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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

SCOTT CAHN, individually and on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

J.J.R. ENTERPRISES, INC., doing
business as CALTRONICS BUSINESS
SYSTEMS, a California Corporation; and
DOES 1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:

Hon.

Dept.:

COMPLAINT FOR DAMAGES FOR:

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

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff SCOTT CAHN (“Plaintiff”), individually and on behalf of others similarly situated, asserts claims against Defendants J.J.R. ENTERPRISES, INC., doing business as CALTRONICS BUSINESS SYSTEMS, a California Corporation; and DOES 1-50, inclusive (collectively “Defendants”) as follows:

INTRODUCTION

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

2. During the relevant period, Defendants consistently maintained and enforced against its Non-Exempt Employees unlawful practices and policies in violation of California state wage and hour laws, including failing to lawfully and accurately pay Plaintiff and Class Members for all hours worked, including minimum wages and overtime; failing to lawfully provide meal and rest periods; failing to pay one hour of pay at the employee’s regular rate of pay when legally mandated meal or rest periods were not lawfully provided; failing to accurately pay overtime; unlawfully deducting amounts from wages earned; failing to reimburse necessary expenses; failing to provide accurate itemized wage statements; and failing to keep accurate records.

3. Defendants implemented uniform policies and practices that deprived Plaintiff and Class Members of earned wages, including minimum wages; straight time wages; overtime wages; necessary expense reimbursement; premium wages; and lawful meal and/or rest breaks.

4. Such actions and policies, as described above and further herein, were and continue to be in violation of the California Labor Code. Plaintiff, on behalf of herself and all Class members, bring this action pursuant to the California Labor Code, including sections 201, 202, 203, 204, 210, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195, 1197, 1198, 2802, applicable IWC California Wage Orders 1-2001, 4-2001 and 7-2001, and California Code of Regulations, Title 8, section 11000 *et seq.*, seeking unpaid wages, premiums, unpaid meal

1 and rest period compensation, unreimbursed expenses, penalties, liquidated damages, and
2 reasonable attorneys' fees and costs.

3 5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and
4 Professions Code sections 17200-17208, also seek restitution from Defendants for their failure to
5 pay to Plaintiffs and Class Members all of their wages, including overtime and premium wages,
6 and failure to reimburse expenses incurred.

7 **JURISDICTION AND VENUE**

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

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

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

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

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

27 11. The California Superior Court also has jurisdiction in this matter because the
28 individual claims of the Class Members described herein are presently believed to be under the

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

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

PARTIES

13. Defendant J.J.R. Enterprises, Inc. does business as Caltronics Business Systems in the State of California. (hereinafter "Caltronics"). Caltronics is a California Corporation in good standing that is authorized to do business throughout the state of California. The headquarters for Caltronics is located at 10491 Old Placerville Rd., Suite 150, Sacramento, California, 95827.

14. Since 1975, Caltronics has provided California with technology and service in the document management and software solutions industry. Caltronics has offices throughout California and Arizona (Infincom) to serve customers locally and nationwide.

15. Plaintiff Scott Cahn during the liability period, was a resident of California.

16. Plaintiff was employed by Caltronics during the liability period as a non-exempt employee in Fresno, California. Plaintiff's title was as a printer repair technician.

17. Plaintiff and the members of the putative class were employed by Defendants as non-exempt employees, however titled, (the "Class Members" or "Non-Exempt Employees") during the liability period.

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

1 affairs of Defendants.

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

7 20. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are
8 the partners, agents, or principals and co-conspirators of Defendants and of each other; that
9 Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided
10 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits
11 of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the
12 liability of the Defendants as alleged herein.

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

22 **FACTUAL ALLEGATIONS**

23 22. During the relevant time frame, Defendants compensated Plaintiff and the putative
24 Class Members based upon an hourly wage.

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

1 24. Plaintiff was employed as an hourly non-exempt employee from October 2019
2 through February 2020. Plaintiff provided printer repair services and various other customer service
3 functions on behalf of Defendants. Plaintiff reported to Defendants' office in Fresno, California
4 but spent much of his time working in the field.

