

EXHIBIT A

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT THORNTON, individually,
and on behalf of other members of
the general public similarly situated,

Plaintiff,

vs.

REGAL CINEMAS, INC., a
Tennessee corporation; UNITED
ARTISTS THEATRE CIRCUIT,
INC., a Maryland corporation;
EDWARDS THEATRES, INC., a
Delaware corporation; CINEWORLD
GROUP PLC, a business entity of
unknown form; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 2:20-cv-00628-JAM-CKD

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE
§§ 2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (2) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (3) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (4) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section 11100 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (9) Violation of California Labor Code §

- 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
 - (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
 - (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Robert Thornton, individually and on behalf of all other members
2 of the public similarly situated and as an aggrieved employee and on behalf of all
3 other aggrieved employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to Rule 23 of the Federal Rules
6 of Civil Procedure to recover wages and all other available relief on behalf of
7 Plaintiff and all similarly situated current and former non-exempt, hourly paid
8 employees of Defendants, and a non-class representative enforcement action
9 brought pursuant to the Labor Code Private Attorneys General Act of 2004,
10 California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
11 and any other available relief on behalf of Plaintiff, the State of California, and
12 other current and former employees who worked for Defendants in California as
13 non-exempt, hourly paid employees and received at least one wage statement and
14 against whom one or more violations of any provision in Division 2 Part 2
15 Chapter 1 of the Labor Code or any provision regulating hours and days of work
16 in the applicable Industrial Welfare Commission (“IWC”) Wage Order were
17 committed, as set forth in this complaint.

18 2. This Court has original jurisdiction over this action pursuant to 28
19 U.S.C. § 1332(d) and based on 28 U.S.C. §§ 1441, 1446.

20 3. Venue is proper in this Court because this case was originally filed in
21 the Superior Court of California for the County of Sacramento. Venue properly
22 lies in the United States District Court for the Eastern District of California
23 pursuant to 28 U.S.C. §§ 84(a), 1391(b) and 1441(a).

24 4. The PAGA statute authorizes aggrieved employees to sue directly as
25 the proxy of the State of California for civil penalties for violations of various
26 provisions in the California Labor Code.

27 THE PARTIES

28 5. Plaintiff Robert Thornton is a resident of Sacramento, in

1 Sacramento County, California. Defendants employed Plaintiff as an hourly
2 paid, non-exempt Usher/Floor Staff Associate from approximately 2002 to
3 October 2019. Most recently, Plaintiff worked for Defendants out of the
4 Natomas Marketplace 16 location (theatre number 774) in Sacramento,
5 California. During his employment, Plaintiff typically worked six (6) hours or
6 more per day, four (4) to five (5) days per week, from 11:30 a.m. or 12:00 p.m.
7 to 5:30 p.m. or 6:00 p.m. Plaintiff's primary job duties included, without
8 limitation, ushering (cleaning theatre area, hallways, bathrooms, and lobby),
9 processing ticket sales and payments in the box office, and assisting with
10 concession stand duties (fulfilling customer orders and cleaning).

11 6. REGAL CINEMAS, INC. was and is, upon information and belief,
12 a Tennessee corporation, and at all times hereinafter mentioned, an employer
13 whose employees are engaged throughout this county, the State of California, or
14 the various states of the United States of America.

15 7. UNITED ARTISTS THEATRE CIRCUIT, INC. was and is, upon
16 information and belief, a Maryland corporation, and at all times hereinafter
17 mentioned, an employer whose employees are engaged throughout this county,
18 the State of California, or the various states of the United States of America.

19 8. EDWARDS THEATRES, INC. was and is, upon information and
20 belief, a Delaware corporation, and at all times hereinafter mentioned, an
21 employer whose employees are engaged throughout this county, the State of
22 California, or the various states of the United States of America.

23 9. CINEWORLD GROUP PLC was and is, upon information and
24 belief, a business entity of unknown form in California, and at all times
25 hereinafter mentioned, an employer whose employees are engaged throughout
26 this county, the State of California, or the various states of the United States of
27 America.

28 10. Plaintiff is unaware of the true names or capacities of the

1 Defendants sued herein under the fictitious names DOES 1 through 10, but will
2 seek leave of this Court to amend the complaint and serve such fictitiously
3 named Defendants once their names and capacities become known.

4 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1
5 through 10 were the partners, agents, owners, or managers of REGAL
6 CINEMAS, INC.; UNITED ARTISTS THEATRE CIRCUIT, INC.; EDWARDS
7 THEATRES, INC.; and CINEWORLD GROUP PLC at all relevant times.

8 12. Plaintiff is informed and believes, and thereon alleges, that each and
9 all of the acts and omissions alleged herein was performed by, or is attributable
10 to, REGAL CINEMAS, INC.; UNITED ARTISTS THEATRE CIRCUIT, INC.;
11 EDWARDS THEATRES, INC.; CINEWORLD GROUP PLC; and/or DOES 1
12 through 10 (collectively, “Defendants” or “REGAL CINEMAS”), each acting as
13 the agent, employee, alter ego, and/or joint venturer of, or working in concert
14 with, each of the other co-Defendants and was acting within the course and
15 scope of such agency, employment, joint venture, or concerted activity with legal
16 authority to act on the others’ behalf. The acts of any and all Defendants were in
17 accordance with, and represent, the official policy of Defendants.

18 13. At all relevant times, Defendants, and each of them, ratified each
19 and every act or omission complained of herein. At all relevant times,
20 Defendants, and each of them, aided and abetted the acts and omissions of each
21 and all the other Defendants in proximately causing the damages herein alleged.

22 14. Plaintiff is informed and believes, and thereon alleges, that each of
23 said Defendants is in some manner intentionally, negligently, or otherwise
24 responsible for the acts, omissions, occurrences, and transactions alleged herein.

25 15. Under California law, Defendants are jointly and severally liable as
26 employers for the violations alleged herein because they have each exercised
27 sufficient control over the wages, hours, working conditions, and employment
28 status of Plaintiff and class members. Each Defendant had the power to hire and

1 fire Plaintiff and class members, supervised and controlled their work schedule
2 and/or conditions of employment, determined their rate of pay, and maintained
3 their employment records. Defendants suffered or permitted Plaintiff and class
4 members to work and/or “engaged” Plaintiff and class members so as to create a
5 common law employment relationship. As joint employers of Plaintiff and class
6 members, Defendants are jointly and severally liable for the civil penalties and
7 all other relief available to Plaintiff and class members under the law.

8 16. Plaintiff is informed and believes, and thereon alleges, that at all
9 relevant times, Defendants, and each of them, have acted as joint employers with
10 respect to Plaintiff and class members because Defendants have:

- 11 (a) jointly exercised meaningful control over the work performed
12 by Plaintiff and class members;
- 13 (b) jointly exercised meaningful control over Plaintiff’s and class
14 members’ wages, hours, and working conditions, including
15 the quantity, quality standards, speed, scheduling, and
16 operative details of the tasks performed by Plaintiff and class
17 members;
- 18 (c) jointly required that Plaintiff and class members perform
19 work which is an integral part of Defendants’ businesses; and
- 20 (d) jointly exercised control over Plaintiff and class members as a
21 matter of economic reality in that Plaintiff and class members
22 were dependent on Defendants, who shared the power to set
23 the wages of Plaintiff and class members and determine their
24 working conditions, and who jointly reaped the benefits from
25 the underpayment of their wages and noncompliance with
26 other statutory provisions governing their employment.

27 17. Plaintiff is informed and believes, and further alleges, that at all
28 relevant times there has existed a unity of interest and ownership between

1 Defendants such that any individuality and separateness between the entities has
2 ceased.

3 18. REGAL CINEMAS, INC.; UNITED ARTISTS THEATRE
4 CIRCUIT, INC.; EDWARDS THEATRES, INC.; CINEWORLD GROUP PLC;
5 and DOES 1-10 are therefore alter egos of each other.

6 19. Adherence to the fiction of the separate existence of Defendants
7 would permit an abuse of the corporate privilege, and would promote injustice
8 by protecting Defendants from liability for the wrongful acts committed by them
9 under the name REGAL CINEMAS.

