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on behalf of himself and others similarly situated
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF KERN**

10 DAVID AVALOS, an individual on behalf of
11 himself and all others similarly situated,

12 Plaintiff,

13 vs.

14 E. E. HALL, INC., a California corporation;
15 SANDRIDGE PARTNERS, L.P, a limited
partnership; and DOES 1 through 50,
inclusive,

16 Defendants.
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Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 203;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 221;
9. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
10. Failure to Reimburse Necessary Business Expenses § 2802; and
11. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff DAVID AVALOS (“Plaintiff”) brings this action on behalf of himself and the Class Members who are defined as “all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendants E.E. HALL, INC., SANDRIDGE PARTNERS, L.P., and DOES 1 through 50” (all defendants being collectively referred to herein as “Defendants”).

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

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

THE PARTIES

A. The Plaintiff

4. Plaintiff DAVID AVALOS resides in California, and during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee based out of Defendants’ location in Buttonwillow, California.

B. The Defendants

5. Defendant E.E. HALL, INC. is a California corporation and describes itself as “farm labor management” on the California Secretary of State. Defendant E.E. HALL, INC., has been the employer listed on the wage statements and employment records issued to Plaintiff during the relevant time period that Plaintiff was employed with Defendants. Upon information and belief, E.E. HALL, INC. jointly employs Class Members with Defendant SANDRIDGE PARTNERS, L.P.

6. Defendant SANDRIDGE PARTNERS, L.P. is a California limited partnership. Defendant SANDRIDGE PARTNERS, L.P. has been the employer listed on the wage statements

1 and employment records issued to Plaintiff during the relevant time period that Plaintiff was
2 employed with Defendants. Upon information and belief, SANDRIDGE PARTNERS, L.P. jointly
3 employs Class Members with E.E. HALL, INC.

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

12 8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
13 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
14 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
15 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
16 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
17 exercised control over the wages, hours or working conditions of Class Members, or suffered or
18 permitted Class Members to work, or engaged, thereby creating a common law employment
19 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
20 employed Class Members.

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

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

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1 hours worked to the detriment of the Class Members. Rather than paying Class Members for all
2 hours and minutes they actually worked, Defendants followed a uniform policy and practice of
3 rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or
4 30-minute time increment), and generally did so to the detriment of the Class Members. Plaintiff
5 contends this policy is not neutral and resulted, over time, to the detriment of the Class Members
6 by systematically under-compensating them. Rather than reflecting the actual hours worked by
7 Class Members, the time entries were rounded and reduced to reflect the time Class Members
8 were scheduled to work. These unlawfully rounded time entries were inputted into Defendants'
9 payroll system from which wage statements and payroll checks were created.

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

16 16. As a result of the above described unlawful rounding, requirements to work off the
17 clock, unlawful timekeeping alterations by Defendants, and the other wage violations they endured
18 at Defendants' hands, Class Members were not properly paid all wages earned and all wages owed
19 to them by Defendants, including when working more than ten (10) hours in any one workday or
20 more than six (6) days in any workweek prior to January 1, 2019 and also nine and a half (9.5)
21 hours in any given day and/or more than fifty-five (55) hours in any given week from January 1,
22 2019.

23 17. 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 when
27 working more than 10 hours in any one workday or more than 6 days in any workweek prior to
28 January 1, 2019 and also 9.5 hours in any given day and/or more than 55 hours in any given week

1 after January 1, 2019 as required under the Labor Code and applicable IWC Wage Orders.

2 18. 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 19. 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 ten (10) hours in any one workday or more than six (6) days in any
17 workweek prior to January 1, 2019, and also nine and a half (9.5) hours in any given day and/or
18 more than fifty-five (55) hours in any given week after January 1, 2019, in violation of Labor
19 Code § 510 and the corresponding sections of IWC Wage Orders.

