively small amount of economic losses
10 sustained by the individual CALIFORNIA CLASS Members when
11 compared to the substantial expense and burden of individual
12 prosecution of this litigation;
- 13 2) Class certification will obviate the need for unduly duplicative
14 litigation that would create the risk of:
 - 15 A. Inconsistent or varying adjudications with respect to
16 individual members of the CALIFORNIA CLASS, which
17 would establish incompatible standards of conduct for the
18 DEFENDANT; and/or,
 - 19 B. Adjudications with respect to individual members of the
20 CALIFORNIA CLASS would as a practical matter be
21 dispositive of the interests of the other members not parties
22 to the adjudication or substantially impair or impede their
23 ability to protect their interests;
- 24 3) In the context of wage litigation because a substantial number of
25 individual CALIFORNIA CLASS Members will avoid asserting
26 their legal rights out of fear of retaliation by DEFENDANT, which
27 may adversely affect an individual's job with DEFENDANT or
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1 with a subsequent employer, the Class Action is the only means to
2 assert their claims through a representative; and,

- 3 4) A class action is superior to other available methods for the fair
4 and efficient adjudication of this litigation because class treatment
5 will obviate the need for unduly and unnecessary duplicative
6 litigation that is likely to result in the absence of certification of
7 this action pursuant to Cal. Code of Civ. Proc. § 382.

8 43. This Court should permit this action to be maintained as a Class Action pursuant
9 to Cal. Code of Civ. Proc. § 382 because:

- 10 (a) The questions of law and fact common to the CALIFORNIA CLASS
11 predominate over any question affecting only individual CALIFORNIA
12 CLASS Members because the DEFENDANT's employment practices are
13 uniform and systematically applied with respect to the CALIFORNIA
14 CLASS;
- 15 (b) A Class Action is superior to any other available method for the fair and
16 efficient adjudication of the claims of the members of the CALIFORNIA
17 CLASS because in the context of employment litigation a substantial
18 number of individual CALIFORNIA CLASS Members will avoid
19 asserting their rights individually out of fear of retaliation or adverse
20 impact on their employment;
- 21 (c) The members of the CALIFORNIA CLASS are so numerous that it is
22 impractical to bring all members of the CALIFORNIA CLASS before the
23 Court;
- 24 (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be
25 able to obtain effective and economic legal redress unless the action is
26 maintained as a Class Action;
- 27 (e) There is a community of interest in obtaining appropriate legal and
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1 equitable relief for the acts of unfair competition, statutory violations and
2 other improprieties, and in obtaining adequate compensation for the
3 damages and injuries which DEFENDANT's actions have inflicted upon
4 the CALIFORNIA CLASS;

5 (f) There is a community of interest in ensuring that the combined assets of
6 DEFENDANT are sufficient to adequately compensate the members of
7 the CALIFORNIA CLASS for the injuries sustained;

8 (g) DEFENDANT has acted or refused to act on grounds generally applicable
9 to the CALIFORNIA CLASS, thereby making final class-wide relief
10 appropriate with respect to the CALIFORNIA CLASS as a whole;

11 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
12 the business records of DEFENDANT; and,

13 (i) Class treatment provides manageable judicial treatment calculated to bring
14 a efficient and rapid conclusion to all litigation of all wage and hour
15 related claims arising out of the conduct of DEFENDANT as to the
16 members of the CALIFORNIA CLASS.

17 44. DEFENDANT maintains records from which the Court can ascertain and identify
18 by job title each of DEFENDANT's employees who have been systematically, intentionally and
19 uniformly subjected to DEFENDANT's company policy, practices and procedures as herein
20 alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job
21 titles of similarly situated employees when they have been identified.

22
23 **THE CALIFORNIA LABOR SUB-CLASS**

24 45. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and
25 Eighth Causes of Action on behalf of a California sub-class, defined as all members of the
26 CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA LABOR
27 SUB-CLASS") at any time during the period beginning on the date three (3) years prior to the
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1 filing of the complaint and ending on the date as determined by the Court (the “CALIFORNIA
2 LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in
3 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under
4 five million dollars (\$5,000,000.00).

5 46. DEFENDANT, as a matter of company policy, practice and procedure, and in
6 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
7 requirements, and the applicable provisions of California law, intentionally, knowingly, and
8 wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate overtime
9 compensation for the overtime worked by PLAINTIFFS and the other members of the
10 CALIFORNIA LABOR SUB-CLASS, even though DEFENDANT enjoyed the benefit of this
11 work, required employees to perform this work and permitted or suffered to permit this
12 overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR SUB-
13 CLASS Members overtime wages at the correct amount to which these employees are entitled
14 in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
15 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the
16 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

17 47. DEFENDANT maintains records from which the Court can ascertain and identify
18 by name and job title, each of DEFENDANT’s employees who have been systematically,
19 intentionally and uniformly subjected to DEFENDANT’s company policy, practices and
20 procedures as herein alleged. PLAINTIFFS will seek leave to amend the complaint to include
21 any additional job titles of similarly situated employees when they have been identified.

22 48. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
23 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

24 49. Common questions of law and fact exist as to members of the CALIFORNIA
25 LABOR SUB-CLASS, including, but not limited, to the following:

- 26 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
27 overtime compensation to members of the CALIFORNIA LABOR SUB-
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1 CLASS in violation of the California Labor Code and California
2 regulations and the applicable California Wage Order;

3 (b) Whether the members of the CALIFORNIA LABOR SUB-CLASS were
4 entitled to overtime compensation for overtime worked under the overtime
5 pay requirements of California law;

6 (c) Whether DEFENDANT failed to accurately record the applicable
7 overtime rates for all overtime worked by PLAINTIFFS and the other
8 members of the CALIFORNIA LABOR SUB-CLASS;

9 (d) Whether DEFENDANT failed to provide PLAINTIFFS and the other
10 members of the CALIFORNIA LABOR SUB-CLASS with accurate
11 itemized wage statements;

12 (e) Whether DEFENDANT has engaged in unfair competition by the
13 above-listed conduct;

14 (f) The proper measure of damages and penalties owed to the members of the
15 CALIFORNIA LABOR SUB-CLASS; and,

16 (g) Whether DEFENDANT's conduct was willful.

17 50. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
18 under California law by:

19 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay
20 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
21 CLASS the correct overtime pay for which DEFENDANT is liable
22 pursuant to Cal. Lab. Code § 1194;

23 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
24 accurately pay PLAINTIFFS and the members of the CALIFORNIA
25 LABOR SUB-CLASS the correct minimum wage pay for which
26 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

27 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and
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1 the members of the CALIFORNIA LABOR SUB-CLASS with an
2 accurate itemized statement in writing showing all accurate and applicable
3 overtime rates in effect during the pay period and the corresponding
4 amount of time worked at each overtime rate by the employee;

5 (d) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
6 when an employee is discharged or quits from employment, the employer
7 must pay the employee all wages due without abatement, by failing to
8 tender full payment and/or restitution of wages owed or in the manner
9 required by California law to the members of the CALIFORNIA LABOR
10 SUB-CLASS who have terminated their employment; and,

11 (e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS
12 and the CALIFORNIA LABOR SUB-CLASS members with necessary
13 expenses incurred in the discharge of their job duties.

14 51. This Class Action meets the statutory prerequisites for the maintenance of a Class
15 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

16 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are
17 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
18 Members is impracticable and the disposition of their claims as a class
19 will benefit the parties and the Court;

20 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
21 that are raised in this Complaint are common to the CALIFORNIA
22 LABOR SUB-CLASS and will apply uniformly to every member of the
23 CALIFORNIA LABOR SUB-CLASS;

24 (c) The claims of the representative PLAINTIFFS are typical of the claims of
25 each member of the CALIFORNIA LABOR SUB-CLASS.
26 PLAINTIFFS, like all the other members of the CALIFORNIA LABOR
27 SUB-CLASS, were non-exempt employees who were subjected to
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1 DEFENDANT's practice and policy which failed to pay the correct rate
2 of overtime wages due to the CALIFORNIA LABOR SUB-CLASS for
3 all overtime worked. PLAINTIFFS sustained economic injury as a result
4 of DEFENDANT's employment practices. PLAINTIFFS and the
5 members of the CALIFORNIA LABOR SUB-CLASS were and are
6 similarly or identically harmed by the same unlawful, deceptive, unfair
7 and pervasive pattern of misconduct engaged in by DEFENDANT; and,

8 (d) The representative PLAINTIFFS will fairly and adequately represent and
9 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and have
10 retained counsel who are competent and experienced in Class Action
11 litigation. There are no material conflicts between the claims of the
12 representative PLAINTIFFS and the members of the CALIFORNIA
13 LABOR SUB-CLASS that would make class certification inappropriate.
14 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
15 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

16 52. In addition to meeting the statutory prerequisites to a Class Action, this action
17 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

18 (a) Without class certification and determination of declaratory, injunctive,
19 statutory and other legal questions within the class format, prosecution of
20 separate actions by individual members of the CALIFORNIA LABOR
21 SUB-CLASS will create the risk of:

- 22 1) Inconsistent or varying adjudications with respect to individual
23 members of the CALIFORNIA LABOR SUB-CLASS which
24 would establish incompatible standards of conduct for the parties
25 opposing the CALIFORNIA LABOR SUB-CLASS; or,
- 26 2) Adjudication with respect to individual members of the
27 CALIFORNIA LABOR SUB-CLASS which would as a practical
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1 matter be dispositive of interests of the other members not party to
2 the adjudication or substantially impair or impede their ability to
3 protect their interests.

