

**SUMMONS
(CITACION JUDICIAL)**

**FILE
BY FAX**

SUM-100

NOTICE TO DEFENDANT: THE RIVA PARTNERS, a California
(AVISO AL DEMANDADO): limited partnership, and DOES 1
through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: AARON PAUL, REBECCA
(LO ESTÁ DEMANDANDO EL DEMANDANTE): JOINER, individually
on behalf of themselves, and on behalf of all similarly
situated individuals

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

NOV 05 2020

EL DORADO CO. SUPERIOR COURT
BY **W. Warden**
(DEPUTY CLERK)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of El Dorado
1354 Johnson Blvd.

South Lake Tahoe, California 96150

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gaines & Gaines, APLC

27200 Agoura Road, Suite 101, Calabasas, CA 91301

DATE: **NOV 05 2020**
(Fecha)

Clerk, by
(Secretario)

W. Warden 818-703-8985
, Deputy
(Adjunto)

CASE NUMBER:
(Número del Caso):

SC20200155

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alex P. Katofsky, Esq. SBN: 202754 Gaines & Gaines, APLC 27200 Agoura Road, Suite 101, Calabasas, CA 91301 TELEPHONE NO.: 818-703-8985 FAX NO.: 818-703-8984 ATTORNEY FOR (Name): Plaintiffs, Aaron Paul and Rebecca Joiner		FOR COURT USE ONLY FILED NOV 05 2020 EL DORADO CO. SUPERIOR COURT BY <u>W. Warden</u> (DEPUTY CLERK)
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO STREET ADDRESS: 1354 Johnson Blvd. MAILING ADDRESS: 1354 Johnson Blvd. CITY AND ZIP CODE: South Lake Tahoe, 96150 BRANCH NAME: South Lake Tahoe Branch		
CASE NAME: Aaron Paul and Rebecca Joiner, et al., v. The Riva Partners, et al.		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		
Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: SC 20200155 JUDGE: Michael J. McLaughlin DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:
- | | | |
|---|--|--|
| Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)
Employment
☐ Wrongful termination (36)
☒ Other employment (15) | Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)
Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)
Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)
Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
☐ Enforcement of judgment (20)
Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)
Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43) |
|---|--|--|
2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. ☐ Substantial amount of documentary evidence | d. ☐ Large number of witnesses
e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. ☐ Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Eight (8)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/4/2020

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)

Alex P. Katofsky
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**FILE
BY FAX**

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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27200 Agoura Rd., Suite 101
6 Calabasas, CA 91301
Telephone: (818) 703-8985
7 Facsimile: (818) 703-8984

8 Attorneys for Plaintiffs Aaron Paul and Rebecca Joiner, individually on behalf of themselves, and
9 on behalf of all similarly situated individuals,

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF EL DORADO**

12 AARON PAUL, REBECCA JOINER,
13 individually on behalf of themselves, and on
14 behalf of all similarly situated individuals,

15 Plaintiffs,

16 v.

17 THE RIVA PARTNERS, a California limited
18 partnership, and DOES 1 through 10,
19 inclusive,

20 Defendants.

CASE NO: **SC 20200155**

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

**FILE
BY FAX**

1. FAILURE TO PAY ALL WAGES DUE
(LABOR CODE §§ 510. 558, 1194, 1194.2,
1195, 1197 AND 1198)

2. FAILURE TO PAY ALL GRATUITIES
(LABOR CODE §§ 350 AND 351)

3. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 5-2001)

4. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7 AND
512; IWC WAGE ORDER 5-2001)

5. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e))

6. FAILURE TO PAY WAGES DUE AT
SEPARATION OF EMPLOYMENT
(LABOR CODE §§ 201-203)

7. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200

NOV 05 2020

FILED

NOV 05 2020

EL DORADO CO. SUPERIOR COURT
BY **W. Warden**
(DEPUTY CLERK)

Assigned to Judge
MICHAEL J. McLAUGHLIN

NOV 05 2020

FOR ALL PURPOSES

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**8. PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7,
350, 351, 510, 512, 558, 1194, 1194.2, AND
1198 AND PURSUANT TO LABOR CODE
§ 2699(a) FOR VIOLATIONS OF LABOR
CODE §§ 226.3 AND 558**

DEMAND FOR JURY TRIAL

Plaintiffs AARON PAUL and REBECCA JOINER (“Plaintiffs”), individually and on behalf of all similarly situated individuals (the “Class” or “Plaintiff Class”), and on behalf of the general public, and as “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004, complains of Defendants, and each of them, as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Class Action and Representative Action, pursuant to Code of Civil Procedure § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiffs and all other employees who work or formerly worked for THE RIVA PARTNERS, a California limited partnership, and any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”) within the State of California.

