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FILED
 MADERA SUPERIOR COURT

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ADRIENNE Y. CALIP
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Attorneys for Plaintiff Epigmenio Castillo on
 behalf of himself and all others similarly situated

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

EPIGMENIO CASTILLO, an individual, on
 behalf of himself and others similarly
 situated,

Plaintiff,

vs.

AGRILAND FARMING COMPANY, INC.,
 a California Corporation; and DOES 1
 through 50, inclusive,

Defendants.

Case No.: MCV083645

CLASS ACTION

Assigned for All Purposes To:

Hon. James E. Oakley
 Dept.: 45

**FIRST AMENDED CLASS ACTION
 COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for all Hours Worked;
2. Failure to Pay Wages and Overtime under Labor Code § 510;
3. Meal Period Liability under Labor Code § 226.7;
4. Rest-Break Liability under Labor Code § 226.7;
5. Failure to Provide One Day of Rest in Seven under Labor Code §§ 551, 552;
6. Violation of Labor Code § 226;
7. Violation of Labor Code § 221;
8. Violation of Labor Code § 204;
9. Violation of Labor Code § 203;
10. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties under PAGA, Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: June 9, 2020

BY FAX

1 Plaintiff EPIGMENIO CASTILLO (hereinafter “Plaintiff”), on behalf of himself and all
2 other similarly situated non-exempt, hourly non-exempt employees employed by Defendants in
3 California as field workers and in related positions (collectively, “Employees”; individually,
4 “Employee”) complains of Defendants, and each of them, as follows:

5 INTRODUCTION

6 1. Plaintiff bring this action on behalf of himself and all other similarly situated
7 current and former Employees within the State of California who, at any time from four (4) years
8 prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees,
9 including as field workers and in similar and related positions in California by Defendants
10 AGRILAND FARMING COMPANY, INC., a California corporation; and DOES 1 through 50,
11 inclusive (all defendants being collectively referred to as “Defendants”). Plaintiff alleges that
12 Defendants, and each of them, violated various provisions of the California Labor Code, relevant
13 orders of the Industrial Welfare Commission (“IWC”), and the California Business & Professions
14 Code, and seeks redress for these violations.

15 2. Defendant Agriland is a produce and nut grower and distributor operating farming
16 and ranch facilities in Chowchilla, California, and upon information and belief employs Plaintiff
17 and the Class members at its facilities in Madera County and at any other of Defendants’ facilities
18 throughout California. Plaintiff was assigned to work during the relevant time period based out of
19 Defendants’ facilities in Madera County. Defendants’ workforce includes a core group of
20 Employees such as Plaintiff who worked year round performing field worker duties, and
21 Defendants would supplement them with additional Employee Class members hired as temporary
22 workers specifically for a given season.

23 3. Plaintiff and the other similarly situated Employees of Defendants worked on
24 assigned fields and based out of Defendants’ facilities and offices in California at Defendants’
25 behest without being paid all wages due and without being provided all their required meal periods
26 and rest breaks. Upon information and belief, Plaintiff was employed by Defendants and (1)
27 shared similar job duties and responsibilities; (2) was subjected to the same policies and practices;
28 and (3) endured similar violations at the hands of Defendants as the other Employee Class

1 members who served in similar and related filed worker positions. Defendants required Plaintiff
2 and the Employees in the Class to work off the clock and failed to record accurate time worked by
3 these Employees, failed to pay them at the appropriate rates for all hours worked and willfully
4 neglected to pay overtime, failed to pay all wages due and owing at termination or resignation, and
5 provided Plaintiff and the Class members with inaccurate wage statements that prevented them
6 from learning of these unlawful pay practices. Defendants also failed to provide Plaintiff and the
7 Class with lawful meal and rest periods, as Employees were required to remain under Defendants'
8 control and were not provided with the opportunity to take full uninterrupted and duty-free rest
9 periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC
10 Wage Orders.

11 4. Defendant Agriland Farming Company, Inc. is a California corporation which lists
12 its principal executive office in Chowchilla, California in Madera County. It lists its type of
13 business with the California Secretary of State as "Farming." The name of the employer listed on
14 Plaintiff's wage statements, and upon information and belief those of the other Class members,
15 was "Agriland Farming Co., Inc." Its web-site explains that "Agriland Farming Company, Inc. is a
16 full service farm management firm" that "focuses on crops that take advantage of the uniqueness
17 of California's climate and soil," including "pistachios, almonds, walnuts, grapes, citrus, and
18 figs..."

19 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
20 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
21 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
22 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
23 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
24 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Madera County, as
25 Plaintiff was assigned to work in Madera County along with other Class members.

26 6. The true names and capacities, whether individual, corporate, associate, or
27 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
28 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of

1 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
2 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
3 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
4 this Complaint to reflect the true names and capacities of the Defendants designated herein as
5 Does 1 through 50 when their identities become known.

6 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
7 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
8 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
9 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
10 all respects as the employers or joint employers of Employees. Defendants, and each of them,
11 exercised control over the wages, hours or working conditions of Employees, created and
12 implemented the policies and practices that governed the employment of Plaintiff and the Class
13 members and dictated their job duties and responsibilities, or otherwise suffered or permitted
14 Plaintiff and the other Employee Class members to work, or engaged, thereby creating a common
15 law employment relationship, with the Employee Class members. Therefore, Defendants, and each
16 of them, employed or jointly employed the Employee Class members.

17 **FACTUAL BACKGROUND**

18 8. The Employees who comprise the Class, including Plaintiff, are non-exempt
19 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
20 Commission ("IWC"). During the period of four years prior to the filing of this action through its
21 resolution, Plaintiff and the Class members were either not paid by Defendants for all hours
22 worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also
23 contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing,
24 including by requiring off the clock work and through unlawful rounding and failing to pay
25 overtime and double time, failed to provide meal and rest breaks, and failed to furnish accurate
26 wage statements and timely pay all wages owed or reimburse necessary business expenses, all in
27 violation of various provisions of the California Labor Code and applicable paragraphs of the
28 IWC Wage Orders.

1 9. Plaintiff and the Class members were not paid all wages they were owed,
2 including for all work performed (resulting in “off the clock” work) and for all their overtime
3 hours worked. This has resulted in systematic and ongoing violations of the California Labor
4 Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ and have
5 employed other non-exempt, hourly field workers and employees in related positions in Madera
6 County and in California.

7 10. Plaintiff worked at Defendants’ facilities and fields located in Chowchilla,
8 California as a field worker where he would tend to fields and assist in watering and maintaining
9 them and in picking, harvesting, and processing the fruit, produce and nut products grown at
10 Defendants’ facilities and shipped to customers throughout California and to other locations such
11 as Hawaii. The products included oranges, grapes and kiwis, and other nut products like walnuts
12 and almonds. Defendants operated and maintained many growing fields at their facilities and
13 complex, including the “prison field” where Plaintiff generally was assigned to perform watering
14 duties. Plaintiff would generally begin his work shift by reporting to his equipment area and
15 maintain and fuel an assigned motorcycle and would then proceed to turning on and off various
16 water pumps according to the effective watering schedule and attending to the watering of
17 hundreds of acres of fields of trees and ensuring the pressure and spacing distances were
18 maintained as required. Plaintiff would also inspect and maintain watering lines and hoses, and
19 when he was required to maintain them, he was required to communicate with his managers and
20 supervisors by his personal cellular phone to receive assistance and materials required to make
21 any necessary repairs.

22 11. Defendants’ managers and supervisors also contacted Plaintiff on his personal
23 cellular phone on a daily basis to request information on the status of completion of his various
24 job duties and to address scheduling and the hours he worked, and such calls came when he was
25 both on and off duty. Upon information and belief, Defendant followed the same policies and
26 practices in connection with the other similarly situated field workers in the Class. This resulted
27 in further off the clock work where Plaintiff and the Class members were under Defendant’s
28 control and performing work duties without compensation. This time was not compensated as

1 hours worked by Defendants, and Defendants failed to reimburse Plaintiff and the Class members
2 for the substantial use of their personal cellular phones and data plans for work-related purposes.

3 12. Defendants did not post work schedules for Plaintiff and the Class members, yet
4 communicated an expectation that they would work anywhere from five to seven days a week for
5 shifts ranging from four hours to at least ten hours and often more than twelve hours. More
6 specifically, Plaintiff was scheduled and expected to work seven shifts per week during the hotter
7 months for twelve hours or more and at least six shifts per week during cooler months for
8 anywhere from four to ten hours or more. Shifts were less in frequency and duration in the cooler
9 months and rainy seasons.

10 13. Defendants maintained no realistic systems or methodologies for accurately
11 recording the actual hours that Plaintiff and the Class members worked. There were no time
12 clocks or computers or scanners to record real time punch entries, and Defendants also did not
13 record timekeeping entries on handwritten or computerized log sheets. There were no recorded
14 start and finish times for work shifts based on any entries by Plaintiff and the Class members, and
15 Defendants' managers instead carried around a notepad into which they would allegedly record
16 shift arrival and departure times. Upon information and belief, Defendants' managers recorded
17 time entries intended to conform to scheduled shift times, and in any event would round
18 timekeeping entries to the nearest hourly or half-hourly increment to the substantial detriment of
19 the Employees. For example, if Plaintiff worked until 6:49 p.m., Defendants would round down
20 his hours worked as if he stopped working at 6:30 p.m. because he did not complete the full hour
21 of work to 7:00 p.m. Defendants' managers would also call Plaintiff on his personal cellular
22 phone and ask him if he was finished with his assigned tasks during a scheduled shift.