4 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted
5 or refused to act on grounds generally applicable to the CALIFORNIA
6 LABOR SUB-CLASS, making appropriate class-wide relief with respect
7 to the CALIFORNIA LABOR SUB-CLASS as a whole in that
8 DEFENDANT uniformly failed to pay all wages due. Including the
9 correct overtime rate, for all overtime worked by the members of the
10 CALIFORNIA LABOR SUB-CLASS as required by law;

11 (c) Common questions of law and fact predominate as to the members of the
12 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
13 violations of California Law as listed above, and predominate over any
14 question affecting only individual CALIFORNIA LABOR SUB-CLASS
15 Members, and a Class Action is superior to other available methods for
16 the fair and efficient adjudication of the controversy, including
17 consideration of:

- 18 1) The interests of the members of the CALIFORNIA LABOR SUB-
19 CLASS in individually controlling the prosecution or defense of
20 separate actions in that the substantial expense of individual
21 actions will be avoided to recover the relatively small amount of
22 economic losses sustained by the individual CALIFORNIA
23 LABOR SUB-CLASS Members when compared to the substantial
24 expense and burden of individual prosecution of this litigation;
- 25 2) Class certification will obviate the need for unduly duplicative
26 litigation that would create the risk of:

27 A. Inconsistent or varying adjudications with respect to
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individual members of the CALIFORNIA LABOR SUB-CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

B. Adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

3) In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

53. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

(b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA

1 LABOR SUB-CLASS because in the context of employment litigation a
2 substantial number of individual CALIFORNIA LABOR SUB-CLASS
3 Members will avoid asserting their rights individually out of fear of
4 retaliation or adverse impact on their employment;

5 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
6 numerous that it is impractical to bring all members of the CALIFORNIA
7 LABOR SUB-CLASS before the Court;

8 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS
9 Members, will not be able to obtain effective and economic legal redress
10 unless the action is maintained as a Class Action;

11 (e) There is a community of interest in obtaining appropriate legal and
12 equitable relief for the acts of unfair competition, statutory violations and
13 other improprieties, and in obtaining adequate compensation for the
14 damages and injuries which DEFENDANT's actions have inflicted upon
15 the CALIFORNIA LABOR SUB-CLASS;

16 (f) There is a community of interest in ensuring that the combined assets of
17 DEFENDANT are sufficient to adequately compensate the members of
18 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

19 (g) DEFENDANT has acted or refused to act on grounds generally applicable
20 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-
21 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-
22 CLASS as a whole;

23 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
24 ascertainable from the business records of DEFENDANT. The
25 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
26 CLASS Members classified as non-exempt employees during the
27 CALIFORNIA LABOR SUB-CLASS PERIOD; and,
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- 1 (i) Class treatment provides manageable judicial treatment calculated to bring
2 a efficient and rapid conclusion to all litigation of all wage and hour
3 related claims arising out of the conduct of DEFENDANT as to the
4 members of the CALIFORNIA LABOR SUB-CLASS.
5

6 **THE FCRA CLASS ALLEGATIONS**

7 54. PLAINTIFFS bring the Ninth and Tenth Causes of Action pursuant to Cal. Code
8 of Civ. Proc. § 382, on behalf of a nationwide Class, defined as all employees or prospective
9 employees of DEFENDANT in the United States who executed DEFENDANT's standard
10 background check disclosure form (the "FCRA CLASS") at any time during the period
11 beginning on the date five (5) years prior to the filing of this Complaint and ending on the date
12 as determined by the Court (the "FCRA CLASS PERIOD"). The amount in controversy for the
13 aggregate claim of FCRA CLASS Members is under five million dollars (\$5,000,000.00).

14 55. To the extent equitable tolling operates to toll claims by the FCRA CLASS
15 against DEFENDANT, the FCRA CLASS PERIOD should be adjusted accordingly.

16 56. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
17 violation of The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, intentionally, knowingly,
18 and wilfully, engaged in a practice whereby DEFENDANT uniformly, unfairly, unlawfully, and
19 deceptively instituted a practice of obtaining consumer reports without valid authorization to
20 do so.

21 57. The FCRA CLASS is so numerous that joinder of all FCRA CLASS Members
22 is impracticable.

23 58. DEFENDANT uniformly violated the rights of the FCRA CLASS by:

- 24 (a) Violating The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, by
25 unlawfully, unfairly and/or deceptively having in place company policies,
26 practices and procedures that uniformly obtained credit reports on
27 prospective employees without first obtaining valid authorization consent
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forms.

59. Common questions of law and fact exist as to members of the FCRA CLASS, including, but not limited, to the following:

- (a) Whether DEFENDANT required the FCRA CLASS Members to sign a background check disclosure and authorization form;
- (b) Whether DEFENDANT's background check disclosure and authorization form complies with the Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.* ("FCRA");
- (c) Whether DEFENDANT violated the FCRA by including extraneous information in its background check disclosure and authorization form; and,
- (d) Whether DEFENDANT violated the FCRA by procuring consumer report information based on invalid authorizations;
- (e) Whether DEFENDANT's violations of the FCRA were willful;
- (f) The proper measure of statutory damages and punitive damages; and,
- (g) The proper form of injunctive and declaratory relief.

60. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- (a) The persons who comprise the FCRA CLASS are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, and declaratory relief issues that are raised in this Complaint are common to the FCRA CLASS will apply uniformly to every member of the FCRA CLASS;
- (c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the FCRA CLASS. PLAINTIFFS, like all the other members of the FCRA CLASS, had a credit report obtained on their

1 behalf by DEFENDANT prior to obtaining valid authorization to do so in
2 violation of the FCRA as described herein. PLAINTIFFS and the
3 members of the FCRA CLASS were and are similarly or identically
4 harmd by the same unlawful, deceptive, unfair and pervasive pattern of
5 misconduct engaged in by DEFENDANT; and,

- 6 (d) The representative PLAINTIFFS will fairly and adequately represent and
7 protect the interest of the FCRA CLASS, and have retained counsel who
8 are competent and experienced in Class Action litigation. There are no
9 material conflicts between the claims of the representative PLAINTIFFS
10 and the members of the FCRA CLASS that would make class certification
11 inappropriate. Counsel for the FCRA CLASS will vigorously assert the
12 claims of all employees in the FCRA CLASS.

13 61. In addition to meeting the statutory prerequisites to a Class Action, this Action
14 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 15 (a) Without class certification and determination of declaratory, statutory and
16 other legal questions within the class format, prosecution of separate
17 actions by individual members of the FCRA CLASS will create the risk
18 of:

- 19 1) Inconsistent or varying adjudications with respect to individual
20 members of the FCRA CLASS which would establish
21 incompatible standards of conduct for the parties opposing the
22 FCRA CLASS; and/or,
23 2) Adjudication with respect to individual members of the FCRA
24 CLASS which would as a practical matter be dispositive of
25 interests of the other members not party to the adjudication or
26 substantially impair or impede their ability to protect their interests.

- 27 (b) The parties opposing the FCRA CLASS have acted or refused to act on
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1 grounds generally applicable to the FCRA CLASS, making appropriate
2 class-wide relief with respect to the FCRA CLASS as a whole;

3 (c) Common questions of law and fact exist as to the members of the FCRA
4 CLASS, with respect to the practices and violations of the FCRA as listed
5 above, and predominate over any question affecting only individual FCRA
6 CLASS Members, and a Class Action is superior to other available
7 methods for the fair and efficient adjudication of the controversy,
8 including consideration of:

9 1) The interests of the members of the FCRA CLASS in individually
10 controlling the prosecution or defense of separate actions in that
11 the substantial expense of individual actions will be avoided to
12 recover the relatively small amount of economic losses sustained
13 by the individual FCRA CLASS Members when compared to the
14 substantial expense and burden of individual prosecution of this
15 litigation;

16 2) Class certification will obviate the need for unduly duplicative
17 litigation that would create the risk of:

18 A. Inconsistent or varying adjudications with respect to
19 individual members of the FCRA CLASS, which would
20 establish incompatible standards of conduct for
21 DEFENDANT; and/or,

22 B. Adjudications with respect to individual members of the
23 FCRA CLASS would as a practical matter be dispositive of
24 the interests of the other members not parties to the
25 adjudication or substantially impair or impede their ability
26 to protect their interests;

27 3) In the context of employment litigation because as a practical
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1 matter a substantial number of individual FCRA CLASS Members
2 will avoid asserting their legal rights out of fear of retaliation by
3 DEFENDANT, which may adversely affect an individual's job
4 with DEFENDANT or with a subsequent employer, the Class
5 Action is the only means to assert their claims through a
6 representative; and,

- 7 4) A Class Action is superior to other available methods for the fair
8 and efficient adjudication of this litigation because class treatment
9 will obviate the need for unduly and unnecessary duplicative
10 litigation that is likely to result in the absence of certification of
11 this Action pursuant to Cal. Code of Civ. Proc. § 382.

