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Superior Court of California  
County of Los Angeles

**AUG 06 2020**

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

ROBERT RODRIGUEZ, as an individual  
and on behalf of all others similarly situated,

Plaintiffs,

vs.

CITY NATIONAL BANK, business entity  
form unknown; and DOES 1 through 50,  
inclusive,

Defendants.

Case No.: **20STCV29761**

**CLASS ACTION COMPLAINT FOR  
DAMAGES FOR:**

- (1) VIOLATION OF LABOR CODE §§ 510, 558, AND 1194;
- (2) VIOLATION OF LABOR CODE §§ 226.7 AND 512;
- (3) VIOLATION OF LABOR CODE §§ 201-203;
- (4) VIOLATION OF LABOR CODE § 226.7;
- (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 Robert Rodriguez (“Plaintiff”), hereby submits this Class Action Complaint  
2 against Defendant City National Bank (“Defendant”), and Does 1-50 (hereinafter collectively  
3 referred to as “Defendants”), as an individual and on behalf of the Class of all other similarly  
4 situated current and former employees of Defendant for penalties and/or damages for failure to  
5 properly calculate the regular rate of pay for purposes of paying overtime, meal period  
6 premiums, and sick pay, provide off-duty rest periods, pay all wages owed upon separation of  
7 employment, and provide accurate itemized wage statements under California Labor Code  
8 statutes, and restitution for unfair business practices in violation of Business and Professions  
9 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(a), 226.7, 246, 510, 512, 558, 1194 and 2698, *et seq.*, the California Industrial  
13 Welfare Commission’s (“IWC”) Wage Orders, and the California Unfair Competition Law (the  
14 “UCL”), codified at California Business and Professions Code § 17200, *et seq.*

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

18 3. Plaintiff is informed and believes and based thereon alleges that Defendants  
19 jointly and severally have acted intentionally and with deliberate indifference and conscious  
20 disregard to the rights of all employees by failing to properly calculate the regular rate of pay for  
21 purposes of paying overtime, meal period premiums and sick pay, provide off-duty rest breaks,  
22 pay all wages owed upon separation of employment, and provide accurate itemized wage  
23 statements to Plaintiff and the Class.

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

5. The policies, practices and customs of Defendant described above and below have resulted in unjust enrichment of Defendant 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(a), 226.7, 246, 510, 512, 558, 1194 and 2698, *et seq.*, and the UCL.

7. Venue is proper in Los Angeles County because Defendant maintains operations in Los Angeles County.

**PARTIES**

8. Plaintiff was employed by Defendant as a security guard from about October 2016 until on or about December 2019. Plaintiff worked as an hourly, non-exempt employee.

9. 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(a), 226.7, 246, 510, 512, 558, 1194, and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

10. Plaintiff is informed and believes and based thereon alleges that Defendant City National Bank was and is a business entity form unknown doing business in the State of California as a bank.

11. 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.

12. 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(a), 226.7, 246, 510, 512, 558, 1194 and 2698, *et seq.*, the IWC Wage Orders, and the UCL.

13. 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 14. 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 15. 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 16. 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 17. 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 18. **Definition:** The named individual Plaintiff seeks class certification, pursuant to  
3 California Code of Civil Procedure § 382, of the following classes (collectively, “Class”):

- 4 a. All current and former non-exempt employees of Defendant in the State of  
5 California, who earned non-discretionary wages, including but not limited  
6 to shift differentials, and overtime wages in the same workweek during  
7 their employment, at any time during April 6, 2016, through the present  
8 (the “Overtime Regular Rate Class”);
- 9 b. All current and former non-exempt employees of Defendant in the State of  
10 California, who earned non-discretionary wages, including but not limited  
11 to shift differentials, and ”Meal Penalty” premiums in the same workweek,  
12 at any time from April 6, 2016, through the present (the “Meal Period  
13 Class”);
- 14 c. All current and former non-exempt employees of Defendant in the State of  
15 California who earned non-discretionary wages, including but not limited  
16 to shift differentials, and sick pay during the same work week, and whose  
17 employment ended at any time between April 6, 2017, through the present  
18 (the “Sick Pay Class”);
- 19 d. All current and former non-exempt employees of Defendant in the State of  
20 California, who worked 3.5 hours or more in any shift at any time from  
21 April 6, 2016, through the present and were assigned radio communication  
22 devices during any work shift (the “Rest Period Class”).
- 23 e. All current and former non-exempt employees of Defendant in the State of  
24 California, who earned shift differentials at any time during April 6, 2019,  
25 through the present (the “Shift Differential Class”).

