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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PEDRO AYALA, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

MACY'S WEST STORES, INC., an Ohio
Corporation, DOING BUSINESS AS
MACY'S; and DOES 1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:

Hon.

Dept.:

COMPLAINT FOR DAMAGES FOR:

- 1) **Failure to Pay All Wages Owed;**
- 2) **Failure to Pay Overtime;**
- 3) **Failure to Provide Lawful Meal Periods;**
- 4) **Failure To Authorize And Permit Rest Periods;**
- 5) **Failure To Timely Pay Wages Due And Payable During Employment;**
- 6) **Failure to Timely Pay Wages Owed Upon Separation From Employment;**
- 7) **Failure to Furnish Accurate Itemized Wage Statements;**
- 8) **Failure to Reimburse Necessary Expenses;**
- 9) **Violation of the Unfair Competition Law;**

DEMAND FOR JURY TRIAL

1 Plaintiff PEDRO AYALA (“Plaintiff”), an individual, assert claims against defendant
2 MACY’S WEST STORES, INC., an Ohio Corporation, DOING BUSINESS AS MACY’S and
3 DOES 1-50, inclusive (collectively “MACY’S” or “Defendants”) as follows:

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to California Code of Civil Procedure section 382,
6 on behalf of Plaintiff and any and all persons who are or were employed by Defendants as non-
7 exempt employees, however titled, in Defendants’ retail stores in the State of California within four
8 (4) years prior to the filing of the Complaint in this action until the resolution of this lawsuit and
9 whose job duties did not consist of over 50% administrative, executive or professional duties
10 (collectively referred to as the “Class” or “Class Members” or “Non-Exempt Employees”).

11 2. During the “liability period,” as defined as the applicable statute of limitations for
12 each and every cause of action contained herein – i.e. Plaintiff’s claims under the Unfair
13 Competition Law is four (4) years; Plaintiff’s claims for either unpaid wages or actual damages is
14 three (3) years; and Plaintiff’s claims for statutory penalties is one (1) year from the filing of this
15 action through the present (referred to as “the liability period(s)”) – Defendants consistently
16 maintained and enforced against its Non-Exempt Employees unlawful practices and policies in
17 violation of California state wage and hour laws, including failing to lawfully and accurately pay
18 Plaintiff and Class Members for all hours worked, including minimum wages and overtime; failing
19 to lawfully provide meal periods and authorize and permit rest periods; failing to pay one hour of
20 pay at the employee’s regular rate of pay when legally mandated meal or rest periods were not
21 lawfully provided; failing to accurately pay overtime; failing to reimburse necessary expenses;
22 failing to provide accurate itemized wage statements; and failing to keep accurate records.

23 3. Defendants implemented uniform policies and practices that deprived Plaintiff and
24 Class Members of earned wages, including minimum wages; straight time wages; overtime wages;
25 premium wages; and which failed to reimburse necessary expenses; and lawful meal and/or rest
26 breaks.

27 4. Such actions and policies, as described above and further herein, were and continue
28 to be in violation of the California Labor Code. Plaintiff, on behalf of himself and all Class

1 members, bring this action pursuant to the California Labor Code, including sections 201, 202, 203,
2 204, 210, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174, 1194, 1194.2,
3 1195, 1197, 1198, 2802, applicable IWC California Wage Orders and California Code of
4 Regulations, Title 8, section 11000 *et seq.*, seeking unpaid wages, unpaid meal and rest period
5 compensation, proper sick pay, penalties, liquidated damages, and reasonable attorneys' fees and
6 costs.

7 5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and
8 Professions Code sections 17200-17208, also seeks injunctive relief and restitution from
9 Defendants for their failure to pay to Plaintiff and the Class Members all of their wages, including
10 minimum wages, overtime and premium wages, their failure to timely pay wages, failure to provide
11 lawful meal and rest breaks, and their failure to reimburse expenses.

12 **JURISDICTION AND VENUE**

13 6. This action is brought as a Class Action on behalf of Plaintiff and similarly situated
14 employees of Defendants pursuant to California Code of Civ. Proc. Section 382. The monetary
15 damages and restitution sought by Plaintiff exceeds the minimum jurisdiction limits of the
16 California Superior Court and will be established according to proof at trial.

17 7. This Court has jurisdiction over this action pursuant to the California Constitution
18 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
19 those given by statute to other courts. The statutes under which this action is brought do not give
20 jurisdiction to any other court.

21 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
22 Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

23 9. This Court has jurisdiction over Defendants because, upon information and belief,
24 each Defendant is either a resident of California, has sufficient minimum contacts in California, or
25 otherwise intentionally avails itself of the California market so as to render the exercise of
26 jurisdiction over them by the California Courts consistent with traditional notions of fair play and
27 substantial justice. Defendants have done and are doing business throughout California.

10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other similarly situated Non-Exempt Employees within Los Angeles County and it is believed that Defendants have employed hundreds of Class Members as Non-Exempt Employees throughout the state.

11. The California Superior Court also has jurisdiction in this matter because the individual claims of the Class Members described herein are presently believed to be under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold for Federal Court and the aggregate potential damages and recovery by all of the claims of the Plaintiff's Class, including attorneys' fees, placed in controversy by Plaintiff's class-wide claims, is presently believed to be under the five million dollar (\$5,000,000.00) threshold of the Class Action Fairness Act of 2005. Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil Procedure, the California Civil Code, and the California Business and Professions Code.

12. Venue is proper in this Court because one or more of the Defendants reside, transact business, or have offices in this County, and the acts or omissions alleged herein took place in this County.

PARTIES

13. Macy's West Stores, Inc., which will do business in California as Macy's, is an Ohio corporation in good standing that is authorized to do business throughout the state. Macy's West Stores, Inc.'s headquarters are located at 7 West 7th Street; Cincinnati, Ohio 45202.

