

From 213.488.6554

Tue 21 Apr 2020 03:16:17 PM PDT

Page 3 of 23

Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

WILLIAM L. MARDER, ESQ. (CBN 170131)
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
Tel: (831) 531-4214
Fax: (831) 634-0333

Attorneys for Plaintiff and the Class

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

CHARLES AMPATE, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

METRO ONE LOSS PREVENTION
SERVICES GROUP (WEST COAST),
INC., a Maryland corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR
DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE § 226.7;**
- (2) VIOLATION OF LABOR CODE §§ 226.7
AND 512;**
- (3) FAILURE TO PAY WAGES;**
- (4) VIOLATION OF LABOR CODE § 2802;**
- (5) VIOLATION OF LABOR CODE § 226(a);**
- (6) VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200, ET SEQ.;**
- AND**
- (7) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Charles Ampate (“Plaintiff”), hereby submits this Class Action Complaint
2 against Defendant Metro One Loss Prevention Services Group (West Coast), Inc. (“Defendant”),
3 and Does 1-50 (hereinafter collectively referred to as “Defendants”), as an individual and on
4 behalf of the Class of all other similarly situated current and former employees of Defendants for
5 penalties and/or damages for failure to provide off-duty meal and rest periods, pay all minimum
6 and overtime wages for hours worked, pay all wages owed upon separation of employment,
7 reimburse business expenses, and provide accurate, itemized wage statement under California
8 Labor Code statutes, and restitution for unfair business practices in violation of Business and
9 Professions Code § 17200, *et seq.*, as follows:

10 **INTRODUCTION**

11 1. This class action is within the Court’s jurisdiction under California Labor Code
12 §§ 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, and 2698, *et seq.*, the
13 California Industrial Welfare Commission’s (“IWC”) Wage Orders, and the California Unfair
14 Competition Law (the “UCL”), codified at California Business and Professions Code § 17200, *et*
15 *seq.*

16 2. This Complaint challenges systemic illegal employment practices resulting in
17 violations of the California Labor Code and Business and Professions Code against employees of
18 Defendants.

19 3. Plaintiff is informed and believes and based thereon alleges that Defendants
20 jointly and severally have acted intentionally and with deliberate indifference and conscious
21 disregard to the rights of all employees by failing to provide off-duty meal and rest breaks,
22 failing to pay overtime and minimum wages for all hours worked, failing to pay all wages owed
23 upon separation of employment, failing to reimburse business expenses, and failing to keep
24 accurate records as to Plaintiff and the Class.

25 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
26 engaged in, among other things a system of willful violations of the California Labor Code,
27 Business and Professions Code and applicable IWC Wage Orders by creating and maintaining
28 policies, practices and customs that knowingly deny employees the above stated rights and

benefits.

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

JURISDICTION AND VENUE

6. The Court has jurisdiction over the violations of the California Labor Code §§ 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, and 2698, *et seq.*, and the UCL.

7. Venue is proper in Alameda County because Plaintiff lives in Hayward, California.

PARTIES

8. Plaintiff began working for Defendants as an hourly, non-exempt employee in about April 2019. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code §§ 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, and 2698, *et seq.*, and the applicable IWC Wage Orders, and the UCL.

9. Plaintiff is informed and believes and based thereon alleges that Defendant Metro One Loss Prevention Services Group (West Coast), Inc. was and is a Maryland corporation doing business in the State of California providing security services.

10. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

11. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code §§ 201-203, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, and 2698, *et seq.*, the IWC Wage Orders, and the UCL.

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this

1 complaint when the true names and capacities are known. Plaintiff is informed and believes and
2 based thereon alleges that each of said fictitious Defendants were responsible in some way for
3 the matters alleged herein and proximately caused Plaintiff and members of the general public
4 and class to be subject to the illegal employment practices, wrongs and injuries complained of
5 herein.

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

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

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

21 16. At all times herein mentioned, the acts and omissions of various Defendants, and
22 each of them, concurred and contributed to the various acts and omissions of each and all of the
23 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
24 herein mentioned, Defendants, and each of them, ratified each and every act or omission
25 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
26 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
27 the damages as herein alleged.

1 **CLASS ACTION ALLEGATIONS**

2 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
3 California Code of Civil Procedure § 382, of a class of all current and former non-exempt
4 security guards/officers who worked for Defendants at any time during the period of time from
5 April 6, 2016, through the present, in the State of California (the “Class”). The Class also
6 consists of the following subclasses:

7 a. All current and former non-exempt security guards/officers who worked
8 for Defendants in the State of California at any time during the period of
9 time from April 6, 2016, through the present, who worked 3.5 hours or
10 more in any shift (“Rest Period Sub-Class”); and

11 b. All current and former non-exempt security guards/officers who worked
12 for Defendants in the State of California at any time during the period of
13 time from April 6, 2016, through the present, who worked more than 5
14 hours in any shift (“Meal Period Sub-Class”).