26 19. **Numerosity and Ascertainability:** The members of the Class are so numerous  
27 that joinder of all members would be impractical, if not impossible. The identity of the members  
28 of the Class is readily ascertainable by review of Defendant’s records, including payroll records.

1 Plaintiff alleges that Defendant: (a) failed to pay employees overtime wages at the correct  
2 regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code  
3 §§ 510, 558, and 1194; (b) failed to pay employees meal period premiums at the correct regular  
4 rate of pay that included all non-discretionary remuneration, in violation of Labor Code §§  
5 226.7, and 512; (c) failed to pay employees sick pay at the correct regular rate of pay that  
6 included all non-discretionary remuneration, in violation of Labor Code §§ 201-203 and 246; (d)  
7 failed to provide off-duty 10-minute rest breaks to employees who worked 3.5 hours or longer in  
8 one shift, in violation of Labor Code § 226.7; (e) failed to provide accurate, itemized wage  
9 statements, in violation of Labor Code § 226(a); and (f) engaged in Unfair Business Practices in  
10 violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

11       20.     **Adequacy of Representation:** The named Plaintiff is fully prepared to take all  
12 necessary steps to represent fairly and adequately the interests of the Class defined above.  
13 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the Class and  
14 individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class  
15 actions in the past and currently have a number of wage-and-hour class actions pending in  
16 California courts.

17       21.     Defendant uniformly administered a corporate policy, practice of: (a) failing to  
18 pay employees overtime wages at the correct regular rate of pay that included all non-  
19 discretionary remuneration, in violation of Labor Code §§ 510, 558, and 1194; (b) failing to pay  
20 employees meal period premiums at the correct regular rate of pay that included all non-  
21 discretionary remuneration, in violation of Labor Code §§ 226.7, and 512; (c) failing to pay  
22 employees sick pay at the correct regular rate of pay that included all non-discretionary  
23 remuneration, in violation of Labor Code §§ 201-203 and 246; (d) failing to provide off-duty 10-  
24 minute rest breaks to employees who worked 3.5 hours or longer in one shift, in violation of  
25 Labor Code § 226.7; (e) failing to provide accurate, itemized wage statements, in violation of  
26 Labor Code § 226(a); and (f) engaging in Unfair Business Practices in violation of the UCL, the  
27 California Labor Code, and the applicable IWC Wage Orders.

28       22.     **Common Question of Law and Fact:** There are predominant common questions

of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant's policy and practice of: (a) failing to pay employees overtime wages at the correct regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code §§ 510, 558, and 1194; (b) failing to pay employees meal period premiums at the correct regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code §§ 226.7, and 512; (c) failing to pay employees sick pay at the correct regular rate of pay that included all non-discretionary remuneration, in violation of Labor Code §§ 201-203 and 246; (d) failing 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 § 226.7; (e) failing to provide accurate, itemized wage statements, in violation of Labor Code § 226(a); and (f) engaging in Unfair Business Practices in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner as the Class members. As with other non-exempt employees, Plaintiff earned non-discretionary remuneration, including but not limited to shift differentials. However, the non-discretionary wages were not calculated into the regular rate of pay for the purposes of paying overtime, meal period premiums, and sick pay. Rather, such wages were paid at the employee's base rate of pay. As such, Plaintiff is owed additional overtime, meal period premium, and sick pay based on the correct, higher regular rate of pay. In addition, Plaintiff regularly worked shifts of 3.5 hours or more without being provided off-duty rest breaks. Like other non-exempt employees, Plaintiff was required to carry a two-way radio and respond to calls whenever they came in. As a result, Plaintiff remained subject to Defendant's control, received interrupted and shortened rest breaks, and was subject to an immediate return to work. Thus, Plaintiff was regularly denied a duty-free rest break of 10 minutes and is owed rest period premium pay. To date, Plaintiff has yet to receive the underpaid overtime, meal period premium, sick pay, and rest period premium wages owed to him. Thus, Defendant is liable for waiting time penalties under Labor Code § 203. Furthermore, as a result of the aforementioned overtime rate miscalculation,