10 20. Plaintiff further alleges, upon information and belief, that
11 Defendants are alter egos of each other for the additional following reasons:

12 (a) REGAL CINEMAS, INC. operates theatres under the brand
13 names Regal Cinemas, United Artists Theatres, and Edwards
14 Theatres. When all three chains went into bankruptcy,
15 investor Philip Anschutz bought substantial investments and
16 consolidated them into “Regal Entertainment Group.”

17 (b) Regal Entertainment Group, including REGAL CINEMAS,
18 INC.; UNITED ARTISTS THEATRE CIRCUIT, INC.;
19 EDWARDS THEATRES, INC., was acquired by
20 CINEWORLD PLC for \$3.6B in February 2018,¹ and
21 continues to operate as “Regal Cinemas.”

22 (c) According to Defendants’ most recent “Statement of
23 Information” forms filed with the California Secretary of
24 State, Vincent Fusco serves as the Chief Executive Officer and
25 Chief Financial Officer of REGAL CINEMAS, INC.;
26 UNITED ARTISTS THEATRE CIRCUIT, INC.; and

27 ¹ See “Regal Entertainment execs out as merger closes,” Knox News, available at:
28 <https://www.knoxnews.com/story/money/business/2018/02/28/top-regal-entertainment-execs-out-merger-becomes-final-wednesday/381714002/> (last visited Jan. 28, 2020).

EDWARDS THEATRES, INC., while Matt Eyre serves as the Secretary of REGAL CINEMAS, INC.; UNITED ARTISTS THEATRE CIRCUIT, INC.; and EDWARDS THEATRES, INC.;

(d) On information and belief, REGAL CINEMAS, INC.; UNITED ARTISTS THEATRE CIRCUIT, INC.; EDWARDS THEATRES, INC.; and CINEWORLD GROUP PLC utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

21. Defendants are an American movie theatre chain and operate the second-largest theatre circuit in the United States. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their company headquarters in Knoxville, Tennessee, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

22. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire, including, but not limited to, an Acknowledgment Form – Disclaimer and Cast Performance (Employee) Handbook.

23. Upon information and belief, Defendants maintain a centralized

1 Payroll department at their company headquarters in Knoxville, Tennessee,
2 which processes payroll for all non-exempt, hourly paid employees working for
3 Defendants at their various locations and jobsites in California, including
4 Plaintiff and class members. Based upon information and belief, Defendants
5 issue the same formatted wage statements to all non-exempt, hourly paid
6 employees in California, irrespective of their work locations. Upon information
7 and belief, Defendants process payroll for departing employees in the same
8 manner throughout the State of California, regardless of the manner in which
9 each employee's employment ends.

10 24. Defendants continue to employ non-exempt or hourly paid
11 employees in California.

12 25. Plaintiff is informed and believes, and thereon alleges, that at all
13 times herein mentioned, Defendants were advised by skilled lawyers and other
14 professionals, employees and advisors knowledgeable about California labor and
15 wage law, employment and personnel practices, and about the requirements of
16 California law.

17 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff
18 and class members were not paid for all hours worked because all hours worked
19 were not recorded.

20 27. Plaintiff is informed and believes, and thereon alleges, that
21 Defendants knew or should have known that Plaintiff and class members were
22 entitled to meal periods in accordance with the Labor Code or payment of one
23 (1) additional hour of pay at their regular rates of pay when they were not
24 provided with timely, uninterrupted, thirty (30) minute meal periods and that
25 Plaintiff and class members were not provided with all meal periods or payment
26 of one (1) additional hour of pay at their regular rates of pay when they did not
27 receive a timely, uninterrupted, thirty (30) minute meal period.

28 28. Plaintiff is informed and believes, and thereon alleges, that

1 Defendants knew or should have known that Plaintiff and class members were
2 entitled to rest periods in accordance with the Labor Code and applicable IWC
3 Wage Order or payment of one (1) additional hour of pay at their regular rates of
4 pay when they were not authorized and permitted to take a compliant rest period.
5 In violation of the California Labor Code, Plaintiff and class members were not
6 authorized and permitted to take compliant rest periods, nor did Defendants
7 provide Plaintiff and class members with payment of one (1) additional hour of
8 pay at their regular rates of pay when they were not authorized and permitted to
9 take a compliant rest period.

10 29. Plaintiff is informed and believes, and thereon alleges, that
11 Defendants knew or should have known that Plaintiff and class members were
12 entitled to receive certain wages for overtime compensation and that they were
13 not receiving certain wages for overtime compensation.

14 30. Plaintiff is informed and believes, and thereon alleges, that
15 Defendants knew or should have known that Plaintiff and class members were
16 entitled to receive at least minimum wages for compensation and that they were
17 not receiving at least minimum wages for work that was required to be done off-
18 the-clock. In violation of the California Labor Code, Plaintiff and class members
19 were not paid at least minimum wages for work done off-the-clock.

20 31. Plaintiff is informed and believes, and thereon alleges, that
21 Defendants knew or should have known that Plaintiff and class members were
22 entitled to receive complete and accurate wage statements in accordance with
23 California law. In violation of the California Labor Code, Plaintiff and class
24 members were not provided complete and accurate wage statements.

25 32. Plaintiff is informed and believes, and thereon alleges, that
26 Defendants knew or should have known that they had a duty to maintain accurate
27 and complete payroll records in accordance with the Labor Code and applicable
28 IWC Wage Order, but willfully, knowingly, and intentionally failed to do so.

1 33. Plaintiff is informed and believes, and thereon alleges, that
2 Defendants knew or should have known that Plaintiff and class members were
3 entitled to timely payment of all wages earned upon termination of employment.
4 In violation of the California Labor Code, Plaintiff and class members did not
5 receive payment of all wages due, including, but not limited to, overtime wages,
6 minimum wages, meal and rest period premiums, and/or reporting time pay,
7 within permissible time periods.

8 34. Plaintiff is informed and believes, and thereon alleges, that
9 Defendants knew or should have known that Plaintiff and class members were
10 entitled to timely payment of wages during their employment. In violation of the
11 California Labor Code, Plaintiff and class members did not receive payment of
12 all wages, including, but not limited to, overtime wages, minimum wages, meal
13 and rest period premiums, and/or reporting time pay, within permissible time
14 periods.

15 35. Plaintiff is informed and believes, and thereon alleges, that
16 Defendants knew or should have known that Plaintiff and class members were
17 entitled to receive all reporting time pay when Defendants required Plaintiff and
18 class members were required to report to work but were put to work for less than
19 half of their regular scheduled shift. In violation of the California Labor Code,
20 Plaintiff and class members were not paid all reporting time pay.

21 36. Plaintiff is informed and believes, and thereon alleges, that
22 Defendants knew or should have known that Plaintiff and/or class members were
23 entitled to suitable seating and/or were entitled to sit when it did not interfere
24 with the performance of their duties and also have seats nearby to use during a
25 lull in tasks that do require moving about or standing.

26 37. Plaintiff is informed and believes, and thereon alleges, that
27 Defendants knew or should have known that Plaintiff and class members were
28 entitled to receive full reimbursement for all business-related expenses and costs

1 they incurred during the course and scope of their employment and that they did
2 not receive full reimbursement of applicable business-related expenses and costs
3 incurred.

4 38. Plaintiff is informed and believes, and thereon alleges, that at all
5 times herein mentioned, Defendants knew or should have known that they had a
6 duty to compensate Plaintiff and class members for all hours worked, and that
7 Defendants had the financial ability to pay such compensation, but willfully,
8 knowingly, and intentionally failed to do so, and falsely represented to Plaintiff
9 and class members that they were properly denied wages, all in order to increase
10 Defendants' profits.

11 **PAGA REPRESENTATIVE ALLEGATIONS**

12 39. At all times herein set forth, PAGA provides that any provision of
13 law under the Labor Code and applicable IWC Wage Order that provides for a
14 civil penalty to be assessed and collected by the LWDA for violations of the
15 California Labor Code and applicable IWC Wage Order may, as an alternative,
16 be recovered by aggrieved employees in a civil action brought on behalf of
17 themselves and other current or former employees pursuant to procedures
18 outlined in California Labor Code section 2699.3.