15 18. **Numerosity and Ascertainability:** The members of the Class are so numerous
16 that joinder of all members would be impractical, if not impossible. The identity of the members
17 of the Class is readily ascertainable by review of Defendants’ records, including payroll records.
18 Plaintiff alleges that Defendants: (a) failed to provide off-duty meal and rest breaks in violation
19 of Labor Code §§ 226.7 and 512; (b) failed to pay minimum wages for all hours worked,
20 including without limitation, time that class members spent cleaning and maintaining uniforms in
21 violation of Labor Code §§ 1194, 1197, and 1197.1; (c) failed to pay overtime wages for all
22 hours worked, including without limitation, time that class members spent cleaning and
23 maintaining uniforms in violation of Labor Code §§ 510, 558, and 1194; (d) failed to reimburse
24 employees for work-related expenses, including without limitation, costs incurred cleaning
25 uniforms in violation of Labor Code § 2802; (e) failed to provide accurate, itemized wage
26 statements in violation of Labor Code § 226(a); and (f) engaged in Unfair Business Practices in
27 violation of the UCL, the California Labor Code, including without limitation, California Labor
28 Code §§ 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2802, and the applicable IWC Wage

1 Orders.

2 19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
3 necessary steps to represent fairly and adequately the interests of the class defined above.
4 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and
5 individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class
6 actions in the past and currently have a number of wage-and-hour class actions pending in
7 California courts.

8 20. Defendants uniformly administered a corporate policy, practice of: (a) failing to
9 provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (b) failing to
10 pay minimum wages for all hours worked, including without limitation, time that class members
11 spent cleaning and maintaining uniforms in violation of Labor Code §§ 1194, 1197, and 1197.1;
12 (c) failing to pay overtime wages for all hours worked, including without limitation, time that
13 class members spent cleaning and maintaining uniforms in violation of Labor Code §§ 510, 558,
14 and 1194; (d) failing to reimburse employees for work-related expenses, including without
15 limitation, costs incurred cleaning uniforms in violation of Labor Code § 2802; (e) failing to
16 provide accurate, itemized wage statements in violation of Labor Code § 226(a); and (f)
17 engaging in Unfair Business Practices in violation of the UCL, the California Labor Code,
18 including without limitation, California Labor Code §§ 226, 226.7, 510, 512, 558, 1194, 1197,
19 1197.1, and 2802, and the applicable IWC Wage Orders.

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

27 22. **Common Question of Law and Fact:** There are predominant common questions
28 of law and fact and a community of interest amongst Plaintiff and the claims of the Class

1 concerning Defendants: (a) failing to provide off-duty meal and rest breaks in violation of Labor
2 Code §§ 226.7 and 512; (b) failing to pay minimum wages for all hours worked, including
3 without limitation, time that class members spent cleaning and maintaining uniforms in violation
4 of Labor Code §§ 1194, 1197, and 1197.1; (c) failing to pay overtime wages for all hours
5 worked, including without limitation, time that class members spent cleaning and maintaining
6 uniforms in violation of Labor Code §§ 510, 558, and 1194; (d) failing to reimburse employees
7 for work-related expenses, including without limitation, costs incurred cleaning uniforms in
8 violation of Labor Code § 2802; (e) failing to provide accurate, itemized wage statements in
9 violation of Labor Code § 226(a); and (f) engaging in Unfair Business Practices in violation of
10 the UCL, the California Labor Code, including without limitation, California Labor Code §§
11 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2802, and the applicable IWC Wage Orders.

12 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
13 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
14 manner as the Class members. As with other security guard employees, Plaintiff regularly works
15 more than 5 hours in a shift for Defendants but is not provided with off-duty meal breaks; nor is
16 he provided with duty-free 10-minute rest breaks for every 4 hours worked. Plaintiff works an
17 eight-hour shift in a building alone, and as such there is no one to relieve him of his duties in
18 order to take a rest break. During his meal breaks, Plaintiff is required to remain on the premises
19 and is regularly interrupted and subject to an immediate return to work by attending to building
20 visitors and responding to calls on his cellular phone. Moreover, Plaintiff was required to spend
21 time off-the-clock cleaning and maintaining his uniform. As a result, Plaintiff was not paid all
22 applicable minimum and overtime wages spent cleaning and maintaining his uniform, nor was he
23 reimbursed any applicable cleaning costs. Given that Defendants willfully failed to pay Plaintiff
24 and Class members all wages owed, Defendants are liable for waiting time-penalties pursuant to
25 Labor Code §§ 201, 202, and 203. Furthermore, Plaintiff was not provided proper and accurate
26 itemized wage statements identifying all hours worked, payment for all minimum and overtime
27 wages, as well as premium pay for missed meal and rest breaks. As such, Plaintiff is a member
28 of the Class and has suffered the alleged violations of California Labor Code §§ 201-203, 226,

226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2802, and the applicable IWC Wage Orders.