2. For at least four (4) years prior to April 28, 2020 and continuing to the present (the “liability period”) Defendants have had a consistent policy of failing to pay all gratuities, minimum wages and reporting time wages due to Class I members (as defined below), provide legally compliant meal and rest periods or compensation in lieu thereof to Class I Members; provide accurately itemized wage statements to Class I Members; and to timely pay wages upon separation of employment to Class II Members (as defined below).

3. Plaintiffs, on behalf of themselves and members of each class, bring this action pursuant to Labor Code §§ 201, 202, 226(a), 226.3, 226.7, 350, 351, 510, 512, 558, 1194, 1194.2, and 1198, seeking compensation for all unpaid wages and gratuities, premium meal and rest period wages, liquidated damages, civil and statutory penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

4. Plaintiffs, on behalf of themselves and members of Class I and pursuant to Business & Professions Code §§ 17200-17208, also seek injunctive relief, restitution, and disgorgement of all benefits Defendants enjoyed from their failure to pay all wages & gratuities due to Class I Members.

5. Plaintiffs, on behalf of themselves and all aggrieved employees pursuant to Labor Code §§ 2698 *et seq.*, seeks penalties and wages for Defendants' various violations of the California Labor Code.

6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants employed Plaintiffs and Class Members in El Dorado County, California.

7. Pursuant to the Judicial Council's Emergency Rule 9 of the California Rules of Court, Plaintiffs' claims are subject to tolling from April 28, 2020 through October 1, 2020. On September 30, 2020, the Parties then entered into an agreement to further toll the statute of limitations, from October 1, 2020 through and including November 30, 2020. As such, all periods of limitation (statutory or otherwise) affecting any and all claims or causes of actions which Plaintiffs may have against Defendant have been tolled between April 28, 2020 and November 30, 2020.

III.

PARTIES

A. Plaintiff

8. Plaintiff AARON PAUL is a resident of the State of California. Plaintiff AARON PAUL was employed by Defendants from April 2017 through January 2020 as a non-exempt California employee. He performed work for Defendants in El Dorado County, California.

9. Plaintiff REBECCA JOINER is a resident of the State of California. Plaintiff REBECCA JOINER was employed by Defendants from 2007 through January 2020 as a non-exempt California employee. She performed work for Defendants in El Dorado County, California.

10. During their work with Defendants, Plaintiffs were:

- a. Willfully denied the payment of all wages during the course of employment, including all minimum wages and reporting time wages;
- b. Willfully denied the payment of all gratuities during the course of employment;
- c. Willfully denied rest periods or compensation in lieu thereof;

- d. Willfully denied meal periods or compensation in lieu thereof;
- e. Willfully denied accurately itemized wage statements; and
- f. Denied the timely payment of wages upon separation of their employment.

B. Defendants

11. Defendant THE RIVA PARTNERS, is a California limited partnership. Defendant THE RIVA PARTNERS employed Plaintiffs and all similarly situated employees in El Dorado County, California.

12. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiffs, who therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

13. Plaintiffs are informed and believe, and based thereon allege, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

14. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

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1 IV.

2 **CLASS ACTION ALLEGATIONS**

3 15. Plaintiffs bring this action on behalf of themselves and all others similarly situated as
4 a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent the
5 following classes composed of and defined as follows:

6 **CLASS I**

7 All non-exempt California employees employed by Defendants at any
8 time since the date four years preceding the filing of this Action

9 **CLASS II**

10 All non-exempt California employees employed by Defendants at any
11 time since the date three years preceding the filing of this Action and
12 who are no longer employed by Defendants.

