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MICHAEL BLEVINS and FERNANDO GIRON
on behalf of themselves and all other similarly situated
and aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

SANDRA LOPEZ; MICHAEL BLEVINS;
and FERNANDO GIRON, as individuals and
on behalf of all others similarly situated,

Plaintiff,

vs.

MOTEL 6 OPERATING, L.P., a Limited
Partnership; G6 HOSPITALITY LLC and
DOES 2 through 50, inclusive,

Defendants.

Case No. 56-2020-00542312-CU-OE-VTA

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF CAL. LABOR
CODE §§ 226.7, 512, 558, 1198 &
Wage Order 4;
- (2) VIOLATION OF CAL. LABOR
CODE §§ 226.7, 512, 558, 1198 &
Wage Order 4;
- (3) VIOLATION OF CAL. LABOR
CODE §§ 226 & 558;
- (4) VIOLATION OF CAL. BUS. &
PROF. CODE § 17200, *ET SEQ.*
- (5) VIOLATION OF CAL. LABOR
CODE § 2698, *ET SEQ.*
- (6) VIOLATION OF CAL. LABOR
CODE §§ 218.6, 510, 558 & 1194
- (7) VIOLATION OF CAL. LABOR
CODE §§ 558, 1194, 1194.2, 1197,
1198 & Wage Order 4
- (8) VIOLATION OF CAL. LABOR
CODE §§ 201, 202, 203 & 558
- (9) VIOLATION OF CAL. LABOR
CODE §§ 204, 1197.1, 1199, 558 &
Wage Order 4
- (10) VIOLATION OF CAL. LABOR
CODES §§ 218.6, 510, 558, & 1194
- (11) VIOLATION OF CAL. LABOR
CODES §§ 1194.2, 1197 & 1198 &
Wage Order
- (12) VIOLATION OF CAL. LABOR
CODE §§ 2802

DEMAND OVER \$25,000.00

1 Plaintiffs Sandra Lopez; Michael Blevins and Fernando Giron “Plaintiffs”) hereby submit
2 this Class Action Complaint against Defendant MOTEL 6 OPERATING, L.P., a Limited
3 Partnership (“Defendant”) and DOES 2 through 50 (hereinafter collectively referred to as
4 “Defendants”), on behalf of themselves and a class of all other similarly situated current and
5 former employees of Defendants, for premium pay for missed meal and rest periods, failure to
6 pay timely earned wages, penalties under the California Labor Code for other violations, and for
7 restitution as follows:

8 **INTRODUCTION**

9 1. This class action is within the Court’s jurisdiction under California Labor Code
10 sections 201, 202, 203, 226(a), 226.7 and 512, the applicable Wage Orders of the California
11 Industrial Welfare Commission (“IWC”), and the California Unfair Competition Law (the
12 “UCL”), Business and Professions Code section 17200, *et seq.*

13 2. This complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code and the UCL against employees of Defendants.
15 Specifically, Plaintiffs challenge Defendants’ practice of requiring them and other similarly
16 situated workers to work single-employee shifts during which they are not permitted to leave the
17 hotel premises to take off-duty meal and rest breaks and are not compensated with any premium
18 pay for such missed breaks. Plaintiffs also allege:

- 19 • Defendants required, suffered, employed, and/or permitted Plaintiffs and class
20 members to work in excess of regular work hours without the required overtime and/or
21 double time compensation;
- 22 • Defendants failed to properly pay Plaintiffs and class members for all time
23 worked, including at least the state-mandated minimum wages for all hours worked,
24 including, but not limited to, time spent under the direction, supervision and control of
25 Defendants prior to clocking in for shifts, time spent working on the clock but deducted,
26 through manual adjustments and automated timekeeping parameters, and other
27 uncompensated time for which Plaintiffs and class members were subject to their
28 employers’ direction and control;
- Defendants failed to provide Plaintiffs and class members with rest periods
and/or failed to properly compensate Plaintiffs and members of the proposed class for
such malfeasance in providing proper rest periods, as required by Labor Code § 226.7
and Wage Order 4;
- Defendants failed to provide Plaintiffs and class members with duty-free meal
periods of at least thirty minutes and/or failed to properly compensate Plaintiffs and
members of the proposed class for such malfeasance in providing proper meal periods,
as required by Labor Code §§ 226.7 and 512 and Wage Order 4;
- Defendants failed to reimburse reasonable business expenses for Plaintiffs and
class members, in violation of, inter alia, Labor Code § 2802;

- Defendants failed to issue accurate itemized wage statements to their employees, including Plaintiffs and the class members, in violation of, inter alia, Labor Code § 226 and Wage Order 4;
- Defendants failed to pay Plaintiffs and members of the Terminated Subclass all wages due upon termination of their employment, in violation of Labor Code §§ 201-204;
- Violating Business and Professions Code §§ 17200 et seq. as further set forth below.

3. Plaintiffs are informed and believe, and based thereon allege, that Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees in Defendants' failure to pay premium pay for missed meal and rest periods and provide accurate itemized wage statements.

4. Plaintiffs are informed and believe, and based thereon allege, that Defendants have engaged in, among other things a system of willful violations of the California Labor Code and the UCL by creating and maintaining policies, practices and customs that knowingly deny employees the above stated rights and benefits.

5. The policies, practices and customs of defendants described above and below have resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

6. Plaintiffs MICHAEL BLEVINS and FERNANDO GIRON additionally seek PAGA penalties on behalf of the LWDA and all aggrieved employees, which includes all current and former exempt and non-exempt employees ("Aggrieved Employees") between January 13, 2019 and through the date of judgment ("PAGA Period").

JURISDICTION AND VENUE

7. This Court has jurisdiction over the violations of California Labor Code sections 201, 202, 203, 226(a), 226.7 and 512 and the UCL.

8. Venue is proper in this Court because Defendants conduct substantial and regular business in Ventura County; currently maintain, and at all relevant times maintained, offices and facilities in Ventura County; and committed the wrongful conduct alleged herein in Ventura County.

PARTIES

9. Plaintiff SANDRA LOPEZ is, and at all times herein mentioned was, a

1 competent adult and resident of Ventura County, California. Plaintiff Lopez is a former
2 employee of Defendant MOTEL 6 OPERATING, L.P. Plaintiff worked for Defendants from
3 approximately June 19, 2019, through April 6, 2020 and has been employed by Defendants for
4 the Class Period. Plaintiff SANDRA LOPEZ is a member of the Non-Exempt Employee
5 Classes.

6 10. Plaintiff Michael Blevins has been employed by Defendants during the Class
7 Period. Plaintiff Blevins resides in the County of Sutter, California. Plaintiff is a member of the
8 Exempt Employee Class and Subclass, as well as an Aggrieved Employee.

9 11. Plaintiff Fernando Giron has been employed by Defendants during the Class
10 Period. Plaintiff Giron resides in the County of Sacramento, California. Plaintiff is a member
11 of the Exempt Employee Class and Subclass, as well as an Aggrieved Employee.

12 12. The members of the Class, including the named, representative Plaintiffs, have
13 been employed during the Class Period in California. The practices and policies which are
14 complained of by way of this Complaint are enforced by Defendants throughout the State of
15 California.

16 13. Plaintiffs were and are the victims of the policies, practices, and customs of
17 Defendants complained of in this action in ways that have deprived them of the rights
18 guaranteed to them by the California Labor Code and the UCL.

19 14. Defendant MOTEL 6 OPERATING, L.P. owns and operates a chain of hotels
20 throughout California, including several locations in Ventura County. Plaintiffs are informed
21 and believe, and based thereon allege, that at all times herein mentioned MOTEL 6
22 OPERATING, L.P. was and is a limited partnership formed in the state of Delaware and
23 registered with the California Secretary of State to conduct business in the state of California.