12 62. This Court should permit this Action to be maintained as a Class Action pursuant
13 to Cal. Code of Civ. Proc. § 382, because:

- 14 (a) The questions of law and fact common to the FCRA CLASS predominate
15 over any question affecting only individual FCRA CLASS Members
16 because DEFENDANT's employment practices were uniform and
17 systematically applied with respect to the FCRA CLASS;
- 18 (b) A Class Action is superior to any other available method for the fair and
19 efficient adjudication of the claims of the members of the FCRA CLASS
20 because in the context of employment litigation a substantial number of
21 individual FCRA CLASS Members will avoid asserting their rights
22 individually out of fear of retaliation or adverse impact on their
23 employment;
- 24 (c) The members of the FCRA CLASS are so numerous that it is impractical
25 to bring all members of the FCRA CLASS before the Court;
- 26 (d) PLAINTIFFS, and the other FCRA CLASS Members, will not be able to
27 obtain effective and economic legal redress unless the action is maintained
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as a Class Action;

- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of statutory violations and other improprieties, and in obtaining adequate compensation for the injuries which DEFENDANT's actions have inflicted upon the FCRA CLASS;
- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the FCRA CLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the FCRA CLASS, thereby making final class-wide relief appropriate with respect to the FCRA CLASS as a whole;
- (h) The members of the FCRA CLASS are readily ascertainable from the business records of DEFENDANT. The FCRA CLASS consists of all employees or prospective employees of DEFENDANT in the United States who executed DEFENDANT's standard FCRA disclosure form allowing DEFENDANT to obtain a consumer report during the FCRA CLASS PERIOD; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all FCRA claims arising out of the conduct of DEFENDANT as to the members of the FCRA CLASS.

63. DEFENDANT maintains records from which the Court can ascertain and identify by name and job title, each of DEFENDANT's employees who have been systematically, intentionally and uniformly subjected to DEFENDANT's corporate policy, practices and procedures as herein alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles of similarly situated employees when they have been identified.

THE ICRAA CLASS

1 64. PLAINTIFFS bring the Eleventh Cause of Action pursuant to Cal. Code of Civ.
2 Proc. § 382, on behalf of a statewide California Class, defined as all persons in California who
3 executed DEFENDANT's standard background check disclosure form (the "ICRAA CLASS")
4 at any time during the period beginning five (5) years prior to the filing of this Complaint and
5 ending on the date as determined by the Court (the "ICRAA CLASS PERIOD"). To the extent
6 equitable tolling operates to toll claims by the ICRAA CLASS against DEFENDANT, the
7 ICRAA CLASS PERIOD should be adjusted accordingly. The amount in controversy for the
8 aggregate claim of ICRAA CLASS Members is under five million dollars (\$5,000,000.00).

9 65. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
10 violation of Investigative Consumer Reporting Agencies Act Cal. Civ. Code § 1786, *et seq.*,
11 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT uniformly,
12 unfairly, unlawfully, and deceptively instituted a practice of obtaining consumer reports without
13 valid authorization to do so.

14 66. The ICRAA CLASS is so numerous that joinder of all ICRAA CLASS Members
15 is impracticable.

16 67. DEFENDANT uniformly violated the rights of the ICRAA CLASS by:

- 17 (a) Violating Investigative Consumer Reporting Agencies Act Cal. Civ. Code
18 § 1786, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
19 company policies, practices and procedures that uniformly obtained credit
20 reports on without first obtaining valid authorization consent form.

21 68. Common questions of law and fact exist as to members of the ICRAA CLASS,
22 including, but not limited, to the following:

- 23 (a) Whether DEFENDANT required the ICRAA CLASS Members to sign a
24 background check disclosure and authorization form;
25 (b) Whether DEFENDANT's background check disclosure and authorization
26 form complies with the Investigative Consumer Reporting Agencies Act
27 Cal. Civ. Code § 1786, *et seq.*;
28

- (c) Whether DEFENDANT violated the ICRAA by including extraneous information in its background check disclosure and authorization form;
- (d) Whether DEFENDANT violated the ICRAA by procuring consumer report information based on invalid authorizations;
- (e) Whether DEFENDANT's violations of the ICRAA were willful;
- (f) The proper measure of statutory damages and punitive damages; and,
- (g) The proper form of injunctive and declaratory relief.

69. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- (a) The persons who comprise the ICRAA CLASS are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, and declaratory relief issues that are raised in this Complaint are common to the ICRAA CLASS will apply uniformly to every member of the ICRAA CLASS;
- (c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the ICRAA CLASS. PLAINTIFFS, like all the other members of the ICRAA CLASS, had a credit report and background check obtained on PLAINTIFFS' behalf by DEFENDANT prior to obtaining valid authorization to do so in violation of the ICRAA as described herein. PLAINTIFFS and the members of the ICRAA CLASS were and are similarly or identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of misconduct engaged in by DEFENDANT; and,
- (d) The representative PLAINTIFFS will fairly and adequately represent and protect the interest of the ICRAA CLASS, and have retained counsel who are competent and experienced in Class Action litigation. There are no

1 material conflicts between the claims of the representative PLAINTIFFS
2 and the members of the ICRAA CLASS that would make class
3 certification inappropriate. Counsel for the ICRAA CLASS will
4 vigorously assert the claims of all ICRAA CLASS members.

5 70. In addition to meeting the statutory prerequisites to a Class Action, this Action
6 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

7 (a) Without class certification and determination of declaratory, statutory and
8 other legal questions within the class format, prosecution of separate
9 actions by individual members of the ICRAA CLASS will create the risk
10 of:

11 1) Inconsistent or varying adjudications with respect to individual
12 members of the ICRAA CLASS which would establish
13 incompatible standards of conduct for the parties opposing the
14 CLASS; and/or,

15 2) Adjudication with respect to individual members of the ICRAA
16 CLASS which would as a practical matter be dispositive of
17 interests of the other members not party to the adjudication or
18 substantially impair or impede their ability to protect their interests.

19 (b) The parties opposing the ICRAA CLASS have acted or refused to act on
20 grounds generally applicable to the ICRAA CLASS, making appropriate
21 class-wide relief with respect to the ICRAA CLASS as a whole; and

22 (c) Common questions of law and fact exist as to the members of the ICRAA
23 CLASS, with respect to the practices and violations of the ICRAA as
24 listed above, and predominate over any question affecting only individual
25 ICRAA CLASS Members, and a Class Action is superior to other
26 available methods for the fair and efficient adjudication of the
27 controversy, including consideration of:
28

- 1) The interests of the members of the ICRAA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual ICRAA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
- 2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - A. Inconsistent or varying adjudications with respect to individual members of the ICRAA CLASS, which would establish incompatible standards of conduct for DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the ICRAA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- 3) In the context of employment litigation because as a practical matter a substantial number of individual ICRAA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A Class Action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment

1 will obviate the need for unduly and unnecessary duplicative
2 litigation that is likely to result in the absence of certification of
3 this Action pursuant to Cal. Code of Civ. Proc. § 382.

4 71. This Court should permit this Action to be maintained as a Class Action pursuant
5 to Cal. Code of Civ. Proc. § 382, because:

- 6 (a) The questions of law and fact common to the ICRAA CLASS
7 predominate over any question affecting only individual ICRAA CLASS
8 Members because DEFENDANT's employment practices were uniform
9 and systematically applied with respect to the ICRAA CLASS;
- 10 (b) A Class Action is superior to any other available method for the fair and
11 efficient adjudication of the claims of the members of the ICRAA CLASS
12 because in the context of employment litigation a substantial number of
13 individual ICRAA CLASS Members will avoid asserting their rights
14 individually out of fear of retaliation or adverse impact on their
15 employment;
- 16 (c) The members of the ICRAA CLASS are so numerous that it is impractical
17 to bring all members of the ICRAA CLASS before the Court;
- 18 (d) PLAINTIFFS, and the other ICRAA CLASS Members, will not be able
19 to obtain effective and economic legal redress unless the action is
20 maintained as a Class Action;
- 21 (e) There is a community of interest in obtaining appropriate legal and
22 equitable relief for the acts of statutory violations and other improprieties,
23 and in obtaining adequate compensation for the injuries which
24 DEFENDANT's actions have inflicted upon the ICRAA CLASS;
- 25 (f) There is a community of interest in ensuring that the combined assets of
26 DEFENDANT are sufficient to adequately compensate the members of
27 the CLASS for the injuries sustained;
- 28

- 1 (g) DEFENDANT has acted or refused to act on grounds generally applicable
2 to the ICRAA CLASS, thereby making final class-wide relief appropriate
3 with respect to the ICRAA CLASS as a whole;
- 4 (h) The members of the ICRAA CLASS are readily ascertainable from the
5 business records of DEFENDANT; and,
- 6 (i) Class treatment provides manageable judicial treatment calculated to bring
7 an efficient and rapid conclusion to all litigation of all ICRAA claims
8 arising out of the conduct of DEFENDANT as to the members of the
9 ICRAA CLASS.

