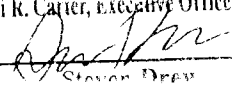


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Superior Court of California  
County of Los Angeles

APR 09 2020

Sherri K. Carter, Executive Officer/Clerk of Court  
By  Deputy  
Sherri K. Carter

Attorneys for Plaintiff and the Class

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

ERNIE PULIDO, as an individual and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

INTERTEK USA INC., a Louisiana  
Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

Case No.: **20STCV13927**

**CLASS ACTION COMPLAINT FOR  
DAMAGES FOR:**

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

**DEMAND OVER \$25,000.00**

Plaintiff Ernie Pulido ("Plaintiff"), hereby submits this Class Action Complaint against Defendants Intertek USA Inc. ("Defendant"), and Does 1-50 (hereinafter collectively referred to as "Defendants"), as an individual and on behalf of the Class of all other similarly situated current and former employees of Defendants for penalties and/or damages for failure to pay all minimum and overtime wages for hours worked, provide off-duty meal and rest periods, pay all wages owed upon separation of employment, and provide accurate, itemized wage statement

under California Labor Code statutes, and restitution for unfair business practices in violation of Business and Professions Code § 17200, *et seq.*, as follows:

### **INTRODUCTION**

1. This class action is within the Court’s jurisdiction under California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698 *et seq.*, the California Industrial Welfare Commission’s (“IWC”) Wage Orders, and the California Unfair Competition Law (the “UCL”), codified at California Business and Professions Code § 17200, *et seq.*

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

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

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

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

### **JURISDICTION AND VENUE**

6. The Court has jurisdiction over the violations of the California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698 *et seq.*, and the UCL.

7. Venue is proper in Los Angeles County because Plaintiff worked for Defendant in

the County of Los Angeles, California.

**PARTIES**

8. Plaintiff began working for Defendants as an hourly, non-exempt employee in about approximately January 1993. Plaintiff's employment ended in or about November 2019. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code §§ 201-204, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698 *et seq.*, and the applicable IWC Wage Orders, and the UCL.

9. Plaintiff is informed and believes and based thereon alleges that Defendant Intertek USA Inc. was and is a Louisiana corporation doing business in the State of California providing services to the oil and gas industry, among others.

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

11. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698 *et seq.*, the IWC Wage Orders and the UCL.

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious Defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

13. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants and employees of each of the other

Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

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

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

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

#### **CLASS ACTION ALLEGATIONS**

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

a. All current and former non-exempt employees who worked for Defendants in the State of California at any time during the period of time from April 6, 2016, through the present on or in a ship, boat, or other vessel during a period where the

employees on such vessel were within three miles seaward from the ordinary low-water line of the State of California (the “Unpaid Wages Sub-Class”)

b. All current and former non-exempt employees who worked for Defendants in the State of California at any time during the period of time from April 6, 2016, through the present, who worked more than 5 hours in any shift, while working on or in a ship, boat, or other vessel during a period where the employees on such vessel were within three miles seaward from the ordinary low-water line of the State of California (the “Meal Period Sub-Class”);

c. All current and former non-exempt employees who worked for Defendants in the State of California at any time during the period of time from April 6, 2016, through the present, who worked 3.5 hours or more in any shift, while working on or in a ship, boat, or other vessel during a period where the employees on such vessel were within three miles seaward from the ordinary low-water line of the State of California (the “Rest Period Sub-Class”); and

d. All current and former non-exempt employees who worked for Defendants in the State of California at any time during the period of time from April 6, 2019, through the present, and who earned doubletime wages (the “Doubletime Wage Statement Sub-Class”).

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff alleges that Defendants: (a) failed to pay minimum wages for all hours worked, including without limitation, time that class members were “on-call,” were forced to sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code §§ 1194, 1197, and 1197.1; (b) failed to pay overtime for all hours worked, including without limitation, time that class members were “on-call,” were forced to sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code §§ 510, 558, and 1194; (c) failed to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (d) failed to provide

1 accurate, itemized wage statements in violation of Labor Code § 226(a); and (e) engaged in  
2 Unfair Business Practices in violation of the UCL, the California Labor Code, including without  
3 limitation, California Labor Code §§ 201–04, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and  
4 the applicable IWC Wage Orders.

