

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

2 Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

3 Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

4 La Jolla, CA 92037

Telephone: (858)551-1223

5 Facsimile: (858) 551-1232

6 **WINSTON LAW GROUP, P.C.**

David S. Winston (State Bar No. 301667)

7 1180 South Beverly Drive, Suite 320

Los Angeles, CA 90035

8 Telephone: (424) 288-4568

Facsimile: (424) 532-4062

9 Attorneys for Plaintiff

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

12
13 ABNER QUINCHO, on behalf of the
14 State of California, as a private attorney
15 general,

16 Plaintiff,

17 vs.

18 CAFE RIO, INC., a Corporation; and
19 DOES 1 through 50, inclusive,

20
21 Defendants.
22
23
24
25
26
27
28

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 29 2020

BY


NICOLE SAENZ, DEPUTY

Case No. **CIV DS 2011822**

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204, 210, 226(a),
226.7, 510, 512, 558(a)(1)(2), 1194, 1197,
1197.1, 1198, 2802.

1 Plaintiff Abner Quincho ("PLAINTIFF"), on behalf of the people of the State of
2 California and as an "aggrieved employee" acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* ("PAGA") only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 INTRODUCTION

7 1. PLAINTIFF brings this action against Defendant Cafe Rio, Inc.
8 ("DEFENDANT") seeking only to recover PAGA civil penalties for himself, and on behalf of
9 all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF does
10 not seek to recover anything other than penalties as permitted by California Labor Code
11 § 2699. To the extent that statutory violations are mentioned for wage violations, PLAINTIFF
12 does not seek underlying general and/or special damages for those violations, but simply the
13 civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT's violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

22 THE PARTIES

23
24 4. Defendant Cafe Rio, Inc. ("DEFENDANT") is a Corporation that at all relevant
25 times mentioned herein conducted and continues to conduct substantial business in the state of
26 California.

27 5. DEFENDANT is a fast casual restaurant chain that specializes in Mexican cuisine.

28 6. PLAINTIFF was employed by DEFENDANT in California from May of 2017

1 to July 27, 2019 and was at all times classified by DEFENDANT as a non-exempt employee,
2 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment
3 of minimum and overtime wages due for all time worked.

4 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
5 the requirements and exhaust the administrative procedures under the Private Attorney General
6 Act, brings this Representative Action on behalf of the State of California with respect to
7 himself and all individuals who worked for DEFENDANT in California and who were
8 classified as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period
9 of January 2, 2019 until a date as determined by the Court (the "PAGA PERIOD").

10 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
11 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
12 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
13 violation of California Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512,
14 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, and the applicable Wage Order(s). Based upon
15 the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees
16 within the meaning of Labor Code § 2699, *et seq.*

17 9. The true names and capacities, whether individual, corporate, subsidiary,
18 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
19 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
20 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
21 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
22 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
23 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
24 responsible in some manner for one or more of the events and happenings that proximately
25 caused the injuries and damages hereinafter alleged.

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

1 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
2 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
3 all Defendants are jointly and severally liable to PLAINTIFF and the other AGGRIEVED
4 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
5 agents, servants and/or employees.

6 7 THE CONDUCT

8 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
9 required to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked,
10 meaning the time during which an employee is subject to the control of an employer, including
11 all the time the employee is suffered or permitted to work. DEFENDANT required PLAINTIFF
12 and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under
13 DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to work while
14 clocked out during what was supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF
15 was from time to time interrupted by work assignments while clocked out for what should have
16 been PLAINTIFF's off-duty meal break. Indeed there were many days where PLAINTIFF did
17 not even receive a partial lunch. As a result, the PLAINTIFF and other AGGRIEVED
18 EMPLOYEES forfeited minimum wage and overtime compensation by regularly working
19 without their time being accurately recorded and without compensation at the applicable
20 minimum wage and overtime rates. DEFENDANT's uniform policy and practice not to pay
21 PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is evidenced by
22 DEFENDANT's business records.

23 12. State law provides that employees must be paid overtime and meal period
24 premium wages at one-and-one-half times their "regular rate of pay." PLAINTIFF and other
25 AGGRIEVED EMPLOYEES were compensated at an hourly rate plus incentive pay that was
26 tied to specific elements of an employee's performance.

27 13. The second component of PLAINTIFF's and other AGGRIEVED EMPLOYEES'
28 compensation was DEFENDANT's non-discretionary incentive program that paid PLAINTIFF

1 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
2 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
3 hourly basis with incentive compensation when the employees met the various performance
4 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
5 overtime and meal premium wages to PLAINTIFF and other AGGRIEVED EMPLOYEES,
6 DEFENDANT failed to include the incentive compensation as part of the employees' "regular
7 rate of pay" for purposes of calculating overtime pay and the correct rate of pay for meal period
8 premiums owed. Management and supervisors described the incentive program to potential and
9 new employees as part of the compensation package.

10 14. As a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED
11 EMPLOYEES were from time to time unable to take thirty (30) minute off duty meal breaks
12 and were not fully relieved of duty for their meal periods. PLAINTIFF and other AGGRIEVED
13 EMPLOYEES were required from time to time to perform work as ordered by DEFENDANT
14 for more than five (5) hours during some shifts without receiving a meal break. Further,
15 DEFENDANT from time to time failed to provide PLAINTIFF and AGGRIEVED
16 EMPLOYEES with a second off-duty meal period for some workdays in which these employees
17 were required by DEFENDANT to work ten (10) hours of work. PLAINTIFF and other
18 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation
19 and in accordance with DEFENDANT's strict corporate policy and practice. DEFENDANT
20 failed to maintain adequate staffing levels while increasing the production levels for each
21 employee at the busy work sites they operated.