14. Macy's West Stores, Inc. operates numerous retail stores in California from numerous locations.

15. Plaintiff Pedro Ayala is and during the liability period has been, a resident of Verdugo City, California.

16. Plaintiff was employed by Defendants at various times during the liability period in the following positions: sales, department manager, and a hourly floor supervisor in Arcadia, CA.

17. Plaintiff and the members of the putative class were employed by Defendants as

1 non-exempt retail employees, however titled, (the “Class Members” or “Non-Exempt Employees”)
2 during the liability period.

3 18. Whenever in this complaint reference is made to any act, deed, or conduct of
4 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through
5 one or more of Defendants’ officers, directors, agents, employees, or representatives, who was
6 actively engaged in the management, direction, control, or transaction of the ordinary business and
7 affairs of Defendants.

8 19. The true names and capacities of Defendants, whether individual, corporate,
9 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
10 Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure §
11 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and
12 capacities of the Defendants designated hereinafter as DOES when such identities become known.

13 20. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are
14 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
15 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
16 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
17 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
18 liability of the Defendants as alleged herein.

19 21. Plaintiff is further informed and believes, and thereon alleges, that at all times
20 material herein, each Defendant was completely dominated and controlled by its co-Defendants
21 and each was the alter ego of the other. Whenever and wherever reference is made in this complaint
22 to any conduct by Defendant or Defendants, such allegations and references shall also be deemed
23 to mean the conduct of each of the Defendants, acting individually, jointly, and severally.
24 Whenever and wherever reference is made to individuals who are not named as Defendants in this
25 complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times
26 acted on behalf of Defendants named in this complaint within the scope of their respective
27 employments.

FACTUAL ALLEGATIONS

22. During the relevant time frame, Defendants compensated Plaintiff and the Non-Exempt Employees based upon an hourly wage.

23. Plaintiff and the Class Members were, and at all times pertinent hereto, have been non-exempt employees within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders. They are subject to the protections of the IWC Wage Orders and the Labor Code.

24. Plaintiff was employed as an hourly non-exempt retail employee from October 2010 through October 2019. At various times, he was employed in sales, as a department manager and as an hourly floor supervisor.

25. Plaintiff provided customer service at Defendants' retail store location in Arcadia, California.

26. The members of the putative class worked as non-exempt employees for Defendants at their retail locations throughout the state of California during the liability period.

27. Plaintiff typically worked five to six days a week, averaging 40 to 50 hours a week.

28. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements of California's wage and employment laws.

29. All Class Members, including Plaintiff, are similarly situated in that they were and are all subject to Defendants' uniform policies and systemic practices as specified herein.

30. Plaintiff and the Class Members were not properly compensated for all hours worked, in part because they were frequently required to work off the clock, including to respond to communications from store management and other personnel while off duty.

31. In addition, the Class Members frequently worked in excess of eight (8) hours a day and/or over forty (40) hours in a workweek, but were not properly paid for such time at a rate of time and one-half the employee's regular rate of pay per hour. Plaintiff and the Class Members also often worked in excess of twelve (12) hours in one day and/or over eight (8) hours on the seventh day of the workweek, but were not properly paid for such time at a rate of two times the employee's

1 regular rate of pay per hour.

2 32. Defendants failed to properly calculate Plaintiff's and the Class Members' regular
3 rate of pay because Defendants failed to include all forms of compensation in the regular rate
4 including bonuses, incentives, commissions, and other compensation.

5 33. Plaintiff and the Class Members were regularly required to work shifts in excess of
6 five hours without being provided a lawful, timely meal period and over ten hours in a day
7 without being provided a second lawful, timely meal period as required by law.

8 34. Indeed, during the relevant time, as a consequence of Defendants' staffing and
9 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
10 Defendants frequently failed to provide Plaintiff and the Class Members timely, legally complaint
11 uninterrupted 30-minute meal periods on shifts over five hours and second meal periods on shifts
12 over ten hours as required by law.

13 35. On information and belief, Plaintiff and Class Members did not waive their rights
14 to meal periods under the law.

15 36. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
16 periods.

17 37. Despite the above-mentioned meal period violations, Defendants failed to
18 compensate Plaintiff, and on information and belief, failed to compensate Class Members, one
19 additional hour of pay at their regular rate as required by California law when meal periods were
20 not timely or lawfully provided in a compliant manner.

21 38. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
22 should know, knew, and/or should have known that Plaintiff and the other Class Members were
23 entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but
24 were not receiving such compensation.

25 39. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
26 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
27 period for every four hours worked or major fraction thereof, which is a violation of the Labor
28 Code and IWC wage order.

1 40. Defendants maintained and enforced scheduling practices, policies, and imposed
2 work demands that frequently required Plaintiff and Class Members to forego their lawful, paid
3 rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
4 requisite rest periods were not timely authorized and permitted.

5 41. Moreover, Plaintiff and the Class Members were required to incur necessary
6 expenses in the discharge of their duties, including without limitation cell phone expenses and
7 mileage, but were not reimbursed for such necessary expenses.

8 42. Despite the above-mentioned rest period violations, Defendants did not
9 compensate Plaintiff, and on information and belief, did not pay Class Members one additional
10 hour of pay at their regular rate as required by California law, including Labor Code section 226.7
11 and the applicable IWC wage order, for each day on which lawful rest periods were not
12 authorized and permitted.

13 43. Defendants also failed to provide accurate, lawful itemized wage statements to
14 Plaintiff and the Class Members in part because of the above specified violations. In addition,
15 upon information and belief, Defendants omitted an accurate itemization of total hours worked,
16 all applicable rates of pay, gross pay and net pay figures from Plaintiff and the Class Members'
17 wage statements.