24. The California Labor Code and upon which Plaintiff bases these claims is broadly remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

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

26. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against Defendants and which would establish potentially incompatible standards of conduct for Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the other Class members not parties to the adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

27. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to

1 recovery by the Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
2 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
3 according to the mandate of California Labor Code §§ 201-203, 218.5, 226, 558, 1197.1, and
4 2698, *et seq.*, the applicable IWC Wage Orders, and Code of Civil Procedure § 1021.5.

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

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

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 226.7**

14 **(BY PLAINTIFF AND THE REST PERIOD SUB-CLASS AGAINST ALL DEFENDANTS)**

15 30. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 29 as
16 though fully set forth herein.

17 31. Plaintiff and other members of Class regularly worked shifts of three and one-half
18 hours (3.5) hours or more per day, and accordingly had a right to take a 10-minute rest period
19 each day. Furthermore, Plaintiff and other members of Class who worked shifts of seven and
20 one-half (7.5) hours or more per day had a right to take a second 10-minute rest period.

21 32. Defendants failed in their affirmative obligation to provide all of their employees,
22 including Plaintiff and other members of Class, the opportunity to take rest periods in accordance
23 with the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff
24 and other members of Class were suffered and permitted to work through legally required rest
25 breaks and were denied the opportunity to take their rest breaks. Again, Plaintiff and Class
26 members who worked alone were not able to take rest breaks, as there was no one to relieve
27 them of their duties. Furthermore, Defendants required Plaintiff and Class members to keep their
28 cell phones on during their purported rest breaks, such that if they received a call, they would

1 have to respond immediately during their rest break and return to work if requested. As such,
2 Defendants are responsible for paying premium compensation for missed rest periods pursuant to
3 Labor Code § 226.7.

4 33. As a pattern and practice, Defendants regularly required employees to work
5 through their rest periods without proper compensation and denied Plaintiff and their employees
6 the right to take proper rest periods as required by law.

7 34. Such a pattern, practice and uniform administration of corporate policy as
8 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and other
9 members of Class identified herein, in a civil action, for the unpaid balance of the unpaid
10 premium compensation pursuant to Labor Code § 226.7, including interest thereon, penalties,
11 and costs of suit.

12 35. Plaintiff is informed and believes, and based thereon allege, that Defendants'
13 willful failure to provide all rest period premium wages due and owing to Plaintiff and Class
14 Members upon separation from employment results in a continued payment of wages up to thirty
15 (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class
16 who have separated from employment are entitled to compensation pursuant to Labor Code
17 § 203.

18 **SECOND CAUSE OF ACTION**

19 **FOR VIOLATION OF LABOR CODE §§ 226.7 AND 512**

20 **(BY PLAINTIFF AND THE MEAL PERIOD SUB-CLASS AGAINST ALL DEFENDANTS)**

21 36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35 as
22 though fully set forth herein.

23 37. At all relevant times, Defendants failed in their affirmative obligation to ensure
24 that Plaintiff and Class members, had the opportunity to take and were provided with off-duty
25 meal periods in accordance with the mandates of the California Labor Code and the applicable
26 IWC Wage Order. At all relevant times, Plaintiff and Class members were suffered and
27 permitted to work through legally required meal breaks and were denied the opportunity to take
28 their off-duty meal breaks. This included, without limitation, Defendants requiring Plaintiff and

1 Class members to remain on premises and work on-duty meal periods, as well as keeping their
2 cell phones on during such meal breaks, being required to respond to calls during these breaks,
3 and being required to immediately return to work if requested. As such, Defendants are
4 responsible for paying premium compensation for missed meal periods pursuant to Labor Code §
5 226.7 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and
6 procedure, regularly failed to pay such premium compensation for each meal period Plaintiff and
7 the Class members missed.

8 38. At all relevant times, Plaintiff and Class members regularly worked in excess of
9 five (5) hours per day and accordingly had a right to take a 30-minute meal period each day
10 worked in excess of five (5) hours. Furthermore, Plaintiff and Class members who worked in
11 excess of ten (10) hours per day had a right to take a second 30-minute meal period each day
12 worked in excess of ten (10) hours. Plaintiff is informed and believes, and based thereon alleges,
13 that Defendants failed to provide this second meal period to their security guards in the State of
14 California.

