

April 9, 2024

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128> (copy by certified mail to the below listed defendants)

Pacific Choice Seafood Company
Rick Harris, Agent for Service of Process
1 Commercial Street
Eureka, CA 95501
Certified Mail Tracking Number:

Pacific Seafood
1 Commercial Street
Eureka, CA 95501
Certified Mail Tracking Number:

Resource Staffing Group, Inc.
Wendie Richards, Agent for Service of Process
701 University Avenue, Suite 120
Sacramento, CA 95825
Certified Mail Tracking Number:

Re: Labor Code § 2698, et seq. Penalties – PAGA Notice Letter
Anthony Coe, et al. v. Pacific Choice Seafood Company
LWDA Case No: LWDA-CM-770114-20

Gentlepersons:

This office represents Plaintiff Anthony Coe (“Plaintiff”) and other aggrieved employees for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699, *et seq.* provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff wishes to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendants, Pacific Choice Seafood Company, Pacific Seafood, and Resource Staffing Group Inc., and DOES 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt, hourly employee within the State of California. Aggrieved Employees include all non-exempt hourly employees of Defendants



within the state of California from one year prior to the date of this letter and continuing through the present. Plaintiff and Aggrieved Employees are collectively referred to herein as “Aggrieved Employees.” Aggrieved Employees consistently worked at Defendants’ behest and under their control and subject to their policies and practices without being paid all wages due. Plaintiff is also informed and believes that there are other Aggrieved Employees employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer or suffered from the same wage and hour violations outlined below.

Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Aggrieved Employees all wages due and owing, including by requiring off the clock work, failing to pay reporting time pay, failing to furnish accurate wage statements, failing to provide meal and rest breaks, failing to timely pay wages including final wages, and failing to reimburse necessary business expenses, all in violation of various provisions of the California Labor Code and applicable Wage Orders.

During the course of Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Specifically, at the beginning of the Aggrieved Employees’ shift, they had to put on their protective gear and then clock into the timekeeping system and also towards the end of their shift they had to clock out of the timekeeping system and then take their protective gear off. Additionally, Aggrieved Employees had to wait in line to use the timekeeping system before they were able to clock in.

Additionally, Defendant required Aggrieved Employees to report for regularly scheduled work day to be told whether work was available for them or not, and when there was no work available, Aggrieved Employees would be sent home after waiting for as many as several hours. On such days when Defendant required Aggrieved Employees to report to work only to be sent home because work was not available, they were not paid required reporting time wages for the hours they waited without receiving their regular hourly rate of pay for them. When they were thereafter sent home by Defendants because work was not available on that day, Defendant failed to pay them reporting time pay.

By implementing policies, programs, practices, procedures and protocols which resulted in off the clock work and the lack of compensation for reporting time pay, Defendants’ willful actions resulted in the systematic underpayment of wages and overtime pay to Aggrieved Employees. For example, the off the clock work addressed above caused Aggrieved Employees to begin receiving overtime pay later than they should have.

As a result of the above described requirements to work off the clock and the lack of compensation for reporting time pay, and the other wage violations they endured at Defendants’ hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight (8) hours in any given day and/or



more than forty (40) hours in any given week. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code and applicable Wage Orders.

Additionally, Defendants failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during a shift but were often required to do so without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants also required Aggrieved Employees to respond to work demands. Defendants placed their needs over Aggrieved Employees' lawful meal and rest breaks and this resulted in Aggrieved Employees often having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off duty meal and/or rest break.

On the occasions when Aggrieved Employees worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective hourly rate of pay, including their earned commission, for each meal period that Defendants failed to provide or deficiently provided.

Aggrieved Employees were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks and were not provided with one (1) hour's wages in lieu thereof. To the extent Aggrieved Employees were able to take rest breaks, they were restricted from leaving the premises. Aggrieved Employees were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.



Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages and overtime because their actual hours worked were under-reported due to off the clock work and also because Defendants failed to pay them for reporting time pay. Additionally, the wage statements given to Aggrieved Employees failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

Additionally, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203. Specifically, Defendants failed to pay Plaintiff for all wages due and certain at the time of his termination in compliance with Labor Code §§ 201-203. Instead, Defendants waited until the next scheduled pay date to give Plaintiff his final check which was two weeks after he had been terminated. Upon information and belief, Defendants implemented the same policy and procedure for Aggrieved Employees as well. Additionally, these Aggrieved Employees were not paid all regular and overtime wages because Defendants failed to pay for all hours worked including for reporting time pay and also for off the clock work. Defendants also failed to pay premium wages owed for unprovided meal periods and rest periods. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

Defendants also failed to reimburse Aggrieved Employees for necessary business expenses. Defendants have regularly required Plaintiff to incur business expenses in the course of performing their required job duties for Defendants, namely, the cost of cellular telephone services which Aggrieved Employees were required to use in order to execute their duties under Defendants' employ. Upon information and belief, Aggrieved Employees incurred similar costs. These expenses incurred by Plaintiff and the Aggrieved Employees were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Plaintiff and the Aggrieved Employees for all such necessary expenditures, thus entitling them to reimbursement according to proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage Orders.

As addressed above, Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders. Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were required to work off the clock without pay. Moreover, Defendants failed to pay Aggrieved Employees the minimum wage for all hours worked. Defendants have the ability to pay



minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and the applicable IWC Wage Order, paragraph 4(A)-4(D).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Aggrieved Employees consistently worked in excess of eight (8) hours a day, and/or forty (40) hours a week. However, Defendants failed to pay Aggrieved Employees for all hours worked and failed to pay overtime compensation at premium overtime rates. Moreover, the uncompensated time, discussed above, was worked by Aggrieved Employees in excess of 8 hours a day and/or 40 hours a week, further entitling Aggrieved Employees overtime wages which they were consistently denied, all in violation of Labor Code § 510 and applicable IWC Wage Order, paragraph 3(A) and 4(B).