19 40. PAGA defines an "aggrieved employee" in Labor Code section
20 2699(c) as "any person who was employed by the alleged violator and against
21 whom one or more of the alleged violations was committed."

22 41. Plaintiff and other current and former employees of Defendants are
23 "aggrieved employees" as defined by Labor Code section 2699(c) in that they are
24 all Defendants' current or former employees and one or more of the alleged
25 violations were committed against them.

26 42. Pursuant to California Labor Code sections 2699.3 and 2699.5, an
27 aggrieved employee, including Plaintiff, may pursue a civil action arising under
28 PAGA after the following requirements have been met:

- 1 (a) The aggrieved employee or representative shall give written
2 notice by online filing with the LWDA and by certified mail
3 to the employer of the specific provisions of the California
4 Labor Code alleged to have been violated, including the facts
5 and theories to support the alleged violation.
- 6 (b) An aggrieved employee's notice filed with the LWDA
7 pursuant to 2699.3(a) and any employer response to that
8 notice shall be accompanied by a filing fee of seventy-five
9 dollars (\$75).
- 10 (c) The LWDA shall notify the employer and the aggrieved
11 employee or representative by certified mail that it does not
12 intend to investigate the alleged violation ("LWDA's Notice")
13 within sixty (60) calendar days of the postmark date of the
14 aggrieved employee's notice. Upon receipt of the LWDA
15 Notice, or if no LWDA Notice is provided within sixty-five
16 (65) calendar days of the postmark date of the aggrieved
17 employee's notice, the aggrieved employee may commence a
18 civil action pursuant to California Labor Code section 2699 to
19 recover civil penalties.

20 43. Pursuant to California Labor Code sections 2699.3(c), aggrieved
21 employees, through Plaintiff, may pursue a civil action arising under PAGA for
22 violations of any provision other than those listed in Section 2699.5 after the
23 following requirements have been met:

- 24 (a) The aggrieved employee or representative shall give written
25 notice by online filing with the LWDA and by certified mail
26 to the employer of the specific provisions of the California
27 Labor Code alleged to have been violated (other than those
28 listed in Section 2699.5), including the facts and theories to

1 support the alleged violation.

- 2 (b) An aggrieved employee's notice filed with the LWDA
3 pursuant to 2699.3(c) and any employer response to that
4 notice shall be accompanied by a filing fee of seventy-five
5 dollars (\$75).
- 6 (c) The employer may cure the alleged violation within thirty-
7 three (33) calendar days of the postmark date of the notice
8 sent by the aggrieved employee or representative. The
9 employer shall give written notice within that period of time
10 by certified mail to the aggrieved employee or representative
11 and by online filing with the LWDA if the alleged violation is
12 cured, including a description of actions taken, and no civil
13 action pursuant to Section 2699 may commence. If the
14 alleged violation is not cured within the 33-day period, the
15 aggrieved employee may commence a civil action pursuant to
16 Section 2699.

17 44. On February 19, 2020, Plaintiff provided written notice by online
18 filing to the LWDA and by Certified Mail to Defendants of the specific
19 provisions of the California Labor Code alleged to have been violated, including
20 facts and theories to support the alleged violations, in accordance with California
21 Labor Code section 2699.3. Plaintiff's written notice was accompanied with the
22 applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
23 Administrator confirmed receipt of Plaintiff's written notice and assigned
24 Plaintiff PAGA Case Number LWDA-CM-773583-20. A true and correct copy
25 of Plaintiff's written notice to the LWDA and Defendants is attached hereto as
26 "Exhibit 1."

27 45. As of the filing date of this complaint, over 65 days have passed
28 since Plaintiff sent the notice described above to the LWDA, and the LWDA has

1 not responded that it intends to investigate Plaintiff's claims and Defendants
2 have not cured the violations.

3 46. Thus, Plaintiff has satisfied the administrative prerequisites under
4 California Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties
5 against Defendants for violations of California Labor Code sections 201, 202,
6 203, 204, 226(a), 226.7, 510, 512, 516, 1174(d), 1182.12, 1194, 1197, 1197.1,
7 1198, and 2802.

8 47. Labor Code section 558(a) provides "[a]ny employer or other person
9 acting on behalf of an employer who violates, or causes to be violated, a section
10 of this chapter or any provision regulating hours and days of work in any order
11 of the Industrial Welfare Commission shall be subject to a civil penalty as
12 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
13 employee for each pay period for which the employee was underpaid (2)
14 For each subsequent violation, one hundred dollars (\$100) for each underpaid
15 employee for each pay period for which the employee was underpaid"
16 Labor Code section 558(c) provides "[t]he civil penalties provided for in this
17 section are in addition to any other civil or criminal penalty provided by law."

18 48. Defendants, at all times relevant to this complaint, were employers
19 or persons acting on behalf of an employer(s) who violated Plaintiff's and other
20 aggrieved employees' rights by violating various sections of the California Labor
21 Code as set forth above.

22 49. As set forth below, Defendants have violated numerous provisions
23 of both the Labor Code sections regulating hours and days of work as well as the
24 applicable IWC Wage Order.

25 50. Pursuant to PAGA, and in particular, California Labor Code
26 sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff,
27 acting in the public interest as a private attorney general, seeks assessment and
28 collection of civil penalties for himself, all other aggrieved employees, and the

1 State of California against Defendants for violations of California Labor Code
2 sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 516, 1174(d), 1182.12,
3 1194, 1197, 1197.1, 1198, and 2802.

4 **CLASS ACTION ALLEGATIONS**

5 51. Plaintiff brings this action on his own behalf, as well as on behalf of
6 each and all other persons similarly situated, and thus seeks class certification
7 under Rule 23 of the Federal Rules of Civil Procedure.

8 52. All claims alleged herein arise under California law for which
9 Plaintiff seeks relief authorized by California law.

10 53. Plaintiff's proposed class consists of and is defined as follows:

11 All persons who worked for Defendants as non-exempt,
12 hourly paid employees in California, within four years
13 prior to the filing of the initial complaint until the date of
trial ("Class").

14 54. Plaintiff's proposed subclass consists of and is defined as follows:

15 All persons who worked for Defendants as non-exempt,
16 hourly paid employees in California and who received at
17 least one wage statement within one (1) year prior to the
filing of the initial complaint until the date of trial
("Subclass").

18 55. Members of the Class and Subclass are referred to herein as "class
19 members."

20 56. Plaintiff reserves the right to redefine the Class and Subclass and to
21 add additional subclasses as appropriate based on further investigation,
22 discovery, and specific theories of liability.

23 57. This action is brought and properly may be maintained as a class
24 action pursuant to the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4)
25 and 23(b)(1), (b)(2) or (b)(3) and satisfies the requirements thereof.

26 58. According to Defendant's removal papers, there are at least 14,000
27 non-exempt, hourly paid employees working for Defendant across California
28 during the relevant period. Thus, it is reasonable to presume that the members of

1 the class are so numerous that joinder of all members is impracticable. The
2 disposition of their claims in a class action will provide substantial benefits to
3 the parties and the Court.

4 59. Plaintiff's claims are typical of those of the class members, because
5 Plaintiff suffered the violations set forth in this First Amended Complaint.

6 60. Plaintiff will adequately protect the interests of class members.
7 Plaintiff has no interests that are adverse to or conflict with class members and is
8 committed to the vigorous prosecution of this action. To that end, Plaintiff has
9 retained counsel who is competent and experienced in handling class actions on
10 behalf of employees.

11 61. A class action is superior to all other available methods for the fair
12 and efficient adjudication of this controversy since joinder of all members is
13 impracticable. Furthermore, as the amount suffered by individual class members
14 may be relatively small, the expense and burden of individual litigation make it
15 impossible for members of the Class to individually redress the wrongs done to
16 them. There will be no difficulty in the management of this case as a class
17 action.

