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 Superior Court of California
 County of Los Angeles

JUN 10 2020

Sherri R. Carter, Executive Officer/Clerk of Court
 By Steven Drew, Deputy
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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ERNESTO DELGADO, as individuals and
 on behalf of all others similarly situated,

Plaintiffs,

vs.

KLOECKNER METALS
 CORPORATION, a Delaware
 corporation; and DOES 1 through 50,
 inclusive,

Defendants.

Case No.:

20STCV22503

**CLASS AND REPRESENTATIVE ACTION
 COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE §§ 226.7 AND 512;
- (2) VIOLATION OF LABOR CODE § 226.7;
- (3) VIOLATION OF LABOR CODE § 226(a);
- (4) VIOLATION OF LABOR CODE §§ 201-203;
- (5) VIOLATION OF CAL. LABOR CODE §§ 2698, *ET SEQ.*
- (6) VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.*

DEMAND OVER \$25,000.00

1 Plaintiff Ernesto Delgado (“Plaintiff”) hereby submit this Class and Representative Action
2 Complaint (“Complaint”) against Defendant Kloeckner Metals Corporation (“Defendant”) and
3 Does 1 through 50 (collectively referred to as “Defendants”), on behalf of themselves and a class
4 of all other similarly situated current and former employees of Defendants for civil and statutory
5 penalties under the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under
8 California Labor Code sections 201 to 203, 212, 213, 226, 226.7, 512, and 2698 *et seq.*, the
9 applicable Wage Orders of the California Industrial Welfare Commission (“IWC”) and the
10 California Unfair Competition Law (the “UCL”), Business and Professions Code § 17200, *et seq.*

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against individuals who worked for Defendants.

13 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
14 jointly and severally, have acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of all employees in receiving proper meal and rest breaks, minimum wages
16 and overtime wages for all hours worked and compliant wage statements.

17 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
18 engaged in, among other things a system of willful violations of the California Labor Code and
19 the UCL by creating and maintaining policies, practices and customs that knowingly deny
20 employees the above stated rights and benefits.

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

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction over the violations of California Labor Code sections
26 201 to 203, 212, 213, 226, 226.7, 512, and 2698 *et seq.*, and the UCL.

27 7. Venue is proper in Los Angeles County because Defendant maintains operations in
28 Los Angeles County, and Plaintiff was employed by Defendant in Los Angeles County.

PARTIES

8. Plaintiff Ernesto Delgado was employed by Defendant as a non-exempt, hourly employee from in or around January 5, 2014 to December 20, 2019.

9. Plaintiff was and is the victim of the policies, practices, and customs of Defendant complained of in this action in ways that has deprived him of the rights guaranteed by California Labor Code sections 201 to 203, 212, 213, 226, 226.7, 512, and 2698 *et seq.*, the applicable Wage Orders and the UCL.

10. Plaintiff is informed and believes, and based thereon alleges, that Kloeckner Metals Corporation is a Delaware corporation that maintains operations in the State of California, including in Los Angeles County, California.

11. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to the California Labor Code.

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

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

14. Plaintiff is informed and believes, and based thereon alleges, that at all times

1 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
2 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
3 the course and scope of such agency, employment, joint venture, or concerted activity. To the
4 extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
5 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
6 Defendants.

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

10 16. At all times herein mentioned, the acts and omissions of various Defendants, and
11 each of them, concurred and contributed to the various acts and omissions of each and all of the
12 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
13 herein mentioned, Defendants, and each of them, ratified each and every act or omission
14 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
15 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
16 damages as herein alleged.

17 **CLASS ACTION ALLEGATIONS**

18 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
19 California Code of Civil Procedure section 382, of the following classes:

- 20 a. All current and former non-exempt employees of Defendant in the State of
21 California who worked more than five (5) hours in any shift at any time during
22 the period of April 6, 2016, through the present (the “Meal Period Class” or
23 “Meal Period Class Members”).
- 24 b. All current and former non-exempt employees of Defendant in the State of
25 California who worked more than ten (10) hours in any shift at any time during
26 the period of April 6, 2016, through the present (the “Second Meal Period Sub-
27 Class” or “Second Meal Period Sub-Class Members”).
- 28 c. All current and former non-exempt employees of Defendant in the State of

California who worked 3.5 hours or more in any shift at any time during the period of April 6, 2016, through the present (the “Rest Period Class” or “Rest Period Class Members”).

d. All current and former non-exempt employees of Defendant in the State of California who were paid overtime and/or shift differential wages at any time between April 6, 2019, through the present (the “Wage Statement Class” or “Wage Statement Class Members”).

e. All employees of Defendant in the State of California, who during their employment received their normal payroll wages through check or direct deposit, but upon their separation of employment (voluntary or involuntary) at any time from June 26, 2018, through the present, received their terminating wages in the form of a paycard (the “Pay Card Class”).