22 15. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
23 were also required from time to time to work in excess of four (4) hours without being provided
24 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
25 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
26 time, a first and second rest period of at least ten (10) minutes for some shifts worked of
27 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
28 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.

1 PLAINTIFF and other AGGRIEVED EMPLOYEES' were also not provided with one hour
2 wages in lieu thereof.

3 16. DEFENDANT failed to reimburse and indemnify PLAINTIFF and the other
4 AGGRIEVED EMPLOYEES for required business expenses incurred by PLAINTIFF and other
5 AGGRIEVED EMPLOYEES in direct consequence of discharging their duties on behalf of
6 DEFENDANT. Under California Labor Code Section 2802, employers are required to
7 indemnify employees for all expenses incurred in the course and scope of their employment.
8 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee
9 for all necessary expenditures or losses incurred by the employee in direct consequence of the
10 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
11 though unlawful, unless the employee, at the time of obeying the directions, believed them to
12 be unlawful."

13 17. In the course of their employment PLAINTIFF and other AGGRIEVED
14 EMPLOYEES as a business expense, were required by DEFENDANT to use personal cellular
15 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but
16 were not reimbursed or indemnified by DEFENDANT for the cost associated with the use of
17 the personal cellular phones for DEFENDANT's benefit. DEFENDANT also required
18 PLAINTIFF to personally incur and pay for expenses, including, but not limited to, all costs and
19 expenses of traveling on behalf of DEFENDANT and in the discharge of their employment
20 duties for DEFENDANT, all without reimbursement from the DEFENDANT in violation of
21 California Labor Code Section 2802. As a result, in the course of their employment with
22 DEFENDANT, PLAINTIFF and other AGGRIEVED EMPLOYEES incurred unreimbursed
23 business expenses which included, but were not limited to, costs related to the use of their
24 personal cellular phones and costs related to traveling, all on behalf of and for the benefit of
25 DEFENDANT

26 18. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
27 employees with an accurate itemized wage statement in writing showing, among other things,
28 gross wages earned and all applicable hourly rates in effect during the pay period and the

1 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
2 failed to provide to PLAINTIFF and the AGGRIEVED EMPLOYEES wage statements that
3 identify the correct gross and net wages earned, the applicable number of hours worked and
4 rates of pay, as well as all of the wages owed for unpaid missed meal and rest premium pay.
5 Specifically, DEFENDANT violated Section 226 by failing to identify the correct rates of pay
6 and number of hours worked, including, but not limited to, for the "Bonus Overtime," and
7 "Bonus DBL OT" item of pay, which is an overtime wage payment. DEFENDANT also does
8 not include the correct rate of premium pay for missed meal periods and paid rest periods on
9 wage statements issued to PLAINTIFF and other AGGRIEVED EMPLOYEES. Aside, from
10 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF and
11 other AGGRIEVED EMPLOYEES an itemized wage statement that lists all the requirements
12 under California Labor Code 226 *et seq.*

13 19. In violation of the applicable sections of the California Labor Code and the
14 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as
15 a matter of company policy, practice and procedure, intentionally, knowingly and systematically
16 failed to compensate PLAINTIFF and the other AGGRIEVED EMPLOYEES for missed meal
17 and rest periods. This uniform policy and practice of DEFENDANT is intended to purposefully
18 avoid the payment for all time worked as required by California law which allows
19 DEFENDANT to illegally profit and gain an unfair advantage over competitors who complied
20 with the law. To the extent equitable tolling operates to toll claims by the AGGRIEVED
21 EMPLOYEES against DEFENDANT, the PAGA PERIOD should be adjusted accordingly.

22 20. By reason of this uniform conduct applicable to PLAINTIFF and all
23 AGGRIEVED EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure
24 which failed to accurately calculate and record all missed meal and rest periods by PLAINTIFF
25 and other AGGRIEVED EMPLOYEES. The proper recording of these employees' missed
26 meal and rest breaks is the DEFENDANT's burden. As a result of DEFENDANT's intentional
27 disregard of the obligation to meet this burden, DEFENDANT failed to properly calculate
28 and/or pay all required compensation for work performed by the AGGRIEVED EMPLOYEES

1 and violated the California Labor Code and regulations promulgated thereunder as herein
2 alleged.

3 21. All of the conduct and violations alleged herein occurred during the PAGA
4 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
5 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
6 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
7 AJDAR 12157 (Certified for Publication 12/19/18).

8
9 **JURISDICTION AND VENUE**

10 22. This Court has jurisdiction over this Action pursuant to California Code of Civil
11 Procedure, Section 410.10.

12 23. Venue is proper in this Court pursuant to California Code of Civil Procedure,
13 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides
14 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained
15 offices and facilities in this County and/or conducts substantial business in this County, and (ii)
16 committed the wrongful conduct herein alleged in this County against PLAINTIFF and the
17 AGGRIEVED EMPLOYEES.

18
19 **FIRST CAUSE OF ACTION**

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

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

22 **(By PLAINTIFF and Against All Defendants)**

23 24. PLAINTIFF incorporates by reference the allegations set forth in paragraphs
24 1-23, *supra*, as though fully set forth at this point.