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, and 1194 (and the relevant orders of the Industrial Welfare Commission). Defendants are liable to Aggrieved Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Failure to Pay Reporting Time Pay

The IWC Wage Order requires employers to pay half of the employee's "usual or scheduled day's work," and in no event less than two (2) hours pay on each instance the employer requires an employee to report to work, as set forth fully below:

- (A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

As addressed in detail above, Defendants followed a uniform policy of failing to pay reporting



time pay on in accordance with the applicable IWC Wage Order requirements. For example, Defendant required Plaintiff and Aggrieved Employees to, report for regularly scheduled work day to be told whether work was available for them or not, and when there was no work, Plaintiff and the Aggrieved Employees would be sent home after waiting for as many as several hours. On such days when Defendant required Plaintiff and the Aggrieved Employees to report to work only to be sent home because work was not available, they were not paid required reporting time wages for the hours they waited without receiving their regular hourly rate of pay for them. When they were thereafter sent home by Defendants because work was not available on that day, Defendant failed to pay them reporting time pay. Accordingly, Defendants are liable for penalties under Labor Code §2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code §2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and the applicable IWC Wage Order, paragraph 7(B), Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

In addition, Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf of himself and the Aggrieved Employees.

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code §



204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.*

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees, including Plaintiff, no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages due and owed to Aggrieved Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Reimbursement of Necessary Expenditures Under Labor Code § 2802

Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures 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. In the present case, Aggrieved Employees incurred necessary expenditures in the performance of their job duties for Defendants, namely, the cost of cellular telephone services, which Aggrieved Employees were required to use in order to execute their duties under Defendants' employ. Plaintiff and Aggrieved Employees were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

Meal-Period Liability Under Labor Code §§ 226.7 and 512 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks.



On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Defendants also miscalculated the rate at which they paid any meal period or rest period premiums when Defendant did attempt to pay them, resulting in further violations of section 226.7.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability Under Labor Code § 226.7 and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond to job requirements.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Conclusion



We have been constrained to initially move forward with the filing of a complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter therefore provides the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against Pacific Choice Seafood Company, Pacific Seafood, and Resource Staffing Group Inc. To prevent the violations described herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within thirty (60) days of the postmark on this letter, whether you intend to proceed with these claims or whether Aggrieved Employees should include them as a Labor Code § 2698 claim under the Act in a complaint with the Superior Court.

D.LAW, INC.


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Attorneys for Plaintiff ANTHONY COE, on behalf of himself
and others similarly situated

[Additional counsel listed below]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ANTHONY COE, an individual on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

PACIFIC CHOICE SEAFOOD COMPANY,
an Oregon corporation; PACIFIC
SEAFOOD, a business entity of unknown
form; RESOURCE STAFFING GROUP,
INC., an Oregon corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 34-2020-00274708

CLASS ACTION

*[Assigned for all purposes to the
Honorable Lauri A. Damrell, Dept. 22]*

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Failure to Pay Reporting Time Pay;
4. Violation of Labor Code § 226(a);
5. Violation of Labor Code § 203;
6. Violation of Labor Code § 204;
7. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
8. Failure to Reimburse Necessary Business Expenses;
9. Meal Period Liability Under Labor Code § 226.7;
10. Rest-Break Liability Under Labor Code § 226.7;
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties under PAGA, Labor Code § 2698

DEMAND FOR JURY TRIAL

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9 Attorneys for Plaintiff ANTHONY COE, on behalf of himself
10 and others similarly situated
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1 **INTRODUCTION**

2 1. Plaintiff ANTHONY COE (“Plaintiff”) brings this action on behalf of himself and
3 the Class Members who are defined as “all current and former employees within the State of
4 California who, at any time from four (4) years prior to the filing of this lawsuit, are or were
5 employed as non-exempt hourly employees by Defendants PACIFIC CHOICE SEAFOOD
6 COMPANY, PACIFIC SEAFOOD, and RESOURCE STAFFING GROUP, INC., and DOES 1
7 through 50” (all defendants being collectively referred to herein as “Defendants”).

8 2. Plaintiff alleges that Defendants, and each of them, violated various provisions of
9 the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the
10 California Business & Professions Code, and seeks redress for these violations.

11 3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared
12 similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3)
13 endured similar violations at the hands of Defendants as the other Class Members who served in
14 similar and related positions.

15 **THE PARTIES**

16 **A. The Plaintiff**

17 4. Plaintiff ANTHONY COE resides in California, during the time period relevant to
18 this Complaint, was employed by Defendants as a non-exempt hourly employee within the State
19 of California.

20 **B. The Defendants**

21 5. Defendant PACIFIC CHOICE SEAFOOD COMPANY is an Oregon corporation
22 and is registered with the California Secretary of State and lists its type of business as “seafood
23 processing.” Defendant PACIFIC CHOICE SEAFOOD COMPANY has been the employer listed
24 on the wage statements and employment records issued to Plaintiff during the relevant time period
25 that Plaintiff was employed with Defendants. Upon information and belief, PACIFIC CHOICE
26 SEAFOOD COMPANY jointly employs Class Members with Defendants PACIFIC SEAFOOD,
27 and RESOURCE STAFFING GROUP, INC.

28 6. Defendant PACIFIC SEAFOOD is a business entity of unknown form and has been

1 the employer listed on the wage statements and employment records issued to Plaintiff during the
2 relevant time period that Plaintiff was employed with Defendants. Upon information and belief,
3 PACIFIC SEAFOOD jointly employs Class Members with Defendants PACIFIC CHOICE
4 SEAFOOD COMPANY and RESOURCE STAFFING GROUP, INC.