10 **THE CCRAA CLASS**

11
12 72. PLAINTIFFS bring the Twelfth Cause of Action pursuant to Cal. Code of Civ.
13 Proc. § 382, on behalf of a statewide Class, defined as all persons in California who executed
14 DEFENDANT's standard background check disclosure form that were not provided a valid
15 written notice compliant with the terms of Cal. Civ. Code § 1785.20.5(a) (the "CCRAA
16 CLASS") at any time during the period beginning seven (7) years prior to the filing of this
17 Complaint and ending on the date as determined by the Court (the "CCRAA CLASS
18 PERIOD"). To the extent equitable tolling operates to toll claims by the CCRAA CLASS
19 against DEFENDANT, the CCRAA CLASS PERIOD should be adjusted accordingly. The
20 amount in controversy for the aggregate claim of CCRA CLASS Members is under five million
21 dollars (\$5,000,000.00).

22 73. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
23 violation of the Consumer Credit Reporting Agencies Act Cal. Civ. Code § 1785, *et seq.*,
24 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT uniformly,
25 unfairly, unlawfully, and deceptively instituted a practice of obtaining consumer reports without
26 valid authorization to do so.

27 74. The CCRAA CLASS is so numerous that joinder of all CCRAA CLASS
28 Members is impracticable.

1 75. DEFENDANT uniformly violated the rights of the CCRAA CLASS by:

- 2 (a) Violating the Consumer Credit Reporting Agencies Act Cal. Civ. Code §
3 1785, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
4 company policies, practices and procedures that uniformly obtained credit
5 reports on without first obtaining valid authorization consent form.

6 76. Common questions of law and fact exist as to members of the CCRAA CLASS,
7 including, but not limited, to the following:

- 8 (a) Whether DEFENDANT required the CCRAA CLASS Members to sign
9 a background check disclosure and authorization form;
10 (b) Whether DEFENDANT's background check disclosure and authorization
11 form complies with the Consumer Credit Reporting Agencies Act Cal.
12 Civ. Code § 1785, *et seq.*;
13 (c) Whether DEFENDANT violated the CCRAA by including additional state
14 law notices in its background check disclosure and authorization form;
15 (d) Whether DEFENDANT violated the CCRAA by procuring consumer
16 report information based on invalid authorizations;
17 (e) Whether DEFENDANT's violations of the CCRAA were willful;
18 (f) The proper measure of statutory damages and punitive damages; and,
19 (g) The proper form of injunctive and declaratory relief.

20 77. This Class Action meets the statutory prerequisites for the maintenance of a Class
21 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 22 (a) The persons who comprise the CCRAA CLASS are so numerous that the
23 joinder of all such persons is impracticable and the disposition of their
24 claims as a class will benefit the parties and the Court;
25 (b) Nearly all factual, legal, statutory, and declaratory relief issues that are
26 raised in this Complaint are common to the CCRAA CLASS will apply
27 uniformly to every member of the CCRAA CLASS;
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- 1 (c) The claims of the representative PLAINTIFFS are typical of the claims of
2 each member of the CCRAA CLASS. PLAINTIFFS, like all the other
3 members of the CCRAA CLASS, had a credit report and background
4 check obtained on PLAINTIFFS' behalf by DEFENDANT prior to
5 obtaining valid authorization to do so in violation of the CCRAA as
6 described herein. PLAINTIFFS and the members of the CLASS were and
7 are similarly or identically harmed by the same unlawful, deceptive, unfair
8 and pervasive pattern of misconduct engaged in by DEFENDANT; and,
- 9 (d) The representative PLAINTIFFS will fairly and adequately represent and
10 protect the interest of the CCRAA CLASS, and have retained counsel who
11 are competent and experienced in Class Action litigation. There are no
12 material conflicts between the claims of the representative PLAINTIFFS
13 and the members of the CCRAA CLASS that would make class
14 certification inappropriate. Counsel for the CCRAA CLASS will
15 vigorously assert the claims of all CCRAA CLASS members.

16 78. In addition to meeting the statutory prerequisites to a Class Action, this Action
17 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 18 (a) Without class certification and determination of declaratory, statutory and
19 other legal questions within the class format, prosecution of separate
20 actions by individual members of the CCRAA CLASS will create the risk
21 of:
- 22 1) Inconsistent or varying adjudications with respect to individual
23 members of the CCRAA CLASS which would establish
24 incompatible standards of conduct for the parties opposing the
25 CCRAA CLASS; and/or,
 - 26 2) Adjudication with respect to individual members of the CCRAA
27 CLASS which would as a practical matter be dispositive of
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1 interests of the other members not party to the adjudication or
2 substantially impair or impede their ability to protect their interests.

3 (b) The parties opposing the CCRAA CLASS have acted or refused to act on
4 grounds generally applicable to the CCRAA CLASS, making appropriate
5 class-wide relief with respect to the CCRAA CLASS as a whole; and

6 (c) Common questions of law and fact exist as to the members of the CCRAA
7 CLASS, with respect to the practices and violations of the CCRAA as
8 listed above, and predominate over any question affecting only individual
9 CCRAA CLASS Members, and a Class Action is superior to other
10 available methods for the fair and efficient adjudication of the
11 controversy, including consideration of:

12 1) The interests of the members of the CCRAA CLASS in
13 individually controlling the prosecution or defense of separate
14 actions in that the substantial expense of individual actions will be
15 avoided to recover the relatively small amount of economic losses
16 sustained by the individual CCRAA CLASS Members when
17 compared to the substantial expense and burden of individual
18 prosecution of this litigation;

19 2) Class certification will obviate the need for unduly duplicative
20 litigation that would create the risk of:

21 A. Inconsistent or varying adjudications with respect to
22 individual members of the CCRAA CLASS, which would
23 establish incompatible standards of conduct for
24 DEFENDANT; and/or,

25 B. Adjudications with respect to individual members of the
26 CCRAA CLASS would as a practical matter be dispositive
27 of the interests of the other members not parties to the
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1 adjudication or substantially impair or impede their ability
2 to protect their interests;

3 3) In the context of employment litigation because as a practical
4 matter a substantial number of individual CCRAA CLASS
5 Members will avoid asserting their legal rights out of fear of
6 retaliation by DEFENDANT, which may adversely affect an
7 individual's job with DEFENDANT or with a subsequent
8 employer, the Class Action is the only means to assert their claims
9 through a representative; and,

10 4) A Class Action is superior to other available methods for the fair
11 and efficient adjudication of this litigation because class treatment
12 will obviate the need for unduly and unnecessary duplicative
13 litigation that is likely to result in the absence of certification of
14 this Action pursuant to Cal. Code of Civ. Proc. § 382.

15 79. This Court should permit this Action to be maintained as a Class Action
16 pursuant to Cal. Code of Civ. Proc. § 382, because:

17 (a) The questions of law and fact common to the CCRAA CLASS
18 predominate over any question affecting only individual CCRAA CLASS
19 Members because DEFENDANT's employment practices were uniform
20 and systematically applied with respect to the CCRAA CLASS;

21 (b) A Class Action is superior to any other available method for the fair and
22 efficient adjudication of the claims of the members of the CCRAA
23 CLASS because in the context of employment litigation a substantial
24 number of individual CCRAA CLASS Members will avoid asserting their
25 rights individually out of fear of retaliation or adverse impact on their
26 employment;

27 (c) The members of the CCRAA CLASS are so numerous that it is
28

- 1 impractical to bring all members of the CCRAA CLASS before the Court;
- 2 (d) PLAINTIFFS, and the other CCRAA CLASS Members, will not be able
- 3 to obtain effective and economic legal redress unless the action is
- 4 maintained as a Class Action;
- 5 (e) There is a community of interest in obtaining appropriate legal and
- 6 equitable relief for the acts of statutory violations and other improprieties,
- 7 and in obtaining adequate compensation for the injuries which
- 8 DEFENDANT's actions have inflicted upon the CCRAA CLASS;
- 9 (f) There is a community of interest in ensuring that the combined assets of
- 10 DEFENDANT are sufficient to adequately compensate the members of
- 11 the CCRAA CLASS for the injuries sustained;
- 12 (g) DEFENDANT has acted or refused to act on grounds generally applicable
- 13 to the CCRAA CLASS, thereby making final class-wide relief appropriate
- 14 with respect to the CCRAA CLASS as a whole;
- 15 (h) The members of the CCRAA CLASS are readily ascertainable from the
- 16 business records of DEFENDANT; and,
- 17 (i) Class treatment provides manageable judicial treatment calculated to bring
- 18 an efficient and rapid conclusion to all litigation of all CCRAA claims
- 19 arising out of the conduct of DEFENDANT as to the members of the
- 20 CCRAA CLASS.