20 20. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
21 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
22 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
23 ordered by Defendants for more than five (5) hours during a shift, but were often required to do so
24 without receiving a lawful and timely meal break. In addition to untimely meal periods,
25 Defendants also required Class Members to respond to work demands. Defendants placed their
26 needs over Class Members lawful meal and rest breaks. This resulted in Class Members often
27 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
28 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.

21. On the occasions when Class Members 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 Class Members 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 Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided.

22. Therefore, for at least four years prior to the filing of this action and through to the present, Defendants have regularly required Class Members 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 Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided.

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

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

meal period.

24. Class Members 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. Class Members 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, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants have consistently failed to provide Class Members 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 Class Members premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

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

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

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

27. From at least four (4) years prior to filing this lawsuit and continuing to the present,

1 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class
2 Members at the time of their termination of within seventy-two (72) hours of their resignation, as
3 required by California wage-and-hour laws. Specifically, Defendants failed to pay Plaintiff for all
4 wages due and certain at the time of termination in compliance with Labor Code §§ 201-203.
5 Instead, Defendants waited four days to give Plaintiff his final check. Upon information and
6 belief, Defendants implemented the same policy and procedure for Class Members as well.
7 Additionally, these Class Members were not paid all regular and overtime wages because
8 Defendants failed to pay for all hours worked, required off the clock work, and unlawfully
9 rounded time entries to the detriment of Class Members, and Defendants failed to pay premium
10 wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint.
11 Defendants' failure to pay said wages within the required time was willful within the meaning of
12 Labor Code § 203.

13 28. From at least four (4) years prior to the filing of this lawsuit and continuing to the
14 present, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or
15 deducting the Employees' earned wages. By not compensating Employees for all hours worked,
16 Defendant unlawfully deducted wages earned by and owed to Plaintiff and the Class members, in
17 violation of Labor Code § 221.

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

27 30. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
28 *inter alia*, Labor Code §§ 201, 202, 203, 204, 221, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1185,

1 1194, 1194.2, 1197, 1199, and 2802, and California Code of Regulations, Title 8, section 11000 *et*
2 *seq.*

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

7 **CLASS ALLEGATIONS**

8 32. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

9 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
10 compensated for all hours worked for Defendants at the applicable minimum wage.

11 b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not
12 compensated for all hours worked for Defendants at the required rates of pay, including for all
13 hours worked in excess of eight in a day and/or forty in a week.

14 c. Subclass 3. Meal Period Subclass. All Class Members who were subject to
15 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
16 free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

17 d. Subclass 4. Rest Break Subclass. All Class Members who were subject to
18 Defendants' policy and/or practice of failing to authorize and permit Class Members to take
19 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
20 thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu
21 thereof.

22 e. Subclass 5. Wage Statement Subclass. All Class Members who, within the
23 applicable limitations period, were not provided with accurate itemized wage statements.

24 f. Subclass 6. Termination Pay Subclass. All Class Members who, within the
25 applicable limitations period, either voluntarily or involuntarily separated from their employment
26 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
27 termination.

28 g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class

Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Unauthorized Deductions from Wages Subclass. All Class Members who were subject to Defendants' policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work and by rounding down hours worked.

i. Subclass 9. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

j. Subclass 10. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

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

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

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

///

1 **A. Numerosity**

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

7 37. Accounting for employee turnover during the relevant time period increases this
8 number substantially. Plaintiff alleges that Defendants' employment records will provide
9 information as to the number and location of all Class Members.

10 **B. Commonality**

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

- 14 a. Whether Defendants failed to pay Class Members minimum wages;
- 15 b. Whether Defendants failed to pay Class Members wages for all hours worked;
- 16 c. Whether Defendants failed to pay Class Members overtime as required under Labor
17 Code § 510;
- 18 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
19 IWC Wage Orders, by failing to provide Class Members with requisite meal
20 periods or premium pay in lieu thereof;
- 21 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
22 Orders, by failing to authorize and permit Class Members to take requisite rest
23 breaks or provide premium pay in lieu thereof;
- 24 f. Whether Defendants violated Labor Code § 226(a) by providing Class Members
25 with inaccurate wage statements;
- 26 g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
27 wages and compensation due and owing at the time of termination of employment;
- 28 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 § 221;
- m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;
- n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- o. 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

1 by reason of Defendants' illegal policies or practices of failing to compensate Class Members
2 properly.