5 7. Defendant RESOURCE STAFFING GROUP, INC. is an Oregon corporation and
6 is registered with the California Secretary of State and lists its type of business as “staffing
7 service”. Defendant RESOURCE STAFFING GROUP, INC., has been the employer listed on the
8 wage statements and employment records issued to Plaintiff during the relevant time period that
9 Plaintiff was employed with Defendants. Upon information and belief, RESOURCE STAFFING
10 GROUP, INC jointly employs Class Members with Defendants PACIFIC CHOICE SEAFOOD
11 COMPANY and PACIFIC SEAFOOD.

12 8. The true names and capacities, whether individual, corporate, associate, or
13 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
14 unknown to Plaintiff, who therefore sue these Defendants by such fictitious names under Code of
15 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
16 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
17 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
18 this Complaint to reflect the true names and capacities of the Defendants designated herein as
19 Does 1 through 50 when their identities become known.

20 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
21 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
22 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
23 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
24 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
25 exercised control over the wages, hours or working conditions of Class Members, or suffered or
26 permitted Class Members to work, or engaged, thereby creating a common law employment
27 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
28 employed Class Members.

10. Whenever and wherever reference is made in this Complaint to any act by a defendant or defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each defendant acting individually, jointly, and severally.

11. Whenever and wherever reference is made to individuals who are not named as a Defendant in this Complaint but were agents, servants, employees and/or supervisors of Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope of their employment.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and liabilities giving rise to this lawsuit occurred in part in Sacramento County. Defendants maintain and operate facilities in Sacramento County, and employs Class Members in Sacramento County, while doing business throughout California.

FACTUAL BACKGROUND

13. Class Members consistently worked at Defendants behest without being paid all wages due. Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Class Members all wages due and owing, including by requiring off the clock work, failing to pay for reporting time pay, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages; failing to maintain accurate records, and failing to reimburse for necessary business expenses all in violation of various provisions of the California Labor Code and applicable Wage Orders.

14. During the course of Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Specifically, at the beginning of the Class Members' shift, they had to put on their protective gear

1 and then clock into the timekeeping system and also towards the end of their shift they had to
2 clock out of the timekeeping system and then take their protective gear off. Additionally, Class
3 Members had to wait in line to use the timekeeping system before they were able to clock in.

4 15. Additionally, Defendant required Class Members to report for regularly scheduled
5 work day to be told whether work was available for them or not, and when there was no work
6 available, Class Members would be sent home after waiting for as many as several hours. On such
7 days when Defendant required Class Members to report to work only to be sent home because
8 work was not available, they were not paid required reporting time wages for the hours they
9 waited without receiving their regular hourly rate of pay for them. When they were thereafter sent
10 home by Defendants because work was not available on that day, Defendant failed to pay them
11 reporting time pay.

12 16. By implementing policies, programs, practices, procedures and protocols which
13 resulted in off the clock work and the lack of compensation for reporting time pay and
14 systematically failed to pay for all hours worked, Defendants' willful actions resulted in the
15 systematic underpayment of wages to Class Members, including underpayment of overtime pay to
16 Class Members over the relevant time period. For example, the above described off the clock work
17 addressed above caused Plaintiff to begin receiving overtime pay later than they should have.

18 17. As a result of the above described requirements to work off the clock and the lack
19 of compensation for reporting time pay and the other wage violations they endured at Defendants'
20 hands, Class Members were not properly paid all wages earned and all wages owed to them by
21 Defendants, including when working more than eight (8) hours in any given day and/or more than
22 forty (40) hours in any given week.

23 18. As a result of Defendants' unlawful policies and practices, Class Members incurred
24 overtime hours worked for which they were not adequately and completely compensated, in
25 addition to the hours they were required to work off the clock. To the extent applicable,
26 Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for
27 the first eight hours of the seventh consecutive work day in a week and overtime payments at the
28 rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work

1 day, as required under the Labor Code and applicable IWC Wage Orders.

2 19. Therefore, from at least four (4) years prior to the filing of this lawsuit and
3 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
4 Members for all hours worked, and failing to pay minimum wages for all time worked, as required
5 by California law. Defendants thus failed to pay Class Members at least minimum wages for all
6 the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage
7 Orders as the actual times when Class Members were under the control and direction of
8 Defendants was under reported in the hours reflected on the timekeeping records. Furthermore,
9 Defendants' willful actions resulted in the systematic underpayment of wages to Class Members,
10 including underpayment of overtime pay to Class Members over a period of time.

11 20. Therefore, from at least four (4) years prior to the filing of this lawsuit and
12 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
13 Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit
14 and continuing to the present, Defendants also had a consistent policy or practice of failing to pay
15 Class Members their true and correct overtime compensation at premium overtime rates for all
16 hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time
17 rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510
18 and the corresponding sections of IWC Wage Orders.

19 21. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
20 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
21 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
22 ordered by Defendants for more than five (5) hours during a shift but were often required to do so
23 without receiving a lawful and timely meal break. In addition to untimely meal periods,
24 Defendants also required Class Members to respond to work demands. Defendants placed their
25 needs over Class Members lawful meal and rest breaks and this resulted in Class Members often
26 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
27 ones, because the demands of the job would not avail them the opportunity to take a lawfully
28 uninterrupted and off duty meal and/or rest break.

1 22. On the occasions when Class Members worked over 10 hours in a shift, Defendants
2 also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a
3 result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid
4 meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by
5 Defendants' business records, or lack thereof. Defendants also failed to pay Class Members
6 "premium pay," i.e., one hour of wages at each Class Member's effective hourly rate of pay, for
7 each meal period or rest break that Defendants failed to provide or deficiently provided.

8 23. Therefore, for at least four years prior to the filing of this action and through to the
9 present, Defendants have regularly required Class Members to work shifts in excess of five (5)
10 hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes,
11 and shifts in excess of (10) hours without providing them with second meal periods of not less
12 than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of
13 wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants
14 failed to provide or deficiently provided.