13 16. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend or
14 modify this class description with greater specificity or further division into subclasses or limitation
15 to particular issues.

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

19 **A. Numerosity**

20 18. The potential members of each Class as defined are so numerous that joinder of all
21 Class Members is impracticable. While the precise number of members of each class has not been
22 ascertained at this time, Plaintiffs are informed and believe, and based thereon allege, that Defendants
23 currently employ, and during the relevant time periods employed, over 75 persons in the State of
24 California who fall within each class definition.

25 19. Accounting for employee turnover during the relevant period necessarily increases this
26 number. Plaintiffs allege Defendants' employment records would provide information as to the
27 number and location of members of each class. Joinder of members of each class is not practicable.

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1 **B. Commonality**

2 20. There are questions of law and fact common to each class that predominate over any
3 questions affecting only individual Class Members. These common questions of law and fact include,
4 without limitation:

- 5 a. Whether Plaintiffs and the Class were denied the payment of all wages due
6 during the course of employment, in violation of Labor Code §§ 510, 558,
7 1194, 1194.2, and 1198;
- 8 b. Whether Plaintiffs and the Class were denied the payment of all gratuities
9 during the course of employment, in violation of Labor Code §§ 350 and 351;
- 10 c. Whether Defendants violated the applicable Wage Order by failing to
11 compensate Plaintiffs and the Class for reporting time pay;
- 12 d. Whether Defendants failed to properly provide rest periods or compensation in
13 lieu thereof to Plaintiffs and Class I Members, in violation of Labor Code §
14 226.7, and IWC Wage Order 5-2001;
- 15 e. Whether Defendants failed to properly provide meal periods or compensation
16 in lieu thereof to Plaintiffs and Class I Members, in violation of Labor Code
17 §§ 226.7 and 512, and IWC Wage Order 5-2001;
- 18 f. Whether Defendants failed to provide Plaintiffs and members of Class I with
19 accurately itemized wage statements, in accordance with Labor Code § 226(a)
20 and (e);
- 21 g. Whether Defendants failed to timely pay Plaintiffs and Class II Members all
22 wages due and owing at the separation of their employment, in violation of
23 Labor Code §§ 201-203; and
- 24 h. Whether Plaintiffs and Class I Members are entitled to equitable relief pursuant
25 to Business & Professions Code § 17200 *et seq.*

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27 ///
28 ///

C. Typicality

21. The claims of the named Plaintiffs are typical of the claims of members of each class. Plaintiffs and members of each class sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. Adequacy of Representation

22. Plaintiffs will fairly and adequately represent and protect the interests of members of each class. Counsel who represents Plaintiffs are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

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

24. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

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V.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PAY ALL WAGES

**(LABOR CODE §§ 510, 558, 1194, 1194.2, AND 1198, AND THE “REPORTING TIME”
SECTION OF THE APPLICABLE WAGE ORDER)**

26. Plaintiffs incorporate paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. Defendants failed to pay Plaintiffs and Class Members all minimum wages and reporting wages, in violation of Labor Code §§ 510, 558, 1194, 1194.2, and 1198.

28. Further, Defendants required Plaintiffs and Class I Members to be on-call on the days they were scheduled to work and to call Defendants an hour before their shift start time to inquire whether if they were needed to report to work. If they were not required to report, Defendants would not compensate them for any time worked that day. An employer is obligated to pay the wages of an hourly employee for all time that the employee is under the control of the employer, and this includes all the time the employee is suffered or permitted to work, whether or not required to do so. When Plaintiffs and Class I Members were on-call, they were under the control of Defendants and required to be compensated for all hours worked. Defendants, however, failed to do so, in violation of Labor Code §§ 510, 558, and 1194 and IWC Wage Order 5-2001, section 5.

29. As a result of the unlawful acts of Defendants in willfully failing to pay all wages due, Plaintiffs and Class members have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, liquidated damages, plus interests thereon, attorneys’ fees, and costs pursuant to Labor Code §§ 1194 and 1194.2.