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

11       20.     Defendants uniformly administered a corporate policy, practice of: (a) failing to  
12 pay minimum wages for all hours worked, including without limitation, time that class members  
13 were “on-call,” were forced to sleep on ships overnight, and/or traveled to perform their duties in  
14 violation of Labor Code §§ 1194, 1197, and 1197.1; (b) failing to pay overtime for all hours  
15 worked, including without limitation, time that class members were “on-call,” were forced to  
16 sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code  
17 §§ 510, 558, and 1194; (c) failing to provide off-duty meal and rest breaks in violation of Labor  
18 Code §§ 226.7 and 512; (d) failing to provide accurate, itemized wage statements in violation of  
19 Labor Code § 226(a); and (e) engaging in Unfair Business Practices in violation of the UCL, the  
20 California Labor Code, including without limitation, California Labor Code §§ 201–04, 226,  
21 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC Wage Orders.

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

22. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendants: (a) failing to pay minimum wages for all hours worked, including without limitation, time that class members were “on-call,” were forced to sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code §§ 1194, 1197, and 1197.1; (b) failing to pay overtime for all hours worked, including without limitation, time that class members were “on-call,” were forced to sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code §§ 510, 558, and 1194; (c) failing to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (d) failing to provide accurate, itemized wage statements in violation of Labor Code § 226(a); and (e) engaging in Unfair Business Practices in violation of the UCL, the California Labor Code, including without limitation, California Labor Code §§ 201–04, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC Wage Orders.

23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical manner as the Class members. Plaintiff was required to spend time off-the-clock doing various tasks for Defendants. First, whenever Plaintiff and members of the Unpaid Wages Sub-Class were required to be “on-call,” they would not be paid any wages for such time despite the fact that if they were called upon, they would need to report to work within 30 minutes. Further, whenever Plaintiff and members of the Unpaid Wages Sub-Class were assigned to work on ships within three miles seaward from the ordinary low-water line of the State of California, they would be required to remain on the ships for 24 straight hours or more, including being required to sleep on the ships. However, on such days, Plaintiff and members of the Unpaid Wages Sub-Class were only paid 16 hours per day. Finally, Plaintiff and members of the Unpaid Wages Sub-Class would sometimes be required to undertake significant travel, including travel to another State to perform our jobs. However, Plaintiff and members of the Unpaid Wages Sub-Class were not paid proper wages for such travel time. As a result, Plaintiff was not paid all applicable minimum and overtime wages spent performing the tasks detailed above. Plaintiff

1 also worked more than 5 hours in a shift for Defendants, but was not provided with off-duty meal  
2 breaks; nor was he provided with duty-free 10-minute rest breaks for every 4 hours worked.  
3 Rather, as with other members of the Meal Period Sub-Class and Rest Period Sub-Class, Plaintiff  
4 was required to remain on the ships during meal and rest breaks, and thus were subject to an  
5 immediate return to work. Given that Defendants willfully failed to pay Plaintiff and Class  
6 members all wages owed, Defendants are liable for waiting time-penalties pursuant to Labor  
7 Code §§ 201, 202, and 203. Furthermore, Plaintiff was not provided proper and accurate  
8 itemized wage statements identifying all hours worked, payment for all minimum and overtime  
9 wages, as well as premium pay for missed meal and rest breaks. Plaintiff and the Doubletime  
10 Wage Statement Sub-Class also received inaccurate wage statements because whenever they  
11 received doubletime wages, the wage statements failed to identify the doubletime rate as 2 times  
12 the regular rate of pay. Rather, the doubletime rates appeared as the regular hourly rate of pay.  
13 As such, Plaintiff is a member of the Class and has suffered the alleged violations of California  
14 Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and the applicable IWC  
15 Wage Orders.