15 24. Meal period violations thus occurred in one or more of the following manners:

- 16 (a) Class Members were not provided full thirty-minute duty free meal periods
17 for work days in excess of five (5) hours and were not compensated one (1)
18 hour's wages in lieu thereof, all in violation of, among others, Labor Code
19 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
20 Order(s);
- 21 (b) Class Members were not provided second full thirty-minute duty free meal
22 periods for work days in excess of ten (10) hours;
- 23 (c) Class Members were required to work through at least part of their daily
24 meal period(s);
- 25 (d) Meal periods were provided after five (5) hours of continuous work during
26 a shift; and
- 27 (e) Class Members were restricted in their ability to take a full thirty-minute
28 meal period.

1 25. Class Members were also not authorized and permitted to take lawful rest periods,
2 were systematically required by Defendants to work through or during breaks and were not
3 provided with one (1) hour's wages in lieu thereof. Class Members were restricted in their ability
4 to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest
5 periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the
6 present, Defendants have consistently failed to provide Class Members with paid rest breaks of not
7 less than ten minutes for every work period of four or more consecutive hours; or major fraction
8 thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest
9 breaks were not provided or were deficiently provided.

10 26. Rest period violations therefore arose in one or more of the following manners:

- 11 (a) Class Members were required to work without being provided a minimum
12 ten (10) minute rest period for every four (4) hours or major fraction
13 thereof worked and were not compensated one (1) hour of pay at their
14 regular rate of compensation for each workday that a rest period was not
15 provided;
- 16 (b) Class Members were not authorized and permitted to take timely rest
17 periods for every four hours worked, or major fraction thereof; and
- 18 (c) Class Members were required to remain on-duty during rest periods or
19 otherwise had their rest periods interrupted by work demands.

20 27. Defendants also consistently failed to issue accurate itemized wage statements as
21 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed
22 to accurately account for unpaid wages and overtime because their actual hours worked were
23 under-reported due to off the clock work and also because Defendants failed to pay them for
24 reporting time pay. Additionally, the wage statements given to Class Members failed to accurately
25 account for premium pay for deficiently provided meal periods and rest breaks.

26 28. From at least four (4) years prior to filing this lawsuit and continuing to the present,
27 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class
28 Members at the time of their termination of within seventy-two (72) hours of their resignation, as

1 required by California wage-and-hour laws. Specifically, Defendants failed to pay Plaintiff for all
2 wages due and certain at the time of his termination in compliance with Labor Code §§ 201-203.
3 Instead, Defendants waited until the next scheduled pay date to give Plaintiff his final check which
4 was two weeks after he had been terminated. Upon information and belief, Defendants
5 implemented the same policy and procedure for Class Members as well. Additionally, these Class
6 Members were not paid all regular and overtime wages because Defendants failed to pay for all
7 hours worked including for reporting time pay and also for off the clock work. Additionally,
8 Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as
9 further detailed in this Complaint. Defendants' failure to pay said wages within the required time
10 was willful within the meaning of Labor Code § 203.

11 29. Additionally, from at least four (4) years prior to the filing of this lawsuit and
12 continuing to the present, Defendants have regularly required Class Members to incur business
13 expenses in the course of performing their required job duties for Defendants, namely, the cost of
14 cellular telephone services which Class Members were required to use in order to execute their
15 duties under Defendants' employ. These expenses incurred by Class Members were necessary and
16 required of them in performing their assigned job duties, but Defendants failed to reimburse Class
17 Members for all such necessary expenditures, thus entitling them to reimbursement according to
18 proof as required under Labor Code § 2802 and the applicable provisions of the IWC Wage
19 Orders.

20 30. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
21 *inter alia*, Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,
22 1185, 1194, 1194.2, 1197, 1199, 2802, 2698, and 2699 *et seq.* and California Code of Regulations,
23 Title 8, section 11000 *et seq.*

24 31. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
25 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
26 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
27 fraudulent practices alleged in this Complaint.

28 **CLASS ALLEGATIONS**

- 1 32. Plaintiff seeks to represent the Subclasses composed of and defined as follows:
- 2 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
- 3 compensated for all hours worked for Defendants at the applicable minimum wage.
- 4 b. Subclass 3. Meal Period Subclass. All Class Members who were subject to
- 5 Defendants' policy and/or practice of failing to provide unpaid 30-minute
- 6 uninterrupted and duty-free meal periods or one hour of pay at the Class Member's
- 7 regular rate of pay in lieu thereof.
- 8 c. Subclass 4. Rest Break Subclass. All Class Members who were subject to
- 9 Defendants' policy and/or practice of failing to authorize and permit Class
- 10 Members to take uninterrupted, duty-free, 10-minute rest periods for every four
- 11 hours worked, or major fraction thereof, and failing to pay one hour of pay at the
- 12 Class Member's regular rate of pay in lieu thereof.
- 13 d. Subclass 5. Wages and Overtime Subclass. All Class Members who were not
- 14 compensated for all hours worked for Defendants at the required rates of pay,
- 15 including for all hours worked in excess of eight in a day and/or forty in a week.
- 16 e. Subclass 6. Reporting Time Pay Subclass. All Class Members who, within the
- 17 applicable limitations period, were not paid reporting time pay.
- 18 f. Subclass 7. Wage Statement Subclass. All Class Members who, within the
- 19 applicable limitations period, were not provided with accurate itemized wage
- 20 statements.
- 21 g. Subclass 8. Termination Pay Subclass. All Class Members who, within the
- 22 applicable limitations period, either voluntarily or involuntarily separated from
- 23 their employment and were subject to Defendants' policy and/or practice of failing
- 24 to timely pay wages upon termination.
- 25 h. Subclass 9: Failure to Timely Pay Wages Twice Monthly Subclass. All Class
- 26 Members who were subject to Defendants' policy and practice of not timely paying
- 27 all wages earned when they were due and payable at least twice monthly.
- 28 i. Subclass 10. Expense Reimbursement Subclass. All Class Members who

1 incurred necessary and reasonable expenses in connection with performing
2 their job duties for Defendant and who were subject to a policy and/or
3 practice under which such expenses were not reimbursed.