23 14. If Plaintiff worked past the time he was scheduled, the next morning his manager
24 would ask him how late he stayed. Defendants' uniformly applied policies and practices thus
25 resulted in Plaintiff and the Class members incurring some off the clock work before scheduled
26 shift times, but also incurring substantial unpaid hours, including overtime hours, worked off the
27 clock after their scheduled shift end times. Defendants also maintained a uniformly applied policy
28 of not paying Plaintiff and the Class Members at overtime or double time rates for any of their

1 hours worked. Defendants did so without regard to the actual number of hours worked or the
2 requirements of the Labor Code and Assembly Bill No. 1066 (“AB 1066”) and Wage Order No.
3 14-2001 (IWC No. 14-2001) (“Wage Order No. 14”) regulating the wages, hours, and working
4 conditions of employees in agricultural occupations, effective **January 1, 2019**. Defendants
5 would pay Plaintiff for all of the hours he worked at only at his regular rate. Only on rare
6 occasions would Plaintiff’s wage statements reflect any overtime hours worked at the time and a
7 half rate, and despite the fact that Plaintiff frequently worked over ten or twelve hours on a shift
8 or otherwise as specified in Wage Order No. 14, he never received double time payments.
9 Plaintiff’s wage statements would reflect substantially greater than 40 hours or even 50 hours
10 worked per work week without any hours being listed as overtime hours. Upon information and
11 belief, Defendants’ same unlawful policy of systematically failing to pay overtime and double
12 times hours worked applied to all Class members and resulted in an ongoing failure to pay all
13 wages for all hours worked and to pay them at the appropriate regular, overtime, and double time
14 rates, including as required under AB 1066 and Wage Order No. 14.

15 15. When Employees inquired as to why they were not paid overtime wages,
16 Defendants’ managers would respond by saying Employees doing their types of jobs did not
17 qualify to receive overtime. Plaintiff was told this policy of not paying overtime was normal, and
18 Defendants’ managers silenced Plaintiff by making him fear termination if he complained about
19 it. To whatever extent Defendants’ managers were correct that agricultural workers are not paid
20 overtime under the same schedules as employees in other occupations, Defendants nevertheless
21 also failed to pay overtime wages to Plaintiff and the Class members as required under Assembly
22 Bill No. 1066 (“AB 1066”) and Wage Order No. 14-2001 (IWC No. 14-2001) (“Wage Order No.
23 14”) regulating the wages, hours, and working conditions of employees in agricultural
24 occupations, effective **January 1, 2019**. The applicable Wage Order No. 14 provisions for
25 agricultural occupations specify the following: (1) all employers shall not work over ten hours in
26 a workday or more than six days in a week unless paid at a rate of 1.5 times the regular rate for all
27 hours over ten in a workday and for the first eight hours on the seventh day of work; and (2) the
28 same employees must be paid at double the employees’ regular rate of pay for all hours worked

1 over eight on the seventh day of work in a workweek. (*See*, Wage Order No. 14, paragraph 3(A)).
2 Defendants regularly required Plaintiff and the Class members to work shifts of over ten hours
3 and often required them to work seven consecutive days, and did so without paying overtime and
4 double time as required under Wage Order No. 14. As addressed in further detail below, Wage
5 Order No. 14 and paragraphs 3(A), 3(B), and 3(C) make it clear that Plaintiff and the Class
6 members, including those whose duties comprised irrigating fields, worked shift and workweek
7 schedules which entitled them to overtime and double time payments which Defendants'
8 systematically failed to pay.

9 16. When Plaintiff attempted to inform his manager that he worked many overtime
10 and double time hours after his scheduled shift end times, Defendants' managers would also
11 question him and dispute the claims and recorded times that conformed to the scheduled shift
12 beginning and end times. Upon information and belief, the other Class members also endured
13 similar systematic underpayment of regular, overtime, and double time wages given Defendants'
14 uniformly applied and unlawful policies and practices of requiring substantial off the clock work,
15 rounding timekeeping entries to the nearest hour or half hour to Employees' detriment,
16 automatically deducting for unprovided or otherwise unlawful meal periods, systematically
17 failing to pay overtime and double time for hours worked in a shift, and failing to maintain
18 accurate records of shift and meal start and end times.

19 17. Whether managers accurately recorded the reported times and actual hours worked
20 in such instances for Plaintiff and the Class members is unknown to them, as upon information
21 and belief Defendants also did not provide Plaintiff and the Class members with the opportunity
22 to meaningfully review their timekeeping entries for all shifts worked during a work week or a bi-
23 weekly or weekly pay period before submitting them to payroll for processing. To the extent
24 Plaintiff and upon information and belief the other Class members informed Defendants'
25 managers that any reported hours worked in a pay period were inaccurate, Defendants' managers
26 would say they would be paid the next pay cycle. On other occasions, Defendants' managers
27 questioned the validity of the claimed hours worked and refused to pay them the next cycle or at
28 all, and would justify the decision not to pay for these hours worked by the alleged inability to

1 confirm them.

2 18. Defendants thus used their own failure to comply with their record keeping
3 requirements as alleged justification for not paying Employees for all hours worked. Plaintiff and
4 the Class members were only sporadically compensated in these later pay periods for work
5 performed in earlier ones, and on the occasions when they were, Defendants systematically
6 violated Labor Code §§ 204 and 226 by failing to timely and accurately report and pay for all
7 hours worked. Defendants' managers also would not record actual beginning and ending times
8 when meal periods were taken, if at all, by Plaintiff and the Class members, and would instead
9 automatically deduct time for complete meal periods from hours worked without regard to
10 whether a compliant meal period was actually provided. Defendants similarly denied Plaintiff and
11 the Class members the opportunity to review any alleged meal period start and completion times,
12 to the extent Defendants actually and accurately recorded any of these times.

13 19. Plaintiff and the Class members were expected to report to work by their
14 scheduled shift start times and proceed to the fields. On some occasions, they were required to
15 attend morning meetings to discuss the day's work tasks and schedules. To be on time for these
16 meetings, and to be working in their assigned fields at the start of their shifts, Plaintiff and the
17 Class members were required to work off the clock before their shifts by arriving at work early in
18 order to be on time. Defendants managers would sometimes address schedules when Employees
19 were supposed to take breaks at these morning meetings, but this was merely aspirational and
20 Defendants took no measures to facilitate compliance with them. Operations remained ongoing
21 continuously throughout the shifts, and Plaintiff and the Class members were told to take breaks
22 when they could, while also being pressured by managers to work through those breaks to ensure
23 that all work tasks were completed.

24 20. Given the above described off the clock work and unlawful rounding and
25 deductions from hours worked perpetrated by Defendants' management, Plaintiff would often
26 notice on his wage statements that he was being paid for substantially fewer hours than he
27 actually worked, and that he was not paid at the correct overtime or double time rates for all hours
28 he worked. Upon information and belief, in doing so and in addition to all the wage violations

1 arising from failure to pay for all hours worked, Defendants also failed to pay overtime wages to
2 Plaintiff and the Class members as required under AB 1066 and Wage Order No. 14.

3 21. Plaintiff was therefore not paid for all his hours worked and was not provided the
4 opportunity to see that any changes that had been made to timekeeping records and payroll data
5 before pay checks were issued, despite being repeatedly underpaid for all his hours worked.
6 Defendants' conduct therefore also violates the requirement to timely pay all wages, including
7 under Labor Code § 204. Upon information and belief, the same occurred in connection with the
8 other Class members.

9 22. Plaintiff was therefore not paid for all his hours worked at the required minimum,
10 overtime and double time wage rates due to Defendants' policy of unlawful rounding and practice
11 of requiring him to work off the clock and without pay, and failed to pay at the required overtime
12 and double time rates for all hours over ten or twelve in a shift, or over the hours in a work week
13 set forth in Wage Order No. 14. With work shifts often being scheduled for or otherwise lasting
14 for twelve hours or more, this unpaid off the clock work resulted in Plaintiff and the Class
15 members working past the point in time on a work shift when overtime would begin to accrue,
16 which required that they be paid at the correct overtime rate of 1.5 times their regular rate and
17 double time rate of twice the regular rate. Defendants' management would shave hours worked
18 off of Plaintiff's daily and weekly totals, or otherwise round them down or fail to record them. To
19 the extent Defendants paid Class members any shift differentials or bonuses or other forms of
20 remuneration, Defendants failed to include them in the regular rate used to calculate and pay
21 overtime and double time hours.

22 23. Defendants thus systematically underpaid Plaintiff and the Class members by
23 failing to pay them at the required overtime and double time rates for all hours worked as
24 required under the Labor Code, AB 1066, and Wage Order No. 14. Upon information and belief,
25 the Class members were bound by similar scheduling and work policies which Defendants
26 required them to follow, and endured similar violations for unpaid wages at Defendants' hands as
27 Plaintiff.

28 ///

1 24. Defendants have either failed to maintain timekeeping records for Plaintiff that
2 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants'
3 required and the actual hours Plaintiff worked, or have otherwise declined to produce them to
4 Plaintiff in response to a timely and lawful request. By failing to pay for all hours worked, and by
5 deducting time for meal periods that were not lawfully provided, and by recording incorrect
6 timekeeping entries for meal period times and shift hours worked, Defendants have committed
7 knowing and intentional ongoing violations of the record keeping requirements under the Labor
8 Code, including section 1174.