18 44. In addition, upon information and belief, Plaintiff alleges that Defendants failed to
19 pay sick leave pay to Plaintiff and the Class Members at the proper rate, as Defendants failed to
20 factor all forms of compensation into the regular rate.

21 45. Defendants have also made it difficult to determine applicable rates of pay and
22 account with precision for the unlawfully withheld wages and deductions due to be paid to Non-
23 exempt Employees, including Plaintiff, during the liability period because they did not implement
24 and preserve a lawful record-keeping method to record all hours worked, meal periods, and non-
25 provided rest and meal periods owed to employees as required for non-exempt employees by 29
26 U.S.C. section 211(c), California Labor Code section 226, and applicable California Wage
27 Orders.

28 46. Plaintiff is informed and believes, and thereon alleges, that at all times herein

1 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
2 thereof for resignations without prior notice as the case may be) they had a duty to accurately
3 compensate Plaintiff and the Class Members for all wages owed including minimum wages, straight
4 time wages, overtime, rest period premiums, and that Defendants had the financial ability to pay
5 such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part
6 because of the above-specified violations.

7 47. Plaintiff and the Class Members are covered by applicable California IWC Wage
8 Orders and corresponding applicable provisions of the California Code of Regulations, Title 8,
9 section 11000 *et seq.*

10 CLASS ACTION ALLEGATIONS

11 48. Plaintiff brings this action on his own behalf, as well as on behalf of each and every
12 other person similarly situated, and thus, seeks class certification under California Code of Civil
13 Procedure §382.

14 49. All claims alleged herein arise under California law for which Plaintiff seeks relief
15 as authorized by California law.

16 50. The **proposed class** is comprised of and defined as: All persons currently or
17 formerly employed by Defendants as non-exempt employees, however titled, at Defendants' retail
18 locations throughout the state of California within four (4) years prior to the filing of the Complaint
19 in this action until the resolution of this lawsuit (hereinafter collectively referred to as the "Class"
20 or "Class Members").

21 51. Plaintiff also seeks to represent Subclasses included in the Plaintiff's Class, which
22 are composed of Class Members satisfying the following definitions:

23 a. All Class Members who were not accurately paid overtime for hours worked
24 over eight in a day or over forty in a workweek (**collectively "Overtime Subclass"**);

25 b. All Class Members who worked more than five (5) hours in a workday and
26 were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and
27 were not paid compensation of one hour premium wages at the employee's regular rate in lieu
28 thereof (hereinafter collectively referred to as the **"First Meal Period Subclass"**);

1 c. All Class Members who worked more than ten (10) hours in a workday and
2 were not provided with a timely, uninterrupted lawful second meal period of net thirty (30) minutes,
3 and were not paid compensation of one hour premium wages at the employee's regular rate in lieu
4 thereof (hereinafter collectively referred to as the "**Second Meal Period Subclass**");

5 d. All Class Members who worked more than three and a half hours in a
6 workday and were not authorized and permitted to take a lawful net 10-minute rest period and were
7 not paid compensation of one hour premium wages at the employee's regular rate in lieu thereof
8 (hereinafter collectively referred to as the "**First Rest Period Subclass**");

9 e. All Class Members who worked more than six hours in a workday and were
10 not authorized and permitted to take a second lawful net 10-minute rest period and were not paid
11 compensation of one hour premium wages at the employee's regular rate in lieu thereof (hereinafter
12 collectively referred to as the "**Second Rest Period Subclass**");

13 f. All Class Members who worked more than ten hours in a workday and were
14 not authorized and permitted to take a third lawful net 10-minute rest period and were not paid
15 compensation of one hour premium wages at the employee's regular rate in lieu thereof (hereinafter
16 collectively referred to as the "**Third Rest Period Subclass**");

17 g. All Class Members who did not receive all owed wages at the time of
18 separation or within 72 hours in the case of resignation (hereinafter collectively referred to as the
19 "**Waiting Time Subclass**");

20 h. All Class Members who were not provided with accurate and complete
21 itemized wage statements (hereinafter collectively referred to as the "**Inaccurate Wage Statement**
22 **Subclass**");

23 i. All Class Members who were not reimbursed for all necessary expenditures
24 (collectively "**Indemnification Subclass**").

25 j. All Class Members who were employed by Defendants and subject to
26 Defendant's Unfair Business Practices (hereinafter collectively referred to as the "**Unfair Business**
27 **Practices Subclass**").

28 k. All Class Members who worked in hourly floor supervisor positions.

1 (collectively “**Supervisor Subclass**”)

2 52. Plaintiff reserves the right, under Rule 3.765, California Rules of Court, to amend
3 or modify the descriptions of the Class and Subclasses to provide greater specificity as appropriate,
4 or if it should be deemed necessary by the Court or to further divide the Class Members into
5 additional Subclasses or to limit the Subclasses to particular issues. Any reference herein to the
6 Class Members or the Plaintiffs’ Class includes the members of each of the Subclasses.

7 53. As set forth in further detail below, this action has been brought and may properly
8 be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure
9 because there is a well-defined community of interest in the litigation, and the proposed Class and
10 Subclasses are easily ascertainable through Defendants’ records.

11 a. Numerosity: The members of the Class and Subclasses are so numerous that
12 joinder of all members of the Class and Subclasses would be unfeasible and impractical. The
13 membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the
14 Class is estimated to be hundreds of individuals. Accounting for employee turnover during the
15 relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants’
16 employment records would provide information as to the number and location of all Class
17 Members. Joinder of all members of the proposed Class is not practicable.

18 b. The proposed class is easily ascertainable. The number and identity of the
19 class members are determinable from Defendants’ payroll records and time records for each class
20 member.