24 15. Plaintiffs are informed and believe and thereon allege that at all times relevant to
25 this litigation, Defendant G6 Hospitality LLC was and/or is a Company, which conducted
26 and/or conducts, at all relevant times, a significant portion of its business in the State of
27 California and is incorporated in Delaware. Defendants were at all relevant times doing
28 business throughout the State of California, have various offices and locations in the State, and

1 serve numerous customers throughout the State.

2 16. Plaintiffs do not know the true names or capacities, whether individual, partner
3 or corporate, of the defendants sued herein as Does 2 through 50, inclusive, and for that reason,
4 said defendants are sued under such fictitious names. If and when they are ascertained,
5 Plaintiffs pray for leave to amend this Complaint. Plaintiffs are informed and believe and,
6 based thereon allege, that each of said fictitious Defendants was responsible in some way for
7 the matters alleged herein and proximately caused Plaintiffs and members of the class to be
8 subject to the illegal employment practices, wrongs, and injuries complained of herein.

9 17. At all times herein mentioned, each of said Defendants participated in the doing
10 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
11 the Defendants, and each of them, were the agents, servants and employees of each of the other
12 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
13 acting within the course and scope of said agency and employment.

14 18. Plaintiffs are informed and believe, and based thereon allege, that at all times
15 material hereto, each of the Defendants named herein was the agent, employee, alter ego
16 and/or joint venturer of, or working in concert with each of the other co- Defendants and was
17 acting within the course and scope of such agency, employment, joint venture, or concerted
18 activity. To the extent said acts, conduct, and omissions were perpetrated by certain
19 Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and
20 omissions of the acting Defendants.

21 19. At all times herein mentioned, Defendants, and each of them, were members of,
22 and engaged in, a joint venture, partnership and common enterprise, and acting within the
23 course and scope of, and in pursuance of, said joint venture, partnership and common
24 enterprise.

25 20. At all times herein mentioned, the acts and omissions of various Defendants, and
26 each of them, concurred and contributed to the various acts and omissions of each and all of
27 the other Defendants in proximately causing the injuries and damages as herein alleged. At all
28 times herein mentioned, Defendants, and each of them, ratified each and every act or omission

1 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
2 and abetted the acts and omissions of each and all of the other Defendants in proximately
3 causing the damages as herein alleged.

4 21. Defendants are “persons” as defined in Labor Code section 18 and UCL section
5 17201. Defendants are also each an “employer” as that term is used in the Labor Code and the
6 IWC wage orders.

7 **FACTUAL ALLEGATIONS**

8 22. Plaintiffs allege that they and other similarly situated Class Members were
9 misclassified as exempt employees and placed on a salary improperly, despite over 50% of their
10 time being spent on non-exempt duties, and lacking independent judgment and discretion to
11 carry out said duties.

12 23. Defendants’ policies, procedures and practices deny Plaintiffs and members of the
13 putative class, as well as Aggrieved Employees the right to all wages due and owing, meal and
14 rest breaks, as well as recovery periods, as prescribed under California Law. Rather, Defendants
15 maintain control over the activities and actions of members of the Class as well as Aggrieved
16 Employees during mandated meal and rest breaks, as evidenced by payroll and timekeeping
17 records. These records show conclusively that Plaintiffs and Class members as well as
18 Aggrieved Employees are not provided with meal breaks, in violation of California Law.
19 Defendants similarly deny rest breaks to other employees.

20 24. As a result, Plaintiffs and members of the Class as well as Aggrieved Employees
21 are not relieved of all duties during their meal and rest periods as is required by law. Defendants’
22 policy and practice is to not pay Plaintiffs and members of the Class as well as Aggrieved
23 Employees any premium for non-compliant or missed meal and rest breaks.

24 25. Further, Defendants do not fully pay Plaintiffs and members of the Class as well
25 as Aggrieved Employees for time spent performing required activities that are necessary and
26 integral to their overall employment responsibilities.

27 26. Under California law, “hours worked” means the time during which an employee
28 is subject to the control of an employer and includes all the time the employee is suffered or
permitted to work, whether or not required to do so.” 8 CCR § 11090(2)(G).

1 27. California Department of Labor Standards Enforcement (DLSE) policy follows
2 the dictates of the IWC and requires compensation for all time the employee spends, either
3 directly or indirectly, performing services which inure to the benefit of the employer.

4 28. Defendants further fail to provide members of the Class as well as Aggrieved
5 Employees with accurate wage statements reflecting the wages and penalties to which they are
6 entitled, and which further do not permit members of the Class as well as Aggrieved Employees
7 to readily determine if the wages they receive are accurate and complete.

8 29. Because Defendants fail to pay members of the Class as well as Aggrieved
9 Employees additional wages for missed meal and rest breaks, fail to provide for recovery
10 periods, Defendants fail to pay all earned wages at the time members of the Subclass as well as
11 Aggrieved Employees ended their employment relationship with Defendants.

12 30. Defendants' unlawful conduct has been widespread, repeated and willful
13 throughout its facilities in California. Defendants knew or should have known that its policies
14 and practices have been unlawful and unfair.

15 **CLASS ALLEGATIONS**

16 31. **Definition:** The named individual Plaintiffs seek class certification, pursuant to
17 California Code of Civil Procedure section 382. Plaintiffs propose the following Classes and
18 Subclasses:

19 **Non-Exempt Employee Class (Plaintiff Sandra Lopez):**

- 20 (1) All current and former non-exempt employees of Defendants in the State of
21 California who worked in any job/position that requires an on-duty meal period at
22 any time from April 6, 2016 to the present excluding any individuals who are bound
23 by the class settlement in *Cummings et al v. G6 Hospitality, LLC, et al.*, San Diego
24 Superior Court, Case No. 37-2018-00056207-CU-OE-CTL;
- 25 (2) All current and former non-exempt employees of Defendant in the State of
26 California who worked in any job/position that requires an on-duty meal period at
27 any time from September 20, 2019 through the earlier of the date of preliminary
28 approval or November 8, 2021..

1 **Exempt Employee Class (Plaintiffs Michael Blevins and Fernando Giron):**

2 (3) All individuals who are currently or have been employed in California by defendants
3 as exempt employees during the Class, and whose working conditions are not
4 controlled by a collective bargaining agreement from February 14, 2016 through the
5 earlier of the date of preliminary approval or November 8, 2021.

6 (4) All Class members whose employment with Defendants has terminated during the
7 Class Period.

8 32. As used throughout this Complaint, the term “Class Period” shall mean the
9 period from four years prior to the date this Complaint was filed, through and including the
10 date judgment is rendered in this matter.

11 33. **Numerosity and Ascertainability:** Plaintiffs are informed and believe, and on
12 that basis alleges, that during the Class Period, there have been over one hundred Class
13 members. Plaintiffs are informed and believe, and based thereon allege, that members of the
14 Class include, but may not be limited to, current and former employees of Defendant who
15 worked in the positions of Manager, Assistant Manager, Guest Service Representative, Night
16 Auditor, Front Desk Agent, and any other exempt or non-exempt position where individuals
17 worked single-employee shifts. The members of the Class are so numerous that joinder of all
18 members would be impractical, if not impossible. The identity of the members of the Class is
19 readily ascertainable by review of Defendant’s records, including payroll records. For the Non
20 Exempt Class and Aggrieved Employees, Plaintiffs are informed and believe, and based
21 thereon allege, that Defendant: (a) failed to provide off-duty 30-minute meal breaks to
22 employees who worked 5 hours or longer in one shift in violation of Labor Code sections
23 226.7 and 512; (b) failed to provide off-duty 10-minute rest breaks to employees who worked
24 3.5 hours or more in one shift in violation of Labor Code section 226.7; (c) failed to provide
25 proper payroll records and accurate wage statements to employees in violation of Labor Code
26 section 226; (d) failed to provide overtime and doubletime wages and pay minimum wage for
27 those hours; (e) failed to pay minimum wage for regularly worked hours; (f) failed to provide
28

1 timely earned wages; and (g) engaged in unfair business practices in violation of the
2 California Labor Code, the applicable IWC Wage Orders, and the UCL.