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendant: (a) failed to provide an off-duty 30-minute meal break to employees who worked 5 hours or longer in one shift, and a second off-duty 30-minute meal breaks to employees who worked more than 10 hours in one shift, in violation of Labor Code sections 226.7 and 512; (b) failed to provide off-duty 10-minute rest breaks to employees who worked 3.5 hours or longer in one shift, in violation of Labor Code section 226.7; (c) failed to provide accurate and complete wage statements, in violation of Labor Code section 226(a); (d) failed to pay final wages in a timely manner to separated employees, in violation of Labor Code sections 201 to 203; and (e) engaged in Unfair Business Practices in violation of the UCL, the California Labor Code, including without limitation, California Labor Code sections 226, 226.7 and 512, and the applicable IWC Wage Orders.

19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Classes defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Classes and

1 the individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class
2 actions in the past and currently have a number of wage-and-hour class actions pending in
3 California state and federal courts.

4 20. Defendant uniformly administered a corporate policy, practice of: (a) failing to
5 provide an off-duty 30-minute meal break to employees who worked 5 hours or longer in one shift,
6 and a second off-duty 30-minute meal breaks to employees who worked more than 10 hours in
7 one shift, in violation of Labor Code sections 226.7 and 512; (b) failing to provide off-duty 10-
8 minute rest breaks to employees who worked 3.5 hours or longer in one shift, in violation of Labor
9 Code section 226.7; (c) failing to provide accurate and complete wage statements, in violation of
10 Labor Code section 226(a); (d) failing to pay final wages in a timely manner to separated
11 employees, in violation of Labor Code sections 201 to 203; and (e) engaging in Unfair Business
12 Practices in violation of the UCL, the California Labor Code, including without limitation,
13 California Labor Code sections 226, 226.7 and 512, and the applicable IWC Wage Orders.

14 21. **Common Question of Law and Fact:** There are predominant common questions
15 of law and fact and a community of interest amongst Plaintiff and the claims of the Classes
16 concerning Defendant's policy and practice of: (a) failing to provide an off-duty 30-minute meal
17 break to employees who worked 5 hours or longer in one shift, and a second off-duty 30-minute
18 meal breaks to employees who worked more than 10 hours in one shift, in violation of Labor Code
19 sections 226.7 and 512; (b) failing to provide off-duty 10-minute rest breaks to employees who
20 worked 3.5 hours or longer in one shift, in violation of Labor Code section 226.7; (c) failing to
21 provide accurate and complete wage statements, in violation of Labor Code section 226(a); (d)
22 failing to pay final wages in a timely manner to separated employees, in violation of Labor Code
23 sections 201 to 203; and (e) engaging in Unfair Business Practices in violation of the UCL, the
24 California Labor Code, including without limitation, California Labor Code sections 226, 226.7
25 and 512, and the applicable IWC Wage Orders.

26 22. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
27 Classes in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
28 as the Class Members. Defendant failed to provide proper meal and rest breaks to Plaintiff and

1 other non-exempt employees. More specifically, as a pattern and practice, Defendant regularly
2 required employees to take meal breaks of less than 30 minutes and/or after the 5th hour of work.
3 Additionally, when Plaintiff and other employees worked more than 10 hours in a workday,
4 Defendant also failed to provide them with an opportunity to take a second meal break. Similarly,
5 Defendant routinely denied Plaintiff and other non-exempt employees the opportunity to take rest
6 breaks. As a matter of policy and practice, Defendant only provided a single rest break to
7 employees who worked a shift of eight hours or more. Furthermore, Defendant required Plaintiff
8 and other employees to remain on premises during rest breaks.

9 23. Additionally, whenever overtime and/or shift differential wages were paid to
10 Plaintiff and other non-exempt employees, the corresponding wage statements failed to identify
11 the applicable rates of pay and hours for such wages. Instead, the wage statements simply listed
12 the gross sum of such wages without any information to identify how such wages were calculated.