25 25. PAGA is a mechanism by which the State of California itself can enforce state
26 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
27 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
28 fundamentally a law enforcement action designed to protect the public and not to benefit private

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK 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 2, 2020
CA1954**

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency	Cafe Rio, Inc.
Online Filing	Certified Mail # 70192280000189178274
	C T Corporation System
	818 West Seventh Street, Suite 930
	Los Angeles, CA 90017

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 Cafe Rio, Inc. in California and classified as non-exempt employees during the time period of January 2, 2019 until a date as determined by the Court. Our offices represent Plaintiff Abner Quincho (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Cafe Rio, Inc. (“Defendant”). Plaintiff was employed by Defendant in California from May of 2017 to July 27, 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 him, 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 Statute 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.

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

2 Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

3 2255 Calle Clara

La Jolla, CA 92037

4 Telephone: (858)551-1223

Facsimile: (858) 551-1232

5 Website: www.bamlawca.com

6 Attorneys for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

9
10 ABNER QUINCHO, an individual, on
behalf of himself and on behalf of all
11 persons similarly situated,

12
13 Plaintiff,

14 vs.

15 CAFE RIO, INC., a Corporation; and
DOES 1 through 50, inclusive,

16
17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No. _____

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; and,
 8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.
- DEMAND FOR A JURY TRIAL**

1 Plaintiff Abner Quincho ("PLAINTIFF"), an individual, on behalf of himself and all
2 other similarly situated current and former employees alleges on information and belief, except
3 for his own acts and knowledge which are based on personal knowledge, the following:

4
5 **THE PARTIES**

6 1. Defendant Cafe Rio, Inc. ("DEFENDANT") is a Corporation that at all relevant
7 times mentioned herein conducted and continues to conduct substantial business in the state of
8 California.

9 2. DEFENDANT is a fast casual restaurant chain that specializes in Mexican cuisine.

10 3. PLAINTIFF was employed by DEFENDANT in California from May of 2017 to
11 July 27, 2019 and was at all times classified by DEFENDANT as a non-exempt employee, paid
12 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
13 minimum and overtime wages due for all time worked.

14 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,
15 defined as all individuals who are or previously were employed by DEFENDANT in California
16 and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
17 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
18 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
19 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
20 (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
23 the CALIFORNIA CLASS PERIOD caused by DEFENDANT's uniform policy and practice
24 which failed to lawfully compensate these employees. DEFENDANT's uniform policy and
25 practice alleged herein was an unlawful, unfair and deceptive business practice whereby
26 DEFENDANT retained and continues to retain wages due PLAINTIFF and the other members
27 of the CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA
28 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the

1 named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been
2 economically injured by DEFENDANT's past and current unlawful conduct, and all other
3 appropriate legal and equitable relief.

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

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

21 22 THE CONDUCT

23 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
24 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
25 meaning the time during which an employee is subject to the control of an employer, including
26 all the time the employee is suffered or permitted to work. DEFENDANT required PLAINTIFF
27 and CALIFORNIA CLASS Members to work without paying them for all the time they were
28 under DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to work

1 while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.
2 PLAINTIFF was from time to time interrupted by work assignments while clocked out for what
3 should have been PLAINTIFF's off-duty meal break. Indeed there were many days where
4 PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other
5 CALIFORNIA CLASS Members forfeited minimum wage and overtime compensation by
6 regularly working without their time being accurately recorded and without compensation at the
7 applicable minimum wage and overtime rates. DEFENDANT's uniform policy and practice
8 not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is
9 evidenced by DEFENDANT's business records.

10 9. State law provides that employees must be paid overtime and meal period
11 premium wages at one-and-one-half times their "regular rate of pay." PLAINTIFF and other
12 CALIFORNIA CLASS Members were compensated at an hourly rate plus incentive pay that
13 was tied to specific elements of an employee's performance.

14 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS
15 Members' compensation was DEFENDANT's non-discretionary incentive program that paid
16 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
17 performance for DEFENDANT. The non-discretionary incentive program provided all
18 employees paid on an hourly basis with incentive compensation when the employees met the
19 various performance goals set by DEFENDANT. However, when calculating the regular rate
20 of pay in order to pay overtime and meal premium wages to PLAINTIFF and other
21 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation
22 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and the
23 correct rate of pay for meal period premiums owed. Management and supervisors described the
24 incentive program to potential and new employees as part of the compensation package.

25 11. As a result of their rigorous work schedules, PLAINTIFF and other
26 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off
27 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
28 other CALIFORNIA CLASS Members were required from time to time to perform work as

1 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
2 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
3 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in
4 which these employees were required by DEFENDANT to work ten (10) hours of work.
5 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks
6 without additional compensation and in accordance with DEFENDANT's strict corporate policy
7 and practice. DEFENDANT failed to maintain adequate staffing levels while increasing the
8 production levels for each employee at the busy work sites they operated.

9 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
10 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
11 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
12 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
13 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
14 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
15 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
16 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also
17 not provided with one hour wages in lieu thereof.

18 13. DEFENDANT failed to reimburse and indemnify PLAINTIFF and the other
19 CALIFORNIA CLASS Members for required business expenses incurred by PLAINTIFF and
20 other CALIFORNIA CLASS Members in direct consequence of discharging their duties on
21 behalf of DEFENDANT. Under California Labor Code Section 2802, employers are required
22 to indemnify employees for all expenses incurred in the course and scope of their employment.
23 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee
24 for all necessary expenditures or losses incurred by the employee in direct consequence of the
25 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
26 though unlawful, unless the employee, at the time of obeying the directions, believed them to
27 be unlawful."