3 For the Exempt Class and Aggrieved Employees, Plaintiffs are informed and believe,
4 and based thereon allege, that Defendant: (a) failed to provide off-duty 30-minute meal
5 breaks to employees who worked 5 hours or longer in one shift in violation of Labor Code
6 sections 226.7 and 512; (b) failed to provide off-duty 10-minute rest breaks to employees who
7 worked 3.5 hours or more in one shift in violation of Labor Code section 226.7; (c) failed to
8 provide proper payroll records and accurate wage statements to employees in violation of
9 Labor Code section 226; (d) engaged in unfair business practices in violation of the California
10 Labor Code, the applicable IWC Wage Orders, and the UCL; (e) failed to provide overtime
11 and doubletime wages and pay minimum wage for those hours; (f) failed to pay minimum
12 wage for regularly worked hours; (g) failed to provide timely earned wages; and (h) failed to
13 reimburse business expenses.

14 34. **Adequacy of Representation:** The named Plaintiffs are fully prepared to take
15 all necessary steps to represent fairly and adequately the interests of the class defined above.
16 Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the class and
17 the individual Plaintiff. Plaintiffs' attorneys have prosecuted and settled wage-and-hour class
18 actions in the past and currently have a number of wage-and-hour class actions pending in
19 California state and federal courts.

20 35. For the Non-Exempt Class and Aggrieved Employees, Defendants uniformly
21 administered a corporate policy and practice of: (a) failed to provide off-duty 30-minute meal
22 breaks to employees who worked 5 hours or longer in one shift in violation of Labor Code
23 sections 226.7 and 512; (b) failed to provide off-duty 10-minute rest breaks to employees who
24 worked 3.5 hours or more in one shift in violation of Labor Code section 226.7; (c) failed to
25 provide proper payroll records and accurate wage statements to employees in violation of
26 Labor Code section 226; (d) failed to provide overtime and doubletime wages and pay
27 minimum wage for those hours; (e) failed to pay minimum wage for regularly worked hours;
28

1 (f) failed to provide timely earned wages; and (g) engaged in unfair business practices in
2 violation of the California Labor Code, the applicable IWC Wage Orders, and the UCL.

3 For the Exempt Class and Aggrieved Employees, Defendants uniformly administered
4 corporate policy and practice of : (a) failing to provide off-duty 30-minute meal breaks to
5 employees who worked 5 hours or longer in one shift in violation of Labor Code sections
6 226.7 and 512; (b) failing to provide off-duty 10-minute rest breaks to employees who worked
7 3.5 hours or more in one shift in violation of Labor Code section 226.7; (c) failing to provide
8 proper payroll records and accurate wage statements to employees in violation of Labor Code
9 section 226; (d) engaging in unfair business practices in violation of the California Labor
10 Code, the applicable IWC Wage Orders, and the UCL; (e) failing to provide overtime and
11 doubletime wages and pay minimum wage for those hours; (f) failing to pay minimum wage
12 for regularly worked hours; (g) failing to provide timely earned wages; and (h) failing to
13 reimburse business expenses.

14 36. Plaintiffs are informed and believe, and based thereon allege, that this corporate
15 conduct is accomplished with the advance knowledge and designed intent to willfully and
16 intentionally fail to accurately record proper rates of pay, hours worked, net wages, and
17 deductions.

18 37. Plaintiffs are informed and believe, and based thereon allege, that Defendants
19 had a consistent and uniform policy, practice and procedure of willfully failing to comply with
20 Labor Code sections 218.6, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 1199,
21 2802, Wage Order 4 and the UCL.

22 38. Plaintiffs are informed and believe and based thereon allege Defendants, in
23 violation of California Labor Code §§ 201, and 202, *et seq.*, had a consistent and uniform
24 policy, practice and procedure of willfully failing to comply with Labor Code § 203 and 204.
25 Plaintiffs and other members of the Class did not secret or absent themselves from Defendants,
26 nor refuse to accept the earned and unpaid wages from Defendants. Accordingly, Defendants
27 are liable for waiting time compensation for the unpaid wages to separated employees pursuant
28

1 to California Labor Code § 203.

2 **39. Common Question of Law and Fact:** There are predominant common
3 questions of law and fact and a community of interest amongst Plaintiffs and the claims of the
4 Class concerning Defendants' policy and practice of: (a) failing to provide off-duty 30-minute
5 meal breaks to employees who worked 5 hours or longer in one shift by themselves in
6 violation of Labor Code sections 226.7 and 512; (b) failing to provide off-duty 10-minute rest
7 breaks to employees who worked 3.5 hours or more in one shift by themselves in violation of
8 Labor Code section 226.7; (c) failing to provide proper payroll records to employees in
9 violation of Labor Code section 226; and (d) engaging in unfair business practices in violation
10 of the California Labor Code, the applicable IWC Wage Orders, and the UCL. Further
11 questions of law and fact, that are relevant to the adjudication of Class members' claims are
12 the following:

- 13 (1) Whether Defendants intentionally misclassified Plaintiffs and members of the Class
14 in violation of the Labor Code;
- 15 (2) Whether Defendants fail to provide Plaintiffs and members of the Class with timely,
16 duty-free 30-minute meal periods in violation of the Labor Code;
- 17 (3) Whether Defendants' failure to provide Plaintiffs and members of the Class with off-
18 duty meal periods is an unlawful, unfair or fraudulent business act or practice in
19 violation of UCL section 17200, *et seq.*;
- 20 (4) Whether Defendants fail to provide Plaintiffs and members of the Class with timely,
21 duty-free rest periods in violation of the Labor Code;
- 22 (5) Whether Defendants' failure to provide Plaintiffs and members of the Class with off-
23 duty rest periods is an unlawful, unfair or fraudulent business act or practice in
24 violation of UCL section 17200, *et seq.*;
- 25 (6) Whether Defendants unlawfully and/or willfully deprived Plaintiffs and members of
26 the Class of meal, recovery and rest breaks and/or pay/premiums for missed meal,
27 recovery and rest breaks pursuant to Labor Code sections 200, 226.7, 512, and 8 CCR
28 section 11090;

- 1 (7) Whether Defendants' failed to provide Plaintiffs and members of the Class with
2 accurate wage statements in violation of Labor Code section 226, and applicable
3 Industrial Welfare Commission Orders, and applicable State Regulations;
- 4 (8) Whether Defendants had/have policies and/or practices that result in hours worked not
5 being adequately captured and recorded;
- 6 (9) Whether Defendants had/have policies and/or practices that result in hours worked not
7 being properly compensated;
- 8 (10) Whether Defendants adequately reimbursed business expenses to Plaintiffs and
9 Class Members;
- 10 (11) Whether Defendants unlawfully and/or willfully failed to pay Plaintiffs and
11 members of the Class for hours worked in violation of the applicable Industrial
12 Welfare Commission Order and provisions of the Labor Code;
- 13 (12) Whether Defendants unlawfully and/or willfully failed to promptly pay
14 compensation owing to members of the Subclass upon termination of their
15 employment in violation of Labor Code sections 201-203;
- 16 (13) Whether Plaintiffs and members of the Class sustained damages, and if so, the
17 proper measure of such damages, as well as interest, penalties, costs, attorneys' fees,
18 and equitable relief; and,
- 19 (14) Whether Defendants violated the Unfair Competition Law of California, Business
20 and Professions Code sections 17200, *et seq.*, by violating the above-cited provisions,
21 and treating Plaintiffs and members of the Class unfairly by depriving them of
22 recovery, meal and rest breaks and failing to provide and pay for missed breaks, failing
23 to pay wages upon termination, failing to furnish an accurate, itemized wage statement
24 upon payment of wages and failing to pay all compensation due upon discharge.