21 c. Commonality: There are common questions of law and fact as to the Class
22 and Subclasses that predominate over questions affecting only individual Class Members. These
23 common questions of law and fact include, without limitation:

24 1) Whether Defendants were required to pay Class Members for hours worked
25 off the clock to respond to client and store inquiries;

26 2) Whether Defendants paid Class Members at least minimum wage for all
27 hours worked;

28

1 3) Whether Defendants knew or should have known that Class Members were
2 required to perform work off the clock;

3 4) Whether Defendants paid overtime using the proper regular rate;

4 5) Whether Defendants paid sick time pay using the proper regular rate;

5 6) Whether Defendants accurately calculated and paid all Class Members
6 overtime premiums for the hours which Plaintiff and Class Members worked in excess of eight (8)
7 hours per day and/or forty (40) hours per week;

8 7) Whether Defendants had a policy and practice of providing lawful, timely
9 meal periods in accordance with Labor Code § 512, as well as the applicable Industrial Welfare
10 Commission (“IWC”) wage order;

11 8) Whether Defendants had a policy and practice of complying with Labor
12 Code section 226.7 and IWC Wage Order 7-2001 on each instance that a lawful meal period was
13 not lawfully provided;

14 9) Whether Defendants authorized and permitted lawful, net 10-minute rest
15 period to the Class Members for every four (4) hours or major fraction thereof worked;

16 10) Whether Defendants had a policy and practice of complying with Labor
17 Code section 226.7 and the IWC Wage Order 7-2001 on each instance that a lawful rest period was
18 not provided;

19 11) Whether Defendants timely paid wages earned during employment as
20 required by the IWC Wage Order 7-2001, Labor Code 204, and 210;

21 12) Whether Defendants failed to timely pay all wages upon separation in
22 accordance with Labor Code sections 201-202;

23 13) Whether Defendants were required to reimburse Plaintiff and the Class
24 Members for cellular phone usage;

25 14) Whether Defendants were required to reimburse Plaintiff and the Class
26 Members for mileage;

27 15) Whether Defendants reimbursed employees for necessary expenses in
28 accordance with Labor Code section 2802;

1 16) Whether Defendants omitted required information from itemized wage
2 statements;

3 17) Whether Defendants maintained accurate records of Class Members' earned
4 wages, applicable hourly rates, hours worked, work periods, meal periods and deductions;

5 18) Whether Defendants engaged in unfair competition in violation of section
6 17200 et seq. of the Business and Professions Code;

7 19) Whether Defendants' conduct was willful and/or reckless;

8 20) Whether Defendants provided accurate itemized wage statements in
9 violation of Labor Code § 226; and

10 21) The appropriate amount of damages, restitution, and/or monetary penalties
11 resulting from Defendants' violations of California law.

12 d. Typicality: Plaintiff is qualified to, and will fairly and adequately protect the
13 interests of each member of the Class and Subclasses with whom he has a well-defined community
14 of interest. Plaintiff's claims herein alleged are typical of those claims which could be alleged by
15 any member of the Class and/or Subclasses, and the relief sought is typical of the relief which
16 would be sought by each member of the Class and/or Subclasses in separate actions. All members
17 of the Class and/or Subclasses have been similarly harmed by Defendants' failure to provide lawful
18 meal and rest periods, failure to provide accurate wage statements, failure to timely pay wages at
19 termination, failure to pay minimum wages, failure to properly pay overtime, failure to reimburse
20 necessary expenses, failure to properly pay sick leave, failure to timely pay wages during
21 employment, and failure to accurately pay all wages earned including all owed premium and
22 overtime wages, all due to Defendants' policies and practices that affected each member of the
23 Class and/or Subclasses similarly. Further, Defendants benefited from the same type of unfair
24 and/or wrongful acts as to each member of the Class and/or Subclasses.

25 e. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the
26 interests of each member of the Class and/or Subclasses with whom he has a well-defined
27 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that
28 he has an obligation to make known to the Court any relationships, conflicts, or differences with

1 any member of the Class and/or Subclasses, and no such relationships or conflicts are currently
2 known to exist. Plaintiff's attorneys and the proposed counsel for the Class and Subclasses are
3 versed in the rules governing class action discovery, certification, litigation, and settlement and
4 experienced in handling such matters. Other former and current employees of Defendants may also
5 serve as representatives of the Class and Subclasses if needed.

6 f. Superiority: The nature of this action makes the use of class action
7 adjudication superior to other methods. A class action will achieve economies of time, effort,
8 judicial resources, and expense, which would not be achieved with separate lawsuits. The
9 prosecution of separate actions by individual members of the Class and/or Subclasses would create
10 a risk of inconsistent and/or varying adjudications with respect to the individual members of the
11 Class and/or Subclasses, establishing incompatible standards of conduct for the Defendants, and
12 resulting in the impairment of the rights of the members of the Class and/or Subclasses and the
13 disposition of their interests through actions to which they were not parties. Thus, a class action is
14 superior to other available means for the fair and efficient adjudication of this controversy because
15 individual joinder of all Class Members is not practicable, and questions of law and fact common
16 to the Class predominate over any questions affecting only individual Class Members. Each
17 member of the Class has been damaged and is entitled to recovery by reason of Defendants'
18 unlawful policies and practices, including Defendants' failure to provide lawful meal and rest
19 periods, failure to provide accurate wage statements, failure to timely pay wages at termination,
20 failure to pay minimum wages, failure to properly pay overtime, failure to reimburse necessary
21 expenses, failure to properly pay sick leave, failure to timely pay wages during employment, and
22 failure to accurately pay all wages earned including all owed premium and overtime wages, all due
23 to Defendants' policies and practices that affected each member of the Class and/or Subclasses
24 similarly. Class action treatment will allow those similarly situated persons to litigate their claims
25 in the manner that is most efficient and economical for both parties and the judicial system. Plaintiff
26 is unaware of any difficulties that are likely to be encountered in the management of this action that
27 would preclude its maintenance as a class action.