Wherefore, Plaintiffs and each Class they seek to represent request relief as described below.

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VI.
SECOND CAUSE OF ACTION
PLAINTIFFS AND THE CLASS AGAINST ALL DEFENDANTS
FAILURE TO PAY ALL WAGES AND GRATUITIES
(LABOR CODE §§ 350 AND 351)

30. Plaintiffs incorporate paragraphs 1 through 29 of this Complaint as though fully set forth herein.

31. Defendants failed to pay Plaintiffs and Class Members all gratuities due, in violation of Labor Code §§ 350 and 351.

32. During the liability period, Defendants have failed to pay Plaintiffs and Class I Members all gratuities due, in violation of Labor Code §§ 350 and 351. Plaintiffs and Class I Members were forced to pay out their tips based on the percentage of total *sales* made and not actual tips earned, in violation of Labor Code § 351, which states, in pertinent part, that “[n]o employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer.” For example, if Plaintiffs earned \$75 in tips on \$1000 in total sales, Plaintiffs would be required to tip out other employees in percentage amounts based on \$1000 in total sales and not the \$75 in tips actually earned, which, in some instances, resulted in them paying out more gratuities than were actually earned.

33. As a result of the unlawful acts of Defendants in willfully failing to pay all gratuities due, Plaintiffs and Class members have been deprived of gratuities in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interests thereon, attorneys’ fees, and costs pursuant to Labor Code § 351.

Wherefore, Plaintiffs and each Class they seek to represent request relief as described below.

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VII.

THIRD CAUSE OF ACTION

PLAINTIFFS AND CLASS I AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE § 226.7 AND IWC WAGE ORDER 5-2001)

34. Plaintiffs incorporate paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. Plaintiffs and Class I Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 5-2001.

36. Defendants failed to pay premium wages to Plaintiffs and Class I Members who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order 5-2001. Plaintiffs and Class I Members were routinely not authorized and unable to take an off-duty, 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Plaintiffs and Class I Members were simply too busy to take off-duty rest periods during their employment. This violates Labor Code § 226.7 and IWC Wage Order 5-2001.

37. Pursuant to Labor Code § 226.7 and IWC Wage Order 5-2001, Plaintiffs seek the payment of all rest period compensation which they and Class I Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiffs and each class they seek to represent request relief as described below.

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VIII.

FOURTH CAUSE OF ACTION

PLAINTIFFS AND CLASS I AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF
(LABOR CODE §§ 226.7 AND 512 AND IWC WAGE ORDER 5-2001)

38. Plaintiffs incorporate paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. Plaintiffs and Class I Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7, 512 and IWC Wage Order 5-2001.

40. Defendants failed to pay premium wages to Plaintiffs and Class I Members who were denied meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001. Plaintiffs and Class I Members were routinely denied, and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, and a second meal period when they worked shifts greater than ten hours, but were not paid premium wages of one hour's pay for each missed meal period. When they were provided with a meal break, they were late or cut short. This violates Labor Code §§ 226.7 and 512.

41. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001, Plaintiffs seek the payment of all meal period compensation which they and Class I Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiffs and each class they seek to represent request relief as described below.

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IX.
FIFTH CAUSE OF ACTION
PLAINTIFFS AND CLASS I AGAINST ALL DEFENDANTS
KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED
EMPLOYEE WAGE STATEMENT PROVISIONS
(LABOR CODE § 226(a), (e))

42. Plaintiffs incorporate paragraphs 1 through 41 of this Complaint as though fully set forth herein.

43. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing 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 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (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. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

44. Defendants failed to issue Plaintiffs and members of Class I wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Plaintiffs and Class I Members were not paid all wages due, including minimum and reporting time wages, gratuities, and premium wages for unauthorized meal and rest periods, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9).

45. As a consequence of Defendants' willful conduct in failing to provide Class I Members with accurate itemized wage statements, Plaintiffs and members of each class have been injured because they have not been paid all wages due and were issued wage statements which do not reflect, and fail to state, all information required by Labor Code § 226(a). The missing information cannot be discerned at all from the face of the wage statements themselves. As a result, Plaintiffs and members of each class are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

Wherefore, Plaintiffs and each class they seek to represent request relief as described below.