25 40. **Typicality:** Plaintiffs' claims are typical of the members of the Class. Plaintiffs,
26 like other members of the Class, were subjected to Defendants' policies and/or practices set
27 forth above.

28 41. **Adequacy of Representation:** Plaintiffs will fairly and adequately protect the

1 interests of the members of the Class and have retained counsel competent and experienced in
2 both class action and employment litigation.

3 42. Superiority: Questions of law or fact common to Class members predominate over
4 any questions solely affecting individual Class members and class action is superior to other
5 available methods for the fair and efficient adjudication of this controversy. Class action
6 treatment will allow a large number of similarly situated Class members to simultaneously and
7 efficiently prosecute their common claims in a single forum without the needless duplication of
8 effort and expense that numerous individual actions would entail. In addition, a class action will
9 serve the important public interest of permitting Class members harmed by Defendants'
10 unlawful policies and/or practices to effectively pursue recovery of the sums owed to them.

11 43. Plaintiffs know of no difficulty which will be encountered in the management of
12 this litigation which would preclude its maintenance as a class action.

13 44. The California Labor Code sections upon which Plaintiffs base these claims are
14 broadly remedial in nature. These laws and labor standards serve an important public interest
15 in establishing minimum working conditions and standards in California. These laws and labor
16 standards protect the average working employee from exploitation by employers who may
17 seek to take advantage of superior economic and bargaining power in setting onerous terms
18 and conditions of employment.

19 45. The nature of this action and the format of laws available to Plaintiffs and
20 members of the Class identified herein make the class action format a particularly efficient and
21 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
22 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
23 advantage since it would be able to exploit and overwhelm the limited resources of each
24 individual plaintiff with their vastly superior financial and legal resources. Requiring each
25 class member to pursue and individual remedy would also discourage the assertion of lawful
26 claims by employees who would be disinclined to file an action against their former and/or
27 current employer for real and justifiable fear of retaliation and permanent damage to their
28 careers at subsequent employment.

47. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class identified herein, in a civil action, for applicable damages and/or penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Code of Civil Procedure section 1021.5.

48. Proof of a common business practice or factual pattern, which the named Plaintiffs experienced and is representative of, will establish the right of each of the members of the Plaintiffs Class to recovery on the causes of action alleged herein.

49. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendants. This action is brought for the benefit of the entire class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

**VIOLATION OF LABOR CODE §§ 226.7, 512, 558, & 1198, and Wage Order 4
(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES
AGAINST ALL DEFENDANTS)**

50. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as though fully set forth herein.

1 51. At all relevant times, Defendants failed in their affirmative obligation to ensure
2 that Plaintiffs and other Class Members had the opportunity to take and were provided with
3 off-duty meal periods in accordance with the mandates of the California Labor Code and the
4 applicable IWC Wage Order. Specifically, Defendants required Plaintiffs and all Class
5 Members to remain in the on-premises at the hotel for meal periods. This policy was further
6 perpetuated by Defendant's requirement that at least one employee always be present in the
7 hotel reception area. Thus, whenever Plaintiffs and all Class Members were the only employee
8 on duty, they were not free to leave the hotel for meal periods. Defendants further failed to
9 relieve Plaintiffs and other Class Members of all duties during their unpaid 30-minute meal
10 period. In other words, Plaintiffs and Class Members were suffered and permitted to work
11 through legally required meal breaks and were denied the opportunity to take their full 30-
12 minute off-duty meal breaks because they remained under Defendants' control by virtue of
13 having to remain in the hotel and work. As such, Defendants are responsible for paying
14 premium compensation for missed meal periods pursuant to Labor Code sections 226.7 and
15 512 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and
16 procedure, regularly failed to pay such premium compensation for each full 30-minute duty-
17 free meal period Plaintiffs and Class Members missed.

18 52. This policy of requiring employees to work through their legally mandated meal
19 periods and not allowing them to take proper off-duty meal periods is a violation of California
20 law.

21 53. Plaintiffs are informed and believe and based thereon alleges that Defendants
22 willfully failed to pay employees who were not provided the opportunity to take meal breaks
23 the premium compensation set out in Labor Code sections 226.7, 512, 558, and the applicable
24 IWC Wage Order and that Plaintiffs and those employees similarly situated are owed wages
25 for the meal period violations set forth above.

26 54. Such a pattern, practice and uniform administration of corporate policy as
27 described herein is unlawful and creates an entitlement to recovery by the Plaintiffs and Class
28 Members identified herein, in a civil action, for the unpaid balance of the unpaid premium

1 compensation pursuant to Labor Code sections 226.7, 512, 558, and the applicable IWC Wage
2 Order, including interest thereon, penalties, reasonable attorneys' fees, and costs of suit.

3 55. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
4 willful failure to provide all meal period premium wages due and owing to Plaintiffs and Class
5 Members upon separation from employment results in a continued payment of wages up to
6 thirty (30) days from the time the wages were due. Therefore, Plaintiffs and other members of
7 the Class who have separated from employment are entitled to compensation pursuant to Labor
8 Code § 203.

9 56. Plaintiffs Michael Blevins, Fernando Giron and the Exempt Class Members also
10 seeks penalties under Labor Code 1198.

11 **SECOND CAUSE OF ACTION**

12 **VIOLATION OF LABOR CODE § 226.7, 558, 1198, and Wage Order 4**
13 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
14 **AGAINST ALL DEFENDANTS)**

15 57. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
16 though fully set forth herein.

17 58. At all relevant times, Defendants failed in their affirmative obligation to ensure
18 that Plaintiff, and other Class Members, had the opportunity to take and were provided with
19 off-duty 10-minute rest periods in accordance with the mandates of the California Labor Code
20 and the applicable IWC Wage Order. Specifically, Defendants required Plaintiffs and other
21 Class Members to remain in the hotel for their 10-minute rest break. This policy was further
22 perpetuated by Defendants' requirement that at least one employee always be present in the
23 hotel. Thus, whenever Plaintiffs and Class Members were the only employee on duty, they
24 were not free to leave the hotel for their 10-minute rest periods. Defendants further failed to
25 relieve Plaintiffs, and other Class Members, of all duties during their 10-minute rest break.
26 Thus, Plaintiffs and Class Members were denied their right to 10-minute, off-duty rest breaks
27 for any and all shifts in which they worked 3.5 hours or longer. In other words, Plaintiffs and
28 Class Members were suffered and permitted to work through legally required rest breaks and

1 were denied the opportunity to take their full 10-minute off-duty rest breaks because they
2 remained under Defendants' control by virtue of having to remain in the hotel and work. As
3 such, Defendants are responsible for paying premium compensation for missed rest periods
4 pursuant to Labor Code section 226.7, 558, and the applicable IWC Wage Order. Defendant,
5 as a matter of corporate policy and procedure, regularly failed to pay such premium
6 compensation for each full 10-minute duty-free rest period Plaintiffs and Class Members
7 missed.

8 59. This policy of requiring employees to work through their legally mandated rest
9 periods and not allowing them to take proper off-duty rest periods is a violation of California
10 law.