9 25. The failure to pay for all hours worked and underpayment of wages to Plaintiff
10 and the Class members is and has been a direct consequence of Defendants' unlawful
11 compensation policies and practices, which applied uniformly to the Class members working
12 based out of Defendants' facilities in California. As a result of the above described unlawful
13 requirements to work off the clock, the failure to accurately record all hours worked and pay
14 wages at the correct rates, and the other wage violations they endured at Defendants' hands, and
15 Defendants' work scheduling and workweek policies, Plaintiff and the Class members were not
16 properly paid all wages earned and all wages owed to them by Defendants, including when
17 working qualifying overtime and double time hours in any given week. As a result of Defendants'
18 unlawful policies and practices, Plaintiff and Class members incurred overtime hours worked for
19 which they were not adequately and completely compensated, in addition to the hours they were
20 required to work off the clock at their regular rates.

21 26. Therefore, from at least four years prior to the filing of this lawsuit and continuing
22 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
23 hours worked, and failing to pay minimum wages for all time worked, as required by California
24 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
25 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
26 at premium overtime and double time rates for all qualifying hours in a workweek, in violation of
27 Labor Code § 510, AB 1066, and Wage Order No. 14. Defendants also required Plaintiff and the
28 Class members to often work on seven consecutive workdays, including during the same work

1 week. On such occasions, in addition to Defendants' violations for not paying overtime wages as
2 required on the seventh day of work in a week, Defendants also failed to provide one day of rest
3 out of seven consecutive work days, resulting in systematic and ongoing violations of Labor Code
4 §§ 551 and 552 and entitling Plaintiff and the Class members to damages and civil penalties under
5 Labor Code § 558.

6 27. Defendants also failed to provide Plaintiff and the Class members with their
7 required first and second meal periods, and their first, second, and third required rest breaks. The
8 above described off the clock work contributed to Defendants' common policy of failing to
9 provide lawful meal periods to Plaintiff and the Class members, as required under the Labor Code
10 and Paragraph 11 of the IWC Wage Order(s), including Wage Order No. 14. Defendants similarly
11 systematically failed to authorize and permit Plaintiff and the Class members to take all required
12 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the Wage Order
13 No. 14.

14 28. Defendants failed to provide lawful meal periods to Plaintiff and the Class
15 members, and instead automatically deducted at least 30 minutes for meal periods without regard
16 to whether they were taken or not. Defendants did not schedule meal periods or record the actual
17 times meal periods were taken, if at all. Instead, Defendants' managers would rely on Class
18 members to tell them if meal periods were taken, but when they did so, managers responded they
19 were unable to confirm this from any records so the automatic deduction would take effect. As
20 with the above wage violations, Defendants have attempted to justify their failure to provide meal
21 periods by their own failure to keep accurate records of any meal periods provided.

22 29. Defendants also imposed strict production and task completion requirements on
23 Plaintiff and the Class members, who were expected to prioritize complying with these demands
24 by working through breaks or skipping them all together. Defendants' managers expected
25 Plaintiff to not take a meal period unless someone could relieve him of his duties, but then no
26 relief would come, and Plaintiff was expected to then fend for himself for any breaks. When
27 Plaintiff and the Class members were actually permitted to take a meal period, it was generally
28 well after five hours into their shifts, or was interrupted by work demands or shortened. In fact,

1 on many occasions, Plaintiff could not stop to take a meal break until seven or eight hours into a
2 shift, and would have to combine a meal period with a brief rest break in such instances. Plaintiff
3 and the Class members were not permitted to leave their work sites for any meal periods, and
4 were therefore further subjected to Defendants' control during any break time they did take. On
5 work shifts of over ten hours in duration, Defendants also failed to provide Plaintiff and the Class
6 members as second, duty-free, meal period of at least 30 minutes in duration. Despite working
7 more than ten hours on the vast majority of his work shift, Defendant never provided Plaintiff
8 with a second meal period on any work shift.

9 30. Plaintiff and the Class members generally worked shifts that entitled them to
10 receive at least one meal period and two to three rest breaks. However, Defendants failed to
11 provide all required meal periods and rest breaks to Plaintiff and the Class members. Defendants
12 followed uniformly applied policies of not providing all required meal periods and rest breaks to
13 their Employees in accordance with the Labor Code and IWC Wage Orders. Meal periods were
14 often not provided during a work shift, as work and production demands and management
15 pressure required Employees to work through breaks, or to combine them with later taken rest
16 breaks. When Defendants did provide breaks, they were frequently provided well after five hours
17 into a work shift, and often for less than 30 minutes, and Plaintiff and the Class members were
18 required to monitor their radios and remain under Defendants' control during breaks. Plaintiff
19 was also required to endure shifts of ten hours or more without receiving a second meal period or
20 all his required rest breaks, as were the other Class members.

21 31. Defendants thus failed to provide all the legally required unpaid, off-duty meal
22 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
23 members, as required by the applicable Wage Order and Labor Code. Defendants did not have a
24 policy or practice which provided or recorded all the legally required unpaid, off-duty meal
25 periods and all the legally required paid, off-duty rest periods to the Plaintiff and the other Class
26 members. Plaintiff and other Class members were required to perform work as ordered by
27 Defendants or otherwise remain under Defendants' control for more than five hours during a
28 shift, or ten hours in a shift, but were often required to do so without receiving a lawful, timely,

1 and duty-free 30-minute meal break for every five hours worked. Additionally, as addressed
2 above, Defendants followed a practice of requiring off the clock work, in a manner that would
3 impact when Employees were to receive meal periods and rest breaks, thus leading to further
4 violations.

5 32. As a result, Defendants' failure to provide Plaintiff and the Class members with all
6 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
7 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants have
8 either failed to maintain required records of when meal periods were actually provided or failed to
9 produce them in response to Plaintiff's timely and lawful requests, or else maintained inaccurate
10 and incomplete records. Defendants also failed to pay Employees "premium pay," i.e. one hour of
11 wages at each Employee's effective hourly rate of pay, for each meal period or rest break that
12 Defendants failed to provide or deficiently provided.

13 33. Therefore, for at least four years prior to the filing of this action and through to the
14 present, Plaintiff and the Class members were unable to take off-duty breaks or were otherwise not
15 provided with the opportunity to take required meal breaks due to Defendants' policies and
16 practices. On the occasions when Plaintiff and the Class members were provided with a meal
17 period, it was often provided after five hours into a work shift and was therefore untimely or was
18 interrupted, or was impermissibly shortened, and Employees were not provided with one hour's
19 wages in lieu thereof. To the extent Defendants assert they paid any meal period premiums, they
20 failed to do so for all violations. Meal period violations thus occurred in one or more of the
21 following manners:

- 22 (a) Class members were not provided full thirty-minute duty free meal periods
23 for work days in excess of five hours and were not compensated one hour's
24 wages in lieu thereof, all in violation of, among others, Labor Code §§
25 226.7, 512, and the applicable Industrial Welfare Commission Wage
26 Order(s);
- 27 (b) Class members were not provided second full thirty-minute duty free meal
28 periods for work days in excess of ten hours;

- 1 (c) Class members were required to work through at least part of their daily
2 meal period(s);
- 3 (d) Meal periods were provided after five hours of continuous work during a
4 shift; and
- 5 (e) Class members were restricted in their ability to take a full thirty-minute
6 meal period or were otherwise required to remain under Defendants'
7 control during meal periods.

8 34. Defendants also failed to authorize and permit Plaintiff and the Class members to
9 take duty-free, net ten minute rest breaks for ever four hours of shift work, or major fraction
10 thereof. Defendants gave a similar cursory level of attention to ensuring Plaintiff and the Class
11 members were authorized and permitted to take their required ten minute rest breaks during
12 extended work shifts. To the extent a first or even second rest break was scheduled, Defendants'
13 managers would impose work demands and expectations on Plaintiff and the Class members that
14 they must continue working or were required to prioritize completing work tasks over taking
15 breaks. Defendants did not take any measures to authorize and permit rest breaks except to state
16 an aspirational time when they should be taken, but Defendants had no intention of providing
17 more than two rest breaks per work shift. During any rest break that Plaintiff and the Class
18 members were able to attempt to take, they were often untimely or were interrupted or shortened
19 by work demands, or Plaintiff was compelled to attempt to combine his meal period with a rest
20 break. On shifts of over ten hours, Defendants also systematically failed to provide Plaintiff and
21 the Class members with a third rest break, as Defendants did not even contemplate providing
22 third rest breaks on such occasions.

23 35. Therefore, the job requirements and duties required of Plaintiff and the Class
24 members, and the demands from management and customers, manifested a failure to authorize
25 and permit Class members to take all their required rest breaks. Plaintiff and the other similarly
26 situated Class members were either not authorized permitted the opportunity to take a rest break,
27 or were required to remain under Defendants' control and respond to instructions from
28 management and job and customer demands. Defendants also failed to authorize and permit

1 employees to leave the premises during rest breaks, or else prevented them from doing so, thus
2 further evidencing Defendants' policy and practice of requiring Plaintiff and the Class members
3 to remain under their control during required off-duty rest breaks.

4 36. Defendants' policies and practices thus systematically deny and denied Plaintiff
5 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
6 periods. The California Supreme Court has instructed that the rest period requirement obligates
7 employers to permit-and authorizes employees to take-off-duty rest periods. That is, during rest
8 periods employers must relieve employees of all duties and relinquish control over how
9 employees spend their time. Plaintiff and the Class members were and are under Defendants'
10 control when they are working through rest breaks, and Defendants failed to schedule or account
11 for required first, second, and third rest breaks during the shifts Plaintiff and the Class members
12 generally worked.