18 62. There are common questions of law and fact as to class members
19 that predominate over questions affecting only individual members, including,
20 but not limited to:

- 21 (a) Whether Defendants failed to provide Plaintiff and class
22 members with meal periods;
- 23 (b) Whether Defendants failed to authorize and permit Plaintiff
24 and class members to take rest periods;
- 25 (c) Whether Defendants required Plaintiff and class members to
26 work over eight (8) hours per day, over twelve (12) hours per
27 day, or over forty (40) hours per week and failed to pay all
28 legally required overtime compensation to Plaintiff and class

members;

- (d) Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- (e) Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (f) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (g) Whether Defendants failed to pay earned overtime wages, minimum wages, and meal and rest period premiums due to Plaintiff and class members upon their discharge;
- (h) Whether Defendants failed timely to pay overtime wages, minimum wages, and meal and rest period premiums to Plaintiff and class members during their employment;
- (i) Whether Defendants failed to provide Plaintiff and/or class members with suitable seating;
- (j) Whether Defendants required Plaintiff and class members to report to work, but failed to provide them with work or provided them with less than half their scheduled day's work, without properly compensating them as required by California Code of Regulations, Title 8, section 11100, subsection 5;
- (k) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (l) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and

(m) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

FIRST CAUSE OF ACTION

Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period Violations (Against all Defendants)

63. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

64. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012).

65. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

66. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not

1 waived.

2 67. During the relevant time period, on information and belief,
3 Defendants had a company-wide policy of staffing the theatres strictly based on
4 the labor hours allocated by corporate for each location. Defendants' uniform
5 use of labor budgets resulted in chronic understaffing such that there were too
6 few employees on duty to handle the workload and provide meal period
7 coverage.

8 68. In addition, Defendants, on a company-wide basis, had a practice of
9 failing to schedule meal periods, which further caused Plaintiff and class
10 members to not be relieved of their duties for compliant meal periods. As a
11 result of these policies and/or practices, Plaintiff and class members were
12 expected to clock out and work through and/or to return early from meal periods,
13 in order to complete their assigned tasks such as cleaning up the theatres. Thus,
14 Plaintiff and class members would be forced to work in excess of five (5) hours
15 before taking a meal period, had their meal periods interrupted, and/or had to
16 forgo their meal periods altogether. For example, during his employment,
17 Plaintiff clocked out and continued working due to a lack of coverage resulting
18 from having too few employees on duty to handle the workload, or would have
19 his meal periods interrupted by his supervisors giving him new work
20 assignments. However, Plaintiff and class members did not sign valid meal
21 period waivers on days that they were entitled to meal periods and were not
22 relieved of all duties.

23 69. At all times herein mentioned, Defendants knew or should have
24 known that, as a result of these policies, Plaintiff and class members were
25 prevented from being relieved of all duties and required to perform some of their
26 assigned duties during meal periods. Defendants further knew or should have
27 known that Defendants did not pay Plaintiff and class members meal period
28 premium wages when meal periods were late, interrupted, shortened, or missed.

1 70. Moreover, Defendants engaged in a company-wide practice and/or
2 policy of not paying all meal period premiums owed when compliant meal
3 periods are not provided. Because of Defendants’ practices and/or policies,
4 Plaintiff and class members have not received premium pay for all missed, late,
5 and interrupted meal periods. As a result, Defendants failed to provide Plaintiff
6 and class members compliant meal periods in violation of California Labor Code
7 sections 226.7, 512, and 516 and failed to pay the full meal period premiums
8 due.

9 71. Defendants’ conduct violates the applicable IWC Wage Order, and
10 California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class
11 members are therefore entitled to recover from Defendants one (1) additional
12 hour of pay at the employee’s regular rate of compensation for each work day
13 that the meal period was not provided.

14 **SECOND CAUSE OF ACTION**

15 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period** 16 **Violations** 17 **(Against all Defendants)**

18 72. Plaintiff incorporates by reference and re-alleges as if fully stated
19 herein each and every allegation set forth above.

20 73. At all relevant times herein set forth, the applicable IWC Wage
21 Order and California Labor Code sections 226.7, 516, and 1198 were applicable
22 to Plaintiff and class members’ employment by Defendants.

23 74. At all relevant times, the applicable IWC Wage Order provides that
24 “[e]very employer shall authorize and permit all employees to take rest periods,
25 which insofar as practicable shall be in the middle of each work period” and that
26 the “rest period time shall be based on the total hours worked daily at the rate of
27 ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless
28 the total daily work time is less than three and one-half (3½) hours.

1 75. At all relevant times, California Labor Code section 226.7 provides
2 that no employer shall require an employee to work during any rest period
3 mandated by an applicable order of the California IWC. To comply with its
4 obligation to authorize and permit rest periods under California Labor Code
5 section 226.7 and the applicable IWC Wage Order, an employer must “relinquish
6 any control over how employees spend their break time, and relieve their
7 employees of all duties — including the obligation that an employee remain on
8 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security*
9 *Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC
10 Wage Order and California Labor Code section 226.7(b), Plaintiff and class
11 members are entitled to recover from Defendants one (1) additional hour of pay
12 at their regular rates of pay for each work day that a required rest period was not
13 authorized and permitted.

14 76. During the relevant time period, Defendants regularly failed to
15 authorize and permit Plaintiff and class members to take a ten (10) minute rest
16 period per each four (4) hour period worked or major fraction thereof. As with
17 meal periods, Defendants’ company-wide practices, including understaffing,
18 prevented Plaintiff and class members from being relieved of all duty to take
19 their rest periods. Additionally, Defendants failed to schedule rest periods,
20 which, coupled with Defendants’ failure to provide adequate rest period
21 coverage, further led to Plaintiff and class members not being authorized and
22 permitted to take compliant rest periods.

23 77. Furthermore, upon information and belief, during the relevant time
24 period, Defendants maintained implemented a company-wide on-premises rest
25 period policy, which mandated that Plaintiff and class members remain on
26 Defendants’ premises during their rest periods. Upon information and belief,
27 Defendants’ company-wide on-premises rest period policy prevented Plaintiff
28 and class members from being relieved of all duties for rest periods and caused

1 them to perform work during rest periods.

2 78. As a result of Defendants' practices and policies, Plaintiff and class
3 members worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
4 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to
5 which they were entitled. For example, during his employment, Plaintiff missed
6 his rest periods or took them late, due to insufficient staffing, lack of rest period
7 coverage, and workloads.

8 79. Defendants have also engaged in a systematic, company-wide
9 practice and/or policy of not paying rest period premiums owed when rest
10 periods are not authorized and permitted. As a result, Defendants denied
11 Plaintiff and class members rest periods and failed to pay them rest period
12 premium wages due, in violation of Labor Code section 226.7 and the applicable
13 IWC Wage Order.

14 80. Defendants' conduct violates the applicable IWC Wage Order and
15 California Labor Code sections 226.7, 516, and 1198. Plaintiff and class
16 members are therefore entitled to recover from Defendants one (1) additional
17 hour of pay at the employee's regular rate of compensation for each work day
18 that a compliant rest period was not authorized and permitted.

19 **THIRD CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**
21 **(Against all Defendants)**

22 81. Plaintiff incorporates by reference and re-alleges as if fully stated
23 herein each and every allegation set forth above.

24 82. Labor Code section 1198 makes it illegal to employ an employee
25 under conditions of labor that are prohibited by the applicable wage order.
26 California Labor Code section 1198 requires that "... the standard conditions of
27 labor fixed by the commission shall be the ... standard conditions of labor for
28 employees. The employment of any employee ... under conditions of labor

1 prohibited by the order is unlawful.”

2 83. California Labor Code section 1198 and the applicable IWC Wage
3 Order provide that it is unlawful to employ persons without compensating them
4 at a rate of pay either time-and-one-half or two-times that person’s regular rate of
5 pay, depending on the number of hours worked by the person on a daily or
6 weekly basis.

7 84. Specifically, the applicable IWC Wage Order provides that
8 Defendants are and were required to pay Plaintiff and class members working
9 more than eight (8) hours in a day or more than forty (40) hours in a workweek,
10 at the rate of time and one-half (1½) for all hours worked in excess of eight (8)
11 hours in a day or more than forty (40) hours in a workweek.