21

22 **FIRST CAUSE OF ACTION**

23 **For Unlawful Business Practices**

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

25 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

26 80. PLAINTIFFS, 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

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1 Complaint.

2 81. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
3 Code § 17021.

4 82. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
5 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
6 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
7 competition as follows:

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

12 Cal. Bus. & Prof. Code § 17203.

13 83. By the conduct alleged herein, DEFENDANT has engaged and continues to
14 engage in a business practice which violated California law, including but not limited to, the
15 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
16 including Sections 204, 210, 226.7, 510, 512, 1194, 1197, 1197.1, 1198 & 2802, The Fair
17 Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, Investigative Consumer Reporting Agencies
18 Act Cal. Civ. Code § 1786, *et seq.* (“ICRAA”), and the Consumer Credit Reporting Agencies
19 Act Cal. Civ. Code § 1785, *et seq.* (“CCRAA”), for which this Court should issue declaratory
20 and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to
21 prevent and remedy the conduct held to constitute unfair competition, including restitution of
22 wages wrongfully withheld.

23 84. By the conduct alleged herein, DEFENDANT’s practices were unlawful and
24 unfair in that these practices violated public policy, were immoral, unethical, oppressive,
25 unscrupulous or substantially injurious to employees, and were without valid justification or
26 utility for which this Court should issue equitable and injunctive relief pursuant to Section
27 17203 of the California Business & Professions Code, including restitution of wages wrongfully
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1 withheld.

2 85. By the conduct alleged herein, DEFENDANT's practices were deceptive and
3 fraudulent in that DEFENDANT's uniform policy and practice failed to pay PLAINTIFF, and
4 other members of the CALIFORNIA CLASS, minimum wages due, overtime wages for
5 overtime worked and premiums for missed meal and rest breaks, pursuant to the applicable Cal.
6 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§
7 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant
8 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

9 86. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
10 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and
11 the other members of the CALIFORNIA CLASS to be underpaid during their employment with
12 DEFENDANT.

13 87. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
14 unfair and deceptive in that DEFENDANT's uniform policies, practices and procedures failed
15 to provide all legally required meal breaks to PLAINTIFFS and the other members of the
16 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

17 88. Therefore, PLAINTIFFS demand, on behalf of themselves and on behalf of each
18 CALIFORNIA CLASS Member, overtime wages and one (1) hour of pay for each workday in
19 which an off-duty meal period was not timely provided for each five (5) hours of work, and/or
20 one (1) hour of pay for each workday in which a second off-duty meal period was not timely
21 provided for each ten (10) hours of work.

22 89. PLAINTIFFS further demand, on behalf of themselves and each member of the
23 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off
24 duty paid rest period was not timely provided as required by law.

25 90. By and through the unlawful and unfair business practices described herein,
26 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the
27 other members of the CALIFORNIA CLASS, including earned wages for all overtime worked,
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1 and has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
2 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
3 to unfairly compete against competitors who comply with the law.

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

9 92. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled
10 to, and do, seek such relief as may be necessary to restore to them the money and property
11 which DEFENDANT has acquired, or of which PLAINTIFFS and the other members of the
12 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
13 unfair business practices, including earned but unpaid wages for all overtime worked.

14 93. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further
15 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
16 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
17 engaging in any unlawful and unfair business practices in the future.

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

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1 result of implementing a uniform policy and practice that denies accurate compensation to
2 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS in regards
3 to minimum wage pay.

4 102. In committing these violations of the California Labor Code, DEFENDANT
5 inaccurately calculated the correct time worked and consequently underpaid the actual time
6 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.
7 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
8 benefits in violation of the California Labor Code, the Industrial Welfare Commission
9 requirements and other applicable laws and regulations.

10 103. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
11 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
12 receive the correct minimum wage compensation for their time worked for DEFENDANT.

13 104. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
14 required, permitted or suffered PLAINTIFFS and LABOR SUB-CLASS members to work
15 without paying them for all the time they were under DEFENDANT'S control. PLAINTIFFS
16 and the other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time
17 worked that they were entitled to, constituting a failure to pay all earned wages.

18 105. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
19 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
20 CLASS for the true time they worked, PLAINTIFFS and the other members of the
21 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
22 injury in amounts which are presently unknown to them and which will be ascertained
23 according to proof at trial.

24 106. DEFENDANT knew or should have known that PLAINTIFFS and the other
25 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
26 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
27 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
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1 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to
2 pay PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS the
3 correct minimum wages for their time worked.

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

12 108. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
13 CLASS therefore request recovery of all unpaid wages, according to proof, interest, statutory
14 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as
15 provided by the California Labor Code and/or other applicable statutes. DEFENDANT's
16 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFFS
17 and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
18 statutory costs.

19
20 **THIRD CAUSE OF ACTION**

21 **For Failure To Pay Overtime Compensation**

22 **[Cal. Lab. Code §§ 204, 510, 1194 and 1198]**

23 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
24 **Defendants)**

25 109. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
26 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
27 paragraphs of this Complaint.
28

1 110. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
2 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California
3 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure
4 to accurately calculate the applicable rates for all overtime worked by PLAINTIFFS and other
5 members of the CALIFORNIA LABOR SUB-CLASS and DEFENDANT's failure to properly
6 compensate the members of the CALIFORNIA LABOR SUB-CLASS for overtime worked,
7 including, work performed in excess of eight (8) hours in a workday and/or forty (40) hours in
8 any workweek.

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

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

15 113. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
16 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.
17 Code § 1198 further states that the employment of an employee for longer hours than those
18 fixed by the Industrial Welfare Commission is unlawful.

19 114. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and
20 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
21 amount of overtime they worked. As set forth herein, DEFENDANT's uniform policy and
22 practice was to unlawfully and intentionally deny timely payment of wages due for the overtime
23 worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS,
24 and DEFENDANT in fact failed to pay these employees the correct applicable overtime wages
25 for all overtime worked.

26 115. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
27 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
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1 result of implementing a uniform policy and practice that denied accurate compensation to
2 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for all
3 overtime worked, including, the work performed in excess of eight (8) hours in a workday
4 and/or forty (40) hours in any workweek.

5 116. In committing these violations of the California Labor Code, DEFENDANT
6 inaccurately calculated the applicable overtime rates and consequently underpaid the actual time
7 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.
8 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
9 benefits in violation of the California Labor Code, the Industrial Welfare Commission
10 requirements and other applicable laws and regulations.

11 116. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
12 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
13 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked
14 including overtime work.

15 117. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
16 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
17 receive full compensation for all overtime worked.

18 118. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
19 from the overtime requirements of the law. None of these exemptions are applicable to
20 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
21 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are not
22 subject to a valid collective bargaining agreement that would preclude the causes of action
23 contained herein this Complaint. Rather, PLAINTIFFS bring this Action on behalf of
24 themselves and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
25 of non-negotiable, non-waiveable rights provided by the State of California.

26 119. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
27 the other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
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1 that they were entitled to, constituting a failure to pay all earned wages.

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

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

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

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

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

15
16 **FOURTH CAUSE OF ACTION**

17 **For Failure to Provide Required Meal Periods**

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

19 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
20 **Defendants)**

21 125. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
22 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
23 paragraphs of this Complaint.

24 126. During the CALIFORNIA LABOR SUB-CLASS PERIOD, from time to time
25 DEFENDANT failed to provide all the legally required off-duty meal breaks to PLAINTIFFS
26 and the other CALIFORNIA LABOR SUB-CLASS Members as required by the applicable
27 Wage Order and Labor Code. The nature of the work performed by PLAINTIFFS and
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1 CALIFORNIA LABOR SUB-CLASS MEMBERS does not prevent these employees from
2 being relieved of all of their duties for the legally required off-duty meal periods. As a result
3 of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
4 Members were from time to time not fully relieved of duty by DEFENDANT for their meal
5 periods. Additionally, DEFENDANT's failure to provide PLAINTIFFS and the CALIFORNIA
6 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th) hour
7 of work is evidenced by DEFENDANT's business records. Further, DEFENDANT failed to
8 provide PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members with a second off-
9 duty meal period in some workdays in which these employees were required by DEFENDANT
10 to work ten (10) hours of work from time to time. As a result, PLAINTIFFS and other members
11 of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional
12 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

13 127. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable
14 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-
15 CLASS Members who were not provided a meal period, in accordance with the applicable
16 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
17 each workday that a meal period was not provided.