28 14. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS

1 Members as a business expense, were required by DEFENDANT to use personal cellular
2 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but
3 were not reimbursed or indemnified by DEFENDANT for the cost associated with the use of
4 the personal cellular phones for DEFENDANT's benefit. DEFENDANT also required
5 PLAINTIFF to personally incur and pay for expenses, including, but not limited to, all costs and
6 expenses of traveling on behalf of DEFENDANT and in the discharge of their employment
7 duties for DEFENDANT, all without reimbursement from the DEFENDANT in violation of
8 California Labor Code Section 2802. As a result, in the course of their employment with
9 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred
10 unreimbursed business expenses which included, but were not limited to, costs related to the use
11 of their personal cellular phones and costs related to traevling, all on behalf of and for the
12 benefit of DEFENDANT

13 15. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
14 employees with an accurate itemized wage statement in writing showing, among other things,
15 gross wages earned and all applicable hourly rates in effect during the pay period and the
16 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
17 failed to provide to PLAINTIFF and the CALIFORNIA CLASS wage statements that identify
18 the correct gross and net wages earned, the applicable number of hours worked and rates of pay,
19 as well as all of the wages owed for unpaid missed meal and rest premium pay. Specifically,
20 DEFENDANT violated Section 226 by failing to identify the correct rates of pay and number
21 of hours worked, including, but not limited to, for the "Bonus Overtime," and "Bonus DBL OT"
22 item of pay, which is an overtime wage payment. DEFENDANT also does not include the
23 correct rate of premium pay for missed meal periods and paid rest periods on wage statements
24 issued to PLAINTIFF and other CALIFORNIA CLASS Members. Aside, from the violations
25 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF and other
26 CALIFORNIA CLASS members an itemized wage statement that lists all the requirements
27 under California Labor Code 226 *et seq.*

28 16. In violation of the applicable sections of the California Labor Code and the

1 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as
2 a matter of company policy, practice and procedure, intentionally, knowingly and systematically
3 failed to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for
4 missed meal and rest periods. This uniform policy and practice of DEFENDANT is intended
5 to purposefully avoid the payment for all time worked as required by California law which
6 allows DEFENDANT to illegally profit and gain an unfair advantage over competitors who
7 complied with the law. To the extent equitable tolling operates to toll claims by the
8 CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be
9 adjusted accordingly.

10 17. By reason of this uniform conduct applicable to PLAINTIFF and all
11 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in
12 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*
13 (the "UCL"), by engaging in a company-wide policy and procedure which failed to accurately
14 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA
15 CLASS Members. The proper recording of these employees' missed meal and rest breaks is
16 the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the
17 obligation to meet this burden, DEFENDANT failed to properly calculate and/or pay all
18 required compensation for work performed by the members of the CALIFORNIA CLASS and
19 violated the California Labor Code and regulations promulgated thereunder as herein alleged.

20 18. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
21 required off-duty meal and rest breaks to him as required by the applicable Wage Order and
22 Labor Code and failed to pay him all minimum and overtime wages due to him. DEFENDANT
23 did not have a policy or practice which provided timely off-duty meal and rest breaks to
24 PLAINTIFF and also failed to compensate PLAINTIFF for his missed meal and rest breaks.
25 The nature of the work performed by the PLAINTIFF did not prevent him from being relieved
26 of all of his duties for the legally required off-duty meal periods. As a result, DEFENDANT's
27 failure to provide PLAINTIFF with the legally required meal periods is evidenced by
28 DEFENDANT's business records. As a result of DEFENDANT not accurately recording all

1 missed meal and rest periods and/or minimum and overtime wages due, the wage statements
2 issued to PLAINTIFF by DEFENDANT violated California law, and in particular, Labor Code
3 Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF all of his wages due to him
4 and DEFENDANT has failed to pay any penalty wages owed to him under California Labor
5 Code Section 203. The amount in controversy for PLAINTIFF individually does not exceed
6 the sum or value of \$75,000.

7 8 JURISDICTION AND VENUE

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

13 20. Venue is proper in this Court pursuant to California Code of Civil Procedure,
14 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides
15 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained
16 offices and facilities in this County and/or conducts substantial business in this County, and (ii)
17 committed the wrongful conduct herein alleged in this County against members of the
18 CALIFORNIA CLASS.

19 20 THE CALIFORNIA CLASS

21 21. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
22 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
23 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as
24 all individuals who are or previously were employed by DEFENDANT in California and
25 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
26 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
27 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
28 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars

1 (\$5,000,000.00).

2 22. To the extent equitable tolling operates to toll claims by the CALIFORNIA
3 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
4 accordingly.

5 23. 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 systematically failed to record all meal
9 and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though
10 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
11 permits or suffers to permit this work.

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

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

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

- 25 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.
26 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or
27 deceptively having in place company policies, practices and procedures
28 that uniformly and systematically failed to record and pay PLAINTIFF

1 and the other members of the CALIFORNIA CLASS for all time worked,
2 including minimum wages owed and overtime wages owed for work
3 performed by these employees;

4 (b) Committing an act of unfair competition in violation of the UCL, by
5 failing to provide the PLAINTIFF and the other members of the
6 CALIFORNIA CLASS with the legally required meal and rest periods;
7 and,

8 (c) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code
9 §§ 17200, *et seq.* the ("UCL") by violating Cal. Lab. Code § 2802 by
10 failing to reimburse PLAINTIFF and the CALIFORNIA CLASS members
11 with necessary expenses incurred in the discharge of their job duties

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

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

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

21 (c) The claims of the representative PLAINTIFF are typical of the claims of
22 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the
23 other members of the CALIFORNIA CLASS, was classified as a non-
24 exempt employee paid on an hourly basis who was subjected to the
25 DEFENDANT's deceptive practice and policy which failed to provide the
26 legally required meal and rest periods to the CALIFORNIA CLASS and
27 thereby systematically underpaid compensation to PLAINTIFF and
28 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a