13 24. Moreover, as a matter of policy and practice, Defendant issued Plaintiff and other
14 separated employees payment of final wages in the form of a pay card. The pay card required
15 Plaintiff and other separated employees to incur fees to use, was not fully cashable, and not usable
16 at all financial institutions and, thus, did not actually compensate separated employees for all
17 wages owed upon separation. Accordingly, Plaintiff is a member of the Classes and has suffered
18 the alleged violations of California Labor Code sections 201 to 203, 226, 226.7 and 512, and the
19 applicable IWC Wage Orders.

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

26 26. The nature of this action and the format of laws available to Plaintiff and members
27 of the Classes identified herein make the class action format a particularly efficient and appropriate
28 procedure to redress the wrongs alleged herein. If each employee were required to file an individual

lawsuit, the corporate defendants would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of each individual plaintiff with their 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.

27. 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 the Defendants and which would establish potentially incompatible standards of conduct for the 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.

28. Such a pattern, practice and uniform administration of corporate policy regarding illegal payroll practices described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code sections 201 to 203, 226, 226.7 and 512, the applicable IWC Wage Orders, and Code of Civil Procedure section 1021.5.

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

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

3 **(BY PLAINTIFF, THE MEAL PERIOD CLASS AND SECOND MEAL PERIOD SUB-**
4 **CLASS AGAINST ALL DEFENDANTS)**

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

7 31. At all relevant times, Defendant failed in its affirmative obligation to ensure that
8 Plaintiff, the Meal Period Class and Second Meal Period Sub-Class had the opportunity to take
9 and were provided with off-duty meal periods in accordance with the mandates of the California
10 Labor Code and the applicable IWC Wage Order.

11 32. More specifically, as a pattern and practice, Defendant regularly failed to provide
12 Plaintiff and the Meal Period Class with a thirty (30) minute uninterrupted duty-free meal period
13 within five (5) hours of the beginning of their shift. Additionally, Plaintiff and Second Meal Period
14 Sub-Class Members who worked in excess of ten (10) hours per day had a right to take a second
15 30-minute meal period. As a matter of corporate policy and practice, Defendant failed to provide
16 a second meal period to employees. Rather, Defendant required Plaintiff and Second Meal Period
17 Sub-Class Members to continue working.

18 33. Plaintiff is informed and believes, and based thereon alleges, that Defendant
19 willfully failed to pay employees who were not provided the opportunity to take meal breaks the
20 premium compensation set out in Labor Code sections 226.7 and 512, and the applicable IWC
21 Wage Order. According to the mandate of California Labor Code sections 201, 202 and 203,
22 Plaintiff and former employees similarly situated are owed wages and waiting time penalties for
23 the meal period violations set forth above.

24 34. Such a pattern, practice and uniform administration of corporate policy as described
25 herein is unlawful and creates an entitlement to recovery by Plaintiff, the Meal Period Class, and
26 the Second Meal Period Sub-Class identified herein, in a civil action, for the unpaid premium
27 compensation pursuant to Labor Code sections 226.7 and 512, and the applicable IWC Wage
28 Order, including interest thereon, penalties, reasonable attorneys' fees, and costs of suit.

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226.7**

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

4 35. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 34 as though
5 fully set forth herein.

6 36. At all relevant times, Defendant failed in its affirmative obligation to ensure that
7 Plaintiff and Rest Period Class Members had the opportunity to take and were provided with off-
8 duty 10-minute rest periods in accordance with the mandates of the California Labor Code and the
9 applicable IWC Wage Order. Specifically, Defendant required Plaintiff and Rest Period Class
10 Members to remain on the worksite for their 10-minute rest break. In other words, Plaintiff and
11 Rest Period Class Members were denied their right to an off-duty rest break because they remained
12 under Defendant's control by virtue of having to remain on the worksite. Further, as a matter of
13 policy and practice, Defendant only provided a single rest break to Plaintiff and Rest Break Class
14 Members who worked a shift of eight hours or more.