3 42. As to the issues raised in this case, a class action is superior to all other methods for
4 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
5 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
6 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
7 be relatively small, the expense and burden of individual actions makes it difficult for the Class
8 Members to individually redress the wrongs they have suffered. Moreover, in the event
9 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
10 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
11 managing this case as a class action, and proceeding on a class-wide basis will permit Class
12 Members to vindicate their rights for violations they endured which they would otherwise be
13 foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to
14 them.

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

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

1 and policies and practices on Class Members.

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

8 **FIRST CAUSE OF ACTION**

9 **FAILURE TO PAY MINIMUM WAGES**

10 **(Against All Defendants)**

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

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

27 48. In California, employees must be paid at least the then applicable state minimum
28 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California

1 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
2 timely pay its employees for all hours worked. Defendants failed to do so.

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

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

8 51. The minimum wage provisions of California Labor Code are enforceable by private
9 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
10 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
11 overtime compensation applicable to the employee is entitled to recover in a civil action the
12 unpaid balance of the full amount of this minimum wage or overtime compensation, including
13 interest thereon, reasonable attorney’s fees and costs of suit.”

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

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

28 54. California Labor Code § 1194.2 also provides for the following remedies: “In any

1 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
2 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
3 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

4 55. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
5 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
6 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
7 employee minimum wages.

8 56. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to
9 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

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

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

20 **SECOND CAUSE OF ACTION**

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

22 **(Against All Defendants)**

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

25 60. California Labor Code § 1194 provides that “any employee receiving less than the
26 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
27 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
28 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action

1 may be maintained directly against the employer in an employee's name without first filing a
2 claim with the Division of Labor Standards and Enforcement.

3 61. By their conduct, as set forth herein, Defendants violated California Labor Code §
4 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class
5 Members when working more than ten (10) hours in any one workday or more than six (6) days in
6 any workweek prior to January 1, 2019 and also nine and a half (9.5) hours in any given day
7 and/or more than fifty-five (55) hours in any given week from January 1, 2019.

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

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

25 64. Additionally, Labor Code § 558(a) provides "any employer or other person acting
26 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
27 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
28 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each

1 pay period for which the employee was underpaid in addition to an amount sufficient to recover
2 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
3 underpaid employee for each pay period for which the employee was underpaid in addition to an
4 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
5 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
6 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
7 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
8 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
9 Code § 558.

10 65. Defendants’ failure to pay compensation in a timely fashion also constituted a
11 violation of California Labor Code § 204, which requires that all wages shall be paid
12 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
13 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
14 and overtime compensation earned by Class Members. Each such failure to make a timely
15 payment of compensation to Class Members constitutes a separate violation of California Labor
16 Code § 204.

17 66. Class Members have been damaged by these violations of California Labor Code
18 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

19 67. Consequently, pursuant to the California Labor Code, including Labor Code §§
20 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
21 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
22 compensation, with interest, plus their reasonable attorneys’ fees and costs, as well as the
23 assessment of any statutory penalties against Defendants, and each of them, and any additional
24 sums as provided by the Labor Code and/or other statutes.

25 **THIRD CAUSE OF ACTION**

26 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

27 **(Against All Defendants)**

28 68. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in

1 full herein.

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

7 70. Defendants failed to provide Class Members with meal periods as required under
8 the Labor Code. Specifically, Defendants required Class Members to respond to work demands
9 during meal periods. Defendants placed their needs over Class Members lawful meal breaks. This
10 resulted in Class Members consistently having to work through their scheduled meal breaks
11 because the demands of the job would not avail them the opportunity to take a lawfully
12 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
13 when Class Members worked more than ten (10) hours in a given shift, they did so without
14 receiving a second uninterrupted thirty (30) minute meal period as required by law.