5 25. The members of the putative class worked as non-exempt employees of Defendants
6 throughout the state of California during the liability period.

7 26. Plaintiff typically worked 5 days a week from 8 a.m. to 5 p.m.

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

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

13 29. Plaintiff and the Class Members were not properly compensated for all hours
14 worked, in part because they were frequently required to work off the clock. By way of example
15 only, Plaintiff and the Class Members were often required to work during non-provided meal
16 periods, and were required to remain on-call during such breaks.

17 30. Frequently, such hours worked off the clock qualified for overtime and were
18 required to be paid at the overtime rates prescribed by law.

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

25 32. Moreover, Defendants failed to properly calculate and pay the regular rate of pay
26 for overtime purposes. Plaintiff and the Class Members received certain wages, compensation,
27 bonuses, kickers, and incentives which was not factored into the regular rate for purposes of
28 calculating overtime. As a consequence, Plaintiff and the aggrieved employees were

1 systematically undercompensated for overtime hours worked.

2 33. Plaintiff and the Class Members were regularly required to work shifts in excess of
3 five hours without being provided a lawful, off-duty meal period and over ten hours in a day
4 without being provided a second lawful off-duty meal period as required by law.

5 34. Indeed, during the relevant time, as a consequence of Defendants' staffing and
6 scheduling practices, lack of coverage, productivity and work demands, and Defendants' policies
7 and practices, Defendants frequently failed to provide Plaintiff and the Class Members timely,
8 legally complaint uninterrupted 30-minute meal periods on shifts over five hours as required by
9 law and failed to provide second meal periods on shifts over ten hours as required by law. As a
10 result of Defendants' policies, employees frequently missed meal breaks altogether, or they were
11 short or late.

12 35. Moreover, Defendants automatically deducted hours worked for purportedly
13 provided meal periods.

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

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

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

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

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

1 Code and IWC wage order.

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

6 42. In addition, upon information and belief, Defendants' policy provided that
7 employees could not leave the premises during rest periods and required Class Members to clock
8 out whenever they left the building for any reason other than Company business. This exercise of
9 employer control over employees during rest breaks is inconsistent with the mandates of the law.

10 43. In addition, Defendants required Plaintiff and, upon information and belief, Class
11 Members to carry work cellular phones and devices during all purportedly provided meal periods
12 and rest breaks.

13 44. Plaintiff and the Class Members were required to be "on call" during purportedly
14 provided meal and rest breaks.

15 45. Moreover, upon information and belief, Plaintiff alleges that Defendants impeded
16 and discouraged Plaintiff and the Class Members in the taking of lawful meal and rest breaks
17 through its practices, policies, and procedures.

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

23 47. Defendants also failed to provide accurate, lawful itemized wage statements to
24 Plaintiff and the Class Members in part because of the above specified violations. In addition,
25 upon information and belief, Defendants omitted an accurate itemization of total hours worked,
26 deductions, gross pay and net pay figures from Plaintiff and the Class Members' wage statements.

27 48. Defendants have also made it difficult to determine applicable rates of pay and
28 account with precision for the unlawfully withheld wages and deductions due to be paid to Non-

1 exempt Employees, including Plaintiff, during the liability period because they did not implement
2 and preserve a lawful record-keeping method to record all wages earned, hours worked, meal
3 periods, and non-provided rest and meal periods owed to employees as required for non-exempt
4 employees by 29 U.S.C. section 211(c), California Labor Code section 226, and applicable
5 California Wage Orders.

6 49. Specifically, Defendant failed to accurately keep time in violation of Labor Code
7 section 226, the Wage Order, and 1174 because it automatically deducted 1 hour for purportedly
8 taken meals without regard for when or if they were actually taken.

9 50. Moreover, Plaintiff and the Class Members were required to incur necessary
10 expenses in the discharge of their duties, including without limitation cellular phone expenses,
11 and phone application expenses, but were not reimbursed for such necessary expenses.

12 51. In addition, Plaintiff and the Class Members were required to incur necessary
13 expenses in the discharge of their duties for mileage but were not fully reimbursed for such sums
14 at the proper rate.