1 g. Public Policy Considerations: Employers in the state of California violate
2 employment and labor laws every day. However, current employees are often afraid to assert their
3 rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions
4 because they believe their former employers may damage their future endeavors through negative
5 references and/or other means. The nature of this action allows for the protection of current and
6 former employees' rights without fear of retaliation or damage. Additionally, the citizens of
7 California have a significant interest in ensuring employers comply with California's labor laws
8 and in ensuring those employers who do not are prevented from taking further advantage of their
9 employees.

10 **CLASS ACTION CLAIMS**

11 **FIRST CAUSE OF ACTION**

12 **FAILURE TO PAY MINIMUM WAGES**

13 **(By Plaintiff and the Class Against Defendants)**

14 54. Plaintiff incorporates each and every allegation set forth in all of the foregoing
15 paragraphs as if fully set forth herein.

16 55. Labor Code section 204 establishes the fundamental right of all employees in the
17 State of California to be paid wages, including minimum wage, straight time and overtime, in a
18 timely fashion for their work.

19 56. Labor Code section 1194 (a) provides that notwithstanding any agreement to work
20 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
21 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
22 of the full amount of this minimum wage or overtime compensation, including interest thereon,
23 reasonable attorney's fees, and costs of suit.

24 57. Labor Code section 1197 provides: The minimum wage for employees fixed by
25 the commission or by any applicable state or local law, is the minimum wage to be paid to
26 employees, and the payment of a lower wage than the minimum so fixed is unlawful.

27 58. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer
28 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the

1 IWC Wage Order(s).

2 59. The applicable wage orders and California Labor Code §§ 1197 and 1182.12
3 establish the right of employees to be paid minimum wages for all hours worked, in amounts set
4 by state law.

5 60. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been
6 paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
7 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal
8 to the unpaid wages and interest accrued thereon.

9 61. During all relevant periods, the California Labor Code and wage orders required
10 that Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due
11 for all hours worked.

12 62. The IWC Wage Orders define "hours worked" as "the time during which an
13 employee is subject to the control of an employer, and includes all the time the employee is
14 suffered or permitted to work, whether or not required to do so."

15 63. At all times relevant, Plaintiff and Class Members consistently worked hours for
16 which they were not paid because Defendants frequently required Plaintiff and the Class
17 Members to work off the clock.

18 64. Plaintiff is informed and believes that Defendants were aware that Plaintiff and the
19 Class Members were working off the clock and that they should have been paid for this time.

20 65. Defendant's policy and practice of not paying all minimum wages violates
21 California Labor Code §§ 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, and the
22 applicable wage order 7-2001.

23 66. Due to Defendants' violations of the California Labor Code and wage orders,
24 Plaintiff and the Minimum Wage Subclass members are entitled to recover from Defendant their
25 unpaid wages, statutory penalties, reasonable attorneys' fees and costs in this action, and pre-
26 judgment and post-judgment interest, as well as liquidated damages.

27 **SECOND CAUSE OF ACTION**
28 **FAILURE TO PAY OVERTIME OWED**

(By Plaintiff and the Class Against All Defendants)

67. Plaintiff incorporates each and every allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

68. During all relevant periods, Defendant required Plaintiff and the Class members to work shifts in excess of eight (8) hours per workday and/or to work in excess of forty (40) hours per workweek.

69. During all relevant periods, both the California Labor Code section 1194, 1197, 510, 1198, and the pertinent wage order 7-2001 required that all work performed by an employee in excess of eight (8) hours in any workday, on the seventh day of work in any workweek, or in excess of forty (40) hours in any workweek be compensated at one and one-half times the employee's regular rate of pay. Any work in excess of twelve (12) hours in one day is required to be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek is required to be compensated at the rate of no less than twice the regular rate of pay of an employee.

70. During all relevant periods, Defendants had a uniform policy of requiring Plaintiff and the Class members to work in excess of eight (8) hours in a workday and/or in excess of forty (40) hours in a workweek without compensating them at a rate of one and one-half times their regular rate of pay. Upon information and belief, Defendants also failed to properly compensate Plaintiff and the Class Members for hours worked in excess of twelve (12) hours in one day, or eight hours on the seventh day of a workweek.

71. The IWC Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

72. At all times relevant, Plaintiff and Class Members consistently worked hours for which they were not paid because Plaintiff and the Class Members were required to work off the clock—some of these hours were over eight hours in one workday or in excess of forty hours in a workweek and should have been paid at the overtime rate.

73. Plaintiff is informed and believes that Defendants were aware that Plaintiff and the Class Members were working off the clock and that they should have been paid for this time.

74. In addition, upon information and belief, Defendants failed to incorporate all forms of compensation, including without limitation bonuses and incentives, into the regular rate for overtime purposes.

75. As a result, Defendants failed to pay Plaintiff and the Class members earned overtime wages and such employees suffered damages as a result.

76. Defendants knew or should have known Plaintiffs and the Class Members were undercompensated as a result of these practices.

77. Due to Defendant's violations of the California Labor Code, Plaintiff and the Class members are entitled to recover from Defendants their unpaid overtime wages, reasonable attorneys' fees and costs in this action, and pre-judgment and post-judgment interest, statutory penalties, and liquidated damages.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

(By Plaintiff and the Class Against All Defendants)

78. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

79. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee.

80. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

1 81. For the four (4) years preceding the filing of this lawsuit, Defendants failed to
2 provide Plaintiff and Class Members timely and uninterrupted first meal periods of not less than
3 thirty (30) minutes within the first five hours of a shift.

4 82. For the four (4) years preceding the filing of this lawsuit, Defendants also failed to
5 provide Plaintiff and Class Members timely and uninterrupted second meal periods of not less than
6 thirty (30) minutes on shifts longer than ten hours.