15 39. As a pattern and practice, Defendants regularly required employees to work
16 through their meal periods without proper compensation and denied Plaintiff and other
17 employees the right to take proper meal periods as required by law.

18 40. Such a pattern, practice and uniform administration of corporate policy as
19 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class
20 members identified herein, in a civil action, for the unpaid balance of the unpaid premium
21 compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order,
22 including interest thereon, penalties, and costs of suit.

23 41. Plaintiff is informed and believes, and based thereon allege, that Defendants'
24 willful failure to provide all meal period premium wages due and owing to Plaintiff and Class
25 Members upon separation from employment results in a continued payment of wages up to thirty
26 (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class
27 who have separated from employment are entitled to compensation pursuant to Labor Code
28 § 203.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES**

3 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

4 42. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 41 as
5 though fully set forth herein.

6 43. This cause of action is brought pursuant to California Labor Code §§ 201-203,
7 510, 558, and 1194, which require an employer to pay employees all earned regular, minimum,
8 and overtime wages.

9 44. At all relevant times herein, Defendants failed to pay all earned regular,
10 minimum, and overtime wages to Plaintiff and Class members. Defendants failed to pay for time
11 spent by employees while under the control of Defendants, including, without limitation, failing
12 to pay minimum wages for all hours worked, including time that class members spent cleaning
13 and maintaining uniforms in violation of Labor Code §§ 1194, 1197, and 1197.1 and failing to
14 pay overtime wages for all hours worked, including time that class members spent cleaning and
15 maintaining uniforms in violation of Labor Code §§ 510, 558, and 1194. Thus, Defendants owe
16 Plaintiff and Class members unpaid wages.

17 45. Plaintiff is informed and believes and based thereon alleges that Defendants'
18 willful failure to pay Plaintiff and Class Members all regular and overtime wages due and owing
19 to them upon separation of employment results in a continued payment of wages up to thirty (30)
20 days from the time the wages are due. Therefore, Class members who have separated from
21 employment are entitled to compensation pursuant to Labor Code § 203.

22 46. Such a pattern, practice and uniform administration of corporate policy regarding
23 illegal employee compensation as described herein is unlawful and creates and entitled to
24 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
25 wages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according to
26 the mandate of California Labor Code §§ 201-203, 510, 558, and 1194.

27 //

28 //

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2802**

3 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

4 47. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 46 as
5 though fully set forth herein.

6 48. Pursuant to Labor Code § 2802, an employer shall indemnify his or her employee
7 for all necessary expenditures or losses incurred by the employee in direct consequence of his or
8 her duties.

9 49. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and other
10 members of the Class for expenses incurred in the performance of their duties, including
11 expenses associated with cleaning uniforms, which Plaintiff and other members of the Class
12 were required to do in performance of their duties.

13 50. As a direct and proximate result of Defendants' failure to reimburse Plaintiff and
14 other members of the Class for work related expenses, Plaintiff and Class members are entitled
15 to recover their out of pocket expenses, including interest, and attorneys' fees and costs pursuant
16 to Labor Code § 2802 in an amount to be determined at trial.

17 **FIFTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE § 226(a)**

19 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

20 51. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 50 as
21 though fully set forth herein.

22 52. Defendants failed in their affirmative obligation to provide accurate itemized
23 wage statements. Defendants, as a matter of policy and practice, did not provide accurate
24 records in violation of Labor Code § 226(a) by failing to provide accurate payroll records for
25 Plaintiff and the Class.

26 53. Here, Plaintiff and the Class were paid hourly. As such, the wage statements
27 should have reflected the number of hours worked and the applicable hourly rates, pursuant to
28 Labor Code § 226(a)(9). However, the wage statements provided to Plaintiff and the Class failed

1 to identify such information, including the number of hours worked and the applicable hourly
2 rates for all off-the-clock time spent cleaning and maintaining uniforms, as well as the wages
3 owed for premium pay for missed meal and rest periods and/or improper on-duty meal and rest
4 periods. Further, as a result of these errors, the wage statements failed to identify accurate total
5 hours worked and gross and net wages in violation of Labor Code §§ 226(a)(1), (2), and (5).

6 54. Such a pattern, practice and uniform administration of corporate policy as
7 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
8 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
9 including interest thereon, attorneys' fees, and costs of suit according to the mandate of
10 California Labor Code § 226.

11 **SIXTH CAUSE OF ACTION**

12 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

13 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

14 55. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 54 as
15 though fully set forth herein.