18 128. As a proximate result of the aforementioned violations, PLAINTIFFS and
19 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
20 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
21 suit.

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1 **FIFTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

4 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
5 **Defendants)**

6 129. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
8 paragraphs of this Complaint.

9 130. From time to time, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
10 Members were required to work in excess of four (4) hours without being provided ten (10)
11 minute rest periods. Further, from time to time these employees were denied their first rest
12 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours,
13 a first and second rest period of at least ten (10) minutes for some shifts worked of between six
14 (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for
15 some shifts worked of ten (10) hours or more. PLAINTIFFS and other CALIFORNIA LABOR
16 SUB-CLASS Members were also not provided with one hour wages in lieu thereof. As a result
17 of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
18 Members were periodically denied their proper rest periods by DEFENDANT and
19 DEFENDANT's managers.

20 131. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
21 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-
22 CLASS Members who were not provided a rest period, in accordance with the applicable Wage
23 Order, one additional hour of compensation at each employee's regular rate of pay for each
24 workday that rest period was not provided.

25 132. As a proximate result of the aforementioned violations, PLAINTIFFS and
26 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
27 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
28

1 suit.

2
3 **SIXTH CAUSE OF ACTION**

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

5 **[Cal. Lab. Code § 226]**

6 **(By Plaintiff Astudillo and the CALIFORNIA LABOR SUB-CLASS and Against All**
7 **Defendants)**

8 133. Plaintiff Astudillo, and the other members of the CALIFORNIA LABOR SUB-
9 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
10 paragraphs of this Complaint.

11 134. Cal. Labor Code § 226 provides that an employer must furnish employees with
12 an “accurate itemized” statement in writing showing:

13 (1) gross wages earned,

14 (2) total hours worked by the employee, except for any employee whose compensation
15 is solely based on a salary and who is exempt from payment of overtime under
16 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
17 Commission,

18 (3) the number of piecerate units earned and any applicable piece rate if the employee
19 is paid on a piece-rate basis,

20 (4) all deductions, provided that all deductions made on written orders of the employee
21 may be aggregated and shown as one item,

22 (5) net wages earned,

23 (6) the inclusive dates of the period for which the employee is paid,

24 (7) the name of the employee and his or her social security number, except that by
25 January 1, 2008, only the last four digits of his or her social security number or an
26 employee identification number other than a social security number may be shown on
27 the itemized statement,
28

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

4 135. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or
5 her employees with an accurate itemized wage statement in writing showing, among other
6 things, gross wages earned and all applicable hourly rates in effect during the pay period and
7 the corresponding amount of time worked at each hourly rate. From time to time,
8 DEFENDANT violated Cal. Lab. Code § 226 by failing to provide wage statements that
9 identified the correct net and gross wages earned. Aside from the violations listed above,
10 DEFENDANT failed to issue to Plaintiff Astudillo an itemized wage statement that lists all the
11 requirements under California Labor Code 226 *et seq.* As a result, from time to time
12 DEFENDANT provided Plaintiff Astudillo and the other members of the CALIFORNIA
13 LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code § 226.

14 136. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
15 § 226, causing injury and damages to Plaintiff Astudillo and the other members of the
16 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
17 expended calculating the correct rates for the overtime worked and the amount of employment
18 taxes which were not properly paid to state and federal tax authorities. These damages are
19 difficult to estimate. Therefore, Plaintiff Astudillo and the other members of the CALIFORNIA
20 LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the
21 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
22 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according
23 to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for
24 Plaintiff Astudillo and each respective member of the CALIFORNIA LABOR SUB-CLASS
25 herein).

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1 California.

2 140. PLAINTIFFS therefore demand reimbursement for expenditures or losses
3 incurred by her and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their
4 job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with
5 interest at the statutory rate and costs under Cal. Lab. Code § 2802.

6
7 **EIGHTH CAUSE OF ACTION**

8 **For Failure to Pay Wages When Due**

9 **[Cal. Lab. Code §§ 201, 202 and 203]**

10 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
11 **Defendants)**

12 141. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
14 paragraphs of this Complaint.

15 142. Cal. Lab. Code § 200 states that:

16 As used in this article:

17 (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.

18 (b) "Labor" includes labor, work, or service whether rendered or
19 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.

20
21 143. Cal. Lab. Code § 201 states, in relevant part, that "If an employer discharges an
22 employee, the wages earned and unpaid at the time of discharge are due and payable
23 immediately."

24 144. Cal. Lab. Code § 202 states, in relevant part, that:

25 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
26 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
27 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

1 requests and designates a mailing address. The date of the mailing shall
2 constitute the date of payment for purposes of the requirement to provide
payment within 72 hours of the notice of quitting.

3 145. There was no definite term in PLAINTIFFS' or any other CALIFORNIA LABOR
4 SUB-CLASS Members' employment contract.

5 146. Cal. Lab. Code § 203 states:

6 If an employer willfully fails to pay, without abatement or reduction, in
7 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
8 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
9 for more than 30 days.

10 147. When PLAINTIFFS left employment with DEFENDANT, DEFENDANT still
owed PLAINTIFFS wages for work performed because PLAINTIFFS were not compensated
11 correctly for their overtime worked and meal and rest breaks missed. To date, DEFENDANT
12 has not paid PLAINTIFFS these wages still owed to them. As such, DEFENDANT has not fully
13 paid PLAINTIFFS all wages still owed to them or any penalty wages that are now owed to them
14 under California Labor Code § 203.

15 148. The employment of PLAINTIFFS and many other CALIFORNIA LABOR SUB-
16 CLASS Members has terminated, yet as to those individuals whose employment terminated,
17 DEFENDANT did not timely tender payment of all wages owed as required by law.

18 149. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
19 members of the CALIFORNIA LABOR SUB-CLASS whose employment terminated,
20 PLAINTIFFS demands thirty days of pay as penalty for not paying all wages due at time of
21 termination for all individuals in the CALIFORNIA LABOR SUB-CLASS who terminated
22 employment during the CALIFORNIA LABOR SUB-CLASS PERIOD plus interest and
23 statutory costs as allowed.

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[15 U.S.C. § 1681b(b)(2)(A)(I), *et seq.*]
(By PLAINTIFFS and the FCRA CLASS and Against All Defendants)

150. PLAINTIFFS, and the other members of the FCRA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

151. DEFENDANT violated 15 U.S.C. § 1681b(b)(2)(A)(I) of the FCRA by including extraneous information in DEFENDANT's background check disclosure and authorization form that PLAINTIFFS and other FCRA CLASS Members were required to execute as a condition of employment with DEFENDANT.

152. The violations of the FCRA were willful. DEFENDANT knew that its background check disclosure and authorization form should not include extraneous information that is prohibited by the FCRA, and acted in deliberate disregard of its obligations and the rights of PLAINTIFFS and other FCRA CLASS Members under 15 U.S.C. § 1681b(b)(2)(A)(I).

153. PLAINTIFFS and the other FCRA CLASS Members are entitled to statutory damages of not less than \$100 and not more than \$1,000 for every violation of the FCRA, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

154. PLAINTIFFS and FCRA CLASS Members are also entitled to punitive damages for these violations, pursuant to 15 U.S.C. § 1681n(a)(2).

155. PLAINTIFFS and FCRA CLASS Members are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

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1 Complaint.

2 163. DEFENDANT is a “person” as defined by Section 1786.2(a) of the Investigative
3 Consumer Reporting Agencies Act (“ICRAA”).

4 164. PLAINTIFFS and ICRAA CLASS members are “consumers” within the meaning
5 of Section 1786.2(b) of the ICRAA because they are “individuals.”

6 165. Section 1786.2(c) of the ICRAA defines “investigative consumer report” as:

7 “a consumer report in which information on a consumer’s character, general
8 reputation, personal characteristics, or mode of living is obtained through any
9 means.”

10 166. Thus, a background check qualifies as an investigative consumer report under the
ICRAA.

11 167. Section 1786.16(a)(2) of the ICRAA provides, in relevant part:

12 If, at any time, an investigative consumer report is sought for employment
13 purposes. . .the person seeking the investigative consumer report may procure the
report, or cause the report to be made, only if all of the following apply:

14 (B) The person procuring or causing the report to be made provides a ***clear and***
15 ***conspicuous*** disclosure in writing to the consumer at any time before the report
is procured or caused to be made ***in a document that consists solely of the***
16 ***disclosure***, that:

17 (i) An investigative consumer report may be obtained.