4 j. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a
5 result of Defendants' business acts and practices, to the extent such acts and
6 practices are found to be unlawful, deceptive, and/or unfair.

7 33. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
8 modify the class description with greater particularity or further division into subclasses or
9 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
10 against Defendants, the Class Period should be adjusted accordingly.

11 34. Defendants, as a matter of company policy, practice and procedure, and in violation
12 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
13 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
14 in a practice whereby Defendants failed to correctly calculate compensation for the time worked
15 by Class Members, even though Defendants enjoyed the benefit of this work, required Class
16 Members to perform this work and permitted or suffered to permit this work. Defendants have
17 uniformly denied these Class Members wages to which these employees are entitled in order to
18 unfairly cheat the competition and unlawfully profit.

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

22 **A. Numerosity**

23 36. The potential members of the class as defined are so numerous that joinder of all
24 the member of the class is impracticable. While the precise number of class member has not been
25 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
26 time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within
27 the State of California.

28 37. Accounting for employee turnover during the relevant time period increases this

number substantially. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

38. There are questions of law and fact common to the Class that predominates over any questions affecting only individual Class Members. These common questions of law and fact include:

- a. Whether Defendants failed to pay Class Members minimum wages;
- b. Whether Defendants failed to pay Class Members wages for all hours worked;
- c. Whether Defendants failed to pay Class Members overtime as required under Labor Code § 510;
- d. Whether Defendant failed to pay reporting time pay;
- f. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;
- g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- h. Whether Defendants' conduct was willful;
- i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;
- j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;
- k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- l. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;
- m. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal

periods or premium pay in lieu thereof;

n. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Class Members to take requisite rest breaks or provide premium pay in lieu thereof;

o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

p. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

39. The claims of the named plaintiff is typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

40. Plaintiff will fairly and adequately represent and protect the interest of the Class Members. Counsel who represents Class Members are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

41. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to all Class Members predominate over any questions affecting only individual Class Members. Each Class Member has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Class Members properly.

42. As to the issues raised in this case, a class action is superior to all other methods for the fair and efficient adjudication of this controversy, as joinder of all Class Members is impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class Members. Further, as the economic or other loss suffered by vast numbers of Class Members may be relatively small, the expense and burden of individual actions makes it difficult for the Class

Members to individually redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered, a class action is the only mechanism that will permit the employment of a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in managing this case as a class action, and proceeding on a class-wide basis will permit Class Members to vindicate their rights for violations they endured which they would otherwise be foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

43. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment. Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would set forth the subject and nature of the instant action. The Defendants' own business records can be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notice is required additional media and/or mailings can be used.

44. Defendants, as prospective and actual employers of the Class Members, had a special fiduciary duty to disclose to prospective Class Members the true facts surrounding Defendants' pay practices, policies and working conditions imposed upon Class Members as well as the effect of any alleged arbitration agreements that may have been forced upon them. In addition, Defendants knew they possessed special knowledge about pay practices and policies, most notably intentionally refusing to pay for all hours actually worked which should have been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements and policies and practices on Class Members.

45. Class Members did not discover the fact that they were entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about Plaintiff's and the Class' waiver of their Constitutional rights of trial by jury, right to collectively organize and oppose unlawful pay practices under California law as well as obtain injunctive relief preventing such practices from continuing. As a result, the applicable statutes of limitation were tolled until such time as Plaintiff and the Class Members discovered their claims.

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

46. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

47. Defendants failed to pay Class Members minimum wages for all hours worked. Defendants had a consistent policy of misstating Class Members' time records and failing to pay Class Members for all hours worked. Class Members would work hours and not receive wages, including as alleged above in connection with off the clock work. Defendants, and each of them, have intentionally and improperly changed, adjusted and/or modified the hours of Class Members, which resulted in off the clock work and underpayment of all wages owed to Class Members over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Class Members, to their detriment. Additionally, Defendants had a consistent policy of failing to pay Class Members for hours worked during alleged meal and rest periods for which Class Members were consistently denied, as also addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Class Members as to minimum wage pay.

48. In California, employees must be paid at least the then applicable state minimum wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

49. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

50. The applicable minimum wages fixed by the commission for work during the relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

51. The minimum wage provisions of California Labor Code are enforceable by private

1 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
2 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
3 overtime compensation applicable to the employee is entitled to recover in a civil action the
4 unpaid balance of the full amount of this minimum wage or overtime compensation, including
5 interest thereon, reasonable attorney’s fees and costs of suit.”

6 52. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
7 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
8 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
9 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
10 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
11 be used as a credit against a minimum wage obligation.

12 53. In committing these violations of the California Labor Code, Defendants
13 inaccurately recorded, or required Class Members to input times that did not reflect their actual
14 hours worked, or calculated the correct time worked and consequently underpaid the actual time
15 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all
16 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
17 Commission requirements and other applicable laws and regulations. As a result of these
18 violations, Defendant also failed to timely pay all wages earned in accordance with California
19 Labor Code § 1194.

20 54. California Labor Code § 1194.2 also provides for the following remedies: “In any
21 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
22 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
23 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

24 55. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
25 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
26 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
27 employee minimum wages.

28 56. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to

1 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

2 57. Defendants have the ability to pay minimum wages for all time worked and have
3 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
4 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

5 58. Wherefore, Class Members are entitled to recover the unpaid minimum wages
6 (including double minimum wages), liquidated damages in an amount equal to the minimum
7 wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant
8 to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request
9 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
10 assessment of any statutory penalties against Defendants, in a sum as provided by the California
11 Labor Code, including § 558, and/or other applicable statutes.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

14 **(Against All Defendants)**

15 59. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 60. California Labor Code § 1194 provides that "any employee receiving less than the
18 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
19 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
20 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
21 may be maintained directly against the employer in an employee's name without first filing a
22 claim with the Division of Labor Standards and Enforcement.