7 83. Indeed, during the relevant time, as a consequence of Defendants' staffing and
8 scheduling practices, labor budgets, lack of coverage, work demands, and Defendants' policies
9 and practices, Plaintiff and the Class Members were frequently not provided with legally required
10 timely meal periods.

11 84. On information and belief, Plaintiff and Class Members did not waive their rights
12 to meal periods under the law.

13 85. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
14 periods.

15 86. Plaintiff and the Class Members were not paid one hour of pay at their regular rate
16 for each day that a first or second meal period was not lawfully provided.

17 87. As a proximate result of the aforementioned violations, Plaintiff and the Class
18 Members have been damaged in an amount according to proof at time of trial.

19 88. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover
20 one (1) hour of premium pay for each day in which a meal period violation occurred. They are also
21 entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

22 89. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to
23 represent have been deprived of premium wages in amounts to be determined at trial, and are
24 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
25 under Labor Code sections 218.6, 226.7, 512 and the applicable IWC Wage Orders, and Civil Code
26 section 3287.

1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS**

3 **(By Plaintiff and the Class Against All Defendants)**

4 90. Plaintiff incorporates by reference and realleges each and every allegation contained
5 above, as though fully set forth herein.

6 91. Pursuant to the IWC wage orders applicable to Plaintiff's and Class Members'
7 employment by Defendants, "Every employer shall authorize and permit all employees to take rest
8 periods, which insofar as practicable shall be in the middle of each work period.... [The] authorized
9 rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net
10 rest time per four (4) hours worked or major fraction thereof.... Authorized rest period time shall
11 be counted as hours worked, for which there shall be no deduction from wages."

12 92. Labor Code §226.7(a) prohibits an employer from requiring any employee to work
13 during any rest period mandated by an applicable order of the IWC.

14 93. Defendants were required to authorize and permit employees such as Plaintiff and
15 Class Members to take rest periods during shifts in excess of 3.5 hours, based upon the total hours
16 worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof,
17 with no deduction from wages.

18 94. Despite said requirements of the IWC wage orders applicable to Plaintiff's and Class
19 Member's employment with Defendants, Defendants failed and refused to authorize and permit
20 Plaintiff and Class Members to take lawful, net ten (10) minute rest periods for every four (4) hours
21 worked, or major fraction thereof.

22 95. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay
23 for each day that a rest period violation occurred. On information and belief, the other members of
24 the Class endured similar violations as a result of Defendants' rest period policies and practices and
25 Defendant did not pay said Class Members premium pay as required by law.

26 96. By their failure to authorize and permit Plaintiff and the Class Members to take a
27 lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction
28 thereof worked, including failure to provide two (2) total rest periods on six to ten hour shifts and

1 three (3) total ten (10) minute rest periods on days on which Plaintiff and the other Class Members
2 work(ed) work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide
3 compensation for such unprovided rest periods as alleged herein, Defendants willfully violated the
4 provisions of Labor Code sections 226.7 and the applicable IWC Wage Order(s).

5 97. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to
6 represent have been deprived of premium wages in amounts to be determined at trial, and are
7 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
8 under Labor Code sections 218.6, 226.7, the applicable IWC Wage Orders, and Civil Code 3287.

9 **FIFTH CAUSE OF ACTION**

10 **FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING**
11 **EMPLOYMENT**

12 **(By Plaintiff and the Class Against All Defendants)**

13 98. Plaintiff incorporates by reference and realleges each and every allegation contained
14 above, as though fully set forth herein.

15 99. Labor Code section 204 requires that all wages are due and payable twice in each
16 calendar month.

17 100. The wages required by Labor Code §§ 226.7, 510, 1194 and other sections became
18 due and payable to each employee in each month that he or she was not provided with a meal period
19 or rest period or paid minimum wage, straight or overtime wages to which he or she was entitled.

20 101. Defendants violated Labor Code § 204 by systematically refusing to pay wages due
21 under the Labor Code.

22 102. Labor Code section 210 (a) provides that “In addition to, and entirely independent
23 and apart from, any other penalty provided in this article, every person who fails to pay the wages
24 of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and
25 1197.5, shall be subject to a penalty as follow:

26 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each
27 employee.
28

1 (2) For each subsequent violation, or any willful or intentional violation, two hundred
2 dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount
3 unlawfully withheld.

4 103. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
5 represent have been deprived of wages in amounts to be determined at trial, and are entitled to
6 recovery of such amounts, penalties, plus interest thereon, attorneys fees, and costs, pursuant to
7 Labor Code § 210, 218.5, 218.6, 510, 1194.

8
9
10 **SIXTH CAUSE OF ACTION**

11 **FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION**

12 **(By Plaintiff and the Class Against All Defendants)**

13 103. Plaintiff incorporates by reference and realleges each and every allegation contained
14 above, as though fully set forth herein.

15 104. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages
16 due within seventy-two (72) hours of separation of employment.

17 105. Section 203 of the Labor Code provides that if an employer willfully fails to timely
18 pay such wages the employer must, as a penalty, continue to pay the subject employee's wages
19 until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days
20 of wages.

21 106. Plaintiff and Class Members are entitled to compensation for all forms of wages
22 earned, including but not limited to minimum wages, overtime, and premium meal and rest period
23 compensation, but to date have not received such compensation, therefore entitling them to Labor
24 Code § 203 penalties.

25 107. More than thirty (30) days have passed since affected Waiting Time Subclass
26 Members have left Defendants' employ, and on information and belief, they have not received
27 payment pursuant to Labor Code § 203.