18 (ii) The permissible purpose of the report is identified.

19 (iii) The disclosure may include information on the consumer’s character,
general reputation, personal characteristics, and mode of living.

20 (iv) Identifies the ***name, address, and telephone number of the***
21 ***investigative consumer reporting agency*** conducting the investigation.

22 (v) Notifies the consumer in writing of the nature and scope of the
investigation requested, including the provisions of Section 1786.22.

23 (vi) ***Notifies the consumer of the Internet Web site address of the***
24 ***investigative consumer reporting agency*** identifies in clause (iv), or, ***if***
25 ***the agency has no Internet Web site address, the telephone number of***
26 ***the agency***, where the consumer may find information about the
investigative reporting agency’s privacy practices, including whether the
consumer’s personal information will be sent outside the United States or
its territories and information that complies with subdivision (d) of
Section 1786.20. This clause shall become operative on January 1, 2012.

27 (C) The consumer has authorized in writing the procurement of the report
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1 (Emphasis added).

2 168. As alleged above, because DEFENDANT's disclosures do not meet the
3 requirements of Section 101(c)(1) of 15 U.S.C. 7001, the disclosures do not satisfy Section
4 1786.16(a)(2) of the ICRAA requirement that the disclosures be made in writing.

5 169. As described above, PLAINTIFFS allege that in evaluating their and other class
6 members for employment, DEFENDANT procured or caused to be prepared investigative
7 consumer report (e.g. background checks), as defined by Cal. Civ. Code § 1786.2(c).

8 170. Because the purported disclosures are embedded with extraneous information, and
9 are not clear and unambiguous disclosures in stand-alone documents, they do not meet the
10 requirements under the law.

11 171. Under the ICRAA, it is unlawful to procure or cause to be prepared, a consumer
12 report or investigative consumer report for employment purposes unless the disclosure is made
13 in a document that consists solely of the disclosure and the consumer has authorized, in writing,
14 the procurement of the report. Cal. Civ. Code § 1786.16(a)(2)(B)-(C). The inclusion of the
15 extraneous information, therefore, violates § 1786.16(a)(2)(B) of the ICRAA.

16 172. By including the extraneous information, DEFENDANTS willfully violated §
17 1786.16(a)(2)(B) of the ICRAA. Additionally, the inclusion of the extraneous provisions causes
18 the disclosure to fail to be "clear and conspicuous" and thus violates § 1786.16(a)(2)(B).

19 173. Based upon facts that are likely to have evidentiary support after a reasonable
20 opportunity for investigation and discovery, PLAINTIFFS allege that DEFENDANT has a
21 policy and practice of failing to provide adequate written disclosures to applicants and
22 employees, before procuring background checks or causing background checks to be procured,
23 as described above. Pursuant to that policy and practice, DEFENDANT procured background
24 checks or caused background checks to be procured for PLAINTIFFS and class members
25 without first providing a written disclosure in compliance with § 1786.16(a)(2)(B) of the
26 ICRAA, as described above.

27 174. DEFENDANT's conduct in violation of § 1786.16(a)(2)(B) of the ICRAA was
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1 and is willful and/or grossly negligent. DEFENDANT acted in deliberate or reckless disregard
2 of their obligations and the rights of applicants and employees, including PLAINTIFFS and
3 class members. DEFENDANT's willful conduct is reflected by, among other things, the
4 following facts:

- 5 (A) DEFENDANT is a large corporation with access to legal advice;
- 6 (B) DEFENDANT required a purported authorization to perform credit and
7 background checks in the process of employing the class members which,
8 although defective, evidences DEFENDANT's awareness of and willful
9 failure to follow the governing laws concerning such authorizations; and,
- 10 (C) The plain language of the statute unambiguously indicates that inclusion
11 of extraneous information in a disclosure form violates the disclosure and
12 authorization requirements, and that the disclosure form must contain the
13 name, address, phone number, and/or website address of the investigative
14 consumer reporting agency conducting the investigation.

15 175. As a result of DEFENDANT's illegal procurement of background reports by way
16 of their inadequate disclosures, as set forth above, PLAINTIFFS and class members have been
17 injured including, but not limited to, having their privacy and statutory rights invaded in
18 violation of the ICRAA.

19 176. PLAINTIFFS, on behalf of themselves and all class members, seeks all available
20 remedies pursuant to Cal. Civ. Code § 1786.50, including statutory damages and/or actual
21 damages, punitive damages, and attorneys' fees and costs.

22 177. In the alternative to PLAINTIFFS' allegation that these violations were willful
23 or grossly negligent, PLAINTIFFS allege that the violations were negligent and seeks the
24 appropriate remedy, if any, under Cal. Civ. Code § 1786.50(a), including actual damages and
25 attorneys' fees and costs.

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1 **TWELFTH CAUSE OF ACTION**

2 **For Failure to Make Proper Disclosures in Violation of the CCRAA**

3 [Cal. Civ. Code § 1785 *et seq.*]

4 **(By PLAINTIFFS and the CCRAA CLASS and Against All Defendants)**

5 178. PLAINTIFFS, and the other members of the CCRAA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
7 Complaint.

8 179. DEFENDANT is a “person” as defined by Section 1785.3(j) of the Consumer
9 Credit Reporting Agencies Act (“CCRAA”).

10 180. PLAINTIFFS and CCRAA Class members are “consumers” within the meaning
11 Section 1785.3(b) of the CCRAA, because they are “natural individuals.”

12 181. Section 1785.3(c) of the ICRAA defines “consumer credit report” as:

13 any written, oral, or other communication of any information by a consumer
14 credit reporting agency bearing on a consumer’s credit worthiness, credit
15 standing, or credit capacity, which is used or is expected to be used, or
collected in whole or in part, for the purpose of serving as a factor in
establishing the consumer’s eligibility: . . . (2) employment purposes. . . .

16 Thus, a credit report qualifies as a consumer credit report under the CCRAA.

17 182. Section 1785.20.5(a) of the CCRAA provides, in relevant part:

18 Prior to requesting a consumer credit report for employment purposes, the user
19 of the report shall provide written notice to the person involved. The notice
20 shall inform the person that a report will be used, and ***shall identify the
specific basis under subdivision (a) of Section 1024.5 of the Labor Code for
use of the report. The notice shall also inform the person of the source of
the report. . . .*** (Emphasis added).

21 183. As described above, PLAINTIFFS allege that in evaluating their and other
22 class members for employment, DEFENDANT procured or caused to be prepared consumer
23 credit reports (e.g. credit reports), as defined by Cal. Civ. Code § 1785.3(c).

24 184. The disclosure provided by DEFENDANT does not identify the specific basis
25 under subdivision (a) of Section 1024.5 of the Labor Code for use of the credit report. This
26 omission clearly violates § 1785.20.5(a) of the CCRAA, as delineated above.

27 185. Based upon facts that are likely to have evidentiary support after a reasonable
28

1 opportunity for investigation and discovery, PLAINTIFFS allege that DEFENDANT has a
2 policy and practice of failing to provide adequate written disclosures to applicants and
3 employees, before procuring credit reports or causing credit reports to be procured, as
4 described above. Pursuant to that policy and practice, DEFENDANT procured credit reports
5 or caused credit reports to be procured for PLAINTIFFS and class members without first
6 providing a written notice in compliance with § 1785.20.5(a) of the CCRAA, as described
7 above.

8 186. DEFENDANT'S conduct in violation of § 1785.20.5(a) of the CCRAA was
9 and is willful and/or grossly negligent. DEFENDANT acted in deliberate and reckless
10 disregard of their obligations and the rights of applicants and employees, including
11 PLAINTIFFS and class members. DEFENDANT's willful conduct is reflected by, among
12 other things, the following facts:

- 13 (A) DEFENDANT is a large corporation with access to legal advice;
- 14 (B) DEFENDANT required a purported authorization to perform credit
15 checks in the process of employing class members which, although
16 defective, evidences DEFENDANT's awareness of and willful failure
17 to follow the governing laws concerning such authorizations; and,
- 18 (C) The plain language of the statute unambiguously indicate that failure to
19 include the provisions identified above violates the CCRAA's notice
20 requirements, and that the notice must identify the specific basis under
21 subdivision (a) of Section 1024.5 of the Labor Code for use of the
22 credit report and must identify the source of any credit report.

23 187. As a result of DEFENDANT's illegal procurement of credit reports by way of
24 their inadequate notice, as set forth above, PLAINTIFFS and class members have been injured
25 including, but not limited to, having their privacy and statutory rights invaded in violation of
26 the CCRAA.

27 188. PLAINTIFFS, on behalf of themselves and all class members, seek all available
28

1 remedies pursuant to Cal. Civ. Code § 1785.31, including statutory damages and/or actual
2 damages, punitive damages, injunctive relief, and attorneys' fees and costs.