23 61. By their conduct, as set forth herein, Defendants violated California Labor Code §
24 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class
25 Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8)
26 hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours
27 worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for
28 hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of

1 eight (8) hours on any seventh day of work in a workweek.

2 62. Defendants had a consistent policy of not paying Class Members wages for all
3 hours worked, including by requiring off the clock work as addressed above. Defendants, and each
4 of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain
5 employees' hours, including Plaintiff's, in order to avoid paying Class Members all earned and
6 owed straight time and overtime wages and other benefits, in violation of the California Labor
7 Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by
8 the Division of Labor Standards and Enforcement. Defendants have also violated these provisions
9 by requiring Class Members to work through portions of their meal period. Therefore, Class
10 Members were not properly compensated, nor were they paid overtime rates for hours worked in
11 excess of eight hours in a given day, and/or forty hours in a given week. Based on information and
12 belief, Defendants did not make available to Class Members a reasonable protocol for correcting
13 time records when Class Members worked overtime hours or to fix incorrect time entries.

14 63. Defendants' failure to pay Class Members the unpaid balance of regular wages
15 owed and overtime compensation, as required by California law, violates the provisions of Labor
16 Code §§ 510 and 1198, and is therefore unlawful.

17 64. Additionally, Labor Code § 558(a) provides "any employer or other person acting
18 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
19 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
20 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
21 pay period for which the employee was underpaid in addition to an amount sufficient to recover
22 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
23 underpaid employee for each pay period for which the employee was underpaid in addition to an
24 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
25 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
26 this section are in addition to any other civil or criminal penalty provided by law." Defendants
27 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
28 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor

1 Code § 558.

2 65. Defendants' failure to pay compensation in a timely fashion also constituted a
3 violation of California Labor Code § 204, which requires that all wages shall be paid
4 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
5 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
6 and overtime compensation earned by Class Members. Each such failure to make a timely
7 payment of compensation to Class Members constitutes a separate violation of California Labor
8 Code § 204.

9 66. Class Members have been damaged by these violations of California Labor Code
10 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

11 67. Consequently, pursuant to the California Labor Code, including Labor Code §§
12 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
13 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
14 compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the
15 assessment of any statutory penalties against Defendants, and each of them, and any additional
16 sums as provided by the Labor Code and/or other statutes.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY REPORTING TIME PAY**

19 **(Against all Defendants)**

20 68. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 69. Section 5(A) of the applicable Wage Order(s), requires that for "[E]ach workday an
23 employee is required to report for work and does report, but is not put to work or is furnished less
24 than half said employee's usual or scheduled day's work, the employee shall be paid for half the
25 usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4)
26 hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

27 70. As addressed in detail above, Defendants followed a uniform policy of failing to
28 pay reporting time pay on in accordance with the applicable IWC Wage Order requirements. For

1 example, Defendant required Class Members to report for regularly scheduled work day to be told
2 whether work was available for them or not, and when there was no work available, Class
3 Members would be sent home after waiting for as many as several hours. On such days when
4 Defendant required Class Members to report to work only to be sent home because work was not
5 available, they were not paid required reporting time wages for the hours they waited without
6 receiving their regular hourly rate of pay for them. When they were thereafter sent home by
7 Defendants because work was not available on that day, Defendant failed to pay them reporting
8 time pay.

9 71. Plaintiff brings this claim for failure to pay reporting time pay as required by
10 Section 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which
11 instructs that: “the maximum hours of work and the standard conditions of labor fixed by the
12 commission shall be the maximum hours of work and the standard conditions of labor for
13 employees. The employment of any employee for longer hours than those fixed by the order or
14 under conditions of labor prohibited by the order is unlawful.”

15 72. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class
16 members, despite the fact that they were required by Defendants to report for work and were under
17 Defendants’ control during these times and were unable to use their time for their own purposes.
18 The failure to pay for reporting time pay is a violation of the California wage orders and is a
19 failure to pay all wages owed, which is a violation of Labor Code §1198.

20 73. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class
21 members are entitled to recover civil penalties, in addition to other penalties, for each underpaid
22 Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50 for the initial
23 violation and \$100 for subsequent violations during each relevant pay period when Defendants
24 failed to pay reporting time pay. These reporting time pay violations also give rise to violations of
25 Labor Code §§ 203, 226, and under the PAGA.

26 74. Accordingly, Plaintiff seeks to recover unpaid reporting time pay which Defendants
27 failed to pay Plaintiff and the Class members pursuant to Sections 5(A) and 20(A) of the
28 applicable IWC Wage Orders and civil penalties and attorneys’ fees and costs as may be

1 authorized.

2 **FOURTH CAUSE OF ACTION**
3 **VIOLATION OF LABOR CODE § 226(a)**
4 **(Against All Defendants)**

5 75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
6 full herein.

7 76. California Labor Code § 226(a) requires an employer to furnish each of his or her
8 employees with an accurate, itemized statement in writing showing the gross and net earnings,
9 total hours worked, and the corresponding number of hours worked at each hourly rate; these
10 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
11 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
12 statements may be given to the employee separately from the payment of wages; in either case the
13 employer must give the employee these statements twice a month or each time wages are paid.

14 77. Defendants failed to provide Class Members with accurate itemized wage
15 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
16 Class Members failed to accurately account for unpaid wages and overtime because their actual
17 hours worked were under-reported due to off the clock work and also because Defendants failed to
18 pay them for reporting time pay. Additionally, the wage statements given to Class Members failed
19 to accurately account for premium pay for deficiently provided meal periods and rest breaks.