1 result of DEFENDANT's employment practices. PLAINTIFF and the
2 members of the CALIFORNIA CLASS were and are similarly or
3 identically harmed by the same unlawful, deceptive, unfair and pervasive
4 pattern of misconduct engaged in by DEFENDANT; and,

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

13 28. In addition to meeting the statutory prerequisites to a Class Action, this action is
14 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, injunctive,
16 statutory and other legal questions within the class format, prosecution of
17 separate actions by individual members of the CALIFORNIA CLASS will
18 create the risk of:

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

- 28 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to

1 act on grounds generally applicable to the CALIFORNIA CLASS, making
2 appropriate class-wide relief with respect to the CALIFORNIA CLASS
3 as a whole in that DEFENDANT uniformly failed to pay all wages due to
4 members of the CALIFORNIA CLASS as required by law;

5 1) With respect to the First Cause of Action, the final relief on behalf
6 of the CALIFORNIA CLASS sought does not relate exclusively to
7 restitution because through this claim PLAINTIFF seeks
8 declaratory relief holding that the DEFENDANT's policy and
9 practices constitute unfair competition, along with declaratory
10 relief, injunctive relief, and incidental equitable relief as may be
11 necessary to prevent and remedy the conduct declared to constitute
12 unfair competition;

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

19 1) The interests of the members of the CALIFORNIA CLASS in
20 individually controlling the prosecution or defense of separate
21 actions in that the substantial expense of individual actions will be
22 avoided to recover the relatively small amount of economic losses
23 sustained by the individual CALIFORNIA CLASS Members when
24 compared to the substantial expense and burden of individual
25 prosecution of this litigation;

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

28 A. Inconsistent or varying adjudications with respect to

1 individual members of the CALIFORNIA CLASS, which
2 would establish incompatible standards of conduct for the
3 DEFENDANT; and/or,

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

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

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

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

22 (a) The questions of law and fact common to the CALIFORNIA CLASS
23 predominate over any question affecting only individual CALIFORNIA
24 CLASS Members because the DEFENDANT's employment practices are
25 uniform and systematically applied with respect to the CALIFORNIA
26 CLASS;

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

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

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

8 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be
9 able to obtain effective and economic legal redress unless the action is
10 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 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 CLASS for the injuries sustained;

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

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

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

28 30. DEFENDANT maintains records from which the Court can ascertain and identify

1 by job title each of DEFENDANT's employees who as have been systematically, intentionally
2 and uniformly subjected to DEFENDANT's company policy, practices and procedures as herein
3 alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles
4 of similarly situated employees when they have been identified.

5
6 **THE CALIFORNIA LABOR SUB-CLASS**

7 31. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh and
8 Eighth Causes of Action on behalf of a California sub-class, defined as all members of the
9 CALIFORNIA CLASS who are or previously were employed by DEFENDANT in California
10 (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior
11 to the filing of the complaint and ending on the date as determined by the Court (the
12 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.
13 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS
14 Members is under five million dollars (\$5,000,000.00).

15 32. DEFENDANT, as a matter of company policy, practice and procedure, and in
16 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
17 requirements, and the applicable provisions of California law, intentionally, knowingly, and
18 wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate
19 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA
20 LABOR SUB-CLASS and reporting time wages owed to these employees, even though
21 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
22 permitted or suffered to permit this work. DEFENDANT has uniformly denied these
23 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled
24 in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
25 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the
26 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

27 33. DEFENDANT maintains records from which the Court can ascertain and identify
28 by name and job title, each of DEFENDANT's employees who have been systematically,

1 intentionally and uniformly subjected to DEFENDANT's company policy, practices and
2 procedures as herein alleged. PLAINTIFF will seek leave to amend the complaint to include
3 any additional job titles of similarly situated employees when they have been identified.

4 34. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
5 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

- 8 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
9 compensation due to members of the CALIFORNIA LABOR SUB-
10 CLASS for missed meal and rest breaks in violation of the California
11 Labor Code and California regulations and the applicable California Wage
12 Order;
- 13 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
14 members of the CALIFORNIA LABOR SUB-CLASS with accurate
15 itemized wage statements;
- 16 (c) Whether DEFENDANT has engaged in unfair competition by the
17 above-listed conduct;
- 18 (d) The proper measure of damages and penalties owed to the members of the
19 CALIFORNIA LABOR SUB-CLASS; and,
- 20 (e) Whether DEFENDANT's conduct was willful.

21 36. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
22 under California law by:

- 23 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
24 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
25 CLASS all wages due for overtime worked, for which DEFENDANT is
26 liable pursuant to Cal. Lab. Code § 1194;
- 27 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
28 accurately pay PLAINTIFF and the members of the CALIFORNIA

LABOR SUB-CLASS the correct minimum wage pay for which
DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

(c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
members of the CALIFORNIA LABOR SUB-CLASS with an accurate
itemized statement in writing showing the corresponding correct amount
of wages earned by the employee;

(d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
CLASS with all legally required off-duty, uninterrupted thirty (30) minute
meal breaks and the legally required off-duty rest breaks;

(e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and
the CALIFORNIA CLASS members with necessary expenses incurred in
the discharge of their job duties; and,

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

37. 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 CALIFORNIA LABOR SUB-CLASS are
so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
Members is impracticable and the disposition of their claims as a class
will benefit the parties and the Court;

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

CALIFORNIA LABOR SUB-CLASS;

(c) The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's practice and policy which failed to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA LABOR SUB-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 PLAINTIFF will fairly and adequately represent and protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel who are competent and experienced in Class Action litigation. There are no material conflicts between the claims of the representative PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS that would make class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

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

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

1) Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS which

1 would establish incompatible standards of conduct for the parties
2 opposing the CALIFORNIA LABOR SUB-CLASS; or,

3 2) Adjudication with respect to individual members of the
4 CALIFORNIA LABOR SUB-CLASS which would as a practical
5 matter be dispositive of interests of the other members not party to
6 the adjudication or substantially impair or impede their ability to
7 protect their interests.