11 60. Plaintiffs are informed and believe and based thereon alleges that Defendants
12 willfully failed to pay employees who were not provided the opportunity to take rest breaks the
13 premium compensation set out in Labor Code section 226.7, 558 and the applicable IWC
14 Wage Order and that Plaintiffs and those employees similarly situated as them are owed wages
15 for the rest period violations set forth above.

16 61. Such a pattern, practice and uniform administration of corporate policy as
17 described herein is unlawful and creates an entitlement to recovery by the Plaintiffs and Class
18 Members identified herein, in a civil action, for the unpaid balance of the unpaid premium
19 compensation pursuant to Labor Code section 226.7, 558 and the applicable IWC Wage Order,
20 including interest thereon, penalties, reasonable attorneys' fees, and costs of suit.

21 62. Defendants violated the applicable statutes, as well as Wage Order 4. Wage Order
22 4 provides, in pertinent part: "No employer shall employ any person for a work period of more
23 than five (5) hours without a meal period of not less than 30 minutes, except that when a work
24 period of not more than six (6) hours will complete the day's work the meal period may be
25 waived by mutual consent of the employer and the employee." *Labor Code* § 512 contains
26 parallel language.

27 63. Plaintiffs allege that they and members of the proposed class were not relieved of
28 all duty for an entire 30 minutes, due to policies and practices required by their employers.

1 Rather, during their meal period, workers routinely received less than thirty minutes of duty-free
2 time.

3 64. *Labor Code* § 226.7 requires that Defendants provide Plaintiffs and each class
4 member all meal periods specified in the applicable Wage Order and that Plaintiffs and each
5 class member was to be paid one additional hour of pay per day at his/her regular rate of
6 compensation as additional wages for meal periods that were not properly provided.

7 65. Plaintiffs are informed and believe, and based thereon allege, that Defendants'
8 willful failure to provide all rest period premium wages due and owing to Plaintiffs and Class
9 Members upon separation from employment results in a continued payment of wages up to
10 thirty (30) days from the time the wages were due. Therefore, Plaintiffs and other members of
11 the Class who have separated from employment are entitled to compensation pursuant to Labor
12 Code § 203.

13 66. Plaintiffs Michael Blevins, Fernando Giron and the Exempt Class Members also
14 seek penalties under Labor Code 1198.

15 **THIRD CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 226 AND 558**

17 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**

18 **AGAINST ALL DEFENDANTS)**

19 67. Plaintiffs re-allege and incorporates by reference the preceding paragraphs as
20 though fully set forth herein.

21 68. Defendants, as a matter of policy and practice, failed in their affirmative
22 obligation to provide accurate itemized wage statements.

23 69. Plaintiff Sandra Lopez and the Non-Exempt Classes were paid hourly while
24 Plaintiffs Michael Blevins and Fernando Giron and the Exempt Classes were paid by salary.
25 Pursuant to Labor Code section 226, wage statements must identify the accurate gross wages
26 earned, total hours worked by the employee, and net wages earned, among other things. The
27 wage statements provided to Plaintiffs and the Class failed to identify such information,
28 including without limitation, all of the wages owed for missed meal and rest period premium

1 pay and failed to account for the the Exempt Employee Class Members being misclassified.

2 70. At all times relevant, each Defendant violated Labor Code § 226(a) by falsely or
3 failing to provide accurate, itemized wage statements, because the statements failed to accurately
4 report one or more of the following:

- 5 (1) all employers' names and addresses;
6 (2) total hours worked;
7 (3) applicable rates of pay;
8 (4) the number of piece rate units;
9 (5) the applicable piece rate;
10 (6) the rate of pay and total hours for each assignment; and,
11 (7) gross and net wages earned.

12 71. Pursuant to *Labor Code* §§ 226(e) and (h), Plaintiffs and each class member are
13 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
14 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
15 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000).
16 Plaintiffs and each class member are further entitled to an award of costs and reasonable
17 attorney's fees.

18 72. Defendants failed to accurately record the wages due to Plaintiffs and members of
19 the proposed class, specifically including, but not limited to, by failing to record premium wages
20 for Defendants' failure to provide proper rest, recovery and meal breaks. Wage statements were
21 also misleading for aggrieved employees and did not adequately itemize the rates and pay and
22 hours worked, as well as gross and net wages, a non-derivative violation of Labor Code § 226.

23 73. Plaintiffs and members of the Class were injured by Defendants' failure to provide
24 accurate wage statements because, among other things, they were unable to determine the proper
25 amount of wages actually owed to them, and whether they had received full compensation
26 therefore.

27 74. Plaintiffs and members of the Plaintiff Class request recovery of Labor Code §
28 226(e) penalties according to proof, as well as interest, attorney's fees and costs pursuant to

1 Labor Code § 226(e), and all other damages, attorneys' fees, costs, expenses and interest
2 permitted by statute.

3 75. Such a pattern, practice and uniform administration of corporate policy as
4 described herein is unlawful and creates an entitlement to recovery by the Plaintiffs, and the
5 Classes, in a civil action, for all damages or penalties pursuant to Labor Code section 226(a),
6 which are available from one year prior to the filing of this Complaint, including interest
7 thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code
8 section 226(a).

9 **FOURTH CAUSE OF ACTION**

10 **VIOLATIONS OF THE UCL, BUSINESS & PROFESSIONS CODE § 17200, ET SEQ.**
11 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
12 **AGAINST ALL DEFENDANTS)**

13 76. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
14 though fully set forth herein.

15 77. Section 17200 of the California Business and Professions Code prohibits any
16 unlawful, unfair or fraudulent business act or practice.

17 78. Plaintiffs bring this cause of action in a representative capacity on behalf of the
18 general public and the persons affected by the unlawful and unfair conduct described herein.
19 Plaintiffs and members of the proposed class have suffered and continue to suffer injury in fact
20 and deprivation of wages and monies as a result of Defendants' actions.

21 79. The actions of Defendants, as herein alleged, amount to conduct which is
22 unlawful and a violation of law. As such, said conduct constitutes unfair business practices, in
23 violation of Business and Professions Code §§ 17200 *et seq.*

24 80. Defendants have engaged and continues to engage in unfair and unlawful
25 business practices in California by practicing, employing and utilizing the employment
26 practices outlined above, include, to wit and among other things, by: (a) failing to provide off-
27 duty 30-minute meal breaks to employees who worked 5 hours or longer in one shift in
28 violation of Labor Code sections 226.7 and 512; and (b) failing to provide off-duty 10-minute

1 rest breaks to employees who worked 3.5 hours or more in one shift in violation of Labor Code
2 section 226.7; and denying Plaintiffs and the Class Members wages due and payable, and by
3 failing to provide proper wage statements. Defendants' actions are thus substantially injurious
4 to Plaintiffs and the members of the Class, causing them injury in fact and loss of money.

5 81. Defendants' utilization of such unfair and unlawful business practices constitutes
6 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

7 82. As a result of such conduct, Defendants have unlawfully and unfairly obtained
8 monies owed to Plaintiffs and the members of the Classes.

9 83. All members of the Class can be identified by reference to payroll and related
10 records in the possession of the Defendants. The amount of wages due to Plaintiffs and members
11 of the Class can be readily determined from Defendants' records. The members of the proposed
12 class are entitled to restitution of monies due and obtained by Defendants during the Class Period
13 as a result of Defendants' unlawful and unfair conduct.

14 84. During the Class Period, Defendants committed, and continue to commit acts of
15 unfair competition as defined by Sections 17200 *et seq.* of the Business and Professions Code,
16 by and among other things, engaging in the acts and practices described above.