13 37. Plaintiff and the Defendants' Employees in the Class were therefore not authorized
14 and permitted to take lawful rest periods, were systematically required by Defendants to work
15 through or during breaks, and were not provided with one hour's wages in lieu thereof. They
16 were required to remain on-duty during breaks or portions of their breaks, thus making them
17 either untimely or shortened and on-duty, and they were also prevented from leaving the premises
18 during rest breaks under Defendants' policies and practices. Rest period violations therefore arose
19 in one or more of the following manners:

- 20 (a) Class members were required to work without being provided a minimum
21 ten minute rest period for every four hours or major fraction thereof
22 worked and were not compensated one hour of pay at their regular rate of
23 compensation for each workday that a rest period was not provided;
- 24 (b) Class members were not authorized and permitted to take timely rest
25 periods for every four hours worked, or major fraction thereof; and
- 26 (c) Class members were required to remain on-duty and under Defendants'
27 control during rest periods or otherwise had their rest periods interrupted
28 by work demands.

1 38. From at least four years prior to the filing of this lawsuit and continuing to the
2 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
3 deducting the Employees' earned wages, including by the above described off the clock before
4 and after work shifts and automatically deducting 30 minutes of work for unpaid meal periods
5 Defendants failed to provide. In addition to the above wage violations causing unlawful
6 deductions, Defendants also systematically deducted almost \$7.00 per pay period from Plaintiff's
7 pay check for something entitled "Cafeteria Pln." Plaintiff never understood what this entry meant
8 and Defendants did not explain it to him, nor does Plaintiff recall ever receiving any sort of benefit
9 from this deduction. Upon information and belief, Defendants took the same unlawful deduction
10 from the other Class members as were reflected on Plaintiff's wage statements. In such instances,
11 Plaintiff and the Class members had their wages unlawfully deducted when Defendants' managers
12 recorded fewer hours worked in the timekeeping records than were in fact worked or unlawfully
13 deducted payments such as for the Cafeteria Pln for which Plaintiff never received any benefit. By
14 not compensating Employees for all hours worked and failure to pay for hours spent under
15 Defendants' control, and by taking specific unlawful and unauthorized deductions from wages
16 paid, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Class
17 members, in violation of Labor Code § 221.

18 39. As a result of the above described illegal policies and practices, Defendants
19 engaged in and enforced the following additional unlawful practices and policies against Plaintiff
20 and the Class members he seeks to represent:

- 21 a. failing to pay all wages owed to Class members who either were discharged, laid
22 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
23 203;
- 24 b. failing to pay all wages owed to the Class members twice monthly in accordance
25 with the requirements of Labor Code § 204;
- 26 c. failing to pay Class members all wages owed, including all meal and rest period
27 premium wages;

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- 1 d. failing to maintain accurate records of Class members' earned wages and meal
2 periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the
3 applicable IWC Wage Orders; and
4 e. failing to produce timekeeping records in response to Plaintiff' timely and lawful
5 request to receive them under these authorities.

6 40. From at least four (4) years prior to the filing of this lawsuit, and continuing to the
7 present, Defendants have also consistently failed to provide Employees with timely, accurate, and
8 itemized wage statements, in writing, as required by California wage-and-hour laws, including by
9 the above-described requirement of off the clock work, failure to pay all overtime and double
10 time, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest
11 breaks. Defendants have also made it difficult to account with precision for the unlawfully
12 withheld wages and meal and rest period compensation owed to Plaintiff and the Class, during the
13 liability period, because they did not implement and preserve a record-keeping method as required
14 for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the
15 applicable California Wage Orders. Upon information and belief, time clock punches were not
16 maintained or were not accurately maintained for work shifts and meal periods, which were
17 automatically presumed by Defendants to have been lawfully provided when they were not.
18 Defendants also failed to accurately record and pay for all regular and overtime and double time
19 hours worked by Plaintiff and the Class members.

20 41. Defendants also provided Plaintiff and the Class members with wage statements
21 that failed to accurately report all hours worked and applicable hourly rates for all hours worked.
22 Plaintiff and the Employees in the Class were unable to discern from their wage statements alone
23 the actual hours they worked in total during a pay period, or the correct rates they should have
24 been paid at.

25 42. Defendants have thus also failed to comply with Labor Code § 226(a) by issuing
26 wage statements that inaccurately reported total hours worked and total wages earned by Plaintiff
27 and the Class members, along with the appropriate applicable rates, among others requirements.
28 Plaintiff and Class members are therefore entitled to penalties not to exceed \$4,000.00 for each

1 employee pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph
2 7 of the applicable California IWC Wage Orders by failing to maintain time records showing
3 when the employee begins and ends each work period, meal periods, wages earned pursuant to
4 Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions
5 from payment of wages and accurately reporting total hours worked by the Class members.

6 43. Defendants also required Plaintiff and the Class members to work hours off the
7 clock for which they were not compensated, including during interrupted or otherwise on-duty
8 meal and rest periods. Defendants also failed to pay all overtime and double time premium wages
9 owed for work conducted on a work shift and a workday, as addressed above. Therefore, when
10 they received wage statements and pay checks, they did not compensate all hours worked on a
11 timely basis, resulting in Defendants' systematic failure to pay all wages owed to Plaintiff and the
12 Class members twice monthly in accordance with the requirements of Labor Code § 204, and
13 when applicable to pay them weekly under Labor Code § 201.3.

14 44. Also, from at least three years prior to filing this lawsuit and continuing to the
15 present, Defendants have also followed a uniform and consistent policy of failing to pay all wages
16 owed to Plaintiff and other similarly situated Employees at the time of their termination or within
17 seventy-two (72) hours of their resignation, as required by California wage-and-hour laws.
18 Defendants' failure to pay wages for all hours worked and failure to pay premiums for overtime
19 and double time and unlawful meal and rest periods further evidenced their failure to pay all
20 wages owed to Plaintiff and the Class members at the time they were terminated or otherwise
21 separated from employment.

22 45. Additionally, from at least four years prior to the filing of this lawsuit and
23 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
24 incur necessary business expenses in the course of performing their required job duties without
25 reimbursement. For example, Defendants' managers and supervisors contacted Plaintiff on his
26 personal cellular phone on a daily basis to request information on the status of completion of his
27 various job duties and to address scheduling and the hours he worked, and such calls came when
28 he was both on and off duty. Plaintiff would often receive calls when off duty from Defendants'

managers to ask him to report at an earlier or later time or to address other work related matters.

46. Plaintiff and the Class members were also required to drive their own vehicles to work, and then on the occasions when they were asked to work in multiple fields, they were also required to then drive their personal vehicles to those further field locations. Defendants did not reimburse Plaintiff and the Class members for their mileage or other expenses incurred in transporting themselves to further field assignments during their shifts. Defendants failed to reimburse for any such work-related expenses Plaintiff and the Class members were required to incur, in violation of Labor Code § 2802.

47. In light of the foregoing, Plaintiff and the Employees in the Class bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.7, 510, 511, 512, 551, 552, 558, 1174, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, and 2968 *et seq.*, and Wage Order No. 14 and California Code of Regulations, Title 8, section 11000 *et seq.*

48. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

49. Plaintiff brings this class action on behalf of himself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly field workers and in related positions within the State of California.” Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all

hours worked at the correct overtime and double time rates.

c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Seventh Day of Rest Subclass. All Class members who Defendants required to work seven consecutive workdays in a row and during a workweek without providing a day of rest.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members who were subject to Defendants' policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

i. Subclass 9. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

j. Subclass 10. Expense Reimbursement Subclass. All Class members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.

k. Subclass 11. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to

1 be unlawful, deceptive, and/or unfair.

2 50. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
3 modify the class description with greater particularity or to provide further division into subclasses
4 or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
5 against Defendants, the Class Period should be adjusted accordingly.

6 51. Defendants, as a matter of company policy, practice and procedure, and in violation
7 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements,
8 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
9 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
10 worked by Plaintiff and the other members of the Class, even though Defendants enjoyed the
11 benefit of this work, required Employees to perform this work and permitted or suffered to permit
12 this work. Defendants have uniformly denied these Class members wages to which these
13 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
14 order to unfairly cheat the competition and unlawfully profit.

15 52. This action has been brought and may properly be maintained as a class action
16 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
17 of interest in this litigation and the proposed Class is easily ascertainable from the employment
18 records for Plaintiff and the Class members that Defendants are required to maintain under
19 California law.

20 **A. Numerosity**

21 53. The potential members of the Class as defined are so numerous that joinder of all
22 the Class members is impracticable. While the precise number of Class member has not been
23 determined at this time, Plaintiff are informed and believes that Defendants employ or, during the
24 time period relevant to this lawsuit employed, at least 100 Employees who satisfy the Class
25 definition within the State of California. Plaintiff alleges that Defendants’ employment records
26 will provide information as to the number and location of all Class members.