15 71. Defendants thus failed to provide Class Members with meal periods as required by
16 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
17 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
18 during breaks.

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

26 73. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
27 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
28 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a

sum to be proven at trial, 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 and other statutes.

FOURTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

75. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes net rest time per four (4) work hours.

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

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

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

79. Defendants failed to authorize and permit Class Members to take rest periods, as

1 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
2 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
3 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

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

9 **FIFTH CAUSE OF ACTION**
10 **VIOLATION OF LABOR CODE § 226(a)**
11 **(Against All Defendants)**

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

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

21 83. Defendants failed to provide Class Members with accurate itemized wage
22 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
23 Class Members failed to accurately account for unpaid wages and overtime because Defendants
24 had unlawfully rounded time entries to the detriment of the Class Members and their actual hours
25 worked were under-reported and also due to off the clock work. Additionally, the wage statements
26 given to Class Members failed to accurately account for premium pay for deficiently provided
27 meal periods and rest breaks.

28 84. Throughout the liability period, Defendants intentionally failed to furnish to Class

Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226, amongst other statutory requirements. Defendants knowingly and intentionally failed to provide Class Members with such timely and accurate wage and hour statements.

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

86. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Class Members suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay

1 records, and forcing them to make mathematical computations to analyze whether the wages paid
2 in fact compensated them correctly for all hours worked.

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

9 **SIXTH CAUSE OF ACTION**
10 **VIOLATION OF LABOR CODE § 203**
11 **(Against All Defendants)**

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

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

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

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

20 92. Defendants failed to pay Class Members without abatement, all wages as defined
21 by applicable California law. Specifically, Defendants failed to pay Plaintiff for all wages due and
22 certain at the time of termination in compliance with Labor Code §§ 201-203. Instead, Defendants
23 waited four days to give Plaintiff his final check. Upon information and belief, Defendants
24 implemented the same policy and procedure for Class Members as well. Additionally, these Class
25 Members were not paid all regular and overtime wages because Defendants failed to pay for all
26 hours worked, required off the clock work, and unlawfully rounded time entries to the detriment
27 of Class Members, and failed to pay premium wages owed for unprovided meal periods and rest
28 periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the

1 required time was willful within the meaning of Labor Code § 203.

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

5 **SEVENTH CAUSE OF ACTION**
6 **VIOLATION OF LABOR CODE § 204**
7 **(Against All Defendants)**

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

10 95. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
11 employment are due and payable twice during each calendar month, on days designated in
12 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
13 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
14 during which the labor was performed, and labor performed between the 16th and the last day,
15 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
16 month." Additionally, the requirements of this section shall be deemed satisfied by the payment
17 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
18 calendar days following the close of the payroll period." As detailed above, Defendants
19 maintained a consistently applied policy and practice of not paying all wages earned between the
20 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
21 between the 16th and the last day of the month between the 1st and 10th day of the following month.
22 Defendants similarly failed to pay all wages earned by not more than seven calendar days
23 following the close of the payroll period. These failures all arose from either Defendants' failure to
24 pay for all hours worked or failure to pay all earned commission wages.

25 96. All wages due and owing to Plaintiff and the Class Members, including as required
26 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
27 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
28 payable to each Class Member in each pay period that he or she was not provided with a meal

1 period or rest period or paid straight or overtime wages or commissions to which he or she was
2 entitled.

3 97. Defendants thus violated Labor Code § 204 by systematically refusing to pay
4 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
5 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
6 payday for the period involved, not less than the applicable minimum wage for all hours worked in
7 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
8 hours than those fixed by the order or under conditions of labor prohibited by the order is
9 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
10 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
11 penalties under paragraph 20 of the applicable IWC Wage Orders.