1 108. Plaintiff and Waiting Time Subclass Members are thus entitled to 30 days' wages
2 as a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

3 **SEVENTH CAUSE OF ACTION**

4 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**
5 **EMPLOYEE WAGE STATEMENT PROVISIONS**

6 **By Plaintiff and Class Against Defendants**

7 109. Plaintiff repeats and incorporates herein by reference each and every allegation set
8 forth above, as though fully set forth herein.

9 110. Labor Code section 226(a) reads in pertinent part: "Every employer shall,
10 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
11 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
12 when wages are paid by personal check or cash, an accurate itemized statement in writing
13 showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions...
14 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
15 name of the employee and only the last four digits of his or her social security number or an
16 employee identification number other than a social security number, (8) the name and address of
17 the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the
18 pay period and the corresponding number of hours worked at each hourly rate by the
19 employee....".

20 111. Further, the IWC Wage Orders require in pertinent part: Every employer shall
21 keep accurate information with respect to each employee including the following: (3) Time
22 records showing when the employee begins and ends each work period. Meal periods, split shift
23 intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the
24 payroll period and applicable rates of pay...."

25 112. Labor Code section 1174 of the California also requires Defendants to maintain
26 and preserve, in a centralized location, among other items, records showing the names and
27 addresses of all employees employed and payroll records showing the hours worked daily by, and
28 the wages paid to, its employees. On information and belief and based thereon, Defendants have

1 knowingly and intentionally failed to comply with Labor Code section 1174, including by
2 implementing the policies and procedures and committing the violations alleged in the preceding
3 causes of action and herein. Defendants' failure to comply with Labor Code section 1174 is
4 unlawful pursuant to Labor Code section 1175.

5 113. Defendants have failed to record many of the items delineated in applicable
6 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
7 1174, including by virtue of the fact that each wage statement which failed to accurately
8 compensate Plaintiff and Class Members for all hours worked and for missed and non-provided
9 meal and rest periods, or which failed to include compensation for all minimum wages earned or
10 overtime hours worked, was an inaccurate wage statement.

11 114. On information and belief, Defendants failed to implement and preserve a lawful
12 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
13 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
14 section 226 and applicable California Wage Orders. In order to determine if they had been paid
15 the correct amount and rate for all hours worked, Plaintiff and Class Members have been, would
16 have been, and are compelled to try to discover the required information missing from their wage
17 statements and to perform complex calculations in light of the inaccuracies and incompleteness of
18 the wage statements Defendants provided to them.

19 115. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
20 Wage Orders, Defendants did not and still do not furnish each of the members of the Wage
21 Statement Class with an accurate itemized statement in writing accurately reflecting all of the
22 required information. Specifically, Defendants have also omitted accurate itemizations of total
23 hours worked, applicable hourly rates, net pay, and gross pay from Plaintiff and the Class
24 Members' wage statements. In addition, Defendants have failed to provide accurate itemized
25 wage statements as a consequence of the above-specified violations.

26 116. Moreover, upon information and belief, as a pattern and practice, in violation of
27 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain
28 accurate records pertaining to the total hours worked for Defendants by the members of the Wage

1 Statement Class, including but not limited to, beginning and ending of each work period, meal
2 period and split shift interval, the total daily hours worked, and the total hours worked per pay
3 period and applicable rates of pay.

4 117. Plaintiffs and the members of the Wage Statement Class have suffered injury as a
5 result of Defendants' failure to maintain accurate records for the members of the Wage Statement
6 Class in that the members of the Wage Statement Class were not timely provided written accurate
7 itemized statements showing all requisite information, such that the members of the Wage
8 Statement Class were misled by Defendants as to the correct information regarding various items,
9 including but not limited to the total hours worked by the employee, gross pay, net wages earned
10 and all applicable hourly rates in effect during the pay period and the corresponding number of
11 hours worked at each hourly rate. The lack of information hindered Plaintiff and the Class from
12 determining the amount of wages owed to them and led them to believe they were not entitled to
13 be paid wages for all hours worked, for overtime, missed meal and rest breaks, or for each hour of
14 labor performed and the proper hourly rate, although they were so entitled.

15 118. Pursuant to Labor Code section 226, and in light of Defendants' violations
16 addressed above, Plaintiff and the Wage Statement Class Members are each entitled to recover up
17 to a maximum of \$4,000.00, along with an award of costs and reasonable attorneys' fees.

18 **EIGHTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE NECESSARY EXPENSES**

20 **By Plaintiff and Class Against All Defendants**

21 119. Plaintiff incorporates by reference and realleges each and every allegation contained
22 above, as though fully set forth herein.

23 120. Plaintiff repeats and incorporates herein by reference each and every allegation set
24 forth above, as though fully set forth herein.

25 121. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Class Members
26 for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

27 122. Plaintiff and the Class were required to incur expenses in the performance of their
28 assigned job duties. For example, Plaintiff and the Class Members were required to incur

1 numerous out of pocket expenses, including without limitation, cellular phones, and mileage , in
2 direct consequence of the discharge of their duties.

3 123. Upon information and belief, the Defendants did not reimburse Plaintiff or the
4 Class for such expenses.

5 124. As a result of the unlawful acts of Defendants, Plaintiff and the Class Members
6 have been deprived of unreimbursed sums in amounts to be determined at trial, and are entitled to
7 the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
8 pursuant to Labor Code §2802.

9 **NINTH CAUSE OF ACTION**

10 **VIOLATION OF THE UNFAIR COMPETITION LAW**

11 **By Plaintiff and Class Against All Defendants**

12 125. Plaintiff incorporates by reference and realleges each and every allegation contained
13 above, as though fully set forth herein.

14 126. Defendants' conduct, as alleged in this complaint, has been, and continues to be,
15 unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the
16 general public. Plaintiff also seeks to enforce important rights affecting the public interest within
17 the meaning of the California Code of Civil Procedure § 1021.5.