1 meal period premium miscalculation and rest period violations, the wage statements Plaintiff  
2 received identified incorrect wage rates and net and gross wages earned, in violation of Labor  
3 Code § 226(a). In addition, whenever shift differential wages were paid, the wage statements  
4 issued to Plaintiff did not identify the applicable rate of pay and number of hours worked used to  
5 calculate such wages. As such, Plaintiff is a member of the Class and has suffered the alleged  
6 violations of California Labor Code §§ 201-203, 226(a), 226.7, 246, 510, 512, 558, and 1194,  
7 and the applicable IWC Wage Orders.

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

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

24         26. The prosecution of separate actions by the individual class members, even if  
25 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect  
26 to individual Class members against Defendant and which would establish potentially  
27 incompatible standards of conduct for Defendant, and/or (b) adjudications with respect to  
28 individual Class members which would, as a practical matter, be dispositive of the interest of the

1 other Class members not parties to the adjudications or which would substantially impair or  
2 impede the ability of the Class members to protect their interests. Further, the claims of the  
3 individual members of the Class are not sufficiently large to warrant vigorous individual  
4 prosecution considering all of the concomitant costs and expenses.

5 27. Such a pattern, practice and uniform administration of corporate policy regarding  
6 illegal employee compensation described herein is unlawful and creates an entitlement to  
7 recovery by the Plaintiff and the Class identified herein, in a civil action, for unpaid wages,  
8 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit  
9 according to the mandate of California Labor Code §§ 201-203, 218.5, 226, and 1194, the  
10 applicable IWC Wage Orders, and Code of Civil Procedure § 1021.5.

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

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

18 **FIRST CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE §§ 510, 558, AND 1194**

20 **(BY PLAINTIFF AND THE OVERTIME REGULAR RATE CLASS AGAINST ALL**  
21 **DEFENDANTS)**

22 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
23 though fully set forth herein.

24 31. This cause of action is brought pursuant to Labor Code § 510, which requires an  
25 employer to pay employees overtime at a rate of one and one-half the employee's regular rate of  
26 pay for any work in excess of eight hours in a workday or forty hours in a workweek.

27 32. As a pattern and practice, Defendant suffered and permitted employees to work in  
28 excess of eight hours in a workday and/or over forty hours in a workweek without proper

overtime pay. During workweeks when Plaintiff and Overtime Regular Rate Class Members worked overtime and earned non-discretionary remuneration, such as shift differentials in the same workweek, Defendant failed to properly calculate the regular rate of pay for purposes of paying overtime. Specifically, Defendant failed to factor any non-discretionary remuneration earned into the calculation of the regular rate of pay for purposes of paying overtime wages. As a result of such policy and practice, Defendant underpaid overtime wages to Plaintiff and Overtime Regular Rate Class Members and thus owe additional overtime wages.

33. Such a pattern, practice, and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by Plaintiff and Overtime Regular Rate Class Members in a civil action, for the unpaid balance of the full amount of damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 218.5, 510, 558, and 1194.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendant's willful failure to provide all overtime wages due and owing to Plaintiff and Overtime Regular Rate Class Members upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Overtime Regular Rate Class who have separated from employment from Defendant are entitled to compensation pursuant to Labor Code § 203.

## **SECOND CAUSE OF ACTION**

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

#### **(BY PLAINTIFF AND THE MEAL PERIOD CLASS AGAINST ALL DEFENDANTS)**

35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

36. At all relevant times, Defendant is responsible for paying premium compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC Wage Order. Defendant, as a matter of corporate policy and procedure, regularly failed to pay such premium compensation at the correct regular rate for each meal period Plaintiff and the Meal Period Class

1 members missed.