17 85. Defendants' course of conduct, acts, and practices in violation of the California
18 laws, as mentioned in each paragraph above, constitute distinct, separate and independent
19 violations of Sections 17200 *et seq.* of the Business and Professions Code.

20 86. The harm to Plaintiffs and the members of the Class of being wrongfully denied
21 lawfully earned but unpaid wages outweighs the utility, if any, of Defendants' policies and
22 practices and, therefore, Defendants' actions described herein constitute an unfair business
23 practice or act within the meaning of Business and Professions Code §§ 17200, *et seq.*

24 87. Defendants' conduct described herein threatens an incipient violation of
25 California's wage and hour laws, and/or violates the policy or spirit of such laws, or otherwise
26 significantly threatens or harms competition.

27 88. Defendants' course of conduct described herein further violates Business and
28 Professions Code §§ 17200, *et seq.*, in that it is fraudulent, improper, and/or unfair.

1 89. Plaintiffs seek, on behalf of herself and other members of the Class, full
2 restitution of monies, as necessary and according to proof, to restore any and all monies
3 withheld, acquired and/or converted by the Defendants by means of the unfair practices
4 complained of herein.

5 90. Plaintiffs are informed and believe, and based thereon allege, that at all times
6 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business
7 practices, as proscribed by California Business and Professions Code section 17200, *et seq.*,
8 including those set forth herein above thereby depriving Plaintiffs and Class Members the
9 minimum working condition standards and conditions due to them under the California laws as
10 specifically described therein.

11 91. Defendants have been unjustly enriched as a direct result of their unlawful
12 business practices alleged in this complaint and will continue to benefit from those practices
13 and have an unfair competitive advantage if allowed to retain the unpaid wages.

14 **FIFTH CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

16 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
17 **AGAINST ALL DEFENDANTS)**

18 92. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
19 though fully set forth herein.

20 93. Defendants failed in their affirmative obligations under the California Labor
21 Code, as more fully set forth above, and incorporated herein by reference, and otherwise
22 violated Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 98.6, 558, 1102.5 1194,
23 1197, 1199 and 2802.

24 94. For at least one (1) year prior to the date of Plaintiffs' letter sent to the Labor &
25 Workforce Development Agency and Defendants giving notice of this claim pursuant to
26 PAGA and continuing to the present, Defendants have had a consistent policy of failing to
27 inform Plaintiffs and all aggrieved employees of their right to take meal periods and provide
28 meal periods by way of a lawful policy and of failing to provide Plaintiffs and all Aggrieved

1 Employees with timely meal periods. Defendants have had a consistent policy of: (1) failing to
2 provide Plaintiffs and the Aggrieved Employees with a meal break within the first five hours
3 of each shift; and (2) failed to pay such employees one hour of pay at the employees regular
4 rate of compensation for each workday that the first meal period was not provided within the
5 first hours of the shift, as required by California state wage and hour laws.

6 95. Pursuant to Labor Code sections 226.7 and 512, Defendants were required to
7 provide Plaintiffs and the Aggrieved Employees with 30-minute uninterrupted meal periods
8 whenever Plaintiffs and the Aggrieved Employees worked shifts in excess of 5 hours.
9 Defendants were required to pay meal period premiums where Plaintiffs and the Aggrieved
10 Employees were not permitted to take 30-minute uninterrupted meal periods. Defendants
11 failed to comply with these obligations, as more fully set forth above.

12 96. For at least one (1) year prior to the date of the letter sent to the Labor &
13 Workforce Development Agency and Defendants giving notice of this claim pursuant to
14 PAGA and continuing to the present, Defendants have had a consistent policy of failing to
15 inform Plaintiffs and all Aggrieved Employees of their right to take rest periods by way of a
16 lawful policy and of failing to provide Plaintiffs and all Aggrieved Employees with rest
17 periods of at least ten (10) minutes per four (4) hours worked or major fraction thereof.
18 Defendants have failed to pay such employees one (1) hour of pay at the employee's regular
19 rate of compensation for each workday that the rest period was not provided, as required by
20 California state wage and hour laws. This is pursuant to Labor Code section 226.7.
21 Defendants failed to comply with these obligations, as more fully set forth above.

22 97. For at least one (1) year prior to the date of the letter sent to the Labor &
23 Workforce Development Agency and Defendants giving notice of these PAGA claims and
24 continuing to the present, Defendants have violated Labor Code §§ 510. This statute requires
25 an employer to compensate its employees to pay one and one-half times the regular rate of pay
26 for an employee of all hours worked in excess of 40 hours in one workweek or 8 hours in one
27 workday and twice the regular rate of an employee who works in excess of 12 hours in one
28 day. Defendants have had a consistent policy of failing to pay overtime to Plaintiffs and all

1 Aggrieved Employees for overtime. Thus, Defendants have violated Labor Code §§510 with
2 respect to Plaintiffs and all aggrieved employees.

3 98. For at least one (1) year prior to the date of the letter sent to the Labor & Workforce
4 Development Agency and Defendants giving notice of these PAGA claims and continuing to the
5 present, Defendants have violated Labor Code §2802 with respect to Plaintiffs and all aggrieved
6 employees. Labor Code § 2802 provides that an employer shall indemnify his or her employee
7 for all necessary expenditures or losses incurred by the employee in direct consequence of the
8 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
9 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
10 unlawful. Defendants have failed to reimburse Plaintiffs and the Aggrieved Employees for the
11 uses of items necessary to perform their job duties during the relevant time period. Thus,
12 Defendant has violated Labor Code §2802 with respect to Plaintiffs and all Aggrieved
13 Employees.

14 99. For at least one (1) year prior to the date of the letter sent to the Labor &
15 Workforce Development Agency and Defendant giving notice of these PAGA claims and
16 continuing to the present, Defendants have failed to pay all wages due at the time of
17 termination or resignation to Plaintiffs and all Aggrieved Employees.

18 100. As a result of Defendants' failure to pay Plaintiffs and the aggrieved employees at
19 the proper rate of pay for all hours worked as described above, Defendants violated Labor Code
20 §201. Labor Code section 201 provides that "If an employer discharges an employee, the wages
21 earned and unpaid at the time of discharge are due and payable immediately." Here, Defendants
22 failed to pay Plaintiffs and all discharged Aggrieved Employees all wages earned and unpaid at
23 the time of discharge. These sums were due and payable immediately and Defendant is thus in
24 violation of Labor Code §201.

25 101. As a result of Defendants' failure to pay Plaintiffs and the aggrieved employees at
26 the proper rate of pay for all hours worked as described above, Defendants violated Labor Code
27 §202. Labor Code section 202 provides that if "an employer willfully fails to pay...any wages
28

1 of an employee who is discharged or who quits, the wages of the employee shall continue as a
2 penalty from the due date thereof at the same rate until paid or until an action therefor is
3 commenced; but the wages shall not continue for more than 30 days.” Here, Defendants failed
4 to pay Plaintiffs and all Aggrieved Employees all wages due at the time of termination or within
5 seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30)
6 days thereafter in violation of Labor Code §202.

7 102. As a result of Defendants’ failure to pay Plaintiffs and the aggrieved employees
8 at the proper rate of pay for all hours worked as described above, Defendants violated Labor
9 Code §203. Labor Code section 203 provides that if “an employer willfully fails to pay...any
10 wages of an employee who is discharged or who quits, the wages of the employee shall
11 continue as a penalty from the due date thereof at the same rate until paid or until an action
12 therefor is commenced; but the wages shall not continue for more than 30 days.” Here,
13 Defendants failed to pay Plaintiffs and all Aggrieved Employees all wages due at the time of
14 termination or within seventy-two (72) hours of their resignation, and have failed to pay those
15 sums for thirty (30) days thereafter in violation of Labor Code §203.