27 **B. Commonality**

28 54. There are questions of law and fact common to the Class that predominate over any

1 questions affecting only individual Class members. The common questions are numerous and
2 substantial and flow from Defendants' uniform policies and/or practices of violating the California
3 Labor Code addressed above. As such, these common questions predominate over individual
4 questions concerning each individual Class Member's showing as to his or her eligibility for
5 recovery or as to the amount of damages. These common questions of law and fact include:

- 6 a. Whether Defendants failed to pay Employees minimum wages;
- 7 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 8 c. Whether Defendants failed to pay Employees overtime as required under Labor
9 Code § 510 and Wage Order No. 14;
- 10 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
11 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
12 premium pay in lieu thereof;
- 13 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
14 Orders, by failing to authorize and permit Employees to take requisite rest breaks
15 or provide premium pay in lieu thereof;
- 16 f. Whether Defendants violated Labor Code § 226(a) by providing Employees with
17 inaccurate wage statements;
- 18 g. Whether Defendants violated Labor Code § 221;
- 19 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
20 wages and compensation due and owing at the time of termination of employment;
- 21 i. Whether Defendants' conduct was willful;
- 22 j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage
23 Orders by failing to maintain accurate records of Class members' earned wages and
24 work periods;
- 25 k. Whether Defendants violated Labor Code § 1194 by failing to compensate all
26 Employees during the relevant time period for all hours worked, whether regular or
27 overtime;

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- 1 l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
2 wages earned at least twice monthly;
- 3 m. Whether Defendants violated Labor Code §§ 551 and 552 by failing to provide one
4 day of rest out of seven consecutive work days;
- 5 n. Whether Defendants violated Labor Code § 2802 by failing reimburse necessary
6 business expenses incurred by Employees;
- 7 o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
8 p. Whether Employees are entitled to equitable relief pursuant to Business and
9 Professions Code § 17200 *et seq.*

10 **C. Typicality**

11 55. The claims of the named Plaintiff are typical of those of the other Employees. The
12 Employee Class members all sustained injuries and damages arising out of and caused by
13 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
14 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for
15 the off the clock work and meal and rest violations he was required to endure are typical of those
16 of the other Class members.

17 **D. Adequacy of Representation**

18 56. Plaintiff will fairly and adequately represent and protect the interest of the
19 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
20 experienced and competent in litigating employment class actions.

21 **E. Superiority of Class Action**

22 57. A class action is superior to other available means for the fair and efficient
23 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
24 questions of law and fact common to all Employees predominate over any questions affecting only
25 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
26 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

27 58. As to the issues raised in this case, a class action is superior to all other methods for
28 the fair and efficient adjudication of this controversy, as joinder of all Class members is

1 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
2 members. Further, as the economic or other loss suffered by vast numbers of Class members may
3 be relatively small, the expense and burden of individual actions makes it difficult for the Class
4 members to individually redress the wrongs they have suffered. Moreover, in the event
5 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
6 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
7 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
8 to vindicate their rights for violations they endured which they would otherwise be foreclosed
9 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

10 59. Class action treatment will allow those persons similarly situated to litigate their
11 claims in the manner that is most efficient and economical for the parties and the judicial system.
12 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
13 Plaintiff contemplate the eventual issuance of notice to the proposed Class members that would set
14 forth the subject and nature of the instant action. The Defendants' own business records can be
15 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
16 that any further notice is required, additional media and/or mailings can be used.

17 60. Defendants, as prospective and actual employers of the Employees in the Class,
18 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
19 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
20 Employees as well as the effect of any alleged arbitration agreements that may have been forced
21 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
22 and policies, most notably intentionally refusing to pay for all hours actually worked which should
23 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
24 agreements and policies and practices on the Employees and Class as a whole.

25 61. Plaintiff and the Employees in the Class did not discover the fact that they were
26 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
27 any discussion about Plaintiff' and the Class' wavier of their Constitutional rights of trial by jury,
28 to collectively organize and oppose unlawful pay practices under California law as well as obtain

1 injunctive relief preventing such practices from continuing. As a result, the applicable statutes of
2 limitation tolled until such time as Plaintiff and the Class members discovered their claims.

3 **FIRST CAUSE OF ACTION**
4 **FAILURE TO PAY MINIMUM WAGES**
5 **(Against All Defendants)**

6 62. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 63. Defendants failed to pay Employees minimum wages they were owed, including
9 by their consistent policy of failing to pay Employees for all hours worked. Employees would
10 work hours and not receive wages, including as alleged above in connection with unlawful
11 rounding and off the clock work, including all the time required to remain on duty and under
12 Defendants' control and during breaks and due to the work demands placed upon them by
13 Defendants' management. Defendants also imposed difficult to attain job and shift scheduling
14 requirements on Plaintiff and the Class members, which resulted in off the clock work and
15 underpayment of all wages owed to Employees over a period of time, while benefiting
16 Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum
17 wages to Plaintiff and the Class members, including by requiring systematic off the clock work
18 and by unlawful rounding. Defendants' uniform pattern of unlawful wage and hour practices
19 manifested, without limitation, applicable to the Class as a whole, as a result of implementing a
20 uniform policy and practice that denied accurate compensation to Plaintiff and the other members
21 of the Class as to minimum wage pay.

22 64. In California, employees must be paid at least the then applicable state minimum
23 wage for all hours worked, including under Labor Code § 1197, and paragraphs 2(K), 2(S), and
24 4(A)-4(C) of the applicable IWC Wage Orders, including Wage Order No. 14. Paragraph 2(H) of
25 the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an
26 employee is subject to the control of an employer, and includes all the time the employee is
27 suffered or permitted to work, whether or not required to do so." Additionally, pursuant to
28 California Labor Code § 204, other applicable laws and regulations, and public policy, an

1 employer must timely pay its employees for all hours worked. Defendants failed to do so. To the
2 extent Plaintiff and the Class members were employed by Defendants in their capacity as a
3 temporary services employer, Defendants failed to timely pay all wages owed and provide
4 accurate wage statements to Plaintiff and the Class members on a weekly basis, as required under
5 Labor Code § 201.3, and failed to pay them all wages owed at the end of their seasonal or
6 temporary employment, as required under Labor Code § 203.

7 65. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
8 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
9 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

10 66. The applicable minimum wage rate fixed by the commission for work during the
11 relevant period is found in the Wage Orders.

12 67. The minimum wage provisions of California Labor Code are enforceable by private
13 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
14 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
15 overtime compensation applicable to the employee is entitled to recover in a civil action the
16 unpaid balance of the full amount of this minimum wage or overtime compensation, including
17 interest thereon, reasonable attorney’s fees and costs of suit.”

18 68. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
22 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
23 the absence of a contractually agreed upon one. The underpayment of wages to Plaintiff and the
24 Class members is and has been a direct consequence of Defendants’ unlawful compensation
25 policies and practices, which applied uniformly to the Class members working for Defendants in
26 California.

27 69. In committing the above described violations of the California Labor Code,
28 Defendants inaccurately recorded, or required Plaintiff and the Class members to input or accept

1 times that did not reflect their actual hours worked, including by requiring off the clock work and
2 rounding, as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment
3 of all earned wages, and other benefits in violation of the California Labor Code, the Industrial
4 Welfare Commission requirements and other applicable laws and regulations. As a result of these
5 violations, Defendants also failed to timely pay all wages earned in accordance with California
6 Labor Code § 1194.

7 70. California Labor Code § 1194.2 also provides for the following remedies: “In any
8 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
9 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
10 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

11 71. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
12 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
13 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
14 pay each employee minimum wages.

15 72. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
16 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
17 interest thereon.

18 73. Defendants have the ability to pay minimum wages for all time worked and have
19 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
20 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

21 74. Wherefore, Plaintiff and the Employee Class members are entitled to recover the
22 unpaid minimum wages (including double minimum wages), liquidated damages in an amount
23 equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees
24 and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of
25 the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs,
26 as well as the assessment of any statutory and/or civil penalties against Defendants, in a sum as
27 provided by the California Labor Code, including § 558, and/or other applicable statutes. To the
28 extent minimum wage compensation is determined to be owed to the Class members who have

1 terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202,
2 and therefore these individuals are also be entitled to waiting time penalties under California
3 Labor Code § 203, which penalties are sought herein on behalf of these Class members.
4 Defendants' failure to timely pay all wages owed also violated Labor Code § 204 for failure to pay
5 all wages owed twice monthly, and resulted in violations of Labor Code § 226 because they
6 resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was
7 willful, intentional, and not in good faith. Further, Plaintiff and other Class members are entitled to
8 seek and recover statutory costs.

9 **SECOND CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510, WAGE**

11 **ORDER NO. 14**

12 **(Against All Defendants)**

13 75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
14 full herein.

15 76. California Labor Code § 1194 provides that "any employee receiving less than the
16 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
17 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
18 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
19 may be maintained directly against the employer in an employee's name without first filing a
20 claim with the Division of Labor Standards and Enforcement.

21 77. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
22 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A)-(C) and 4(A)-4(B) of the relevant orders of
23 the Industrial Welfare Commission, including Wage Order No. 14) by failing to pay Employees
24 for all their hours worked, including: (a) time and one-half their regular hourly rates for hours
25 worked in excess of eight hours in a workday or in excess of forty hours in any workweek or for
26 the first eight hours worked on the seventh day of work in any one workweek; or (b) twice their
27 regular rate of pay for hours worked in excess of twelve hours in any one day or for hours worked
28 in excess of eight hours on any seventh day of work in a workweek. Defendants had a consistent

1 policy of not paying Employees wages for all hours worked, including by requiring off the clock
2 work as addressed above and by under-reporting actual hours worked, often with the specific
3 intention of avoiding having to pay overtime or double time. With work shifts generally being
4 scheduled for twelve hours or more, this unpaid off the clock work resulted in Plaintiff and the
5 Class members working past eight and often over twelve hours on a shift, which required that they
6 be paid at the correct overtime rate of 1.5 times their regular rate and the correct double time rate
7 of twice the regular rate. This construct applies to Plaintiff and any Class member to the extent
8 they were not serving in an occupation covered under Wage Order No. 14.