15 37. Plaintiff is informed and believes, and based thereon alleges, that Defendant
16 willfully failed to pay employees who were not provided the opportunity to take rest breaks the
17 premium compensation set out in Labor Code sections 226.7 and 512, and the applicable IWC
18 Wage Order. According to the mandate of California Labor Code sections 201, 202 and 203,
19 Plaintiff and former employees similarly situated are owed wages and waiting time penalties for
20 the rest period violations set forth above.

21 38. Such a pattern, practice and uniform administration of corporate policy as described
22 herein is unlawful and creates an entitlement to recovery by Plaintiff and the Rest Period Class
23 identified herein, in a civil action, for the unpaid balance of the unpaid premium compensation
24 pursuant to Labor Code section 226.7, and the applicable IWC Wage Order, including interest
25 thereon, penalties, reasonable attorneys' fees, and costs of suit.

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1 **THIRD CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226**

3 **(BY PLAINTIFF, THE MEAL PERIOD CLASS, THE SECOND MEAL PERIOD SUB-**
4 **CLASS, THE REST PERIOD CLASS, AND THE WAGE STATEMENT CLASS**
5 **AGAINST ALL DEFENDANTS)**

6 39. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 38 as though
7 fully set forth herein.

8 40. Defendant failed in its affirmative obligation to provide accurate itemized wage
9 statements. Defendant, as a matter of policy and practice, did not provide accurate records in
10 violation of Labor Code section 226(a).

11 41. Plaintiff and members of the Meal Period Class, Second Meal Period Sub-Class,
12 Rest Period Class and Wage Statement Class were paid hourly. As such, the wage statements
13 should have reflected all applicable hourly rates in effect during the pay period and the
14 corresponding number of hours worked at each hourly rate by the employee, pursuant to Labor
15 Code section 226(a)(9). The wage statements provided to Plaintiff, the Meal Period Class, Second
16 Meal Period Sub-Class and Rest Period Class failed to identify the premium wages owed for
17 missed meal and rest periods.

18 42. Furthermore, whenever overtime and/or shift differential wages were paid to
19 Plaintiff and the Wage Statement Class, the corresponding wage statements failed to identify the
20 applicable rates of pay and hours for such wages. Instead, the wage statements simply listed the
21 gross sum of such wages without any information to identify how such wages were calculated.

22 43. Such a pattern, practice and uniform administration of corporate policy as described
23 herein is unlawful and creates an entitlement to recovery by Plaintiff and the classes identified
24 herein, in a civil action, for all penalties pursuant to Labor Code section 226, including interest
25 thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code
26 section 226.

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 201, 202 AND 203**

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

4 44. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 43 as though
5 fully set forth herein.

6 45. Labor Code section 201 provides that all wages earned and unpaid at the time of an
7 employee's discharge are due and payable immediately. Labor Code section 202 provides that, in
8 the case of an employee who resigns or quits, such wages must be paid not later than 72 hours
9 thereafter, unless the employee has given 72 hours previous notice, in which case the employee
10 must be paid all wages due and earned at the time of quitting. Labor Code section 203 further
11 provides that an employer who willfully fails to pay such wages due to an employee who is
12 discharged or quits must pay that employee waiting-time penalties in the form of a day's wages up
13 to 30 days until all of the wages owed are paid.

14 46. As a pattern and practice, Defendant violated Labor Code sections 201, 202 and
15 203 by issuing pay cards as final payment of wages to employees who have been discharged and/or
16 resigned. As alleged herein, the pay card required Plaintiff and Pay Card Class Members to incur
17 fees to use, was not fully cashable, and not usable at all financial institutions. Thus, the pay card
18 did not actually compensate separated employees for all wages owed upon separation.

19 47. Such a pattern, practice and uniform administration of corporate policy regarding
20 illegal employee compensation as described herein is unlawful and creates an entitlement to
21 recovery by Plaintiff and the Pay Card Class in a civil action, for the unpaid balance of the full
22 amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit
23 according to the mandate of California Labor Code sections 201, 202 and 203.

24 **FIFTH CAUSE OF ACTION**

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

26 **(BY PLAINTIFFS, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
27 **AGAINST ALL DEFENDANTS)**

28 48. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 47 as though

1 fully set forth herein.