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

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

22 1) The interests of the members of the CALIFORNIA LABOR SUB-
23 CLASS in individually controlling the prosecution or defense of
24 separate actions in that the substantial expense of individual
25 actions will be avoided to recover the relatively small amount of
26 economic losses sustained by the individual CALIFORNIA
27 LABOR SUB-CLASS Members when compared to the substantial
28 expense and burden of individual prosecution of this litigation;

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

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

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

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

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

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

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

- 1 (b) A Class Action is superior to any other available method for the fair and
2 efficient adjudication of the claims of the members of the CALIFORNIA
3 LABOR SUB-CLASS because in the context of employment litigation a
4 substantial number of individual CALIFORNIA LABOR SUB-CLASS
5 Members will avoid asserting their rights individually out of fear of
6 retaliation or adverse impact on their employment;
- 7 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
8 numerous that it is impractical to bring all members of the CALIFORNIA
9 LABOR SUB-CLASS before the Court;
- 10 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS
11 Members, will not be able to obtain effective and economic legal redress
12 unless the action is maintained as a Class Action;
- 13 (e) There is a community of interest in obtaining appropriate legal and
14 equitable relief for the acts of unfair competition, statutory violations and
15 other improprieties, and in obtaining adequate compensation for the
16 damages and injuries which DEFENDANT's actions have inflicted upon
17 the CALIFORNIA LABOR SUB-CLASS;
- 18 (f) There is a community of interest in ensuring that the combined assets of
19 DEFENDANT are sufficient to adequately compensate the members of
20 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 21 (g) DEFENDANT has acted or refused to act on grounds generally applicable
22 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-
23 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-
24 CLASS as a whole;
- 25 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
26 ascertainable from the business records of DEFENDANT. The
27 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
28 CLASS Members who worked for DEFENDANT in California at any

1 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
2 (i) Class treatment provides manageable judicial treatment calculated to bring
3 a efficient and rapid conclusion to all litigation of all wage and hour
4 related claims arising out of the conduct of DEFENDANT as to the
5 members of the CALIFORNIA LABOR SUB-CLASS.
6

7 **FIRST CAUSE OF ACTION**

8 **For Unlawful Business Practices**

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

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

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

14 41. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof.
15 Code § 17021.

16 42. California Business & Professions Code §§ 17200, *et seq.* (the "UCL") defines
17 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
18 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
19 competition as follows:

20 Any person who engages, has engaged, or proposes to engage in unfair
21 competition may be enjoined in any court of competent jurisdiction. The court
22 may make such orders or judgments, including the appointment of a receiver, as
23 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.

24 Cal. Bus. & Prof. Code § 17203.

25 43. By the conduct alleged herein, DEFENDANT has engaged and continues to
26 engage in a business practice which violates California law, including but not limited to, the
27 applicable Industrial Wage Order(s), the California Code of Regulations and the California
28 Labor Code including Sections 204, 210, 226.7, 510, 512, 1194, 1197, 1197.1, 1198 & 2802,

1 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus.
2 & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
3 unfair competition, including restitution of wages wrongfully withheld.

4 44. By the conduct alleged herein, DEFENDANT's practices were unlawful and
5 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
6 unscrupulous or substantially injurious to employees, and were without valid justification or
7 utility for which this Court should issue equitable and injunctive relief pursuant to Section
8 17203 of the California Business & Professions Code, including restitution of wages wrongfully
9 withheld.

10 45. By the conduct alleged herein, DEFENDANT's practices were deceptive and
11 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
12 mandated meal and rest periods, the required amount of compensation for missed meal and rest
13 periods and overtime and minimum wages owed, and failed to reimburse all necessary business
14 expenses incurred, due to a systematic business practice that cannot be justified, pursuant to the
15 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
16 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable
17 relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully
18 withheld.

19 46. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
20 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
21 other members of the CALIFORNIA CLASS to be underpaid during their employment with
22 DEFENDANT.

23 47. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
24 unfair and deceptive in that DEFENDANT's uniform policies, practices and procedures failed
25 to provide all legally required meal breaks to PLAINTIFF and the other members of the
26 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

27 48. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
28 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty

1 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
2 for each workday in which a second off-duty meal period was not timely provided for each ten
3 (10) hours of work.

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

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

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

18 52. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
19 and do, seek such relief as may be necessary to restore to them the money and property which
20 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the
21 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
22 unfair business practices, including earned but unpaid wages for all time worked.

23 53. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
24 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
25 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
26 engaging in any unlawful and unfair business practices in the future.

27 54. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
28 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices

1 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.
2 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the
3 other members of the CALIFORNIA CLASS have suffered and will continue to suffer
4 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to
5 engage in these unlawful and unfair business practices.

6
7 **SECOND CAUSE OF ACTION**

8 **For Failure To Pay Minimum Wages**

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

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

11 **and Against All Defendants)**

12 55. PLAINTIFF, 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 56. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
16 bring a claim for DEFENDANT's willful and intentional violations of the California Labor
17 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to
18 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS
19 Members.