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

22         25. The nature of this action and the format of laws available to Plaintiff and  
23 members of the Class identified herein make the class action format a particularly efficient and  
24 appropriate procedure to redress the wrongs alleged herein. If each employee were required to  
25 file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable  
26 advantage since it would be able to exploit and overwhelm the limited resources of each  
27 individual Plaintiff with Defendants' vastly superior financial and legal resources. Requiring  
28 each Class member to pursue an individual remedy would also discourage the assertion of lawful

claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

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

27. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for unpaid wages, including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 201-203, 218.5, 226, 558, 1197.1, 2698, *et seq.*, the applicable IWC Wage Orders, and Code of Civil Procedure § 1021.5.

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

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

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES**

3 **(BY PLAINTIFF, THE CLASS, AND THE UNPAID WAGES**

4 **SUB-CLASS AGAINST ALL DEFENDANTS)**

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

7 31. This cause of action is brought pursuant to California Labor Code §§ 201-204,  
8 510, 558, and 1194, which require an employer to pay employees all earned regular, minimum,  
9 and overtime wages.

10 32. At all relevant times herein, Defendants failed to pay all earned regular,  
11 minimum, and overtime wages to Plaintiff and Class members. Defendants failed to pay for time  
12 spent by employees while under the control of Defendants, including, without limitation, time  
13 that class members were “on-call,” were forced to sleep on ships overnight, and/or traveled to  
14 perform their duties. Thus, Defendants owe Plaintiff and Class members unpaid wages.

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

20 34. Such a pattern, practice and uniform administration of corporate policy regarding  
21 illegal employee compensation as described herein is unlawful and creates and entitled to  
22 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of  
23 wages owed, including interest thereon, penalties, attorneys’ fees, and costs of suit according to  
24 the mandate of California Labor Code §§ 201-204, 510, 558, and 1194.

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**SECOND CAUSE OF ACTION**  
**FOR VIOLATION OF LABOR CODE §§ 226.7 AND 512**  
**(BY PLAINTIFF, THE CLASS, AND THE MEAL PERIOD**  
**SUB-CLASS AGAINST ALL DEFENDANTS)**

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

36. At all relevant times, Defendants failed in their affirmative obligation to ensure that Plaintiff, the Class, and the Meal Period Sub-Class, had the opportunity to take and were provided with off-duty meal periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. At all relevant times, Plaintiff, the Class, and Meal Period Sub-Class members were suffered and permitted to work through legally required meal breaks and were denied the opportunity to take their off-duty meal breaks. This included, without limitation, Defendants requiring Plaintiff, the Class, and Meal Period-Sub Class members to remain on the ships and work on-duty meal periods. As such, Defendants are responsible for paying premium compensation for missed meal periods pursuant to Labor Code § 226.7 and the applicable IWC Wage Order. Defendants, as a matter of corporate policy and procedure, regularly failed to pay such premium compensation for each meal period Plaintiff, the Class, and the Meal Period Sub-Class members missed.

37. At all relevant times, Plaintiff, the Class, and Meal Period Sub-Class members regularly worked in excess of five (5) hours per day and accordingly had a right to take a 30-minute meal period each day worked in excess of five (5) hours. Furthermore, Plaintiff, the Class, and Meal Period Sub-Class members who worked in excess of ten (10) hours per day had a right to take a second 30-minute meal period each day worked in excess of ten (10) hours. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide this second duty-free meal period in the State of California.

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

1           39.     Such a pattern, practice and uniform administration of corporate policy as  
2 described herein is unlawful and creates an entitlement to recovery by the Plaintiff, the Class,  
3 and Meal Period Sub-Class members identified herein, in a civil action, for the unpaid balance of  
4 the unpaid premium compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable  
5 IWC Wage Order, including interest thereon, penalties, and costs of suit.

6           40.     Plaintiff is informed and believes, and based thereon allege, that Defendants'  
7 willful failure to provide all meal period premium wages due and owing to Plaintiff, the Class,  
8 and Meal Period Sub-Class upon separation from employment results in a continued payment of  
9 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other  
10 members of the Class who have separated from employment are entitled to compensation  
11 pursuant to Labor Code § 203.