2 49. Plaintiff bring this cause of action as a proxy for the State of California and in this
3 capacity, seeks penalties on behalf of all Aggrieved Employees from April 6, 2019, through the
4 present, for Defendant's policy and practice of: (a) failing to provide an off-duty 30-minute meal
5 break to employees who worked 5 hours or longer in one shift, and a second off-duty 30-minute
6 meal breaks to employees who worked more than 10 hours in one shift, in violation of Labor Code
7 sections 226.7 and 512; (b) failing to provide off-duty 10-minute rest breaks to employees who
8 worked 3.5 hours or longer in one shift, in violation of Labor Code section 226.7; (c) failing to
9 provide accurate and complete wage statements, in violation of Labor Code section 226(a); (d)
10 failing to pay final wages in a timely manner to separated employees, in violation of Labor Code
11 sections 201 to 203; and (e) issuing pay cards as payment of wages to employees without his or
12 her authorization or consent and which were not negotiable and payable in cash, on demand, and
13 without discount at established businesses in the State of California, in violation of Labor Code
14 sections 212 and 213.

15 50. On or about May 20, 2020, Plaintiff sent written notice to the California Labor &
16 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code sections
17 201 to 203, 212, 213, 226, 226.7 and 512, pursuant to Labor Code section 2698, *et seq.*, the Private
18 Attorney General Act ("PAGA"). To date, the LWDA has not responded to Plaintiff's written
19 notice.

20 51. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
21 and all applicable civil penalties for Defendant's violation of Labor Code sections 201 to 203, 212,
22 213, 226, 226.7 and 512, for the time period described above, on behalf of himself and other
23 Aggrieved Employees.

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1 **SIXTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, ET SEQ.**
3 **(BY PLAINTIFF, THE MEAL PERIOD CLASS, THE SECOND MEAL PERIOD SUB-**
4 **CLASS AND THE REST PERIOD CLASS AGAINST ALL DEFENDANTS)**

5 52. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 51 as though
6 fully set forth herein.

7 53. Defendant has engaged and continues to engage in unfair and unlawful business
8 practices in California by practicing, employing and utilizing the employment practices outlined
9 above, including, by failing to: (a) failing to provide an off-duty 30-minute meal break to
10 employees who worked 5 hours or longer in one shift, and a second off-duty 30-minute meal breaks
11 to employees who worked more than 10 hours in one shift, in violation of Labor Code sections
12 226.7 and 512; and (b) failing to provide off-duty 10-minute rest breaks to employees who worked
13 3.5 hours or longer in one shift, in violation of Labor Code section 226.7.

14 54. Defendant's utilization of such unfair and unlawful business practices constitutes
15 unfair, unlawful competition and provides an unfair advantage over Defendant's competitors.

16 55. Plaintiff seeks, on his own behalf and on behalf of other members of the classes
17 identified herein, full restitution of monies, as necessary and according to proof, to restore any and
18 all monies withheld, acquired and/or converted by the Defendant's by means of the unfair practices
19 complained of herein.

20 56. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
21 mentioned Defendant has engaged in unlawful, deceptive and unfair business practices, as
22 proscribed by California Business and Professions Code section 17200, *et seq.*, including those set
23 forth herein above thereby depriving Plaintiff and other members of the classes identified herein
24 the minimum working condition standards and conditions due to them under the California laws
25 and the applicable IWC Wage Orders as specifically described therein.

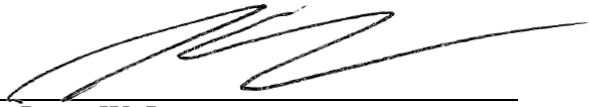
26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff pray for judgment for themselves and all others on whose behalf
28 this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as the representative of the Classes as described herein;
3. For an order appointing counsel for Plaintiff as class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 201-203, 226.7 and 512, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code section 201-203, 226.7, and for costs and attorneys' fees;
6. Upon the Third Cause of Action, for penalties pursuant to California Labor Code section 226, and for costs and attorneys' fees;
7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 201-203, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action, for civil penalties according to proof pursuant to Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff and other similarly effected members of the general public of all funds unlawfully acquired by Defendant by means of any acts or practices declared by this Court to be in violation of Business and Professions Code section 17200, *et seq.*;
10. On all causes of action for attorneys' fees and costs as provided by California Labor Code sections 218.5, 226 and 2698, *et seq.*, and Code of Civil Procedure section 1021.5; and
11. For such other and further relief the Court may deem just and proper.

DATED: June 10, 2020

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee
Kristen M. Agnew
Nicholas Rosenthal

Attorneys for Plaintiff and the Class