2 37. Specifically, Labor Code § 226.7(c) states that “the employer shall pay the  
3 employee one additional hour of pay at the employee’s regular rate of compensation for each  
4 workday that the meal or rest or recovery period is not provided.” Throughout their  
5 employment, Plaintiff and Meal Period Class Members earned non-discretionary remuneration,  
6 including but not limited to shift differentials. Such non-discretionary forms of remuneration,  
7 however, were not included in the regular rate of pay for purposes of paying meal period  
8 premium pay. Instead, the meal period premium was paid at the base rate of pay. As such,  
9 Plaintiff and Meal Period Class Members are owed additional meal period premium pay.

10 38. Such a pattern, practice and uniform administration of corporate policy as  
11 described herein is unlawful and creates an entitlement to recovery by Plaintiff and Meal Period  
12 Class Members identified herein, in a civil action, for the unpaid balance of the unpaid premium  
13 compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order,  
14 including interest thereon, penalties, and costs of suit.

15 39. Plaintiff is informed and believes, and based thereon allege, that Defendant’s  
16 willful failure to provide all meal period premium wages due and owing to Plaintiff and Meal  
17 Period Class Members upon separation from employment results in a continued payment of  
18 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other  
19 members of the Meal Period Class who have separated from employment are entitled to  
20 compensation pursuant to Labor Code § 203.

21 **THIRD CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE §§ 201-203 AND 246**

23 **(BY PLAINTIFF AND THE SICK PAY CLASS AGAINST ALL DEFENDANTS)**

24 40. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
25 though fully set forth herein.

26 41. Labor Code § 203 provides that if an employer willfully fails to pay wages owed  
27 in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue  
28 as a penalty from the due date, and at the same rate until paid, but the wages shall not continue

1 for more than thirty (30) days.

2 42. Labor Code § 201 provides if an employer discharges an employee, the wages  
3 earned and unpaid at the time of discharge are due and payable immediately.

4 43. Labor Code § 202 provides that an employee is entitled to receive all unpaid  
5 wages no later than 72 hours after an employee quits his or her employment, unless the employee  
6 has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the  
7 employee is entitled to his or her wages at the time of quitting.

8 44. Labor Code § 246 provides that an employee is entitled to receive sick time pay.  
9 The employer shall calculate paid sick leave by using one of two calculations: (1) “Paid sick  
10 time for nonexempt employees shall be calculated in the same manner as the regular rate of pay  
11 for the workweek in which the employee uses paid sick time, whether or not the employee  
12 actually works overtime in that workweek;” or (2) “Paid sick time for nonexempt employees  
13 shall be calculated by dividing the employee’s total wages, not including overtime premium pay,  
14 by the employee’s total hours worked in the full pay periods of the prior 90 days of  
15 employment.”

16 45. Whenever Defendant paid Plaintiff and Sick Pay Class Members sick time  
17 pursuant to California Labor Code § 246, Defendant did so at the incorrect rate of pay.  
18 Defendant paid Plaintiff and Sick Pay Class Members at the base hourly rate of pay, as opposed  
19 to the regular rate of pay, which would take into account all non-discretionary wages such as  
20 shift differentials, as required by Labor Code § 246. This resulted in the underpayment of sick  
21 time, and resulted in violations of California Labor Code §§ 201, 202, and 203, and other  
22 derivative Labor Code violations, because Defendant did not pay, or timely pay, Plaintiff and  
23 Sick Pay Class Members all owing and unpaid wages for work performed by them during their  
24 employment and at the end of their employment.

25 46. Defendant willfully failed to pay Plaintiff and Sick Pay Class Members all their  
26 wages due, as alleged hereinabove and hereinafter, upon the termination of their employment  
27 within the times prescribed by Labor Code §§ 201 and 202 and are therefore subject to a waiting  
28 time penalty. Plaintiff and the Sick Pay Class Members are entitled to recover from Defendant

1 the statutory penalty for each day they were not paid at their regular hourly rate of pay, up to a  
2 thirty (30) day maximum pursuant to California Labor Code § 203.

3 **FOURTH CAUSE OF ACTION**

4 **VIOLATION OF LABOR CODE § 226.7**

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

6 47. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
7 though fully set forth herein.

8 48. Plaintiff and Rest Period Class Members regularly worked shifts of three and one-  
9 half hours (3.5) hours or more per day, and accordingly had a right to take a 10-minute rest  
10 period each day. Furthermore, Plaintiff and Rest Period Class Members who worked shifts of  
11 seven and one-half (7.5) hours or more per day had a right to take a second 10-minute rest  
12 period.