12 85. The applicable IWC Wage Order further provides that Defendants
13 are and were required to pay Plaintiff and class members working more than
14 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their
15 regular rate of pay. An employee’s regular rate of pay includes all remuneration
16 for employment paid to, or on behalf of, the employee, including
17 nondiscretionary bonuses and incentive pay.

18 86. California Labor Code section 510 codifies the right to overtime
19 compensation at one and one-half (1½) times the regular rate of pay for hours
20 worked in excess of eight (8) hours in a day or forty (40) hours in a week or for
21 the first eight (8) hours worked on the seventh (7th) day of work, and to overtime
22 compensation at twice the employee’s regular rate of pay for hours worked in
23 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
24 the seventh (7th) day of work.

25 87. During the relevant time period, Defendants willfully failed to pay
26 all overtime wages owed to Plaintiff and class members. During the relevant
27 time period, Plaintiff and class members were not paid overtime premiums for all
28 of the hours they worked in excess of eight (8) hours in a day, in excess of

1 twelve (12) hours in a day, and/or in excess of forty (40) hours in a week,
2 because all hours worked were not recorded.

3 88. As stated, Defendants' systemic understaffing arising from their
4 company-wide use of labor budgets created a lack of adequate meal period
5 coverage. This lack of meal period coverage, coupled with Defendants' practice
6 of assigning heavy workloads and failing to adhere to a schedule of meal
7 periods, prevented Plaintiff and class members from taking compliant meal
8 periods and caused Plaintiff and class members to work off-the-clock without
9 that time being recorded.

10 89. Moreover, during the relevant time period, Defendants had, and
11 continue to have, a company-wide policy and/or practice requiring Plaintiff and
12 class members to perform tasks off-the-clock, such as preparing items for their
13 upcoming shift or helping with cleaning up the movie theatres. For example,
14 prior to clocking in, Plaintiff would prepare the garbage cans or assist with
15 cleaning the movie theatre when an audience was released, which took 10-20
16 minutes each time.

17 90. Defendants knew or should have known that as a result of these
18 company-wide practices and/or policies, Plaintiff and class members were
19 performing assigned duties during their meal periods and performing work off-
20 the-clock before their shifts, and were suffered or permitted to perform work for
21 which they were not paid. Because Plaintiff and class members worked shifts of
22 eight (8) hours a day or more or forty (40) hours a week or more, some of this
23 off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
24 class members were not paid overtime wages for all of the overtime hours they
25 actually worked.

26 91. Defendants' failure to pay Plaintiff and class members the balance of
27 overtime compensation as required by California law, violates the provisions of
28 California Labor Code sections 510 and 1198. Pursuant to California Labor

Code section 1194, Plaintiff and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

FOURTH CAUSE OF ACTION

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum Wages (Against all Defendants)

92. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

93. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 10 as "the time during which an employee 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." Cal. Code. Regs. tit. 8, § 11100(2)(H) (defining "Hours Worked").

94. As stated, during the relevant time period, due to Defendants' policy and/or practice of understaffing while assigning heavy workloads and failure to schedule meal periods, Plaintiff and class members were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Additionally, Plaintiff and class members were required to work off-the-clock before their scheduled shift start times to complete assigned job duties.

95. Defendants did not pay minimum wages for off-the-clock hours that Plaintiff and class members worked through that qualified for overtime premium payment. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections

1182.12, 1194, 1197, 1197.1, and 1198.

96. Defendants' failure to pay Plaintiff and class members minimum wages violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code section 1194.2, Plaintiff and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll

Records

(Against all Defendants)

97. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

98. At all relevant times herein set forth, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

99. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

100. Because Defendants did not record the time Plaintiff and Subclass

1 members spent working off the clock, Defendants did not list the correct amount
2 of gross wages and net wages earned by Plaintiff and Subclass members in
3 compliance with section 226(a)(1) and 226(a)(5). For the same reason,
4 Defendants failed to accurately list the total number of hours worked by Plaintiff
5 and Subclass members in violation of section 226(a)(2), and failed to list the
6 applicable hourly rates of pay in effect during the pay period and corresponding
7 accurate number of work hours worked at each hourly rate in violation of section
8 226(a)(9).

9 101. The wage statement deficiencies also include, without limitation,
10 failing to list the number of piece-rate units earned and any applicable piece rate
11 if the employee is paid on a piece-rate basis; failing to list all deductions; failing
12 to list the name of the employee and only the last four digits of his or her social
13 security number or an employee identification number other than a social
14 security number; failing to list the name and address of the legal entity that is the
15 employer; failing to list the inclusive dates of the period for which class
16 members were paid; and/or failing to state all hours worked as a result of not
17 recording or stating hours worked off-the-clock.

18 102. California Labor Code section 1198 provides that the maximum
19 hours of work and the standard conditions of labor shall be those fixed by the
20 Labor Commissioner and as set forth in the applicable IWC Wage Orders.
21 Section 1198 further provides that “[t]he employment of any employees for
22 longer hours than those fixed by the order or under conditions of labor prohibited
23 by the order is unlawful.” Pursuant to the applicable IWC Wage Order,
24 employers are required to keep accurate time records showing when the
25 employee begins and ends each work period and meal period. During the
26 relevant time period, Defendants failed, on a company-wide basis, to keep
27 accurate records of work period and meal period start and stop times for Plaintiff
28 and Subclass members, in violation of section 1198.

103. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” At all relevant times, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass members showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

104. Plaintiff and Subclass members are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid

Upon Termination

(Against all Defendants)

105. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

106. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay that were not timely paid to Plaintiff and those class members no longer employed by Defendants upon their termination.

107. At all times relevant herein set forth, Labor Code sections 201 and

202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

108. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

109. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

110. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

111. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay that were not timely paid to Plaintiff and class

1 members during their employment.

2 112. At all times relevant herein set forth, Labor Code section 204
3 provides that all wages earned by any person in any employment between the
4 first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other
5 than those wages due upon termination of an employee, are due and payable
6 between the sixteenth (16th) and the twenty-sixth (26th) day of the month during
7 which the labor was performed.

8 113. At all times relevant herein, Labor Code section 204 provides that
9 all wages earned by any person in any employment between the sixteenth (16th)
10 and the last day, inclusive, of any calendar month, other than those wages due
11 upon termination of an employee, are due and payable between the first (1st) and
12 the tenth (10th) day of the following month.

13 114. At all times relevant herein, Labor Code section 204 provides that
14 all wages earned for labor in excess of the normal work period shall be paid no
15 later than the payday for the next regular payroll period. Alternatively, at all
16 times relevant herein, Labor Code section 204 provides that the requirements of
17 this section are deemed satisfied by the payment of wages for weekly, biweekly,
18 or semimonthly payroll if the wages are paid not more than seven (7) calendar
19 days following the close of the payroll period.

20 115. During the relevant time period, Defendants willfully failed to pay
21 Plaintiff and class members all wages due including, but not limited to, overtime
22 wages, minimum wages, meal and rest period premium wages, and/or reporting
23 time pay, within the time periods specified by California Labor Code section
24 204.

25 116. Defendants' failure to pay Plaintiff and class members all wages due
26 violates Labor Code section 204. Plaintiff and class members are therefore
27 entitled to recover from Defendants the statutory penalty wages pursuant to
28 California Labor Code section 210.

EIGHTH CAUSE OF ACTION

**Violation of Labor Code § 1198 and California Code of Regulations Title 8,
Section 11100 Subdivision 5(A)—Failure to Provide Reporting Time Pay
(Against all Defendants)**

117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

118. California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

119. The applicable IWC wage order, California Code of Regulations, Title 8, section 11100(5)(A), provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

120. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11100(5)(A), because Defendants failed to pay Plaintiff and class members reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day’s work.

121. Defendants had a company-wide practice of sending Plaintiff and class members home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Plaintiff and class members for half of their scheduled shift. For example, approximately five times a year,

1 Plaintiff would report to work, but would be sent home early by Defendants’
2 management when it was slow. Although Plaintiff and class members would
3 report to work based on the schedule that Defendants provided to them,
4 Defendants would send them home before they had worked at least half of their
5 scheduled shifts without giving them reporting time pay.