20 78. Throughout the liability period, Defendants intentionally failed to furnish to Class
21 Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages
22 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
23 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
24 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
25 only the last four digits of his or her social security number or an employee identification number
26 other than a social security number, (8) the name and address of the legal entity that is the
27 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
28 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,

1 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
2 Class Members with such timely and accurate wage and hour statements.

3 79. Class Members suffered injury as a result of Defendants' knowing and intentional
4 failure to provide them with the accurate wage and hour statements as required by law and are
5 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
6 Defendants have failed to provide wage statements with accurate and complete information as
7 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class
8 Members cannot promptly and easily determine from the wage statement alone one or more of the
9 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
10 period or any of the other information required to be provided on the itemized wage statement
11 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the
12 employer made from gross wages to determine the net wages paid to the employee during the pay
13 period, (iii) The name and address of the employer and, (iv) The name of the employee and only
14 the last four digits of his or her social security number or an employee identification number other
15 than a social security number. For purposes of Labor Code § 226(e) "promptly and easily
16 determine" means a reasonable person [i.e. an objective standard] would be able to readily
17 ascertain the information without reference to other documents or information.

18 80. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
19 § 226(a), Class Members suffered injuries, including among other things confusion over whether
20 they received all wages owed them, the difficulty and expense involved in reconstructing pay
21 records, and forcing them to make mathematical computations to analyze whether the wages paid
22 in fact compensated them correctly for all hours worked.

23 81. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC
24 Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual
25 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
26 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
27 penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and
28 reasonable attorneys' fees.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

82. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

83. Numerous Class Members, including Plaintiff, are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

84. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

85. The wages withheld from these Class Members by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

86. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Defendants failed to pay Plaintiff for all wages due and certain at the time of his termination in compliance with Labor Code §§ 201-203. Instead, Defendants waited until the next scheduled pay date to give Plaintiff his final check which was two weeks after he had been terminated. Upon information and belief, Defendants implemented the same policy and procedure for Class Members as well. Additionally, these Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked including for reporting time pay and also for off the clock work. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

87. Defendants' failure to pay wages, as alleged entitles these Class Members to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

1 88. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
2 full herein.

3 89. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
4 employment are due and payable twice during each calendar month, on days designated in
5 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
6 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
7 during which the labor was performed, and labor performed between the 16th and the last day,
8 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
9 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of
10 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
11 calendar days following the close of the payroll period.” As detailed above, Defendants
12 maintained a consistently applied policy and practice of not paying all wages earned between the
13 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
14 between the 16th and the last day of the month between the 1st and 10th day of the following month.
15 Defendants similarly failed to pay all wages earned by not more than seven calendar days
16 following the close of the payroll period. These failures all arose from Defendants’ failure to pay
17 for all hours worked.

18 90. All wages due and owing to Plaintiff and the Class Members, including as required
19 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
20 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
21 payable to each Class Member in each pay period that he or she was not provided with a meal
22 period or rest period or paid straight or overtime wages or commissions to which he or she was
23 entitled.

24 91. Defendants thus violated Labor Code § 204 by systematically refusing to pay
25 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
26 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
27 payday for the period involved, not less than the applicable minimum wage for all hours worked in
28 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer

1 hours than those fixed by the order or under conditions of labor prohibited by the order is
2 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
3 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
4 penalties under paragraph 20 of the applicable IWC Wage Orders.

5 92. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to
6 represent they have been deprived of wages in amounts to be determined at trial, and they are
7 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
8 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
9 applicable IWC Wage Orders.

10 **SEVENTH CAUSE OF ACTION**

11 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
12 **AND 1174.5**

13 **(Against All Defendants)**

14 93. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 94. California Labor Code § 1174 requires that all employers shall keep accurate time
17 and wage records for all employees. California Labor Code § 1174.5 further requires that any
18 employee suffering injury due to a willful violation of the aforementioned obligations may seek
19 damages, including civil penalties, from the employer.

20 95. During the course of Plaintiff’s and Class Members’ employment, Defendants
21 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
22 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper
23 wages, overtime, and premium pay as discussed above.

24 96. Accordingly, Defendants are liable for civil penalties pursuant to the California
25 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

26 **EIGHTH CAUSE OF ACTION**

27 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**
28 **(Against All Defendants)**

97. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in full herein.

98. Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures 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.

99. Defendants have regularly required Class Members to incur business expenses in the course of performing their required job duties for Defendants, namely, the cost of cellular telephone services which Class Members were required to use in order to execute their duties under Defendants' employ. These expenses incurred by Class Members were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary expenditures. Class Members were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

100. As a result of the unlawful acts of Defendants, Class Members have been deprived of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

NINTH CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

102. Class Members regularly worked shifts greater than five (5) hours and in some instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second meal period of not less than thirty (30) minutes.

103. Defendants failed to provide Class Members with meal periods as required under

1 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
2 resulted in Class Members consistently having to work through their scheduled meal breaks
3 because the demands of the job would not avail them the opportunity to take a lawfully
4 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
5 when Class Members worked more than ten (10) hours in a given shift, they did so without
6 receiving a second uninterrupted thirty (30) minute meal period as required by law.

7 104. Defendants thus failed to provide Class Members with meal periods as required by
8 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
9 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
10 during breaks.

11 105. Moreover, Defendants failed to compensate Class Members for each meal period
12 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
13 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
14 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
15 pay at the employee's regular rate of compensation for each workday that the meal period is not
16 provided. Defendants failed to compensate Class Members for each meal period not provided or
17 inadequately provided, as required under Labor Code § 226.7.

18 106. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
19 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
20 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a
21 sum to be proven at trial, as well as the assessment of any statutory penalties against the
22 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

23 **TENTH CAUSE OF ACTION**

24 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

25 **(Against All Defendants)**

26 107. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 108. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders

1 provide that employers must authorize and permit all employees to take rest periods at the rate of
2 ten (10) minutes net rest time per four (4) work hours.