3 189. In the alternative to PLAINTIFFS' allegation that these violations were willful,
4 PLAINTIFFS allege that the violations were negligent and seek the appropriate remedy, if any,
5 under Cal. Civ. Code § 1785.31(a)(1), including but not limited to actual damages and
6 attorneys' fees and costs.

7
8 **THIRTEENTH CAUSE OF ACTION**

9 **For Violation of the Private Attorneys General Act**

10 **[Cal. Lab. Code §§ 2698, *et seq.*]**

11 **(By Plaintiff Astudillo and Against All Defendants)**

12 190. Plaintiff Astudillo realleges and incorporates by this reference, as though fully
13 set forth herein, the prior paragraphs of this Complaint.

14 191. PAGA is a mechanism by which the State of California itself can enforce state
15 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
16 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
17 fundamentally a law enforcement action designed to protect the public and not to benefit private
18 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
19 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
20 PAGA, the California Legislature specified that "it was ... in the public interest to allow
21 aggrieved employees, acting as private attorneys general to recover civil penalties for Labor
22 Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to
23 arbitration.

24 192. Plaintiff Astudillo, and such persons that may be added from time to time who
25 satisfy the requirements and exhaust the administrative procedures under the Private Attorney
26 General Act, bring this Representative Action on behalf of the State of California with respect
27 to herself and all individuals who are or previously were employed by DEFENDANT in
28

1 California and who were classified as non exempt employees (“AGGRIEVED EMPLOYEES”)
2 during the time period of January 20, 2019 until a date as determined by the Court (the "PAGA
3 PERIOD").

4 193. On January 20, 2020, Plaintiff Astudillo gave written notice by electronic mail
5 to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
6 employer of the specific provisions of this code alleged to have been violated as required by
7 Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein.
8 The statutory waiting period for Plaintiff Astudillo to add these allegations to the Complaint has
9 expired. As a result, pursuant to Section 2699.3, Plaintiff Astudillo may pursue a representative
10 civil action under PAGA pursuant to Section 2699 as the proxy of the State of California with
11 respect to all AGGRIEVED EMPLOYEES as herein defined.

12 194. The policies, acts and practices heretofore described were and are an unlawful
13 business act or practice because DEFENDANT (a) failed to provide Plaintiff Astudillo and the
14 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
15 record and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d)
16 failed to pay overtime wages, (e) failed to pay wages when due, and (f) failed to reimburse
17 employees for required expenses, all in violation of the applicable Labor Code sections listed
18 in Labor Code §§201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197,
19 1197.1, 1198, 2802, and the applicable Wage Order(s), and thereby gives rise to civil penalties
20 as a result of such conduct.¹ Plaintiff Astudillo hereby seeks recovery of civil penalties as
21 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the
22 State of California for the illegal conduct perpetrated on Plaintiff Astudillo and the other
23 AGGRIEVED EMPLOYEES.

24 195. All of the conduct and violations alleged herein occurred during the PAGA
25 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
26

27 ¹Plaintiffs specifically exclude and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 Plaintiff Astudillo during the PAGA PERIOD, Plaintiff Astudillo seeks penalties for those
2 violations that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks*
3 *Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
7 severally, as follows:

8 1. On behalf of the CALIFORNIA CLASS:

- 9 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
10 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
11 B) An order temporarily, preliminarily and permanently enjoining and restraining
12 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
13 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
14 withheld from compensation due to PLAINTIFFS and the other members of the
15 CALIFORNIA CLASS; and,
16 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
17 for restitution of the sums incidental to DEFENDANT's violations due to
18 PLAINTIFFS and to the other members of the CALIFORNIA CLASS.

19 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 20 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and
21 Eighth, Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS
22 as a class action pursuant to Cal. Code of Civ. Proc. § 382;
23 B) Compensatory damages, according to proof at trial, including compensatory
24 damages for minimum wage overtime compensation due PLAINTIFFS and the
25 other members of the CALIFORNIA LABOR SUB-CLASS, during the
26 applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon
27 at the statutory rate;
28

- 1 C) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
2 the applicable IWC Wage Order;
- 3 D) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
4 in which a violation occurs and one hundred dollars (\$100) per each member of
5 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
6 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
7 an award of costs for violation of Cal. Lab. Code § 226;
- 8 E) The amount of the expenses PLAINTIFFS and each member of the
9 CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties,
10 plus interest, and costs of suit;
- 11 F) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
12 1197; and,
- 13 G) The wages of all terminated individuals in the CALIFORNIA LABOR
14 SUB-CLASS as a penalty from the due date thereof at the same rate until paid or
15 until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

16 3. On behalf of the FCRA CLASS:

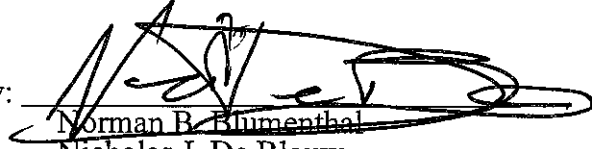
- 17 A) That the Court certify the Ninth and Tenth Causes of Action asserted by the
18 FCRA CLASS as a Class Action pursuant to Cal. Code of Civ. Proc. § 382;
- 19 B) A determination and judgment that DEFENDANT willfully violated the 15
20 U.S.C. § 1681(b)(2)(A)(I) and(ii) of the FCRA by improperly including
21 extraneous information in its background check disclosure and authorization form
22 and by obtaining consumer reports on PLAINTIFFS and FCRA CLASS
23 Members without having proper authorization to do so;
- 24 C) Pursuant to 15 U.S.C. § 1681n(a)(1)(A), an award of statutory damages to
25 PLAINTIFFS and the members of the FCRA CLASS in an amount equal to
26 \$1,000 for PLAINTIFFS and each FCRA CLASS Member for DEFENDANT's
27 willful violation of the FCRA:
28

- 1 D) Pursuant to 15 U.S.C. § 1681n(a)(2), an award of punitive damages to
2 PLAINTIFFS and other FCRA CLASS Members;
- 3 E) An award for costs of suit and reasonable attorneys' fees pursuant to 15 U.S.C.
4 § 1681n(a)(3); and,
- 5 F) Such other and further relief as the Court deems just and equitable.
- 6 4. On behalf of the ICRAA CLASS and CCRAA CLASS:
- 7 A) That the Court certify the Eleventh and Twelfth Causes of Action asserted by
8 the ICRAA CLASS and CCRAA CLASS as a Class Action pursuant to Cal.
9 Code. Of Civ. Proc. § 382;
- 10 B) Statutory penalties;
- 11 C) Civil penalties;
- 12 D) Punitive damages;
- 13 E) Injunctive relief;
- 14 F) Costs of suit;
- 15 G) Interest;
- 16 H) Restitution;
- 17 I) Reasonable attorneys' fees; and,
- 18 J) Such other relief as the Court deems just and proper.
- 19 5. On behalf of the State of California and with respect to all AGGRIEVED
20 EMPLOYEES:
- 21 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
22 General Act of 2004.
- 23 6. On all claims:
- 24 A) An award of interest, including prejudgment interest at the legal rate;
- 25 B) Such other and further relief as the Court deems just and equitable; and,
- 26 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
27 including, but not limited to, pursuant to Labor Code §226, §1194 and/or §2802.
28

1 Dated: February 22, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2
3 By:


4 Norman B. Blumenthal
5 Nicholas J. De Blouw
6 Attorneys for Plaintiff
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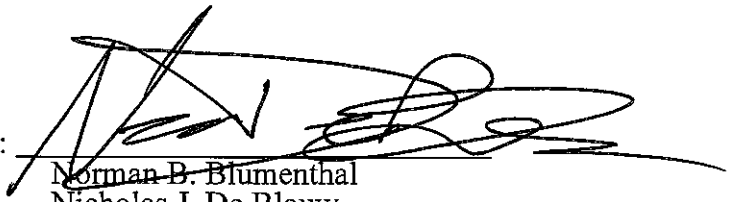
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DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: February 22, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: 

Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiff

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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

**2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037**

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

**WRITERS E-MAIL:
Nick@bamlawca.com**

**WRITERS EXT:
1004**

January 20, 2020
CA2029

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Torrance Health Association, Inc.
Certified Mail # 70192280000189178342
William Larson
3330 Lomita Blvd.
Torrance, CA 90505

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Torrance Health Association, Inc. in California and classified as non-exempt employees during the time period of January 20, 2019 until a date as determined by the Court. Our offices represent Plaintiff Iris Astudillo (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Torrance Health Association, Inc. (“Defendant”). Plaintiff was employed by Defendant in California from May of 2019 to October of 2019 as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for all of their time worked, including minimum and overtime wages, and for all of their missed meal and rest breaks. 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). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged

violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) 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 2699, *et seq.* The filing fee of \$75 is being mailed to the Department of Industrial Relations Accounting unit with an identification of the Plaintiff, the Defendant and the notice. 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 Employees.

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.