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

17 **EIGHTH CAUSE OF ACTION**
18 **VIOLATION OF LABOR CODE § 221**
19 **(Against All Defendants)**

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

22 100. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
23 receive from an employee any part of wages theretofore paid by said employer to said employee.”
24 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
25 public policy, an employer must timely pay its employees for all hours worked. Defendants failed
26 to do so.

27 101. Defendants unlawfully received and/or collected wages from the Employees in the
28 Class by implementing a policy rounding down and understating the hours worked by Employees,

1 by automatically deducting 30 minutes for meal periods when they were not lawfully provided, as
2 alleged above.

3 102. As a direct and proximate cause of the unauthorized deductions, Employees have
4 been damaged, in an amount to be determined at trial.

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
7 **AND 1174.5**

8 **(Against All Defendants)**

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

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

15 105. During the course of Plaintiff's and Class Members' employment, Defendants
16 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
17 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper
18 wages, overtime, and premium pay as discussed above.

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

21 **TENTH CAUSE OF ACTION**

22 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

23 **(Against All Defendants)**

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

26 108. Under Labor Code § 2802(a) an employer must indemnify its employees for all
27 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
28 of his or her duties, or of his or her obedience to the directions of the employer.

109. 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.

110. 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.

ELVENTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

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

112. 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.

113. 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.

114. 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

1 compensation for missed meal and rest breaks, and failed to adequately compensate Class
2 Members for all hours worked, due to systematic business practices as alleged herein that cannot
3 be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission
4 requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for
5 which this Court should issue injunctive and equitable relief, pursuant to California Business &
6 Professions Code § 17203, including restitution of wages wrongfully withheld.

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

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

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

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

26 119. By the conduct alleged herein, Defendants have engaged and continue to engage in
27 a business practice which violates California and federal law, including but not limited to, the
28 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor

1 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, 1198, and 2802 for which this
2 Court should issue declaratory and other equitable relief pursuant to California Business &
3 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
4 constitute unfair competition, including restitution of wages wrongfully withheld.

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

7 121. Unless restrained by this Court Defendants will continue to engage in such
8 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
9 should make such orders or judgments, including the appointment of a receiver, as may be
10 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
11 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
12 disgorgement of such profits as may be necessary to restore Class Members to the money
13 Defendants have unlawfully failed to pay.

14 **RELIEF REQUESTED**

15 WHEREFORE, Plaintiff prays for the following relief:

- 16 1. For an order certifying this action as a class action;
- 17 2. For compensatory damages in the amount of the unpaid minimum wages for work
18 performed by Class Members and unpaid overtime compensation from at least four (4) years prior
19 to the filing of this action, as may be proven;
- 20 3. For liquidated damages in the amount equal to the unpaid minimum wage and
21 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 22 4. For compensatory damages in the amount of all unpaid wages, including overtime
23 and double-time pay, as may be proven;
- 24 5. For compensatory damages in the amount of the hourly wage made by Class
25 Members for each missed or deficient meal period where no premium pay was paid therefor from
26 four (4) years prior to the filing of this action, as may be proven;
- 27 6. For compensatory damages in the amount of the hourly wage made by Class
28 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 all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

13. For other wages and penalties under the Labor Code as may be proven;

14. For all general, special, and incidental damages as may be proven;

15. For an award of pre-judgment and post-judgment interest;

16. For an award providing for the payment of the costs of this suit;

17. For an award of attorneys' fees; and

18. For such other and further relief as this Court may deem proper and just.

DATED: January 17, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

By: 
David Yeremian
Natalie Haritonian
Attorneys for Plaintiff DAVID AVALOS,
and all others similarly situated

DEMAND FOR JURY TRIAL

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

DATED: January 17, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

By: 

David Yeremian

Natalie Haritonian

Attorneys for Plaintiff DAVID AVALOS,
and all others similarly situated