16 103. Pursuant to Labor Code section 226, Defendants are required to provide accurate
17 itemized statements in writing to employees detailing accurate gross wages earned, total hours
18 worked by the employee, and net wages earned, among other things. Defendants failed in their
19 obligations to comply with Labor Code section 226, as more fully set forth above. As a result
20 of Defendants’ failure to pay Plaintiffs and the aggrieved employees all wages due and capture
21 all time worked, as described herein, because wage statements did not adequately itemize the
22 rates and pay and hours worked, as well as gross and net wages, Defendants violated Labor
23 Code § 226 with respect to Aggrieved employees.

24 104. As a result of Defendants’ failure to pay Plaintiffs and the aggrieved employees
25 at the proper rate of pay for all hours worked as described above, Defendants violated Labor
26 Code §204.

27 105. Plaintiffs bring this cause of action as a proxy for the State of California and in
28 this capacity, seek penalties on behalf of all Aggrieved Employees from February 27, 2019,

1 through the present, for Defendants' violations of Labor Code §§ 201-203, 226(a), 226.7, 512,
2 arising from Defendants' failure to provide off-duty meal and rest periods, pay all wages upon
3 separation of employment, and provide proper payroll records.

4 106. Plaintiff Lopez provided written notice to the California Labor & Workforce
5 Development Agency ("LWDA") of Defendants' violation of California Labor Code sections
6 §§ 201-203, 226(a), 226.7, 512, pursuant to PAGA on February 27, 2020. To date, the LWDA
7 has not indicated its intent to further investigate or pursue this action. Plaintiff has therefore
8 complied with all notice and exhaustion requirements pursuant to PAGA.

9 107. Pursuant to Labor Code section 2699(a), the Plaintiff seeks recovery of all
10 applicable civil penalties, for herself and on behalf of all Aggrieved Employees, for
11 Defendants' violation of Labor Code sections 201-203, 204, 226, 226.7, 510, 512 and 2802.

12 108. Under Labor Code §§2699(f)(2) and 2699.5, for each such violation, Plaintiffs and
13 all other Aggrieved Employees are entitled to penalties in an amount to be shown at the time of
14 trial subject to the following formula:

- 15 a. \$100 for the initial violation per employee per pay period; and
16 b. \$200 for each subsequent violation per employee per pay period.

17 109. These penalties will be allocated 75% to the Labor & Workforce Development
18 Agency and 25% to the Aggrieved Employees and Plaintiffs are entitled to his attorney's fees
19 and costs.

20 110. On January 13, 2020, Plaintiffs Blevins and Giron electronically filed separate
21 PAGA Claim Notices to the LWDA, via the State of California Labor and Workforce
22 Development Agency/Department of Industrial Relations website and mailed by certified mail,
23 return receipt requested, to Defendants setting forth the specific facts and theories of the
24 violations alleged against Defendants, as prescribed by Labor Code §2698 et seq. Pursuant to
25 Labor Code §2699.3(a)(2)(A), no notice was received by Plaintiffs from the LWDA evidencing
26 its intention to investigate within 65 calendar days of the postmark date of the notice. Therefore,
27 Plaintiffs are entitled to commence a civil action as the LWDA has chosen not to investigate.
28

SIXTH CAUSE OF ACTION
OVERTIME AND DOUBLE TIME WAGES (Lab. C. §§ 218.6, 510, 558, & 1194, and
Wage Order 4)
(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES
AGAINST ALL DEFENDANTS)

111. Plaintiffs re-allege and incorporate herein by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein.

112. This action is brought, in part, pursuant to the Wage Order 4 and California Labor Code §§ 510, 1194 and 1198. Under the Wage Order 4 and California Labor Code § 510, Defendant was required to compensate Plaintiffs for all overtime, calculated at one and one-half (1-½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day, and two (2) times the regular rate of pay for hours worked in excess of eight (8) hours on the seventh (7th) day of work.

113. While employed by Defendant, Plaintiffs were required to work more than eight (8) hours in a day or forty (40) hours in a week. Regardless of the number of actual hours worked, and even though Plaintiffs are not exempt from California overtime laws, Plaintiffs were not afforded overtime compensation for any hours in excess of eight (8) hours in a workday and/or forty (40) hours per week. By failing to compensate Plaintiffs for the hours actually worked, Defendant has failed and continues to fail to pay the overtime compensation owed to Plaintiffs pursuant to the Wage Order 4 and the California Labor Code.

114. Plaintiffs are informed and believe and based thereon allege that Defendants' policy and practice of requiring overtime work and not paying for said work according to the overtime mandates of California law is, and at all times herein mentioned was, in violation of California Labor Code § 1194, applicable regulations, and the Wage Order 4. Defendant's employment policies and practices wrongfully and illegally failed to compensate Plaintiffs overtime compensation earned as required by California law.

115. The conduct of Defendant and its agents and employees as described herein was

1 willful and intentional and part of a corporate policy, procedure and practice. Furthermore,
2 Defendant willfully failed to pay Plaintiffs proper compensation for all overtime hours worked
3 at the appropriate rate of overtime pay.

4 116. Plaintiffs are informed and believe and based thereon allege that Defendants'
5 willful failure to provide all overtime wages due and owing him upon separation from
6 employment results in a continued payment of wages up to thirty (30) days from the time the
7 wages were due. Therefore, Plaintiffs are entitled to compensation pursuant to California Labor
8 Code § 203.

9 117. Such administration of unlawful corporate policy regarding employee
10 compensation as described herein creates an entitlement to recovery by Plaintiffs for damages
11 and wages owed, and for penalties, interest, costs and attorney's fees, in an amount to be proven
12 at time of trial.

13 **SEVENTH CAUSE OF ACTION**

14 **MINIMUM WAGES AND LIQUIDATED DAMAGES (Labor Code §§ 558, 1194,**
15 **1194.2, 1197 & 1198, and Wage Order 4)**
16 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
17 **AGAINST ALL DEFENDANTS)**

18 118. Plaintiffs re-allege and incorporate herein by reference each and every allegation
19 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

20 119. At all times relevant to this complaint, Defendants, and each of them, failed, and
21 have continued to fail, to pay Plaintiffs and each class member all wages due, including the
22 minimum wage, as required by law.

23 120. As a direct and proximate result of the acts and/or omissions of each Defendant,
24 Plaintiffs and each Class member have reported to work as required and have not been
25 compensated for all time while under the control of the employer, and performed work that has
26 not been compensated at the agreed wage nor even at least at the minimum wage for said work.
27 Accordingly, Plaintiffs and each class member have been deprived of wages due, including
28 minimum wages, in amounts to be determined at trial.

1 121. The applicable minimum wages fixed by the commission for Plaintiffs and the
2 class members is found in Wage Order 4.

3 122. Pursuant to California Labor Code §§ 1194 and 1194.2 as a result of Defendants'
4 failure to pay Plaintiffs and the class members all wages due, Plaintiffs and the class members
5 are entitled to each recover the unpaid wages and liquidated damages in an amount equal to the
6 wages unlawfully unpaid, plus interest, fees and costs thereon.

7 **EIGHTH CAUSE OF ACTION**

8 **WAITING TIME PENALTIES (Lab. C. §§ 201-203 and 558)**

9 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
10 **AGAINST ALL DEFENDANTS)**

11 123. Plaintiffs re-allege and incorporate herein by reference each and every allegation
12 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

13 124. Labor Code §§ 201 and 202 require that Defendants pay their employees all wages
14 due within 24 hours after a discharge or 72 hours after a resignation from employment, if the
15 employee has given less than 72 hours' notice. Labor Code § 203 provides that if an employer
16 willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the
17 employee's daily wage until the back wages are paid in full or an action is commenced. The
18 penalty cannot exceed 30 days of wages.