9 78. To whatever extent Defendants' managers were correct that agricultural workers
10 are not paid overtime under the same schedules as employees in other occupations, Defendants
11 still failed to pay overtime wages to Plaintiff and the Class members as required under Assembly
12 Bill No. 1066 ("AB 1066") and Wage Order No. 14-2001 (IWC No. 14-2001) ("Wage Order No.
13 14") regulating the wages, hours, and working conditions of employees in agricultural
14 occupations, effective **January 1, 2019**. The applicable Wage Order No. 14 provisions specify the
15 following: (1) all employers shall not work over ten hours in a workday or more than six days in a
16 week unless paid at a rate of 1.5 times the regular rate for all hours over ten in a workday and for
17 the first eight hours on the seventh day of work; and (2) the same employees must be paid at
18 double the employees' regular rate of pay for all hours worked over eight on the seventh day of
19 work in a workweek. (*See*, Wage Order No. 14, paragraph 3(A)).

20 79. Additionally, upon information and belief, Defendants have employed more than
21 25 Class members during the relevant time period, and are therefore subject to the following
22 overtime requirements under AB 1066 and Wage Order No. 14: (1) Starting **January 1, 2019**, an
23 employee shall not be employed more than nine and one-half (9 1/2) hours per workday or fifty-
24 five (55) hours per workweek unless the employee receives one and one-half (1 1/2) times such
25 employee's regular rate of pay for all hours worked over nine and one-half (9 1/2) hours in any one
26 workday or more than fifty-five (55) hours in any one workweek; (2) Starting **January 1, 2020**, an
27 employee shall not be employed more than nine (9) hours per workday or fifty (50) hours per
28 workweek unless the employee receives one and one-half (1 1/2) times such employee's regular

1 rate of pay for all hours worked over nine (9) hours in any one workday or more than fifty (50)
2 hours in any one workweek; and (3) **Starting January 1, 2021**, an employee shall not be
3 employed more than eight and one-half (8 1/2) hours per workday or forty-five (45) hours per
4 workweek unless the employee receives one and one-half (1 1/2) times such employee's regular
5 rate of pay for all hours worked over eight and one-half (8 1/2) hours in any one workday or more
6 than forty-five (45) hours in any one workweek. (Wage Order No. 14, paragraphs 3(A)(2)(a)-(c)).
7 Under the above requirements, Defendants failed to pay all overtime wages owed to Class
8 members when they worked over 9.5 hours on a work shift and over 55 hours in a work week after
9 **January 1, 2019** and also when they worked over nine hours in a shift and over 50 in a workweek
10 after **January 1, 2020**, and Defendants' unlawful policies will result in further violations for all
11 Class members who work more than 8.5 hours on a work shift and more than 45 hours during a
12 work week starting in January of 2021 if Defendants fail to take subsequent remedial measures to
13 rectify their unlawful policies.

14 80. Additionally, the Wage Order applicable to the agricultural occupations further
15 specifies that: "An employee may be employed on seven (7) workdays in one workweek with no
16 overtime pay required when the total hours of employment during such workweek do not exceed
17 30 and the total hours of employment in any one workday thereof do not exceed six (6), subject to
18 Labor Code Sections 510 and 550-556." (Wage Order No. 14, paragraph 3(B)). Upon information
19 and belief, Plaintiff and the Class members worked more than 30 hours during their workweeks,
20 and this provision is inapplicable.

21 81. Finally, Wage Order No. 14 further specifies that the requirements of paragraph
22 3(A) do not apply to irrigators, but paragraph 3(A)(2) (addressed above) shall apply to such an
23 employee employed by a large employer (more than 25 employees) beginning **January 1, 2019**.
24 (Wage Order No. 14, paragraph 3(C)). Therefore, to the extent the Class members comprise
25 Employees employed as irrigators, the above detailed requirements are applicable to them. In
26 summary, Defendants systematically failed to pay Plaintiff and the Class Members for all hours
27 worked at the applicable regular, overtime, and double time rates as required under the Labor
28 Code and AB 1066 and Wage Order No. 14.

1 82. Defendants thus had a consistent policy of not paying Employees wages for all
2 hours worked, including hours at their required regular, overtime, and double-time rates, and as
3 required under applicable living wage ordinances. Defendants required Plaintiff and the Class
4 members to work off the clock to avoid paying all their earned and owed straight time and
5 overtime wages and other benefits, in violation of the California Labor Code, the California Code
6 of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor
7 Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiff
8 and other similarly situated non-exempt employees to work through meal periods when they were
9 required to be clocked out or to otherwise work off the clock to complete their daily job duties or
10 and participate in company required activities or complete work tasks and remain under
11 Defendants' control. Therefore, Employees were not properly compensated, nor were they paid
12 overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a
13 given week, or at double time rate for hours over twelve in a shift, or as otherwise required and
14 addressed above under Wage Order No. 14. Based on information and belief, Defendants did not
15 make available to Employees a reasonable protocol for correcting time records when Employees
16 worked overtime or double time hours or to fix incorrect time entries or those that Defendants
17 unlawfully under-recorded to the Employee's detriment. Defendants also under-paid Plaintiff and
18 the putative Class members all wages by systematically miscalculating and underpaying overtime
19 wages they earned.

20 83. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
21 regular wages owed and overtime compensation for all hours worked, as required by California
22 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
23 IWC Wage Order, including Wage Order No. 14, and is therefore unlawful.

24 84. Additionally, Labor Code § 558(a) provides "any employer or other person acting
25 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
26 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
27 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
28 pay period for which the employee was underpaid in addition to an amount sufficient to recover

1 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid in addition to an
3 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
4 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
5 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
6 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
7 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
8 Code § 558.

9 85. Defendants’ failure to pay compensation in a timely fashion also constituted a
10 violation of California Labor Code § 204, which requires that all wages shall be paid
11 semimonthly. From four years prior to the filing of this lawsuit to the present, in direct violation
12 of that provision of the California Labor Code, Defendants have failed to pay all wages and
13 overtime compensation earned by Employees. Each such failure to make a timely payment of
14 compensation to Employees constitutes a separate violation of California Labor Code § 204. To
15 the extent Plaintiff and the Class members were employed by Defendants in their capacity as a
16 temporary services employer, Defendants failed to timely pay all wages owed and provide
17 accurate wage statements to Plaintiff and the Class members on a weekly basis, as required under
18 Labor Code § 201.3, and failed to pay them all wages owed at the end of their seasonal or
19 temporary employment, as required under Labor Code § 203.

20 86. Employees have been damaged by these violations of California Labor Code §§
21 204 and 510 (and the relevant orders of the Industrial Welfare Commission, including Wage
22 Order No. 14). Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
23 Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer
24 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
25 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
26 “violates...any provision of this chapter or any order or ruling of the commission.”

27 87. Consequently, pursuant to the California Labor Code, including Labor Code §§
28 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the Wage Orders,

1 including Wage Order No. 14, and including paragraphs 2(K), 2(S), 3(A), 3(B), 3(C), 4, and 18
2 or 20, Defendants are liable to Employees for the full amount of all their unpaid wages and
3 overtime compensation for all their hours worked, with interest, plus their reasonable attorneys'
4 fees and costs, as well as the assessment of any statutory penalties against Defendants, and each
5 of them, and any additional sums as provided by the Labor Code and/or other statutes.

6 **THIRD CAUSE OF ACTION**

7 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

8 **(Against All Defendants)**

9 88. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
10 full herein.

11 89. Employees regularly worked shifts greater than five hours and in most instances,
12 greater than ten hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
13 Wage Order, an employer may not employ someone for a shift of more than five hours without
14 providing him or her with a meal period of not less than thirty minutes or for a shift of more than
15 ten hours without providing him or her with a second meal period of not less than thirty (30)
16 minutes.

17 90. Defendants failed to provide Employees with meal periods as required under the
18 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
19 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
20 provided them after Employees worked beyond the fifth hour of their shifts or Employees
21 otherwise had them shortened and interrupted by work demands and requirements to remain under
22 Defendants' control during off the clock time. Furthermore, upon information and belief, on the
23 occasions when Employees worked more than ten hours in a given shift, they often did so without
24 receiving a second uninterrupted thirty minute meal period as required by law.

25 91. Defendants thus failed to provide Plaintiff and the Class members with meal
26 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
27 including by not providing them with the opportunity to take meal breaks, by providing them late
28 or for less than thirty minutes, or by requiring them to perform work during breaks or otherwise

1 remain under Defendants' control during them, including through radio communications and
2 refusing to permit them to leave Defendants' premises during breaks.

3 92. Moreover, Defendants failed to compensate Employees for each meal period not
4 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
5 20 or 18 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide
6 an employee a meal period in accordance with this section, the employer shall pay the employee
7 one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
8 period is not provided. Defendants failed to compensate the Employees in the Class for each meal
9 period not provided or inadequately provided, as required under Labor Code § 226.7 and
10 paragraphs 11 and 20 or 18 of the applicable IWC Wage Order.

11 93. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 or 18 of the
12 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
13 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
14 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
15 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
16 other statutes and applicable IWC Wage Order paragraphs.

17 **FOURTH CAUSE OF ACTION**

18 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

19 **(Against All Defendants)**

20 94. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 95. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
23 provide that employers must authorize and permit all employees to take rest periods at the rate of
24 ten (10) minutes net rest time per four (4) work hours.