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

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

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

27 60. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and
28 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct

1 amount of time they work. As set forth herein, 'DEFENDANT's uniform policy and practice
2 was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the
3 other members of the CALIFORNIA LABOR SUB-CLASS.

4 61. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
5 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
6 result of implementing a uniform policy and practice that denies accurate compensation to
7 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to
8 minimum wage pay.

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

15 63. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
16 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
17 receive the correct minimum wage compensation for their time worked for DEFENDANT.

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

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

27 66. DEFENDANT knew or should have known that PLAINTIFF and the other
28 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time

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

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

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

25 ///

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **For Failure To Pay Overtime Compensation**

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

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

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

9 70. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
10 bring a claim for DEFENDANT's willful and intentional violations of the California Labor
11 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay
12 these employees for all overtime worked, including, work performed in excess of eight (8)
13 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
14 workweek.

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

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

21 73. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
22 including minimum wage and overtime compensation and interest thereon, together with the
23 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for
24 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

25 74. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
26 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
27 DEFENDANT and were not paid for all the time they worked, including overtime work.

28 75. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,

1 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
2 result of implementing a uniform policy and practice that failed to accurately record overtime
3 worked by PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied
4 accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR
5 SUB-CLASS for overtime worked, including, the overtime work performed in excess of eight
6 (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
7 workweek.

8 76. In committing these violations of the California Labor Code, DEFENDANT
9 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
10 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted
11 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
12 of the California Labor Code, the Industrial Welfare Commission requirements and other
13 applicable laws and regulations.

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

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

25 79. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
26 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
27 worked that they are entitled to, constituting a failure to pay all earned wages..

28 80. DEFENDANT failed to accurately pay the PLAINTIFF and the other members

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

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

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

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

28 84. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS

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

11
12 **FOURTH CAUSE OF ACTION**

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

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

15 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
16 **Defendants)**

17 85. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
18 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
19 of this Complaint.

20 86. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
21 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
22 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and
23 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR
24 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their
25 duties for the legally required off-duty meal periods. As a result of their rigorous work
26 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from
27 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,
28 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

1 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced
2 by DEFENDANT's business records. Further, DEFENDANT failed to provide PLAINTIFF
3 and CALIFORNIA CLASS Members with a second off-duty meal period in some workdays in
4 which these employees were required by DEFENDANT to work ten (10) hours of work. As
5 a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS therefore
6 forfeited meal breaks without additional compensation and in accordance with DEFENDANT's
7 strict corporate policy and practice.

8 87. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable
9 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-
10 CLASS Members who were not provided a meal period, in accordance with the applicable
11 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
12 each workday that a meal period was not provided.

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

17
18 **FIFTH CAUSE OF ACTION**

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

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

21 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
22 **Defendants)**

23 89. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
24 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
25 of this Complaint.

26 90. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from
27 time to time required to work in excess of four (4) hours without being provided ten (10) minute
28 rest periods. Further, these employees from time to time were denied their first rest periods of

1 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
2 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
3 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
4 shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA LABOR SUB-
5 CLASS Members were also not provided with one hour wages in lieu thereof. As a result of
6 their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
7 Members were periodically denied their proper rest periods by DEFENDANT and
8 DEFENDANT's managers.

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

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

18
19 **SIXTH CAUSE OF ACTION**

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

21 **[Cal. Lab. Code § 226]**

22 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
23 **Defendants)**

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

27 94. Cal. Labor Code § 226 provides that an employer must furnish employees with
28 an "accurate itemized" statement in writing showing:

1 (1) gross wages earned,

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

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

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

10 (5) net wages earned,

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

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

16 (8) the name and address of the legal entity that is the employer, and

17 (9) all applicable hourly rates in effect during the pay period and the corresponding
18 number of hours worked at each hourly rate by the employee.

19 95. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
20 employees with an accurate itemized wage statement in writing showing, among other things,
21 gross wages earned and all applicable hourly rates in effect during the pay period and the
22 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
23 failed to provide to PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS wage statements
24 that identify the correct gross and net wages earned, the applicable number of hours worked and
25 rates of pay, as well as all of the wages owed for unpaid missed meal and rest premium pay.
26 Specifically, DEFENDANT violated Section 226 by failing to identify the correct rates of pay
27 and number of hours worked, including, but not limited to, for the "Bonus Overtime," and
28 "Bonus DBL OT" item of pay, which is an overtime wage payment. DEFENDANT also does

1 not include the correct rate of premium pay for missed meal periods and paid rest periods on
2 wage statements issued to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
3 Members. Aside, from the violations listed above in this paragraph, DEFENDANT failed to
4 issue to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS members an itemized
5 wage statement that lists all the requirements under California Labor Code 226 *et seq.*

6 96. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
7 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
8 LABOR SUB-CLASS. These damages include, but are not limited to, costs expended
9 calculating the correct wages for all missed meal and rest breaks and the amount of employment
10 taxes which were not properly paid to state and federal tax authorities. These damages are
11 difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA
12 LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the
13 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
14 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according
15 to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for
16 PLAINTIFF and each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

17
18 **SEVENTH CAUSE OF ACTION**

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

20 **[Cal. Lab. Code § 2802]**

21 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
22 **Defendants)**

23 97. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members
24 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
25 of this Complaint.