X.

SIXTH CAUSE OF ACTION

PLAINTIFFS AND CLASS II AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

46. Plaintiffs incorporate paragraphs 1 through 45 of this Complaint as though fully set forth herein.

47. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

48. Defendants paid Plaintiffs and Class II Members their final wages beyond the time frames set forth in Labor Code §§ 201 and 202, in violation of Labor Code § 203. Plaintiffs and Class II Members were not paid all wages due and owing throughout the course of their employment, including all premium wages for missed and denied meal and rest periods, as detailed above.

1 Consequently, at the time of their separation from employment with Defendants, they were not paid
2 all final wages due and owing for the entirety of their employment.

3 49. More than 30 days have passed since Plaintiffs and Class II Members have left
4 Defendants' employ.

5 50. As a consequence of Defendants' willful conduct in not paying wages owed timely
6 upon separation of employment, Plaintiffs and Class II Members are entitled to up to 30 days' wages
7 as a penalty under Labor Code § 203 for Defendants' failure to timely pay legal wages at separation
8 of employment.

9 Wherefore, Plaintiffs and each class they seek to represent request relief as described below.

10 **XI.**

11 **SEVENTH CAUSE OF ACTION**

12 **PLAINTIFFS AND CLASS I AGAINST ALL DEFENDANTS**

13 **UNFAIR COMPETITION PURSUANT TO**

14 **BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

15 51. Plaintiffs incorporate paragraphs 1 through 50 of this Complaint as though fully set
16 forth herein.

17 52. This is a Class Action for Unfair Business Practices. Plaintiffs, on their own behalf
18 and on behalf of the general public, and on behalf of others similarly situated, bring this claim
19 pursuant to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged
20 in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiffs, the general
21 public, and members of each class. Plaintiffs seek to enforce important rights affecting the public
22 interest within the meaning of Code of Civil Procedure § 1021.5.

23 53. Plaintiffs are "persons" within the meaning of Business & Professions Code § 17204,
24 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
25 appropriate equitable relief.

26 54. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
27 practices.
28

1 55. Wage and hour laws express fundamental public policies. Properly providing
2 employees with all wages due is a fundamental public policy of this State and of the United States.
3 Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor
4 standards, to ensure that employees are not required or permitted to work under substandard and
5 unlawful conditions, and to protect law-abiding employers and its employees from competitors who
6 lower their costs by failing to comply with minimum labor standards.

7 56. Defendants have violated statutes and public policies. Through the conduct alleged
8 in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have
9 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
10 business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiffs,
11 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
12 guaranteed to all employees under law.

13 57. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
14 §17200 *et seq.* of the Business & Professions Code.

15 58. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
16 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
17 17200 *et seq.* of the Business & Professions Code.

18 59. As a proximate result of the above-mentioned acts of Defendants, Plaintiffs and others
19 similarly situated have been damaged in a sum as may be proven.

20 60. Unless restrained by this Court, Defendants will continue to engage in the unlawful
21 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court
22 should make such orders or judgments, including the appointment of a receiver, as may be necessary
23 to prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or
24 deceptive practice prohibited by the Business & Professions Code, and/or, including but not limited
25 to, disgorgement of profits which may be necessary to restore Plaintiffs and members of each class
26 to the money Defendants have unlawfully failed to pay.

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XII.

EIGHTH CAUSE OF ACTION

**PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 350, 351, 510, 512, 558, 1194, 1194.2, AND 1198
AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558**

61. Plaintiffs incorporate paragraphs 1 through 60 of this Complaint as though fully set forth herein.

62. As a result of the acts alleged above, including the Labor Code violations set forth herein, Plaintiffs seek penalties pursuant to Labor Code § 2698 *et seq.*

63. For each such violation, Plaintiffs and all other aggrieved employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

a. Pursuant to Labor Code § 2699(f) for violations of Labor Code §§ 201, 202, 226(a), 226.7, 350, 351, 510, 512, 1194, 1194.2, and 1198, \$100 for the initial violation per employee per pay period and \$200 for each subsequent violation per employee per pay period; and

b. Pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 226.3 and 558, the penalties as set forth in Labor Code §§ 226.3 and 558.

64. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

65. On February 24, 2020, Plaintiffs sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiffs from the LWDA within sixty-five (65) calendar days of February 24, 2020. Plaintiffs may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiffs and the aggrieved employees they seek to represent request relief as described below.

///

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for the following relief:

1. For compensatory damages pursuant to Labor Code § 351 in the amount of all unpaid gratuities due to Plaintiffs and Class I Members;

2. For compensatory damages pursuant to Labor Code §§ 510, 1194 and 1194.2 in the amount of all unpaid minimum and reporting time wages due to Plaintiffs and Class I Members;

3. For compensatory damages in the amount of one hour of wages for each day on which a meal and/or rest period was not properly provided to Plaintiffs and Class I Members pursuant to Labor Code §§ 226.7 and 512;

4. For penalties pursuant to Labor Code § 226(e) for Plaintiffs and members of Class I;

5. For penalties pursuant to Labor Code § 203 for Plaintiffs and members of Class II;

6. An award of prejudgment and post-judgment interest;

7. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.* for Plaintiffs and Class I Members;

8. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiffs and all other Aggrieved Employees;

9. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

10. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

11. Such other and further relief as this Court may deem just and proper.

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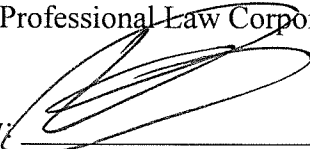
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1 Dated: October 29, 2020

Respectfully submitted,

2
3 GAINES & GAINES
A Professional Law Corporation

4
5 By: 
6 DANIEL F. GAINES
7 EVAN S. GAINES
Attorney for Plaintiffs

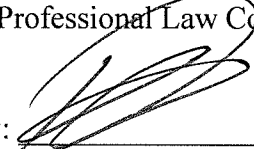
8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiffs hereby demand a trial of their claims by jury to the extent authorized by law.

11 Dated: October 29, 2020

Respectfully submitted,

12
13 GAINES & GAINES
A Professional Law Corporation

14
15 By: 
16 DANIEL F. GAINES
17 EVAN S. GAINES
Attorney for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO
1354 Johnson Blvd.
South Lake Tahoe, CA. 96150
(530) 573-3076 Fax (530) 544-6532

CASE NO. SC 20200155

FILED

NOV 05 2020

Plaintiff,

AARON PAUL

vs.

Defendant.

THE RIVA PARTNERS

EL DORADO CO. SUPERIOR COURT
BY **W. Warden**

NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE (DEPUTY CLERK)
(Local Rule 7.12.05 and .09)

NOTICE IS HEREBY GIVEN that a CASE MANAGEMENT CONFERENCE in the above entitled case is set for 3:30 on 03/02/21, in Dept 12, 1354 Johnson Blvd, Suite 2, South Lake Tahoe, California.

A Case Management Statement must be filed and served not less than 15 days before the Conference.

If a party is demanding a jury trial, pursuant to Civil Code of Procedure section 631(b), a non-refundable jury fee of \$150.00 must be deposited with the court on or before the initial Case Management Conference date in this action. Failure to timely deposit the funds will result in a waiver of a jury trial.

At the CASE MANAGEMENT CONFERENCE you will be assigned a Dispute Resolution Conference Date, a Mandatory Settlement Conference Date, and a Trial Date. In lieu of a Dispute Resolution Conference, the parties may elect mediation, binding arbitration, or judicial arbitration.

In addition, the court will make pre-trial orders.

The Court will require full compliance of El Dorado County Local Rules, in particular, the rules governing Trial Court Case Management (rule 7.12.00, etc.). For additional information regarding the Trial Court Case Management Program visit our website at:
www.eldoradocourt.org

You must be prepared to discuss all matters and dates which are the subjects of the Case Management Conference. Telephonic court appearances are provided through the Court. To sign up to appear by telephone please go to the court's website at
<http://www.eldoradocourt.org/online services/vcourt.html> at least five (5) days prior to the scheduled conference.