6 122. Accordingly, Plaintiff and class members were not properly
7 compensated with reporting time pay in violation of California Labor Code
8 section 1198.

9 **NINTH CAUSE OF ACTION**

10 **Violation of California Labor Code § 2802—Unpaid Business-Related** 11 **Expenses** 12 **(Against all Defendants)**

13 123. Plaintiff incorporates by reference and re-alleges as if fully stated
14 herein each and every allegation set forth above.

15 124. At all times herein set forth, California Labor Code section 2802
16 provides that an employer must reimburse employees for all necessary
17 expenditures and losses incurred by the employee in the performance of his or
18 her job. The purpose of Labor Code section 2802 is to prevent employers from
19 passing off their cost of doing business and operating expenses on to their
20 employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137,
21 1144 (2014). The applicable wage order, IWC Wage Order 10-2001, provides
22 that: “[w]hen tools or equipment are required by the employer or are necessary to
23 the performance of a job, such tools and equipment shall be provided and
24 maintained by the employer, except that an employee whose wages are at least
25 two (2) times the minimum wage provided herein may be required to provide
26 and maintain hand tools and equipment customarily required by the trade or
27 craft.”

28 125. During the relevant time period, Defendants, on a company-wide

1 basis, expected Plaintiff and class members to report to work in clean and
2 presentable uniforms, including uniform shirts, which forced Plaintiff and class
3 members to wash their shirts more frequently than they would otherwise do
4 laundry and incur expenses for doing so. For example, Plaintiff was only
5 provided one (1) uniform shirt, but was scheduled to work four (4) or five (5)
6 days in a week, and thus incurred laundry expenses for the upkeep of his
7 uniform.

8 126. Defendants could have provided Plaintiff and class members with an
9 adequate number of shirts or access to a cleaning service, or, Defendants could
10 have reimbursed employees for the costs of their laundry or uniform expenses.
11 Instead, Defendants passed these operating costs off onto Plaintiff and class
12 members. At all relevant times, Plaintiff did not earn at least two (2) times the
13 minimum wage.

14 127. Defendants' company-wide policy and/or practice of passing on
15 their operating costs to Plaintiff and class members violates California Labor
16 Code section 2802. Defendants have intentionally and willfully failed to
17 reimburse Plaintiff and other class members for necessary business-related
18 expenses and costs.

19 128. Plaintiff and class members are entitled to recover from Defendants
20 their business-related expenses incurred during the course and scope of their
21 employment, plus interest.

22 **TENTH CAUSE OF ACTION**

23 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

24 **(Against all Defendants)**

25 129. Plaintiff incorporates by reference and re-alleges as if fully stated
26 herein each and every allegation set forth above.

27 130. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff
28 to recover civil penalties for the violation(s) of the Labor Code sections

1 enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor
2 Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194,
3 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved
4 employees, including Plaintiff, to recover civil penalties for violations of those
5 Labor Code sections not found in section 2699.5, including sections 516 and
6 1182.12.

7 131. Defendants' conduct, as alleged herein, violates numerous sections
8 of the California Labor Code, including, but not limited to, the following:

- 9 (a) Violation of Labor Code sections 510, 1198, and the
10 applicable IWC wage order for Defendants' failure to
11 compensate Plaintiff and other aggrieved employees with all
12 required overtime, as alleged herein;
- 13 (b) Violation of Labor Code sections 1182.12, 1194, 1197,
14 1197.1, 1198, and the applicable IWC wage order for
15 Defendants' failure to compensate Plaintiff and other
16 aggrieved employees with at least minimum wages for all
17 hours worked, as alleged herein;
- 18 (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and
19 the applicable IWC wage order for Defendants' failure to
20 provide Plaintiff and other aggrieved employees with meal
21 periods, as alleged herein;
- 22 (d) Violation of Labor Code sections 226.7, 516, 1198, and the
23 applicable IWC wage order for Defendants' failure to
24 authorize and permit Plaintiff and other aggrieved employees
25 to take rest periods, as alleged herein;
- 26 (e) Violation of Labor Code sections 226(a), 1198, and the
27 applicable IWC wage order for failure to provide accurate and
28 complete wage statements to Plaintiff and other aggrieved

employees, as alleged herein;

(f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC wage order for failure to maintain payroll records as alleged herein;

(g) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as alleged herein;

(h) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;

(i) Violation of Labor Code section 1198 and the applicable IWC wage order for failure to pay reporting time pay when Plaintiff and other aggrieved employees were put to work for less than half of their regular scheduled shifts, as alleged herein;

(j) Violation of Labor Code section 1198 for failing to provide suitable seating to other aggrieved employees, as set forth below; and

(k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenses necessarily incurred, as alleged herein.

132. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

133. California Code of Regulations, Title 8, section 11100(14)(A) provides that “[a]ll working employees shall be provided with suitable seats

1 when the nature of the work reasonably permits the use of seats.”

2 134. Plaintiff alleges that Defendants’ California movie theatres are
3 generally similar in their layout and design and there is space behind concession
4 stands, ticket taker/usher booths, and/or box offices to allow for the presence and
5 use of a seat or stool by other aggrieved employees during the performance of
6 their work duties. Defendants could have provided other aggrieved employees
7 with a seat or stool at their concession stands, ticket taker/usher booths, and/or
8 box offices, with reasonable or no modification to these work areas, but instead
9 denies employees seating and forces other aggrieved employees to stand
10 throughout the day.

11 135. Other aggrieved employees have spent a substantial portion of their
12 day behind these concession stands, ticket taker/usher booths, and/or box offices.
13 The nature of the work of an employee performing cashier, ticket issuance, and
14 ticket taking duties at concession stands, ticket taker/usher booths, and/or box
15 offices can reasonably be accomplished from a seated position. However,
16 Defendants systematically, and on a company-wide basis, did not provide seats
17 or stools at or near the concession stands, ticket taker/usher booths, and/or box
18 offices, forcing other aggrieved employees to stand throughout their work shifts.

19 136. During the relevant time period, Defendants violated California
20 Labor Code section 1198 and California Code of Regulations, Title 8, section
21 11100(14)(A), because other aggrieved employees were not allowed to sit, even
22 when the nature of their work would reasonably permit the use of seats, nor were
23 they provided with suitable seats. Other aggrieved employees were assigned
24 cashier, ticket issuance, and ticket taking duties, which were performed from and
25 connected to a concession stand, ticket taker/usher booth, and/or box office, and
26 could have been performed from a seated position. Other aggrieved employees
27 could have handled transactions at the cash register and box office, issued tickets
28 to customers, and/or taken tickets from customers, while seated without

1 interference to their ability to complete these duties.

2 137. Defendants could have placed seats or stools near each concession
3 stand, ticket taker/usher booth, and/or box office for use by other aggrieved
4 employees with reasonable or no modification to these work areas. However, on
5 a company-wide basis, Defendants did not provide seats or stools at concession
6 stands, ticket taker/usher booths, and/or box offices. Defendants' management
7 did not inform other aggrieved employees that they were allowed to sit down,
8 provide any means for them to sit down, or mention any policy regarding sitting.

9 138. As a result of Defendants' company-wide policy and/or practice
10 prohibiting employees performing cashier, ticket issuance, and ticket taking
11 duties from sitting during their shifts and failure to provide suitable seating to
12 these employees, other aggrieved employees were forced to stand during shifts
13 and denied seats. Defendants' failure to provide suitable seating to other
14 aggrieved employees violated and continues to violate California Labor Code
15 section 1198 and IWC Wage Order 10-2001, Section 14(A). Other aggrieved
16 employees are therefore entitled to recover civil penalties pursuant to Labor
17 Code sections 2699(a), (f), and (g).

18 139. At all relevant times herein, California Labor Code section 1198
19 makes it illegal to employ an employee under conditions of labor that are
20 prohibited by the applicable wage order. California Labor Code section 1198
21 requires that ". . . the standard conditions of labor fixed by the commission shall
22 be the . . . standard conditions of labor for employees. The employment of any
23 employee . . . under conditions of labor prohibited by the order is unlawful."