26 98. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

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

3 99. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by
4 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
5 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
6 benefit. Specifically, DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA
7 LABOR SUB-CLASS members for expenses which included, but were not limited to, the cost
8 associated with the use of their personal cellular phones for DEFENDANT's benefit. As a
9 result, in the course of their employment with DEFENDANT, PLAINTIFF and other members
10 of the CALIFORNIA LABOR SUB-CLASS incurred unreimbursed business expenses which
11 included, but were not limited to, the costs related to the use of their personal cellular phones
12 all on behalf of and for the benefit of DEFENDANT. DEFENDANT also required PLAINTIFF
13 to personally incur and pay for expenses, including, but not limited to, all costs and expenses
14 of traveling in the discharge of their employment duties for DEFENDANT, all without
15 reimbursement from the DEFENDANT in violation of California Labor Code Section 2802.
16 These expenses are necessary to complete their principal job duties. DEFENDANT is estopped
17 by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses
18 are necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
19 members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the
20 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required
21 to do under the laws and regulations of California.

22 100. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred
23 by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job
24 duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest
25 at the statutory rate and costs under Cal. Lab. Code § 2802.

26 ///

27 ///

28 **EIGHTH CAUSE OF ACTION**

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

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

3 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
4 **Defendants)**

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

8 102. Cal. Lab. Code § 200 provides that:

9 As used in this article:

10 (a) "Wages" includes all amounts for labor performed by employees of every
11 description, whether the amount is fixed or ascertained by the standard of time,
task, piece, Commission basis, or other method of calculation.

12 (b) "Labor" includes labor, work, or service whether rendered or performed under
13 contract, subcontract, partnership, station plan, or other agreement if the labor to
be paid for is performed personally by the person demanding payment.

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

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

18 If an employee not having a written contract for a definite period quits his or her
19 employment, his or her wages shall become due and payable not later than 72
20 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
21 at the time of quitting. Notwithstanding any other provision of law, an employee
who quits without providing a 72-hour notice shall be entitled to receive payment
22 by mail if he or she so requests and designates a mailing address. The date of the
mailing shall constitute the date of payment for purposes of the requirement to
provide payment within 72 hours of the notice of quitting.

23 105. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-
24 CLASS Members' employment contract.

25 106. Cal. Lab. Code § 203 provides:

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

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

108. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated, PLAINTIFF demands up to thirty days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

PRAYER FOR RELIEF

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

1. On behalf of the CALIFORNIA CLASS:

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

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

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

- 1 B) Compensatory damages, according to proof at trial, including compensatory
2 damages for minimum and overtime compensation due PLAINTIFF and the other
3 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
4 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
5 statutory rate;
- 6 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
7 in which a violation occurs and one hundred dollars (\$100) per each member of
8 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
9 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
10 an award of costs for violation of Cal. Lab. Code § 226;
- 11 D) The wages of all terminated employees from the CALIFORNIA LABOR
12 SUB-CLASS as a penalty from the due date thereof at the same rate until paid or
13 until an action therefore is commenced, in accordance with Cal. Lab. Code § 203;
- 14 E) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
15 the applicable IWC Wage Order;
- 16 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
17 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
18 costs of suit; and,
- 19 G) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
20 1197.

21 3. On all claims:

- 22 A) An award of interest, including prejudgment interest at the legal rate;
- 23 B) Such other and further relief as the Court deems just and equitable; and,
- 24 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
25 law, including, but not limited to, pursuant to Labor Code §226, §1194 and/or
26 §2802.
- 27
- 28

1 Dated: January 2, 2020

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2
3
4 By: _____
5 Norman B. Blumenthal
6 Attorneys for Plaintiff
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a
2 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In
3 enacting PAGA, the California Legislature specified that "it was ... in the public interest to
4 allow aggrieved employees, acting as private attorneys general to recover civil penalties for
5 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be
6 subject to arbitration.

7 26. PLAINTIFF, and such persons that may be added from time to time who satisfy
8 the requirements and exhaust the administrative procedures under the Private Attorney General
9 Act, brings this Representative Action on behalf of the State of California with respect to
10 himself and all individuals who are or previously were employed by DEFENDANT in
11 California and who were classified as non-exempt employees (the "AGGRIEVED
12 EMPLOYEES") during the time period of January 2, 2019 until a date as determined by the
13 Court (the "PAGA PERIOD").

14 27. On January 2, 2020, PLAINTIFF gave written notice by electronic mail to the
15 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
16 employer of the specific provisions of this code alleged to have been violated as required by
17 Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference
18 herein. The statutory waiting period for PLAINTIFF to add these allegations to the Complaint
19 has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a
20 representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of
21 California with respect to all AGGRIEVED EMPLOYEES as herein defined.

22 28. The policies, acts and practices heretofore described were and are an unlawful
23 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the other
24 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
25 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed
26 to pay overtime wages, (e) failed to pay wages when due, and (f) failed to reimburse employees
27 for required expenses, all in violation of the applicable Labor Code sections listed in Labor
28 Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1,

1 1198, 2802, and the applicable Industrial Wage Order(s), and thereby gives rise to civil
2 penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties
3 as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of
4 the State of California for the illegal conduct perpetrated on PLAINTIFF and the other
5 AGGRIEVED EMPLOYEES.

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
9 severally, as follows:

- 10 1. On behalf of the State of California and with respect to all AGGRIEVED
11 EMPLOYEES:

12 A) Recovery of civil penalties as prescribed by the Labor Code Private
13 Attorneys General Act of 2004; and,

14 B) An award of attorneys' fees and cost of suit, as allowable under the
15 law, including, but not limited to, pursuant to Labor Code §2699.

16 Dated: April 14, 2020

17 BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

18
19 By: 

20 Norman B. Blumenthal
Attorneys for Plaintiff

21
22
23
24
25
26
27
28 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
Code §558(a)(3).

DEMAND FOR A JURY TRIAL

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

Dated: January 2, 2020

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Attorneys for Plaintiff