13 49. Defendant failed in its affirmative obligation to provide Plaintiff and Rest Period  
14 Class Members, the opportunity to take rest periods in accordance with the mandates of the  
15 California Labor Code and the applicable IWC Wage Order. Plaintiff and Rest Period Class  
16 Members were suffered and permitted to work through legally required rest breaks and were  
17 denied the opportunity to take their rest breaks. Again, Plaintiff and Rest Period Class Members  
18 were required to carry two-way radios and respond to calls whenever they came in. As a result,  
19 Plaintiff and Rest Period Class Members remained subject to Defendant's control, received  
20 interrupted and shortened rest breaks, and were subject to an immediate return to work. As such,  
21 Defendant is responsible for paying premium compensation for missed rest periods pursuant to  
22 Labor Code § 226.7.

23 50. Such a pattern, practice and uniform administration of corporate policy as  
24 described herein is unlawful and creates an entitlement to recovery by Plaintiff and Rest Period  
25 Class Members, in a civil action, for the unpaid balance of the unpaid premium compensation  
26 pursuant to Labor Code § 226.7, including interest thereon, penalties, and costs of suit.

27 51. Plaintiff is informed and believes, and based thereon allege, that Defendant's  
28 willful failure to provide all rest period premium wages due and owing to Plaintiff and Rest

1 Period Class Members upon separation from employment results in a continued payment of  
2 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other  
3 members of the Rest Period Class who have separated from employment are entitled to  
4 compensation pursuant to Labor Code § 203.

5 **FIFTH CAUSE OF ACTION**

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

7 **(BY PLAINTIFF, THE OVERTIME REGULAR RATE CLASS, MEAL PERIOD CLASS,**  
8 **REST PERIOD CLASS AND SHIFT DIFFERENTIAL CLASS AGAINST ALL**  
9 **DEFENDANTS)**

10 52. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
11 though fully set forth herein.

12 53. Defendant failed in its affirmative obligation to provide accurate itemized wage  
13 statements. Defendant, as a matter of policy and practice, did not provide accurate records in  
14 violation of Labor Code § 226(a) by failing to provide accurate payroll records to employees.

15 54. Here, Plaintiff, the Overtime Regular Rate Class, Meal Period Class, Rest Period  
16 Class and Shift Differential Class were paid hourly. As such, the wage statements should have  
17 reflected the applicable number of hours worked, hourly rates of pay, and gross and net wages  
18 earned, pursuant to Labor Code section 226(a). However, the wage statements provided to  
19 Plaintiff and other employees failed to identify such information. . More specifically, as a result  
20 of the aforementioned regular rate miscalculations, the wage statements Defendant issued to  
21 Plaintiff, the Overtime Regular Rate Class and the Meal Period Class identified incorrect wage  
22 rates and net and gross wages earned, in violation of Labor Code § 226(a). In addition, whenever  
23 shift differential wages were paid, the wage statements issued to Plaintiff and Shift Differential  
24 Class Members did not identify the applicable rate of pay and number of hours worked used to  
25 calculate such wages.

26 55. Such a pattern, practice and uniform administration of corporate policy as  
27 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the the  
28 Overtime Regular Rate Class, Meal Period Class, Rest Period Class and Shift Differential Class ,

1 in a civil action, for all damages or penalties pursuant to Labor Code § 226, including interest  
2 thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code §  
3 226.

4 **SIXTH CAUSE OF ACTION**

5 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***  
6 **(BY PLAINTIFF, THE OVERTIME REGULAR RATE CLASS, MEAL PERIOD CLASS**  
7 **AND REST PERIOD CLASS AGAINST ALL DEFENDANTS)**

8 56. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
9 though fully set forth herein.

10 57. Defendant has engaged and continues to engage in unfair and unlawful business  
11 practices in California by practicing, employing and utilizing the employment practices outlined  
12 above, include, to wit, by: (a) failing to pay Overtime Regular Rate Class Members overtime  
13 wages at the correct regular rate of pay that included all non-discretionary remuneration, in  
14 violation of Labor Code §§ 510, 558, and 1194; (b) failing to pay Meal Period Class Members  
15 meal period premiums at the correct regular rate of pay that included all non-discretionary  
16 remuneration, in violation of Labor Code §§ 226.7, and 512; (c) failing to provide off-duty 10-  
17 minute rest breaks to Rest Period Class Members who worked 3.5 hours or longer in one shift, in  
18 violation of Labor Code § 226.7.