15 52. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
17 thereof for resignations without prior notice as the case may be) they had a duty to accurately
18 compensate Plaintiff and the Class Members for all wages owed including minimum wages, straight
19 time wages, overtime, meal and rest period premiums, and that Defendants had the financial ability
20 to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so
21 in part because of the above-specified violations.

22 53. Plaintiff and the Class Members are covered by applicable California IWC Wage
23 Orders, including California Wage Orders 1-2001, 4-2001 and 7-2001, and corresponding
24 applicable provisions of the California Code of Regulations, Title 8, section 11000 *et seq.*

1 **CLASS ACTION ALLEGATIONS**

2 54. Plaintiff brings this action on his own behalf, as well as on behalf of each and every
3 other person similarly situated, and thus, seeks class certification under California Code of Civil
4 Procedure §382.

5 55. All claims alleged herein arise under California law for which Plaintiff seeks relief
6 as authorized by California law.

7 56. The **proposed class** is comprised of and defined as: All persons currently or
8 formerly employed by Defendants as non-exempt, hourly employees, however titled, throughout
9 the state of California within four (4) years prior to the filing of the Complaint in this action until
10 the resolution of this lawsuit and whose job duties did not consist of over 50% administrative,
11 executive or professional duties. (hereinafter collectively referred to as the “Class” or “Class
12 Members”).

13 57. Plaintiff also seeks to represent Subclasses included in the Plaintiff’s Class, which
14 are composed of Class Members satisfying the following definitions:

15 a. All Class Members who were not paid at least minimum wage for all hours
16 worked (collectively “**Minimum Wage Subclass**”);

17 b. All Class Members who were not accurately paid overtime for hours worked
18 over eight in a day or over forty in a workweek (collectively “**Overtime Subclass**”);

19 c. All Class Members who worked more than five (5) hours in a workday and
20 were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and
21 were not paid compensation of one hour premium wages at the employee’s regular rate in lieu
22 thereof (hereinafter collectively referred to as the “**First Meal Period Subclass**”);

23 d. All Class Members who worked more than ten (10) hours in a workday and
24 were not provided with a timely, uninterrupted lawful second meal period of net thirty (30) minutes,
25 and were not paid compensation of one hour premium wages at the employee’s regular rate in lieu
26 thereof (hereinafter collectively referred to as the “**Second Meal Period Subclass**”);

27 e. All Class Members who were required to remain on-call during meal periods
28 (hereinafter collectively referred to as the “**On-Call Meal Period Subclass**”);

1 f. All Class Members who had time for purportedly provided meal periods
2 automatically deducted from their hours worked (hereinafter collectively referred to as the “**Auto-**
3 **Deduct Meal Period Subclass**”).

4 g. All Class Members who worked more than three and a half hours in a
5 workday and were not authorized and permitted to take a lawful net 10-minute rest period for every
6 four (4) hours or major fraction thereof worked per day and were not paid compensation of one
7 hour premium wages at the employee’s regular rate in lieu thereof (hereinafter collectively referred
8 to as the “**Rest Period Subclass**”);

9 h. All Class Members who were required to remain on-call during rest periods
10 (hereinafter collectively referred to as the “**On-Call Rest Period Subclass**”);

11 i. All Class Members from whom Defendants unlawfully deducted sums from
12 earned wages (**collectively “Unlawful Deductions Subclass**”);

13 j. All Class Members who did not receive all owed wages at the time of
14 separation or within 72 hours in the case of resignation (hereinafter collectively referred to as the
15 “**Waiting Time Subclass**”);

16 k. All Class Members who were not provided with accurate and complete
17 itemized wage statements (hereinafter collectively referred to as the “**Inaccurate Wage Statement**
18 **Subclass**”);

19 l. All Class Members who were employed by Defendants and subject to
20 Defendant’s Unfair Business Practices (hereinafter collectively referred to as the “**Unfair Business**
21 **Practices Subclass**”);

22 m. All Class Members who were not fully reimbursed for all necessary
23 expenditures (**collectively “Indemnification Subclass**”).