25 96. Employees consistently worked consecutive four (4) hour shifts and were generally
26 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
27 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
28 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for

1 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
2 breaks of not less than ten minutes for each consecutive four hour shift. Employees were often
3 required to work or to otherwise remain under Defendants' control during rest periods, and had
4 breaks provided untimely as a result of the above described off the clock work. Plaintiff and the
5 Class members were also not permitted to leave their work premises during rest breaks.

6 97. Labor Code §§ 226.7 and paragraphs 12 and 20 or 18 of the applicable IWC Wage
7 Orders provide that if an employer fails to provide an employee rest period in accordance with this
8 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
9 compensation for each workday that the rest period is not provided.

10 98. Defendants, and each of them, have therefore intentionally and improperly denied
11 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
12 paragraph 12 of the applicable IWC Wage Orders.

13 99. Defendants failed to authorize and permit Plaintiff and the Class members to take
14 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
15 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
16 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
17 12 and 20 or 18 of the applicable IWC Wage Orders.

18 100. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 or 18 of the
19 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one (1)
20 hour of wages at their effective hourly rates of pay for each day worked without the required rest
21 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
22 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

23 **FIFTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE § 551, 552**

25 **(Against All Defendants)**

26 101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.

28 ///

1 102. California Labor Code § 551 provides that “[e]very person employed in any
2 occupation of labor is entitled to one day's rest therefrom in seven.” Labor Code § 552, entitled
3 “Maximum consecutive working days,” provides that “[n]o employer of labor shall cause his
4 employees to work more than six days in seven.” Additionally, Labor Code § 556 contains an
5 exception to the requirements of section 551 and 552 “when the total hours of employment do not
6 exceed 30 hours in any week or six hours in any one day thereof.” As Plaintiff and the Class
7 members worked over 30 hours generally in a work week, this provision should not apply.

8 103. Additionally, Labor Code § 558(a) provides “any employer or other person acting
9 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
10 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
11 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
12 pay period for which the employee was underpaid in addition to an amount sufficient to recover
13 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
14 underpaid employee for each pay period for which the employee was underpaid in addition to an
15 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
16 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
17 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
18 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
19 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
20 Code § 558.

21 104. As addressed in detail above, Defendant required Plaintiff and the Class members
22 to work on many occasions work and shift schedules which required them to work on seven
23 consecutive days, including during the same workweek. However, by following their unlawful
24 policies, Defendants failed to provide Plaintiff and the Class members with one day of rest out of
25 seven consecutive days. Therefore, pursuant to Labor Code § 551 and 552, and paragraphs 12 and
26 20 or 18 of the applicable IWC Wage Orders, Employees are entitled to damages in an amount to
27 be determined at trial and to civil penalties under Labor Code § 558 against Defendants, and each
28 of them, in a sum as provided by the Labor Code and/or other statutes.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

105. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

106. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

107. Defendants failed to provide Plaintiff and the similarly situated Employee Class members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours and double time hours worked and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

108. Defendants also provided Plaintiff and the Class members with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. Due to Defendants' failure to record and compensate for all hours worked or failure to do so accurately, Plaintiff and the Employees in the Class were unable to discern from their wage statements along the actual hours they worked in total during a pay period.

109. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff and the Class members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-

1 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
2 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
3 the employee and only the last four digits of his or her social security number or an employee
4 identification number other than a social security number, (8) the name and address of the legal
5 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
7 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
8 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
9 members with such timely and accurate wage and hour statements.

10 110. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
11 and intentional failure to provide them with the wage and hour statements as required by law and
12 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
13 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
14 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
15 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
16 wage statement alone one or more of the following: (i) The amount of the gross wages or net
17 wages paid to the employee during the pay period or any of the other information required to be
18 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
19 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
20 wages paid to the employee during the pay period, (iii) The name and address of the employer
21 and, (iv) The name of the employee and only the last four digits of his or her social security
22 number or an employee identification number other than a social security number. For purposes
23 of Labor Code § 226(e) "promptly and easily determine" means a reasonable person [i.e. an
24 objective standard] would be able to readily ascertain the information without reference to other
25 documents or information.

26 111. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
27 are required "to pay each employee, on the established payday for the period involved, not less
28 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor

1 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
2 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
3 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
4 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 or 18 of the
5 applicable IWC Wage Orders. To the extent Plaintiff and the Class members were employed by
6 Defendants in their capacity as a temporary services employer, Defendants failed to timely pay all
7 wages owed and provide accurate wage statements to Plaintiff and the Class members on a weekly
8 basis, as required under Labor Code § 201.3, and failed to pay them all wages owed at the end of
9 their seasonal or temporary employment, as required under Labor Code § 203.

10 112. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
11 § 226(a) and paragraphs 4(b), 7, and 20 or 18 of the applicable IWC Wage Orders, the Employees
12 in the Class suffered injuries, including among other things confusion over whether they received
13 all wages owed them, the difficulty and expense involved in reconstructing pay records, and
14 forcing them to make mathematical computations to analyze whether the wages paid in fact
15 compensated them correctly for all hours worked.

16 113. Pursuant to Labor Code §§ 226(a) and 226(e), and the applicable IWC Wage
17 Orders, including paragraph , Plaintiff and the Employee Class members are entitled to recover the
18 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
19 occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not
20 exceeding an aggregate penalty of four thousand dollars (\$4,000) under Section 226(e), and are
21 entitled to recover further penalties pursuant to paragraphs 4(B) and 20 of the applicable IWC
22 Wage Orders. They are also entitled to an award of costs and reasonable attorneys’ fees.

23 **SEVENTH CAUSE OF ACTION**

24 **VIOLATION OF LABOR CODE § 221**

25 **(Against All Defendants)**

26 114. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
27 full herein.
28

115. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

116. Defendants unlawfully received and/or collected wages from the Employees in the Class by implementing a policy understating the hours worked by Employees by requiring off the clock work, as alleged above. In such instances, Plaintiff and the Class members had their wages unlawfully deducted when Defendants' managers recorded fewer hours worked in the timekeeping records than were in fact worked, including by rounding down to the detriment of Employees. In addition to the above wage violations causing deductions, Defendants also systematically deducted almost \$7.00 per pay period from Plaintiff's pay check for something entitled "Cafeteria Pln." Plaintiff never understood what this entry meant and Defendants did not explain it to him, nor does Plaintiff recall ever receiving any sort of benefit from this deduction. Upon information and belief, Defendants took the same unlawful deduction from the other Class members as were reflected on Plaintiff's wage statements. Defendants unlawfully deducted, and upon information and belief continue to deduct, wages earned by and owed to Plaintiff and the Class members, in violation of Labor Code § 221.

117. As a direct and proximate cause of the unauthorized deductions, Employees have been damaged, in an amount to be determined at trial, including an amount equal to restitution of the unlawfully deducted wages plus interest.

EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

118. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

119. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in

1 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
2 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
3 during which the labor was performed, and labor performed between the 16th and the last day,
4 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
5 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of
6 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
7 calendar days following the close of the payroll period.” As detailed above, Defendants
8 maintained a consistently applied policy and practice of not paying all wages earned between the
9 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
10 between the 16th and the last day of the month between the 1st and 10th day of the following month.
11 This included failing to pay all wages due and owing to Plaintiff and the Class members for all
12 hours they worked and failing to pay all wages earned by not more than seven calendar days
13 following the close of the payroll period.

14 120. Defendants also required Plaintiff and the Class members to work hours off the
15 clock for which they were not compensated, including during interrupted or otherwise on-duty
16 meal and rest periods. Defendants also took unlawful deductions and failed to pay all overtime and
17 double time premium wages owed for work performed during a work shift and a workday, as
18 addressed above. Therefore, when Class members received wage statements and pay checks which
19 did not include payments at the correct rates for all hours worked during that pay period, or
20 included unlawful deductions, Defendants failed to compensate Plaintiff and the Class members
21 for all their hours worked on a timely basis, resulting in Defendants’ systematic failure to pay all
22 wages owed to Plaintiff and the Class members twice monthly in accordance with the
23 requirements of Labor Code § 204. Additionally, to the extent Plaintiff and the Class members
24 were employed by Defendants in their capacity as a temporary services employer, Defendants
25 failed to timely pay all wages owed and provide accurate wage statements to Plaintiff and the
26 Class members on a weekly basis, as required under Labor Code § 201.3, and failed to pay them
27 all wages owed at the end of their seasonal or temporary employment, as required under Labor
28 Code § 203.

1 121. Given the above described off the clock work and unlawful rounding and
2 deductions from hours worked perpetrated by Defendants' management, Plaintiff would often
3 notice on his wage statements that he was being paid for substantially fewer hours than he actually
4 worked, and that he was not paid at the correct overtime or double time rates for all hours worked.
5 Defendants' uniformly applied payroll policies and practices thus resulted in further systematic
6 and ongoing violations of the requirements of Labor Code § 204.

7 122. All wages due and owing to Plaintiff and the Class members, including as required
8 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
9 required by Labor Code § 1194 and other sections became due and payable to each employee in
10 each pay period that he or she was not provided with a meal period or rest period or paid straight
11 or overtime wages to which he or she was entitled.

12 123. Defendants violated Labor Code § 204 by systematically refusing to timely pay
13 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
14 applicable IWC Wage Orders, employers are required "to pay each employee, on the established
15 payday for the period involved, not less than the applicable minimum wage for all hours worked in
16 the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer
17 hours than those fixed by the order or under conditions of labor prohibited by the order is
18 unlawful." Plaintiff and the Class members may therefore pursue damages and penalties for
19 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
20 penalties under paragraph 20 or 18 of the applicable IWC Wage Orders.