CLERK'S CERTIFICATE OF SERVICE

I declare under penalty of perjury that I am over the age of 18 and not a party to the above action; that a copy of NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE was placed for mailing through either the United State Post Office or Inter-Departmental mail on the parties at the address shown herein.
Executed on 11/05/20, in South Lake Tahoe, California.

Delivered to:

GAINES & GAINES APLC
27200 AGOURA RD STE 101
CALABASAS CA 91301

Tania Ugrin-Capobianco, Court Executive Officer

By: W. Warden
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF EL DORADO**

NOTICE TO LITIGANTS

**CIVIL TRIAL DELAY REDUCTION AND ALTERNATIVE DISPUTE RESOLUTION
REQUIRED PROCEDURES AND TIME LINES**

All general civil cases are included in the El Dorado Court's Civil Trial Delay Reduction Program. Local Rules for the El Dorado Superior Court require that you comply with certain procedures and meet certain time lines for these cases. Please see Local Rule 7.12.00 et seq.

Plaintiffs and Cross-Complainant must serve the following documents with the Complaint or Cross-Complaint on all other parties: 1) A copy of this Notice to Litigants; 2) A copy of the Notice of Case Management Conference; and 3) A blank Case Management Statement. This service must be accomplished and proof of service must be filed within 60 days of the filing of the Complaint or Cross-complaint.

A Case Management Conference (CMC) will be held within 120 days of filing of the Complaint. The date and time are indicated on the Notice of Case Management Conference. You must file a completed Case Management Statement at least 15 days prior to the Conference.

At the CMC, the court will assign a Dispute Resolution Conference date, a Mandatory Settlement and Readiness Conference date and a trial date. The court may also assign an Issues Conference date. In lieu of a Dispute Resolution Conference, all parties may elect mediation, private arbitration or judicial arbitration. You may obtain a stipulation and order to participate in alternative dispute resolution and a list of the attorneys on the Dispute Resolution Conference, arbitration or mediation panels from the court's website or the clerk's office.

Dispute Resolution Conferences will be conducted by one attorney temporary judge. You may obtain a list of the attorneys on the panel on the Court's website at www.eldoradocourt.org.

Dispute Resolution Conferences are conducted as early Mandatory Settlement Conferences pursuant to CRC Rule 3.1380 which requires that trial counsel, parties and persons with full authority to settle personally attend, unless excused by the court, and that no later than 5 court days before the conference, each party file and serve on each other party a Settlement Conference Statement with a good faith settlement proposal. The Dispute Resolution conference is conducted by a volunteer settlement attorney.

It is important to review Local Rule 7.12.00 et seq. and El Dorado Superior Court's ADR program with your client. It will increase the possibility of your client's case being resolved at an early, less expensive stage.

**DISPUTE RESOLUTION CONFERENCES
REQUIRED PROCEDURES AND TIME LINES**

The Court has initiated an Alternative Dispute Resolution (ADR) Program which applies to all civil cases which are subject to these rules; provided, however, that on the joint request of the parties or on its own motion, the Court may order that the program apply to any civil case.

Unless the parties agree to another form of ADR, they will be ordered to participate in a Dispute Resolution Conference (DRC). The DRC will be conducted by a volunteer attorney temporary judge. The DRC will be conducted as a Mandatory Settlement Conference pursuant to California Rules of Court, rule 3.1380, and the parties and counsel are directed to comply with the terms thereof.

Within 7 to 10 days after the Case Management Conference, the court will notify the parties of the DRC temporary judge assigned to the case. It is the responsibility of the plaintiff to contact the temporary judge and arrange for a time and place for the DRC convenient to them and all parties.

At least 10 court days prior to the DRC, each party is to submit to the temporary judge and the other parties a Dispute Resolution Conference Statement which meets the requirements of California Rules of Court, rule 3.1380, and any special requirements set forth below.

Prior to the DRC, the parties are to exchange documents and records pertinent to settlement and shall provide copies of these to the DRC temporary judge.