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

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

5 a. Numerosity: The members of the Class and Subclasses are so numerous that
6 joinder of all members of the Class and Subclasses would be unfeasible and impractical. The
7 membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the
8 Class is estimated to be over a hundred individuals. Accounting for employee turnover during the
9 relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants'
10 employment records would provide information as to the number and location of all Class
11 Members. Joinder of all members of the proposed Class is not practicable.

12 b. The proposed class is easily ascertainable. The number and identity of the
13 class members are determinable from Defendants' payroll records and time records for each class
14 member.

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

18 1) Whether Defendants were required to pay Class Members for time spent on-
19 call during meal periods or rest periods;

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

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

24 4) Whether Defendants made unlawful deductions from the earned wages of
25 Class Members;

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

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

4 7) Whether Defendants’ meal period policies and practices impeded or
5 discouraged the taking of lawful meal periods;

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

9 9) Whether Defendants provided second meal periods on shifts over ten hours;

10 10) Whether Defendants’ rest period policies and practices impeded or
11 discouraged the taking of lawful rest periods;

12 11) Whether Defendants failed to authorize and permit a lawful, net 10-minute
13 rest period to the Class Members for every four (4) hours or major fraction thereof worked;

14 12) Whether Defendants had a policy and practice of complying with Labor
15 Code section 226.7 and the IWC Wage Order on each instance that a lawful rest period was not
16 provided;

17 13) Whether Defendants failed to timely pay all wages upon separation in
18 accordance with Labor Code sections 201-202;

19 14) Whether Defendants failed to reimburse employees for necessary expenses
20 in accordance with Labor Code section 2802;

21 15) Whether Defendants omitted required information from itemized wage
22 statements;

23 16) Whether Defendants failed to maintain accurate records of Class Members’
24 earned wages, work periods, meal periods and deductions;

25 17) Whether Defendants engaged in unfair competition in violation of section
26 17200 et seq. of the Business and Professions Code;

27 18) Whether Defendants’ conduct was willful and/or reckless;

1 19) Whether Defendants failed to provide accurate itemized wage statements in
2 violation of Labor Code § 226; and

3 20) The appropriate amount of damages, restitution, and/or monetary penalties
4 resulting from Defendants' violations of California law.

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

17 e. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the
18 interests of each member of the Class and/or Subclasses with whom he has a well-defined
19 community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that
20 he has an obligation to make known to the Court any relationships, conflicts, or differences with
21 any member of the Class and/or Subclasses, and no such relationships or conflicts are currently
22 known to exist. Plaintiff's attorneys and the proposed counsel for the Class and Subclasses are
23 versed in the rules governing class action discovery, certification, litigation, and settlement and
24 experienced in handling such matters. Other former and current employees of Defendants may also
25 serve as representatives of the Class and Subclasses if needed.

26 f. Superiority: The nature of this action makes the use of class action
27 adjudication superior to other methods. A class action will achieve economies of time, effort,
28 judicial resources, and expense, which would not be achieved with separate lawsuits. The

1 prosecution of separate actions by individual members of the Class and/or Subclasses would create
2 a risk of inconsistent and/or varying adjudications with respect to the individual members of the
3 Class and/or Subclasses, establishing incompatible standards of conduct for the Defendants, and
4 resulting in the impairment of the rights of the members of the Class and/or Subclasses and the
5 disposition of their interests through actions to which they were not parties. Thus, a class action is
6 superior to other available means for the fair and efficient adjudication of this controversy because
7 individual joinder of all Class Members is not practicable, and questions of law and fact common
8 to the Class predominate over any questions affecting only individual Class Members. Each
9 member of the Class has been damaged and is entitled to recovery by reason of Defendants'
10 unlawful policies and practices, as set forth herein that affected each member of the Class and/or
11 Subclasses similarly. Class action treatment will allow those similarly situated persons to litigate
12 their claims in the manner that is most efficient and economical for both parties and the judicial
13 system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management
14 of this action that would preclude its maintenance as a class action.