21 124. As a result of the unlawful acts of Defendants, Plaintiff and the Class they seek to
22 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
23 to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
24 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 or 18 of the
25 applicable IWC Wage Orders.

26 ///

27 ///

28 ///

NINTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

125. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

126. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

127. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation, as addressed in detail above.

128. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment.

129. Defendants failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203. To the extent Plaintiff and the Class members were employed by Defendants in their capacity as a temporary services employer, Defendants failed to timely pay all wages owed and provide accurate wage statements to Plaintiff and the Class members on a weekly basis, as required under Labor Code § 201.3, and failed to pay them all wages owed at the end of their seasonal or temporary employment, as also required under Labor Code § 203.

130. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members

1 may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph
2 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 or 18 of the
3 applicable IWC Wage Orders. Also, under Labor Code § 1199(a)-(c), it is a misdemeanor and
4 Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer
5 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
6 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
7 “violates...any provision of this chapter or any order or ruling of the commission.”

8 131. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
9 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
10 the IWC Wage Orders as addressed above, including the requirement that an employee’s wages
11 shall continue until paid for up to thirty (30) days from the date they were due.

12 **TENTH CAUSE OF ACTION**
13 **FOR FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**
14 **UNDER LABOR CODE § 2802**
15 **(Against All Defendants)**

16 132. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
17 full herein.

18 133. Plaintiff and the Class are informed and believe and based thereon alleges that
19 throughout the period applicable, Defendants required Plaintiff and the Class members to pay for
20 necessary work related expenses they incurred. Defendants’ managers and supervisors contacted
21 Plaintiff on his personal cellular phone on a daily basis to request information on the status of
22 completion of his various job duties and to address scheduling and the hours he worked, and such
23 calls came when he was both on and off duty. Plaintiff would often receive calls when off duty
24 from Defendants’ managers to ask him to report at an earlier or later time or to address other work
25 related matters. Defendants failed to reimburse Plaintiff for any of these business expenses
26 incurred in performing his daily job duties.

27 134. Plaintiff and the Class members were also required to drive their own vehicle to
28 work, and then on the occasions when they were asked to work in multiple fields, they were also

1 required to then also drive their personal vehicles to those further field locations. Defendants did
2 not reimburse Plaintiff and the Class members for their mileage or other expenses incurred in
3 transporting themselves to further field assignments during their shifts.

4 135. Defendants thus followed a uniform policy and practice of failing to reimburse
5 Employees in the Class for these necessary work related expenses or losses incurred in direct
6 discharge of their job duties during employment with Defendants and at the direction of the
7 Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

8 136. Defendants' knowing and willful failure to reimburse lawful necessary work related
9 expenses and losses to Plaintiff and the Class members resulted in damages because, among other
10 things, Defendants did not inform employees of their right to be reimbursed for those work related
11 expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard
12 to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and
13 necessary expenses was an expected and essential function of their employment with Defendants
14 and that failure to incur those expenses would have adverse consequences on their employment.

15 137. Therefore, Plaintiff and the Class members are entitled to reimbursement for any
16 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
17 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
18 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
19 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
20 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

21 **ELEVENTH CAUSE OF ACTION**

22 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

23 **(Against All Defendants)**

24 138. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
25 full herein.

26 139. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
27 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
28 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and

1 harmful to Employees and the general public. Plaintiff seek to enforce important rights affecting
2 the public interest within the meaning of Code of Civil Procedure § 1021.5.

3 140. Plaintiff is a “person” within the meaning of Business & Professions Code
4 § 17204, have suffered injury, and therefore have standing to bring this cause of action for
5 injunctive relief, restitution, and other appropriate equitable relief.

6 141. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
7 business practices. By the conduct alleged herein, Defendants’ practices were deceptive and
8 fraudulent in that Defendants’ policy and practice failed to provide the required amount of
9 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
10 Class members for all hours worked or reimburse them for necessary business expenses, due to
11 systematic business practices as alleged herein that cannot be justified, pursuant to the applicable
12 California Labor Code and Industrial Welfare Commission requirements in violation of California
13 Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue injunctive
14 and equitable relief, pursuant to California Business & Professions Code § 17203, including
15 restitution of wages wrongfully withheld.

16 142. Wage-and-hour laws express fundamental public policies. Paying employees their
17 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
18 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
19 vigorously to enforce minimum labor standards, to ensure that employees are not required or
20 permitted to work under substandard and unlawful conditions, and to protect law-abiding
21 employers and their employees from competitors who lower costs to themselves by failing to
22 comply with minimum labor standards.

23 143. Defendants have violated statutes and public policies. Through the conduct alleged
24 in this Complaint Defendants have acted contrary to these public policies, have violated specific
25 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
26 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
27 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
28 guaranteed to all employees under the law.

1 144. Defendants' conduct, as alleged above, constitutes unfair competition in violation
2 of the Business & Professions Code § 17200 *et seq.*

3 145. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
4 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
5 reasonable care should have known that their conduct was unlawful; therefore their conduct
6 violates the Business & Professions Code § 17200 *et seq.*

7 146. By the conduct alleged herein, Defendants have engaged and continue to engage in
8 a business practice which violates California and federal law, including but not limited to, the
9 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
10 Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court
11 should issue declaratory and other equitable relief pursuant to California Business & Professions
12 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
13 competition, including restitution of wages wrongfully withheld.

14 147. As a proximate result of the above-mentioned acts of Defendants, Employees have
15 been damaged, in a sum to be proven at trial.

16 148. Unless restrained by this Court, Defendants will continue to engage in the unlawful
17 conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make
18 such orders or judgments, including the appointment of a receiver, as may be necessary to prevent
19 the use by Defendants or their agents or employees of any unlawful or deceptive practice
20 prohibited by the Business & Professions Code, including but not limited to the disgorgement of
21 such profits as may be necessary to restore Employees to the money Defendants have unlawfully
22 failed to pay.

23 **TWELFTH CAUSE OF ACTION**

24 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

25 **(Against All Defendants)**

26 149. Plaintiff realleges and incorporate all preceding paragraphs, as though set forth in
27 full herein.

28 ///

1 150. Plaintiff and the Employees in the Class are also aggrieved employees as defined
2 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
3 either were or are employed by the alleged violators, Defendants.

4 151. In failing to pay Aggrieved Employees minimum wages and overtime, not
5 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
6 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
7 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
8 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
9 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
10 paragraph 7 of the applicable IWC Wage Orders.

11 152. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
12 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
13 including the penalty provisions, without limitation, based, inter alia, on the following California
14 Labor Code sections: 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 558, 1174, 1174.5, 1185,
15 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2698 *et seq.*

16 153. More specifically, after complying with the notice procedures of Labor Code §
17 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
18 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
19 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
20 including as follows:

21 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
22 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
23 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
24 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
25 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
26 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
27 to Labor Code § 2699(g)(1);

28 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved

1 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
2 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
3 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
4 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
5 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
6 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
7 pursuant to Labor Code § 2699(g)(1);

8 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
9 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
10 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
11 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
12 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
13 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
14 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
15 providing inaccurate wage statements and failing to maintain records as required under Labor
16 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor
17 Code §226.3, which in addition to other penalties provided by law, subjects Defendants to "a
18 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial
19 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
20 citation, ...";

21 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
22 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
23 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
24 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
25 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
26 § 2699(g)(1);

27 (e) Willful Misclassification: For willfully misclassifying Plaintiff and the aggrieved
28 employees to avoid paying them overtime premium wages in violation of Labor Code §§ 2750.3,

226.8, 1194, 558, and 510, and seeking all wages owed and available and all civil penalties and other relief available and applicable under Labor Code §§ 226.8(a)(1), 226.8(c), 226.8(e), 558, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) All Alleged Violations of the IWC Wage Orders and Other Labor Code Sections:

For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

154. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seek the penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

155. Plaintiff has exhausted his administrative remedies by sending a certified letter to the LWDA and Defendants postmarked on **June 8, 2020** addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed

herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

12. For damages and penalties for failure to provide one day of rest out of seven consecutive days under Labor Code §§ 551 and 552;

13. For liquidated damages pursuant to California Labor Code 1194.2(a) for failure to pay minimum wages;

14. For damages and civil penalties as appropriate under Labor Code §§ 1198 and 1199 and paragraphs 15 and 20 or 18 of the applicable IWC Wage Orders for Defendants' failure to maintain reasonable temperatures in the workplace, as may be proven;

15. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;

16. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

17. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

18. For wages and penalties under Labor Code § 558, as may be proven;

19. For other wages and penalties under the Labor Code as may be proven;

20. For all general, special, and incidental damages as may be proven;

21. For an award of pre-judgment and post-judgment interest;

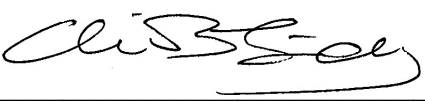
22. For an award providing for the payment of the costs of this suit;

23. For an award of attorneys' fees; and

24. For such other and further relief as this Court may deem proper and just.

DATED: September 28, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

By 
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff Epigmenio Castillo, on
behalf of himself and all others similarly
situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: September 28, 2020

DAVID YEREMIAN & ASSOCIATES, INC.

By



David Yeremian

Alvin B. Lindsay

Attorneys for Plaintiff Epigmenio Castillo, on
behalf of himself and all others similarly
situated