24 140. California Code of Regulations, Title 8, section 11100(14)(B)
25 provides that "[w]hen employees are not engaged in the active duties of their
26 employment and the nature of the work requires standing, an adequate number of
27 suitable seats shall be placed in reasonable proximity to the work area and
28 employees shall be permitted to use such seats when it does not interfere with the

1 performance of their duties.”

2 141. During the relevant time period, Defendants violated California
3 Labor Code section 1198 and California Code of Regulations, Title 8, section
4 11100(14)(B), because Plaintiff and other aggrieved employees are not allowed
5 to sit, even during lulls in their work duties, nor are they provided with suitable
6 seats in reasonable proximity to their work areas.

7 142. Defendants did not provide other aggrieved employees with seats or
8 stools in reasonable proximity to their work area to allow them to use seats when
9 it would not interfere with the performance of their duties for times when they
10 were not engaged in active duties that require standing. In other words, to the
11 extent other aggrieved employees have engaged in duties in which the nature of
12 the work required standing, Defendants denied them the use of seats nearby
13 when they were not engaged in those duties. Even though the layout of
14 Defendants’ workplaces could accommodate seats or stools with reasonable or
15 no modification to these work areas, Defendants have, on a company-wide basis,
16 denied other aggrieved employees suitable seating altogether.

17 143. As a result of Defendants’ company-wide policy and/or practice
18 prohibiting employees from sitting at any time, even when they are not engaged
19 in active duties requiring standing, and company-wide failure to provide seats in
20 reasonable proximity to their work areas, other aggrieved employees were forced
21 to stand during shifts and denied seats. Defendants’ failure to provide suitable
22 seating to other aggrieved employees violated and continues to violate California
23 Labor Code section 1198 and IWC Wage Order 10-2001, Section 14(B). Other
24 aggrieved employees are therefore entitled to recover civil penalties pursuant to
25 Labor Code sections 2699(a), (f), and (g).

26 **ELEVENTH CAUSE OF ACTION**

27 **Violation of California Business & Professions Code §§ 17200, et seq. –**
28 **Unlawful Business Practices**

(Against all Defendants)

144. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

145. Defendants are “persons” as defined by California Business & Professions Code sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

146. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants’ unlawful business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

147. Defendants’ activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

148. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In the instant case, Defendants’ policies and practices have violated state law in at least the following respects:

- (a) Failing to provide uninterrupted meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, 1198, and the applicable IWC Order, as alleged herein;
- (b) Failing to authorize and permit Plaintiff and class members to take uninterrupted rest periods in violation of California Labor Code sections 226.7, 516, 1198, and the applicable IWC Order, as alleged herein;
- (c) Requiring non-exempt, hourly paid employees, including

1 Plaintiff and class members, to work overtime without paying
2 them proper compensation in violation of California Labor
3 Code sections 510 and 1198 and the applicable IWC Order, as
4 alleged herein;

5 (d) Failing to pay at least minimum wage to Plaintiff and class
6 members in violation of California Labor Code sections
7 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC
8 Order, as alleged herein;

9 (e) Failing to provide Plaintiff and class members with accurate
10 wage statements and failing to maintain accurate payroll
11 records in violation of California Labor Code sections 226(a),
12 1174(d), 1198, and the applicable IWC Order, as alleged
13 herein;

14 (f) Failing timely to pay all earned wages to Plaintiff and class
15 members in violation of California Labor Code section 204 and
16 the applicable IWC Order, as alleged herein;

17 (g) Failing to pay reporting time pay in violation of California
18 Labor Code section 1198 and the applicable Industrial Welfare
19 Commission Order, as alleged herein; and

20 (h) Failing to reimburse Plaintiff and class members for all
21 business expenses necessarily incurred in violation of
22 California Labor Code sections 2802, as alleged herein.

23 149. As a result of the violations of California law herein described,
24 Defendants unlawfully gained an unfair advantage over other businesses.
25 Plaintiff and class members have suffered pecuniary loss by Defendants'
26 unlawful business acts and practices alleged herein.

27 150. Pursuant to California Business & Professions Code sections 17200
28 *et seq.*, Plaintiff and class members are entitled to restitution of the wages

1 withheld and retained by Defendants during a period that commences four years
2 prior to the filing of this complaint; a permanent injunction requiring Defendants
3 to pay all outstanding wages due to Plaintiff and class members; and an award of
4 attorneys' fees pursuant to California Code of Civil Procedure section 1021.5
5 and other applicable laws; and an award of costs.

6 **TWELFTH CAUSE OF ACTION**

7 **Violation of California Business & Professions Code §§ 17200, et seq. –**
8 **Unfair Business Practices**
9 **(Against all Defendants)**

10 151. Plaintiff incorporates by reference and re-alleges as if fully stated
11 herein each and every allegation set forth above.

12 152. Defendants are “persons” as defined by California Business &
13 Professions Code sections 17201, as they are corporations, firms, partnerships,
14 joint stock companies, and/or associations.

15 153. Defendants' conduct, as alleged herein, has been, and continues to
16 be, unfair, and harmful to Plaintiff, class members, and to the general public.
17 Plaintiff has suffered injury in fact and has lost money as a result of Defendants'
18 unfair business practices. Plaintiff seeks to enforce important rights affecting the
19 public interest within the meaning of Code of Civil Procedure section 1021.5.

20 154. Defendants' activities, namely Defendants' company-wide practice
21 and/or policy of not paying Plaintiff and class members all meal and rest period
22 premium wages due to them under Labor Code section 226.7, deprived Plaintiff
23 and class members of the compensation guarantee and enhanced enforcement
24 implemented by section 226.7. The statutory remedy provided by section 226.7
25 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and
26 secondarily to shape employer conduct. *Safeway, Inc. v. Superior Court*, 238
27 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were
28 guaranteed to Plaintiff and class members as part of their employment with

Defendants, and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (Id.)

155. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's meal and rest break laws and constitute acts against the public policy behind these laws.

156. Pursuant to California Business & Professions Code sections 17200 *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

Class Certification

2. That this case be certified as a class action;

3. That Plaintiff be appointed as the representative of the Class and

Subclass;

4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198 and applicable IWC Wage Order(s) by willfully failing to provide all meal periods to Plaintiff and class members;

6. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

7. For all actual, consequential, and incidental losses and damages, according to proof;

8. For premiums pursuant to California Labor Code section 226.7(b);

9. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

10. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

11. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

12. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and applicable IWC Wage Orders by willfully failing to authorize and permit Plaintiff and class members to take all rest periods;

13. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

14. For all actual, consequential, and incidental losses and damages,

1 according to proof;

2 15. For premiums pursuant to California Labor Code section 226.7(b);

3 16. For pre-judgment interest on any unpaid rest period premiums from
4 the date such amounts were due, or as otherwise provided by law;

5 17. For attorneys' fees pursuant to California Code of Civil Procedure
6 section 1021.5, or as otherwise provided by law; and

7 18. For such other and further relief as the Court may deem equitable
8 and appropriate.

9 **As to the Third Cause of Action**

10 19. That the Court declare, adjudge, and decree that Defendants violated
11 California Labor Code sections 510 and 1198 and applicable IWC Wage Orders
12 by willfully failing to pay all overtime wages due to Plaintiff and class members;

13 20. For general unpaid wages at overtime wage rates and such general
14 and special damages as may be appropriate;

15 21. For pre-judgment interest on any unpaid overtime compensation
16 commencing from the date such amounts were due, or as otherwise provided by
17 law;

18 22. For reasonable attorneys' fees and for costs of suit incurred herein
19 pursuant to California Labor Code section 1194(a); and

20 23. For such other and further relief as the Court may deem equitable
21 and appropriate.