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

24 CLASS ACTION CLAIMS

25 FIRST CAUSE OF ACTION

26 FAILURE TO PAY MINIMUM WAGE

27 **(By Plaintiff and the Minimum Wage and Auto-Deduct Subclasses Against Defendants)**
28

1 60. Plaintiff incorporates by reference each and every paragraph above, and realleges
2 each and every allegation contained above as though fully set forth herein.

3 61. Labor Code section 1194 entitles an employee receiving less than the minimum
4 wage to recover, in a civil action, the unpaid balance of minimum wages owing, plus interest
5 thereon, reasonable attorneys' fees, and costs of suit.

6 62. Labor Code section 1197 makes it unlawful to pay an employee less than the
7 minimum wage as established by the Industrial Welfare Commission for each hour worked.

8 63. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer
9 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
10 IWC Wage Order(s).

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

14 65. Labor Code §§ 1194 and 1194.2 provide that an employee who has not been paid
15 the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance
16 together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal
17 to the unpaid wages and interest accrued thereon.

18 66. During all relevant periods, the California Labor Code and wage orders required
19 that Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due
20 for all hours worked.

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

24 68. As a result of Defendants' improper pay policy and/or practice as described herein,
25 Defendants failed to pay Plaintiff and other class members any compensation at all for each hour
26 worked and thus failed to pay the minimum wage that Plaintiffs and other class members were
27 entitled to for each hour worked pursuant to Labor Code section 1197 and Wage Orders.
28

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

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

71. Plaintiff is informed and believes and based thereon alleges that Defendants' failure to pay the minimum wage for each hour worked was done willfully.

72. Defendant's policy and practice of not paying all minimum wages violates California Labor Code §§ 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, and the applicable wage orders 1-2001, 4-2001, and 7-2001.

73. In addition, if Plaintiff succeeds at enforcing these rights affecting the public interest, attorneys' fees should be awarded to Plaintiff and against Defendants pursuant to Code of Civil Procedure section 1021.5 and other applicable law because a successful outcome in this action will result in the enforcement of important rights affecting the public interest by requiring Defendants to comply with the wage and hour laws and California's unfair business practices law, and because this action will bring a halt to unlawful, unfair, deceptive and misleading activity and by causing the return of ill-gotten gains obtained by Defendants.

74. Due to Defendants' violations of the California Labor Code and wage orders, Plaintiff and the Class Members are entitled to recover from Defendants their unpaid wages, statutory penalties, reasonable attorneys' fees and costs in this action, and pre-judgment and post-judgment interest, as well as liquidated damages.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(By Plaintiff and the Overtime Subclasses Against All Defendants)

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

76. During all relevant periods, both the California Labor Code section 1194, 1197,

1 510, 1198, and the pertinent wage orders required that all work performed by an employee in
2 excess of eight (8) hours in any workday, on the seventh day of work in any workweek, or in
3 excess of forty (40) hours in any workweek be compensated at one and one-half times the
4 employee's regular rate of pay. Any work in excess of twelve (12) hours in one day is required to
5 be compensated at the rate of no less than twice the regular rate of pay for an employee. In
6 addition, any work in excess of eight hours on any seventh day of a workweek is required to be
7 compensated at the rate of no less than twice the regular rate of pay of an employee.

8 77. Labor Code section 204 establishes the fundamental right of all employees in the
9 State of California to be paid wages, including straight time and overtime, in a timely fashion for
10 their work.

11 78. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer
12 than the hours set by the Industrial Welfare Commission or under conditions prohibited by the
13 IWC Wage Order(s).

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

17 80. At all times relevant, Plaintiff and Class Members consistently worked hours for
18 which they were not paid because Plaintiff and the Class Members were required to work off the
19 clock.

20 81. Plaintiff is informed and believes that Defendants and its managers were aware
21 that Plaintiff and the Class Members were working off the clock and that they should have been
22 paid for this time.

23 82. In addition, Plaintiff is informed and believes that Defendants failed to compensate
24 employees for all overtime hours worked at the proper regular rate, because Defendants failed to
25 incorporate all forms of compensation, including without limitation bonuses and incentives, into
26 the regular rate for overtime purposes.