16 56. Defendants, and each of them, have engaged and continue to engage in unfair and
17 unlawful business practices in California by practicing, employing and utilizing the employment
18 practices outlined above, include, to wit, by: (a) failing to provide off-duty meal and rest breaks
19 in violation of Labor Code §§ 226.7 and 512; (b) failing to pay minimum wages for all hours
20 worked, including without limitation, time that class members spent cleaning and maintaining
21 uniforms in violation of Labor Code §§ 1194, 1197, and 1197.1; (c) failing to pay overtime for
22 all hours worked, including without limitation, time that class members spent cleaning and
23 maintaining uniforms in violation of Labor Code §§ 510, 558, and 1194; (d) failing to reimburse
24 employees for work-related expenses, including without limitation, costs incurred cleaning
25 uniforms in violation of Labor Code § 2802; and (e) failing to provide accurate, itemized wage
26 statements in violation of Labor Code § 226(a).

27 57. Defendants' utilization of such unfair and unlawful business practices constitutes
28 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

1 58. Plaintiff seeks, individually and on behalf of other members of the Class similarly
2 situated, full restitution of monies, as necessary and according to proof, to restore any and all
3 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
4 complained of herein.

5 59. Plaintiff is informed and believes, and based thereon alleges, that at all times
6 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
7 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set
8 forth herein above thereby depriving Plaintiff and other members of the Class the minimum
9 working condition standards and conditions due to them under the California laws and the
10 applicable IWC Wage Orders as specifically described therein.

11 **SEVENTH CAUSE OF ACTION**

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

13 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
14 **AGAINST ALL DEFENDANTS)**

15 60. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 59 as
16 though fully set forth herein.

17 61. Plaintiff brings this cause of action as a proxy for the State of California and in
18 this capacity, seeks penalties on behalf of all Aggrieved Employees from April 15, 2019, through
19 the present, for Defendant's violations of Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 558,
20 1194, 1197, 1197.1, and 2802, arising from Defendant's failure to provide off-duty meal and rest
21 periods, pay all minimum and overtime wages for hours worked, reimburse business expenses,
22 pay all wages upon separation of employment, and provide proper payroll records.

23 62. On or about April 15, 2020, Plaintiff sent written notice to the California Labor &
24 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code §§ 201-
25 203, 226(a), 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2802, pursuant to Labor Code section
26 2698, *et seq.*, the Private Attorney General Act ("PAGA"). To date, the LWDA has not
27 responded to Plaintiff's written notice.

28 63. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any

1 and all applicable civil penalties for Defendants' violation of Labor Code §§ 201-203, 226(a),
2 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2802, for the time period described above, on
3 behalf of himself and other Aggrieved Employees.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others
6 that this suit is brought against Defendants, jointly and severally, as follows:

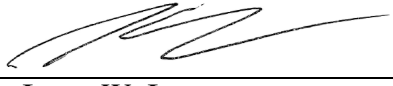
- 7 1. For an order certifying the proposed Class and sub-classes;
- 8 2. For an order appointing Plaintiff as the representative of the Class as described
9 herein;
- 10 3. For an order appointing counsel for Plaintiff as Class counsel;
- 11 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
12 California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;
- 13 5. Upon the Second Cause of Action, for damages and/or penalties pursuant to
14 California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
- 15 6. Upon the Third Cause of Action, for damages and/or penalties pursuant to statute
16 as set forth in California Labor Code §§ 201-203, 510, 558, and 1194, 1194, 1197, and 1197.1,
17 and for costs and attorneys' fees;
- 18 7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to
19 California Labor Code § 2802, and for costs and attorneys' fees;
- 20 8. Upon the Fifth Cause of Action, for damages or penalties pursuant to statute as set
21 forth in California Labor Code § 226, and for costs and attorneys' fees;
- 22 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and other similarly
23 affected members of the general public of all funds unlawfully acquired by Defendants by means
24 of any acts or practices declared by this Court to be in violation of Business and Professions
25 Code § 17200, *et seq.*, for the time periods described above;
- 26 10. Upon the Seventh Cause of Action, for civil penalties according to proof pursuant
27 to Labor Code § 2698, *et seq.*, and for costs and attorneys' fees;
- 28 11. On all causes of action, for attorneys' fees and costs as provided by California

1 Labor Code § 218.5 and Code of Civil Procedure § 1021.5; and

2 12. For such other and further relief as the Court may deem just and proper.

3
4 DATED: April 21, 2020

DIVERSITY LAW GROUP, P.C.

5
6 By: 

Larry W. Lee

7 Max W. Gavron

8 Attorneys for Plaintiff and the Class
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28