19 125. Plaintiffs and the Class Members are entitled to compensation for all wages
20 earned, including without limitation, the unpaid premium wages for recovery, rest and meal
21 periods not provided, but to date have not received such compensation.

22 126. More than 30 days have passed since Plaintiffs and Subclass members terminated
23 from their employment with Defendants. Defendants have not paid Plaintiffs and each Subclass
24 member whose employment has ended all wages owed. As a consequence of Defendants' willful
25 conduct in not paying Plaintiffs and each Subclass member all earned wages at the time their
26 employment with Defendants ended, Plaintiffs and each Subclass member is entitled to 30 days'
27 wages as a penalty under Labor Code § 203.

1 **NINTH CAUSE OF ACTION**

2 **TIMELY EARNED WAGES (Labor Code §§ 204, 1197.1 and 1199, and Wage Order 4)**
3 **(BY ALL PLAINTIFFS AND THE EXEMPT AND NON-EXEMPT CLASSES**
4 **AGAINST ALL DEFENDANTS)**

5 127. Plaintiffs re-allege and incorporate herein by reference each and every allegation
6 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

7 128. At all times relevant herein, Defendants were required by California Labor Code
8 §§ 204, 1197.1 and 1199 and the Wage Order 4 to compensate Plaintiffs and other Class
9 Members correct and proper wages for all hours worked. Furthermore, Labor Code Section 204
10 provides that all wages earned by an employee are due and payable twice each calendar month.

11 129. Plaintiffs are informed and believe and based thereon allege that Defendant
12 willfully failed to pay Plaintiffs and other Class Members wages for missed meal periods and
13 rest periods for all hours worked.

14 130. Plaintiffs are informed and believe and based thereon alleges that Defendant
15 willfully failed to pay Plaintiffs and other Class Members wages for all hours worked. Plaintiffs
16 are informed and believe and based thereon allege that Defendant's willful failure to provide all
17 wages due and owing upon separation from employment results in a continued payment of wages
18 up to thirty (30) days from the time the wages were due. Therefore, Plaintiffs and other Class
19 Members are entitled to compensation pursuant to California Labor Code § 203.

20 131. Such a pattern, practice and uniform administration of unlawful corporate policy
21 regarding employee compensation as described herein creates an entitlement to recovery by
22 Plaintiffs and other Class Members for damages and wages owed, and for penalties, interest,
23 costs and attorney's fees, in an amount according to proof.

24 **TENTH CAUSE OF ACTION**

25 **REIMBURSED BUSINESS EXPENSES (Labor Code § 2802)**
26 **(BY PLAINTIFFS MICHAEL BLEVINS, FERNANDO GIRON, AND THE EXEMPT**
27 **CLASSES AGAINST ALL DEFENDANTS)**

28 132. Plaintiffs re-allege and incorporate herein by reference each and every allegation

1 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

2 133. At all times relevant herein, Defendants were required by California Labor Code
3 § 2802 to reimburse all reasonable business expenses incurred by employees in the course of
4 employment.

5 134. While acting on the direct instruction of Defendants and discharging their duties
6 for them, Plaintiffs and putative Class members incurred work-related expenses.

7 135. Such expenses include but are not limited to the costs associated with travel, as
8 well as the cost of maintaining a personal cell phone, and others. Plaintiffs necessarily incurred
9 these substantial expenses and losses as a direct result of performing their job duties for
10 Defendants.

11 136. Defendants have failed to indemnify or in any manner reimburse Plaintiffs for
12 these expenditures and losses. By requiring Plaintiffs to pay expenses and cover losses that they
13 incurred in direct consequence of the discharge of their duties for Defendants and/or in obedience
14 to Defendants' direction, Defendants have violated Cal. Labor Code § 2802.

15 137. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered
16 substantial losses according to proof, as well as pre-judgment interest, costs, and attorney fees
17 for the prosecution of this action.

18 138. The conduct of Defendants and their agents and managerial employees as
19 described herein was willful, and in violation of the rights of Plaintiffs and the Class Members.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs pray for judgment for themselves and all others on whose
22 behalf this suit is brought against Defendants, jointly and severally, as follows:

- 23 1. For an order certifying the proposed Classes;
- 24 2. For an order appointing Plaintiffs as the representatives of the Classes as
25 described herein;
- 26 3. For an order appointing Counsel for Plaintiffs as Class counsel;
- 27 4. Upon all causes of action, damages and/or penalties pursuant to California Labor
28 Code sections stated herein and for costs and attorneys' fees;

1 5. Upon the Fourth Cause of Action, for restitution to Plaintiffs and other similarly
2 effected members of the general public of all funds unlawfully acquired by Defendants by
3 means of any acts or practices declared by this Court to be in violation of Business and
4 Professions Code section 17200, *et seq.*;

5 6. Upon the Fifth Cause of Action, for civil penalties according to proof pursuant to
6 Labor Code § 2698, *et seq.*, and for costs and attorneys' fees;

7 7. On all causes of action for attorneys' fees and costs as provided by California
8 Labor Code section 218.5 and 226 and Code of Civil Procedure section 1021.5; and

9 8. For such other and further relief as the Court may deem just and proper.

10
11 DATED: June 21, 2022

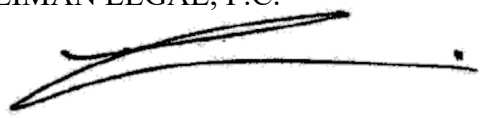
DIVERSITY LAW GROUP, P.C.
FITZPATRICK & SWANSTON
LAW OFFICES OF TODD FRIEDMAN, P.C.
FREIMAN LEGAL, P.C.

14 By: 

Larry W. Lee
B. James Fitzpatrick
Attorneys for Plaintiff,
SANDRA LOPEZ on behalf of herself and
all other similarly situated employees

18 June 20
19 DATED: ~~May 16~~, 2022

LAW OFFICES OF TODD FRIEDMAN, P.C.
FREIMAN LEGAL, P.C.

22 By: 

Adrian Bacon
Lawrence W. Freiman
Attorneys for Plaintiffs, MICHAEL
BLEVINS & FERNANDO GIRON
SANDRA LOPEZ on behalf of themselves
and all other similarly situated and
aggrieved employees

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5 COUNTY OF LOS ANGELES]ss.
6]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On June 21, 2022, I served the following document(s) described as: **FIRST**
11 **AMENDED CLASS ACTION COMPLAINT FOR DAMAGES** on the interested parties in
12 this action as follows:

13 Levi W. Heath
14 Levi.heath@dlapiper.com
15 Steve L. Hernandez
16 Steve.hernandez@us.dlapiper.com
17 Ryan M. Estes
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20 2000 Avenue of the Stars, Suite 400 North
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23 *Attorneys for Defendant Motel 6 Operating, L.P.*

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LAW OFFICES OF TODD M. FRIEDMAN,
P.C.
21550 Oxnard St., Suite 780
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Attorneys for Plaintiffs

1 X BY ELECTRONIC MAIL: by personally sending a true and correct copy
2 of the above-described document(s) to the party(ies) listed above or on the attached mailing list
3 from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s)
4 indicated above or on the attached mailing list. I certify that said electronic transmission was
5 completed and that all pages were received by the party(ies) identified herein or on the attached
6 mailing list.

7 I declare under penalty of perjury under the laws of the State of California that the
8 above is true and correct. Executed on June 21, 2022, at Los Angeles, California.

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Erika Mejia