27 83. Moreover, Defendants' systematic use of the automatic deduction for purportedly
28

1 provided meal periods on each workday when no duty-free meal period was provided caused
2 Plaintiff and the Class Members to lose out on otherwise owed overtime wages at the requisite
3 overtime rate of pay.

4 84. As a result of Defendants' policies and practices, Defendants failed to pay Plaintiff
5 and the Class members earned overtime wages and such employees suffered damages as a result.

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

8 86. Pursuant to Labor Code sections 218.6, 1194(a) and California Civil Code section
9 3287, the members of the Class seek recovery of pre-judgment interest on all amounts recovered
10 herein.

11 87. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class are entitled to claim
12 all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage
13 less than the minimum fixed by an order of the commission.

14 88. Pursuant to Labor Code sections 218.5 and 1194, Plaintiff and the Class request
15 that the Court award reasonable attorneys' fees and costs incurred by them in this action. In
16 addition, if Plaintiff succeed in enforcing these rights affecting the public interest, then attorneys'
17 fees may be awarded to Plaintiff and against Defendants under Code of Civil Procedure section
18 1021.5.

19 **THIRD CAUSE OF ACTION**

20 **FAILURE TO PROVIDE LAWFUL MEAL PERIODS**

21 **(By Plaintiff and the Meal Period Subclasses Against All Defendants)**

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

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

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

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

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

13 94. Indeed, during the relevant time, as a consequence of Defendants' staffing and
14 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
15 Plaintiff and the Class Members were not provided with legally required meal periods.

16 95. In addition, Plaintiff and, upon information and belief, the Class Members were
17 frequently required to carry cellular phones, walkie talkies and other devices to respond to calls
18 during purportedly provided meal periods.

19 96. On information and belief, Plaintiff and Class Members did not waive their rights
20 to meal periods under the law.

21 97. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
22 periods.

23 98. In addition, Plaintiff and the Class Members were not paid one hour of pay at their
24 regular rate for each day that a first or second meal period was not lawfully provided.

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

27 100. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover
28 one (1) hour of premium pay for each day in which a meal period violation occurred. They are also

1 entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

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

7 **FOURTH CAUSE OF ACTION**

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

9 **(By Plaintiff and the Rest Period Subclass Against All Defendants)**

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

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

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

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

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

107. In addition, Plaintiff and the Class Members were required to remain on premises during purported rest breaks, or were required to clock out for such time.

108. Moreover, Plaintiff and the Class Members were r frequently required to carry cellular phones, walkie talkies and other devices to respond to calls during purported rest periods.

109. By their failure to authorize and permit Plaintiff and the Class Members to take a lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction thereof worked, including failure to provide two (2) total rest periods on six to ten hour shifts and three (3) total ten (10) minute rest periods on days on which Plaintiff and the other Class Members work(ed) work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide compensation for such unprovided rest periods as alleged herein, Defendants willfully violated the provisions of Labor Code sections 226.7 and the applicable IWC Wage Order(s).

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

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

FIFTH CAUSE OF ACTION

UNLAWFUL DEDUCTIONS

(By Plaintiff and the Unlawful Deductions Subclass Against All Defendants)

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

113. Pursuant to Labor Code section 221-224, 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 without written authorization.

1 114. Defendants deducted wages from Plaintiff and the Class Members without written
2 authorization in violation of Labor Code section 224 and 300. Such deductions are unlawful in
3 violation of Labor Code sections 221-224, 225.5 and 300.

4 115. As a result of the unlawful acts of Defendants, Plaintiff and the Class Members have
5 been deprived of wages in amounts to be determined at trial, and are entitled to recovery of such
6 amounts, plus interest and statutory penalties thereon, attorneys' fees, and costs.