18 127. Defendants' policies, activities, and actions as alleged herein are violations of
19 California law and constitute unlawful, unfair, and deceptive business acts and practices in violation
20 of California Business and Professions Code §§ 17200, *et seq.*

21 128. A violation of California Business and Professions Code §§ 17200, *et seq.*, may be
22 predicated on the violation of any state or federal law.

23 129. The state law violations, including violations of the relevant IWC Wage Order,
24 detailed herein above are the predicate violations for this cause of action. By way of example only,
25 in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class with
26 timely lawful meal and rest periods or pay one (1) hour of premium pay when a meal or rest period
27 was not lawfully provided violates Labor Code § 512, 1198, and § 226.7, and the IWC Wage
28 Orders. Defendants further violated the law through their policies of failing to fully and accurately

1 compensate Plaintiff and the Class Members for all hours worked, including minimum wages and
2 overtime as well as failing to timely pay wages during employment, failing to keep proper records,
3 failing to pay all wages and compensation due at termination, failing to provide accurate wage
4 statements, and failing to reimburse expenses as specified above.

5 130. Plaintiff and the Class Members have been personally aggrieved by Defendants'
6 unlawful and unfair business acts and practices alleged herein by the loss of money and/or property.

7 131. As a result of the unlawful acts specified herein, Defendants have reaped and
8 continue to reap unfair benefits and unlawful profits at the expense of the Plaintiff and the Class
9 Members he seeks to represent. Defendants have been unjustly enriched through Defendants'
10 unlawful, unfair, and fraudulent business practices alleged herein.

11 132. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff
12 and the Class Members are entitled to an injunction and other equitable relief against such unlawful
13 practices and are entitled to restitution of the wages withheld and retained by Defendants during a
14 period that commences four (4) years prior to the filing of this complaint; an award of attorneys'
15 fees pursuant to California Code of Civil Procedure §1021.5; interest; and an award of costs.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff pray judgment against Defendants, as follows:

18 **Class Certification**

- 19 1. That this action be certified as a class action;
20 2. That Plaintiff be appointed as the representatives of the Class;
21 3. That Plaintiff be appointed as the representative of the Subclasses; and
22 4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

23 **On the First Cause of Action**

24 **(Failure to pay Minimum Wages)**

- 25 1. For the unpaid balance of the full amount of any minimum wages and regular wages
26 owed, as well as interest thereon,
27 2. Penalties according to statute,
28 3. Liquidated damages,

4. Reasonable attorneys' fees, and costs of suit;
5. For interest and
6. For such other and further relief as the Court deems proper.

On the Second Cause of Action

(Failure to Pay Overtime Owed)

1. For the unpaid balance of the full amount of overtime earned,
2. Penalties according to statute,
3. Liquidated damages,
4. Reasonable attorneys' fees, and costs of suit;
5. For interest; and
6. For such other and further relief as the Court deems proper.

On the Third Cause of Action

(Failure to Provide Lawful Meal Periods)

1. For one (1) hour of premium pay for each day in which a required meal period was not lawfully provided;
2. For reasonable attorneys' fees and costs pursuant to statute;
3. For interest; and
4. For such other and further relief as the Court deems proper.

On the Fourth Cause of Action

(Failure to Authorize and Permit Lawful Rest Periods)

1. For one (1) hour of premium pay for each day in which a required rest period was not lawfully authorized and permitted;
2. For interest; and
3. For reasonable attorneys' fees and costs pursuant to statute; and
4. For such other and further relief as the Court deems proper.

On the Fifth Cause of Action

(Failure to Timely Pay Wages Due and Payable During Employment)

1. For unpaid wages;

2. For penalties pursuant to Labor Code § 210 and 25% of the amount of wages unlawfully withheld;
3. For interest;
4. For reasonable attorneys' fees and costs pursuant to statute; and
5. For such other and further relief as the Court deems proper.

On the Sixth Cause of Action

(Failure to Timely Pay Wages At Separation)

1. For unpaid wages;
2. For penalties pursuant to Labor Code § 203;
3. For interest;
4. For reasonable attorneys' fees and costs pursuant to statute; and
5. For such other and further relief as the Court deems proper.

On the Seventh Cause of Action

(Failure to Provide Accurate Itemized Wage Statements)

1. For statutory penalties, including penalties pursuant to Labor Code section 226;
2. For reasonable attorneys' fees and costs; and
3. For such other and further relief as the Court deems proper;

On the Eighth Cause of Action

(Failure to Reimburse Necessary Expenses)

1. For unreimbursed sums;
2. For reasonable attorneys' fees and costs pursuant to statute;
3. For interest; and
4. For such other and further relief as the Court deems proper.

On the Ninth Cause of Action

(Violation of the Unfair Competition Law)

1. For an order enjoining Defendants from continuing to engage in the aforementioned unlawful business practice in violation of California Business & Professions Code §17200; and

2. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of sums to Plaintiff and Class Members for the Defendants' past failure to pay minimum wages, overtime and regular wages, for Defendants' past failure to reimburse necessary expenses, and for premium wages for meal and rest periods that were not provided to Plaintiff and Class Members over the last four (4) years in an amount according to proof;

3. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to recover under California Code of Civil Procedure § 1021.5 and Labor Code section 1194;

4. For pre-judgment interest on any unpaid minimum wages, straight time wages, overtime wages and premium wages due from the day that such amounts were due;

5. For costs of suit incurred herein that Plaintiff and Class Members are entitled to recover under the Labor Code; and

6. For such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of the Class and Subclasses, respectfully demand a jury trial in this matter.

Respectfully submitted,

JAMES HAWKINS APLC

Dated: June 29, 2020

James R. Hawkins, Esq.
Christina M. Lucio, Esq.

Attorneys for Plaintiff PEDRO AYALA, on behalf of
himself and all others similarly situated