12                               **THIRD CAUSE OF ACTION**

13                               **VIOLATION OF LABOR CODE § 226.7**

14                               **(BY PLAINTIFF, THE CLASS, AND THE REST PERIOD**

15                               **SUB-CLASS AGAINST ALL DEFENDANTS)**

16           41.     Plaintiff re-alleges and incorporates by reference paragraphs 1 through 40 as  
17 though fully set forth herein.

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

23           43.     Defendants failed in their affirmative obligation to provide all of their employees,  
24 including Plaintiff and other members of the Class and Rest Period Sub-Class, the opportunity to  
25 take rest periods in accordance with the mandates of the California Labor Code and the  
26 applicable IWC Wage Order. Plaintiff and other members of the Class and Rest Period Sub-  
27 Class were suffered and permitted to work through legally required rest breaks and were denied  
28 the opportunity to take their rest breaks. This included, without limitation, Defendants requiring

1 Plaintiff , the Class, and Rest Period-Sub Class members to remain on the ships and work on-  
2 duty rest periods. As such, Defendants are responsible for paying premium compensation for  
3 missed rest periods pursuant to Labor Code § 226.7.

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

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

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

18 **FOURTH CAUSE OF ACTION**

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

20 **(BY PLAINTIFF AND THE CLASS AND DOUBLETIME WAGE STATEMENT SUB-**  
21 **CLASS AGAINST ALL DEFENDANTS)**

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

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

28 49. Here, Plaintiff and the Class were paid hourly. As such, the wage statements

1 should have reflected the number of hours worked, the applicable hourly rates, and the accurate  
2 amount of gross and net wages earned, pursuant to Labor Code § 226(a)(9). As a result of the  
3 above-referenced violations, the wage statements did not show the accurate amount gross and net  
4 wages earned, and the correct number of hours worked. Further, as a wholly separate violation,  
5 whenever doubletime wages were paid, the wage statements issued to the Doubletime Wage  
6 Statement Sub-Class did not identify the doubletime rate as 2 times the regular rate of pay.  
7 Rather, the doubletime rates appeared as the regular hourly rate of pay.

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

### 13 **FIFTH CAUSE OF ACTION**

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

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

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

18 52. Defendants, and each of them, have engaged and continue to engage in unfair and  
19 unlawful business practices in California by practicing, employing and utilizing the employment  
20 practices outlined above, include, to wit, by: (a) failing to pay minimum wages for all hours  
21 worked, including without limitation, time that class members were "on-call," were forced to  
22 sleep on ships overnight, and/or traveled to perform their duties in violation of Labor Code §§  
23 1194, 1197, and 1197.1; (b) failing to pay overtime for all hours worked, including without  
24 limitation, time that class members were "on-call," were forced to sleep on ships overnight,  
25 and/or traveled to perform their duties in violation of Labor Code §§ 510, 558, and 1194; (c)  
26 failing to provide off-duty meal and rest breaks in violation of Labor Code §§ 226.7 and 512; and  
27 (d) failing to provide accurate, itemized wage statements in violation of Labor Code § 226(a).

28 53. Defendants' utilization of such unfair and unlawful business practices constitutes

unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

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

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

#### **PRAYER FOR RELIEF**

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

1. For an order certifying the proposed Class and sub-classes;
2. For an order appointing Plaintiff as the representative of the Class as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set forth in California Labor Code §§ 201-204, 1194, 510, 558, 1197, and 1197.1, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
6. Upon the Third Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;
7. Upon the Fourth Cause of Action, for damages or penalties pursuant to statute as set forth in California Labor Code § 226, and for costs and attorneys' fees;
8. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly

1 affected members of the general public of all funds unlawfully acquired by Defendants by means  
2 of any acts or practices declared by this Court to be in violation of Business and Professions  
3 Code § 17200, *et seq.*, for the time periods described above;

4 9. On all causes of action, for attorneys' fees and costs as provided by California  
5 Labor Code § 218.5 and Code of Civil Procedure § 1021.5; and

6 10. For such other and further relief as the Court may deem just and proper.  
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8 DATED: April 9, 2020

DIVERSITY LAW GROUP, P.C.

9  
10 By: 

Larry W. Lee

Max W. Gavron

Attorneys for Plaintiff and the Class  
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