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8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING**

10 **EMPLOYMENT**

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

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

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

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

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

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

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

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

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

8 SEVENTH CAUSE OF ACTION

9 FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION

10 (By Plaintiff and the Waiting Time Subclass Against All Defendants)

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

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

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

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

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

26 126. Plaintiff and Waiting Time Subclass Members are thus entitled to 30 days' wages
27 as a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.
28

1 **EIGHTH CAUSE OF ACTION**

2 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED**
3 **EMPLOYEE WAGE STATEMENT PROVISIONS**

4 **(By Plaintiff and Wage Statement Subclass Against Defendants)**

5 127. Plaintiff repeats and incorporates herein by reference each and every allegation set
6 forth above, as though fully set forth herein.

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

18 129. Defendants have failed to record many of the items delineated in applicable
19 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
20 1174, including by virtue of the fact that each wage statement which failed to accurately
21 compensate Plaintiff and Class Members for all hours worked and for missed and non-provided
22 meal and rest periods, or which failed to include compensation for all minimum wages earned or
23 overtime hours worked, was an inaccurate wage statement.

24 130. On information and belief, Defendants failed to implement and preserve a lawful
25 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
26 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
27 section 226 and applicable California Wage Orders. In order to determine if they had been paid
28 the correct amount and rate for all hours worked, Plaintiff and Class Members have been, would

1 have been, and are compelled to try to discover the required information missing from their wage
2 statements and to perform complex calculations in light of the inaccuracies and incompleteness of
3 the wage statements Defendants provided to them.

4 131. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
5 Wage Orders, Defendants did not and still do not furnish each of the members of the Wage
6 Statement Class with an accurate itemized statement in writing accurately reflecting all of the
7 required information. Specifically, Defendants have also omitted accurate itemizations of total
8 hours worked, hourly rates, and gross pay from Plaintiff and the Class Members' wage
9 statements. By way of example only, Defendants have included hours that were not worked or
10 paid in its total hours reported on wage statements. In addition, Defendants have failed to
11 provide accurate itemized wage statements as a consequence of the above-specified violations for
12 failure to accurately pay all wages owed, accurately record all hours worked, and failure to pay
13 meal and rest period premiums as required by law.

14 132. Plaintiffs and the members of the Wage Statement Class have suffered injury as a
15 result of Defendants' failure to maintain accurate records for the members of the Wage Statement
16 Class in that the members of the Wage Statement Class were not timely provided written accurate
17 itemized statements showing all requisite information, such that the members of the Wage
18 Statement Class were misled by Defendants as to the correct information regarding various items,
19 including but not limited to total hours worked by the employee, gross pay, net wages earned and
20 all applicable hourly rates in effect during the pay period and the corresponding number of hours
21 worked at each hourly rate.

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

NINTH CAUSE OF ACTION
VIOLATION OF THE UNFAIR COMPETITION LAW

By Plaintiff and Class Against All Defendants

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

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

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

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

138. The state law violations, including violations of the relevant IWC Wage Order, detailed herein above are the predicate violations for this cause of action. By way of example only, in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class with timely meal and rest periods or pay one (1) hour of premium pay when a meal or rest period was not lawfully provided violates Labor Code § 512, and § 226.7, and the IWC Wage Orders. By way of further example, Defendants' auto deduct policies violated the IWC Wage Orders, Labor Code section 1174, 1194, 1197, and 1198; and its failure to reimburse necessary expenses at the proper rate further violated Labor Code section 2802.

139. Defendants further violated the law as set forth herein, including without limitation through their policies of failing to fully and accurately compensate Plaintiff and the Class Members for all hours worked, including minimum wages, and overtime, its unlawful deductions, and failing to reimburse for necessary expenses, as well as failing to provide accurate itemized wage statement as specified above.

140. Plaintiff and the Class Members have been personally aggrieved by Defendants'

1 unlawful and unfair business acts and practices alleged herein by the loss of money and/or property.

2 141. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff
3 and the Class Members are entitled to restitution of the wages withheld and retained by Defendants
4 during a period that commences four (4) years prior to the filing of this complaint; an award of
5 attorneys' fees pursuant to California Code of Civil Procedure §1021.5; interest; and an award of
6 costs.