22 **As to the Fourth Cause of Action**

23 24. That the Court declare, adjudge and decree that Defendants violated
24 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 by
25 willfully failing to pay minimum wages to Plaintiff and class members;

26 25. For general unpaid wages and such general and special damages as
27 may be appropriate;

28 26. For pre-judgment interest on any unpaid compensation from the date

1 such amounts were due, or as otherwise provided by law;

2 27. For reasonable attorneys' fees and for costs of suit incurred herein
3 pursuant to California Labor Code section 1194(a);

4 28. For liquidated damages pursuant to California Labor Code section
5 1194.2; and

6 29. For such other and further relief as the Court may deem equitable
7 and appropriate.

8 **As to the Fifth Cause of Action**

9 30. That the Court declare, adjudge and decree that Defendants violated
10 the recordkeeping provisions of California Labor Code section 226(a) and
11 applicable IWC Wage Orders as to Plaintiff and Subclass members, and willfully
12 failed to provide accurate itemized wage statements thereto;

13 31. For all actual, consequential, and incidental losses and damages,
14 according to proof;

15 32. For injunctive relief pursuant to California Labor Code section
16 226(h);

17 33. For statutory penalties pursuant to California Labor Code section
18 226(e);

19 34. For attorneys' fees and costs pursuant to California Labor Code
20 section 226(e)(1); and

21 35. For such other and further relief as the Court may deem equitable
22 and appropriate.

23 **As to the Sixth Cause of Action**

24 36. That the Court declare, adjudge and decree that Defendants violated
25 California Labor Code sections 201 and 202 by willfully failing to pay overtime
26 wages, minimum wages, meal and rest period premiums, and/or reporting time
27 pay owed at the time of termination of the employment of Plaintiff and other
28 terminated class members;

1 37. For all actual, consequential and incidental losses and damages,
2 according to proof;

3 38. For waiting time penalties according to proof pursuant to California
4 Labor Code section 203 for all employees who have left Defendants' employ;

5 39. For pre-judgment interest on any unpaid wages from the date such
6 amounts were due, or as otherwise provided by law;

7 40. For attorneys' fees pursuant to California Code of Civil Procedure
8 section 1021.5, or as otherwise provided by law; and

9 41. For such other and further relief as the Court may deem equitable
10 and appropriate.

11 **As to the Seventh Cause of Action**

12 42. That the Court declare, adjudge and decree that Defendants violated
13 California Labor Code section 204 by willfully failing to timely pay Plaintiff and
14 class members overtime wages, minimum wages, meal and rest period
15 premiums, and/or reporting time pay during their employment;

16 43. For all actual, consequential and incidental losses and damages,
17 according to proof;

18 44. For statutory penalties according to proof pursuant to California
19 Labor Code section 210;

20 45. For pre-judgment interest on any unpaid wages from the date such
21 amounts were due, or as otherwise provided by law;

22 46. For attorneys' fees pursuant to California Code of Civil Procedure
23 section 1021.5, or as otherwise provided by law; and

24 47. For such other and further relief as the Court may deem equitable
25 and appropriate.

26 **As to the Eighth Cause of Action**

27 48. That the Court declare, adjudge and decree that Defendants violated
28 California Labor Code section 1198 and California Code of Regulations, Title 8,

1 section 11100(5)(A) by failing to provide Plaintiff and class members with
2 reporting time pay;

3 49. For all actual, consequential and incidental losses and damages,
4 according to proof;

5 50. For pre-judgment interest on any unpaid wages from the date such
6 amounts were due, or as otherwise provided by law; and

7 51. For such other and further relief as the Court may deem equitable
8 and appropriate.

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10 **As to the Ninth Cause of Action**

11 52. That the Court declare, adjudge and decree that Defendants violated
12 California Labor Code section 2802 by willfully failing to reimburse and/or
13 indemnify all business-related expenses and costs incurred by Plaintiff and class
14 members;

15 53. For unpaid business-related expenses and such general and special
16 damages as may be appropriate;

17 54. For pre-judgment interest on any unpaid business-related expenses
18 from the date such amounts were due, or as otherwise provided by law;

19 55. For all actual, consequential, and incidental losses and damages,
20 according to proof;

21 56. For attorneys' fees and costs pursuant to California Labor Code
22 section 2802(c), or as otherwise provided by law; and

23 57. For such other and further relief as the Court may deem equitable
24 and appropriate.

25 **As to the Tenth Cause of Action**

26 58. That the Court declare, adjudge and decree that Defendants violated
27 the following California Labor Code provisions as to Plaintiff and/or other
28 aggrieved employees: 510 and 1198 (by failing to pay all overtime

1 compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least
2 minimum wages for all hours worked); 226.7, 512, 516, and 1198 (by failing to
3 provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
4 permit all rest periods); 226(a), 1174(d) and 1198 (by failing to provide accurate
5 wage statements and maintain accurate payroll records); 201, 202, 203 (by
6 failing timely to pay all earned wages upon termination); 204 (by failing timely
7 to pay all earned wages during employment); 1198 (by failing to pay reporting
8 time pay); 1198 (by failing to provide suitable seating); and 2802 (by failing to
9 reimburse business expenses);

10 59. For civil penalties pursuant to California Labor Code sections 210,
11 226.3, 256, 558, 1174.5, and/or 2699(a), (f) and (g), for violations of California
12 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516,
13 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

14 60. For attorneys' fees and costs pursuant to California Labor Code
15 section 2699(g)(1), and any and all other relevant statutes, for Defendant's
16 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7,
17 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

18 61. For pre-judgment and post-judgment interest as provided by law;
19 and

20 62. For such other and further relief as the Court may deem equitable
21 and appropriate.

22 **As to the Eleventh Cause of Action**

23 63. That the Court declare, adjudge and decree that Defendants' conduct
24 of failing to provide Plaintiff and class members all meal periods, failing to
25 authorize and permit Plaintiff and class members to take all rest periods, failing
26 to provide Plaintiff and class members all overtime wages due to them, failing to
27 provide Plaintiff and class members all minimum wages due to them, failing to
28 provide Plaintiff and class members accurate and complete wage statements,

1 failing to maintain accurate payroll records for Plaintiff and class members,
2 failing timely to pay Plaintiff and class members all earned wages during
3 employment, failing to pay reporting time pay, and failing to reimburse Plaintiff
4 and class members for business-related expenses, constitutes an unlawful
5 business practice in violation of California Business and Professions Code
6 sections 17200, *et seq.*;

7 64. For restitution of unpaid wages to Plaintiff and all class members
8 and prejudgment interest from the day such amounts were due and payable;

9 65. For the appointment of a receiver to receive, manage and distribute
10 any and all funds disgorged from Defendants and determined to have been
11 wrongfully acquired by Defendants as a result of violations of California
12 Business & Professions Code sections 17200 *et seq.*;

13 66. For reasonable attorneys' fees and costs of suit incurred herein
14 pursuant to California Code of Civil Procedure section 1021.5; and

15 67. For such other and further relief as the Court may deem equitable
16 and appropriate.

17 **As to the Twelfth Cause of Action**

18 68. That the Court declare, adjudge and decree that Defendants' conduct
19 of denying Plaintiff and class members the statutory benefits guaranteed under
20 section 226.7 constitutes an unfair business practice in violation of California
21 Business and Professions Code sections 17200, *et seq.*;

22 69. For restitution of the statutory benefits under section 226.7 unfairly
23 withheld from Plaintiff and class members and prejudgment interest from the day
24 such amounts were due and payable;

25 70. For the appointment of a receiver to receive, manage and distribute
26 any and all funds disgorged from Defendants and determined to have been
27 wrongfully acquired by Defendants as a result of violations of California
28 Business & Professions Code sections 17200 *et seq.*;

1 71. For reasonable attorneys' fees and costs of suit incurred herein
2 pursuant to California Code of Civil Procedure section 1021.5;

3 72. For pre-judgment and post-judgment interest as provided by law;
4 and

5 73. For such other and further relief as the Court may deem equitable
6 and appropriate.

7
8 Dated: May XX, 2020

Respectfully submitted,

9 Capstone Law APC

10
11 By: 

12 Mark A. Ozzello
13 Brandon K. Brouillette
14 Brooke W. Waldrop

15 Attorneys for Plaintiff Robert Thornton
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