3 109. Class Members consistently worked consecutive four (4) hour shifts and were
4 generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to
5 authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC
6 Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for
7 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely
8 rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants
9 placed their needs over Class Members lawful rest breaks and this resulted in Class Members
10 consistently having to work through their scheduled rest breaks because the demands of the job
11 would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break.
12 Thus, Class Members were consistently denied of their rest breaks.

13 110. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
14 provide that if an employer fails to provide an employee rest period in accordance with this
15 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
16 compensation for each workday that the rest period is not provided.

17 111. Defendants, and each of them, have therefore intentionally and improperly denied
18 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
19 the applicable IWC Wage Orders.

20 112. Defendants failed to authorize and permit Class Members to take rest periods, as
21 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
22 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
23 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

24 113. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
25 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
26 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
27 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
28 of them, in a sum as provided by the Labor Code and/or other statutes.

ELEVENTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*
(Against All Defendants)

114. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

115. Plaintiff, on behalf of himself, Class Members, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class Members and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

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

117. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices. By the conduct alleged herein, Defendants’ practices were deceptive and fraudulent in that Defendants’ policy and practice failed to provide the required amount of compensation for missed meal and rest breaks, and failed to adequately compensate Class Members for all hours worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

118. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to

1 comply with minimum labor standards.

2 119. Defendants have violated statutes and public policies. Through the conduct alleged
3 in this Complaint Defendants have acted contrary to these public policies, have violated specific
4 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
5 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
6 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
7 guaranteed to all employees under the law.

8 120. Defendants' conduct, as alleged above, constitutes unfair competition in violation
9 of the Business & Professions Code § 17200 *et seq.*

10 121. Defendants, by engaging in the conduct herein alleged, by failing to pay wages
11 overtime, and by failing to provide meal periods and rest breaks, etc., either knew or in the
12 exercise of reasonable care should have known that their conduct was unlawful; therefore their
13 conduct violates the Business & Professions Code § 17200 *et seq.*

14 122. By the conduct alleged herein, Defendants have engaged and continue to engage in
15 a business practice which violates California and federal law, including but not limited to, the
16 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
17 Code including Sections 203, 204, 226, 1194, 1197, and 1198, for which this Court should issue
18 declaratory and other equitable relief pursuant to California Business & Professions Code § 17203
19 as may be necessary to prevent and remedy the conduct held to constitute unfair competition,
20 including restitution of wages wrongfully withheld.

21 123. As a proximate result of the above-mentioned acts of Defendants, Class Members
22 have been damaged, in a sum to be proven at trial.

23 124. Unless restrained by this Court Defendants will continue to engage in such
24 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
25 should make such orders or judgments, including the appointment of a receiver, as may be
26 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
27 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
28 disgorgement of such profits as may be necessary to restore Class Members to the money

Defendants have unlawfully failed to pay.

TWELTH CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.*

(Against All Defendants)

125. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

126. Plaintiff and the Class Members are also aggrieved employees as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were or are employed by the alleged violators, Defendants.

127. In failing to pay Aggrieved Employees minimum wages and overtime, failing to provide accurate itemized wage statements, and failing to pay Aggrieved Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders.

128. As such, Class Members seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1199, 2802, 2698, and 2698 *et seq.*

129. More specifically, after complying with the notice procedures of Labor Code § 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime

1 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
2 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
3 all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2,
4 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor
5 Code § 2699(g)(1);

6 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
7 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
8 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
9 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
10 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
11 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
12 558, including sections 558(a)(1)-(3), 1199, and 2699(f)(2), and also for attorneys' fees and costs
13 pursuant to Labor Code § 2699(g)(1);

14 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
15 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
16 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
17 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
18 all civil and statutory penalties available and applicable under Labor Code §§ 226(e), 226.3, 558,
19 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for
20 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing
21 inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a),
22 Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3,
23 which in addition to other penalties provided by law, subjects Defendants to "a penalty in the
24 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one
25 thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

26 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
27 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
28 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available under Labor Code §§ 201, 202,

203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(e) All Alleged Violations of the IWC Wage Orders: For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

130. The penalties shall be allocated under Labor Code § 2699(i) as follows: 75% to the Labor and Workforce Development Agency (LWDA) and 25% to the affected employees.

131. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks the penalties set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

132. Plaintiff has exhausted his administrative remedy by sending a certified letter to the LWDA and Defendants postmarked on **January 31, 2020** and an amended letter on **April 9, 2024** addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

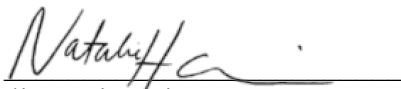
1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Class Members and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Class Members for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be proven;
8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;
10. For restitution and/or damages for all amounts unlawfully withheld from the wages for all Class Members in violation of Labor Code § 2802, as may be proven;
11. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
12. For an order enjoining Defendants and their agents, servants, and employees, and

1 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
2 duties adumbrated in this Complaint;

- 3 13. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
- 4 14. For other wages and penalties under the Labor Code as may be proven;
- 5 15. For other wages and penalties under the Labor Code as may be proven;
- 6 16. For all general, special, and incidental damages as may be proven;
- 7 17. For an award of pre-judgment and post-judgment interest;
- 8 18. For an award providing for the payment of the costs of this suit;
- 9 19. For an award of attorneys' fees; and
- 10 20. For such other and further relief as this Court may deem proper and just.

11
12 DATED: April 9, 2024

D.LAW, INC.

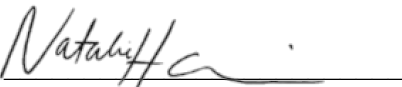
13
14 By: 
15 Natalie Haritounian
16 Attorneys for Plaintiff ANTHONY COE, and
17 all others similarly situated
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DEMAND FOR JURY TRIAL

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

DATED: April 9, 2024

D.LAW, INC.

By: 
Natalie Haritounian
Attorneys for Plaintiff ANTHONY COE, and
all others similarly situated