19 58. Defendant's utilization of such unfair and unlawful business practices constitutes  
20 unfair, unlawful competition and provides an unfair advantage over Defendant's competitors.

21 59. Plaintiff seeks, individually and on behalf of other members of the class similarly  
22 situated, full restitution of monies, as necessary and according to proof, to restore any and all  
23 monies withheld, acquired and/or converted by the Defendant by means of the unfair practices  
24 complained of herein.

25 60. Plaintiff is informed and believes, and based thereon alleges, that at all times  
26 herein mentioned Defendant has engaged in unlawful, deceptive, and unfair business practices,  
27 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set  
28 forth herein above thereby depriving Plaintiff and other members of the class the minimum

1 working condition standards and conditions due to them under the California laws and the  
2 applicable IWC Wage Orders as specifically described therein.

3 **SEVENTH CAUSE OF ACTION**

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

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

7 61. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as  
8 though fully set forth herein.

9 62. Plaintiff brings this cause of action as a proxy for the State of California and in  
10 this capacity, seeks penalties on behalf of all Aggrieved Employees from April 6, 2019, through  
11 the present, for Defendant's violations of Labor Code §§ 201-203, 226(a), 226.7, 246, 510, 512,  
12 558, and 1194, arising from Defendant's policy and practice of: (a) failing to pay employees  
13 overtime wages at the correct regular rate of pay that included all non-discretionary  
14 remuneration, in violation of Labor Code §§ 201-203, 226, 510, 558, and 1194; (b) failing to pay  
15 employees meal period premiums at the correct regular rate of pay that included all non-  
16 discretionary remuneration, in violation of Labor Code §§ 201-203, 226.7, and 512; (c) failing to  
17 pay employees sick pay at the correct regular rate of pay that included all non-discretionary  
18 remuneration, in violation of Labor Code §§ 201-203 and 246; (d) failing to provide off-duty 10-  
19 minute rest breaks to employees who worked 3.5 hours or longer in one shift, in violation of  
20 Labor Code § 226.7; and (e) failing to provide accurate, itemized wage statements, in violation  
21 of Labor Code § 226(a).

22 63. On or about June 17, 2020, Plaintiff sent written notice to the California Labor &  
23 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code §§ 201-  
24 203, 226(a), 226.7, 246, 510, 512, 558, and 1194, pursuant to Labor Code § 2698, *et seq.*, the  
25 Private Attorneys General Act ("PAGA"). To date, the LWDA has not responded to Plaintiff's  
26 written notice.

27 64. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any  
28 and all applicable civil penalties for Defendant's violation of Labor Code §§ 201-203, 226(a),

226.7, 246, 510, 512, 558, and 1194, for the time period described above, on behalf of himself and other Aggrieved Employees.

**PRAYER FOR RELIEF**

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

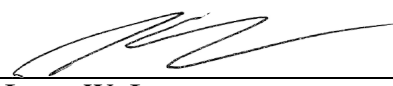
1. For an order certifying the proposed Classes and sub-classes;
2. For an order appointing Plaintiff as the representative of the Classes as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set forth in California Labor Code §§ 201-203, 510, 558, and 1194, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
6. Upon the Third Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203, and for costs and attorneys' fees pursuant to Labor Code § 218.5;
7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action, for damages or penalties pursuant to statute as set forth in California Labor Code § 226(a), and for costs and attorneys' fees;
9. Upon the Sixth Cause of Action, for restitution to Plaintiff and other similarly affected 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 § 17200, *et seq.*, for the time periods described above;
10. Upon the Seventh Cause of Action, for civil penalties according to proof pursuant to Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;
11. On all causes of action, for attorneys' fees and costs as provided by California

1 Labor Code §§ 218.5, 226, 1194, and 2699, 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: August 5, 2020

DIVERSITY LAW GROUP, P.C.

5  
6 By: 

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and the Class  
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