7 **TENTH CAUSE OF ACTION**

8 **FAILURE TO REIMBURSE NECESSARY EXPENSES**

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

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

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

14 144. Plaintiff and the members of the Indemnification Class were required to incur
15 expenses in the performance of their assigned job duties. For example, Plaintiff and the
16 Indemnification Class Members were required to incur numerous out of pocket expenses,
17 including without limitation, for mileage.

18 145. Upon information and belief, the Defendants did not reimburse Plaintiff or the
19 Class Members for such expenses at the proper rate.

20 146. As a result of the unlawful acts of Defendants, Plaintiff and the Subclass Members
21 have been deprived of un-reimbursed sums in amounts to be determined at trial, and are entitled
22 to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
23 pursuant to Labor Code §2802.

24 **PRAYER FOR RELIEF**

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

26 **Class Certification**

- 27 1. That this action be certified as a class action;
28 2. That Plaintiff be appointed as the representative of the Class;

3. That Plaintiff be appointed as the representatives of the Subclasses; and
4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

On the First Cause of Action

(Failure to Pay Minimum Wages)

1. For the unpaid balance of the full amount of any minimum wages, and
2. regular wages owed, as well as interest thereon,
3. Penalties according to statute,
4. Liquidated damages,
5. Reasonable attorneys' fees, and costs of suit;
6. For interest and
7. For such other and further relief as the Court deems proper.

On the Second Cause of Action

(Failure to Pay Overtime)

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

On the Third Cause of Action

(Failure to Provide Lawful Meal Periods)

1. For one (1) hour of premium pay for each day in which a required meal period was
not lawfully provided;
2. For reasonable attorneys' fees and costs pursuant to statute; and

- 1 3. For such other and further relief as the Court deems proper.

2
3 **On the Fourth Cause of Action**

4 (Failure to Authorize and Permit Lawful Rest Periods)

- 5 1. For one (1) hour of premium pay for each day in which a required rest period was
6 not lawfully authorized and permitted; and

- 7 2. For reasonable attorneys' fees and costs pursuant to statute; and

- 8 3. For such other and further relief as the Court deems proper.

9 **On the Fifth Cause of Action**

10 (Unlawful Deductions)

- 11 1. For the balance of all unlawful wage deductions, as well as interest thereon,

- 12 2. Penalties according to statute,

- 13 3. Liquidated damages,

- 14 4. Reasonable attorneys' fees, and costs of suit;

- 15 5. For interest and

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

17
18 **On the Sixth Cause of Action**

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

- 20 1. For unpaid wages;

- 21 2. For penalties pursuant to Labor Code § 210 and 25% of the amount of wages
22 unlawfully withheld;

- 23 3. For interest;

- 24 4. For reasonable attorneys' fees and costs pursuant to statute; and

- 25 5. For such other and further relief as the Court deems proper.

1 **On the Seventh Cause of Action**

2 (Failure to Timely Pay Wages At Separation)

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

8 **On the Eighth Cause of Action**

9 (Failure to Provide Accurate Itemized Wage Statements)

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

13 **On the Ninth Cause of Action**

14 (Violation of the Unfair Competition Law)

15 1. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of

16 sums to Plaintiff and Class Members for the Defendants' past failure to pay overtime, minimum

17 wages, and regular wages, for Defendants' past failure to reimburse necessary expenses, for

18 Defendants' unlawful deductions, for Defendants' past failure to pay premium wages for meal and

19 rest periods that were not provided to Plaintiff and Class Members over the last four (4) years in an

20 amount according to proof;

21 2. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to

22 recover under California Code of Civil Procedure § 1021.5 and Labor Code section 1194;

23 3. For pre-judgment interest on any unpaid overtime wages due from the day that such

24 amounts were due;

25 4. For costs of suit incurred herein that Plaintiff and Class Members are entitled to

26 recover under the Labor Code; and

- 27 5. For such other and further relief as the Court deems proper.
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On the Tenth Cause of Action

(Failure to Reimburse Necessary Expenses)

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

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

Dated: August 28, 2020



JAMES HAWKINS, APLC

James R. Hawkins, Esq.

Christina M. Lucio, Esq.

Attorneys for Plaintiff SCOTT CAHN, on behalf of
himself and all others similarly situated