With leave of court and in lieu of participation in a DRC, the parties may stipulate to private arbitration (binding or non-binding), judicial arbitration, or mediation. The parties may select the neutral from the Court's panel or a private neutral of their choice. The parties will be responsible for any fees associated with arbitration, judicial arbitration or mediation. The Court's panel of neutrals may be obtained from the court's website.

MANDATORY SETTLEMENT AND READINESS CONFERENCE REQUIRED PROCEDURES AND TIME LINES

A **MANDATORY SETTLEMENT AND READINESS CONFERENCE (MSRC)** will be held approximately three to four weeks prior to trial. See CRC Rule 3.1380 and Local Rule 7.12.10.

The MSRC will be conducted as a **MANDATORY SETTLEMENT CONFERENCE** pursuant to CRC Rule 3.1380, which provides:

1. That trial counsel, parties and persons with full authority to settle the case shall personally attend the conference, unless excused by the court for good cause shown; and
2. That no later than five court days before the conference, each party shall submit to the court and serve on each party, a Mandatory Settlement Conference Statement containing a good faith settlement demand and an itemization of economic and non-economic damages by each plaintiff and a good faith offer of settlement by each defendant. The Mandatory Settlement Conference Statement shall set forth and discuss in detail all facts and law pertinent to the issues of liability and damages involved in the case as to that party.

The MSRC will also be conducted as a **TRIAL READINESS CONFERENCE** at which all matters that need to be resolved prior to trial, including matters set at in Rule 7.12.09, paragraphs D and E, shall be before the court.

In their MSRC Statements Counsel are to address the following:

1. **Witnesses.** A list identifying all lay and expert witnesses the party intends to call at trial;
2. **Exhibits.** A list identifying all exhibits the party intends to offer at trial.
3. **Jury Instructions.** A jury instructions checklist indicating the BAJI numbers of requested instructions;
4. **Photographs and Reports.** Each party shall attach to the MSRC Statement copies of relevant documents which may assist the Court in settlement including photographs, diagrams, reports, bills, and contracts.

No later than three days prior to the **MSRC**, the parties are to file and serve Motions in Limine.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
CASE MANAGEMENT STATEMENT (Check one): ☐ UNLIMITED CASE (Amount demanded exceeds \$25,000) ☐ LIMITED CASE (Amount demanded is \$25,000 or less)	
CASE NUMBER: _____	
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ ☐ Notice of Intent to Appear by Telephone, by (name): _____	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted jointly by parties (names):

2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):

3. Service (to be answered by plaintiffs and cross-complainants only)
 - a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):

4. Description of case
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request ☐ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. Trial date

- a. ☐ The trial has been set for (date):
b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. ☐ days (specify number):
b. ☐ hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
b. Firm:
c. Address:
d. Telephone number:
e. E-mail address:
f. Fax number:
g. Party represented:

☐ Additional representation is described in Attachment 8.

9. Preference

☐ This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR information package. Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.
(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.
- b. Referral to judicial arbitration or civil action mediation (if available).
(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under of Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	☐	☐ Mediation session not yet scheduled ☐ Mediation session scheduled for (date): ☐ Agreed to complete mediation by (date): ☐ Mediation completed on (date):
(2) Settlement conference	☐	☐ Settlement conference not yet scheduled ☐ Settlement conference scheduled for (date): ☐ Agreed to complete settlement conference by (date): ☐ Settlement conference completed on (date):
(3) Neutral evaluation	☐	☐ Neutral evaluation not yet scheduled ☐ Neutral evaluation scheduled for (date): ☐ Agreed to complete neutral evaluation by (date): ☐ Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	☐	☐ Judicial arbitration not yet scheduled ☐ Judicial arbitration scheduled for (date): ☐ Agreed to complete judicial arbitration by (date): ☐ Judicial arbitration completed on (date):
(5) Binding private arbitration	☐	☐ Private arbitration not yet scheduled ☐ Private arbitration scheduled for (date): ☐ Agreed to complete private arbitration by (date): ☐ Private arbitration completed on (date):
(6) Other (<i>specify</i>):	☐	☐ ADR session not yet scheduled ☐ ADR session scheduled for (date): ☐ Agreed to complete ADR session by (date): ☐ ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF PARTY OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.