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11 Attorneys for Plaintiff

FILED
Superior Court of California
County of San Francisco

NOV 16 2020

CLERK OF THE COURT

By: Amaya Jones
Deputy Clerk

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

14 MATTHEW LUCCHESI, on behalf of
15 the State of California, as a private
16 attorney general,

17 Plaintiff,

18 vs.

19 KONE INC., a Corporation; and DOES 1
20 through 50, inclusive,

21 Defendants.

Case No. CCC-20-588227

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B).

BY FAX

1 Plaintiff Matthew Lucchese ("PLAINTIFF"), on behalf of the people of the State of
2 California and as an "aggrieved employee" acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* ("PAGA") only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 7 INTRODUCTION

8 1. PLAINTIFF brings this action against Defendant KONE INC. (referred to as
9 "DEFENDANT") seeking only to recover PAGA civil penalties for himself, and on behalf of
10 all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF does
11 not seek to recover anything other than penalties as permitted by California Labor Code
12 § 2699. To the extent that statutory violations are mentioned for wage violations, PLAINTIFF
13 does not seek underlying general and/or special damages for those violations, but simply the
14 civil penalties permitted by California Labor Code § 2699.

15 2. California has enacted the PAGA to permit individuals to bring an action on
16 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
17 nature of this action.

18 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
19 DEFENDANT's violations under PAGA and solely for the relief as permitted by PAGA – that
20 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
21 complaint should be construed as attempting to obtain any relief that would not be available in
22 a PAGA-only action.

23 24 THE PARTIES

25 4. Defendant Kone Inc. ("DEFENDANT") is a corporation that at all relevant times
26 mentioned herein conducted and continues to conduct substantial business in the state of
27 California.

28 5. DEFENDANT provides elevators, escalators and automatic building doors, as

1 well as solutions for maintenance and modernization to add value to buildings throughout their
2 life cycle.

3 6. PLAINTIFF has been employed by DEFENDANT in California since June of
4 2016 and has been at all times classified by DEFENDANT as a non-exempt employee, paid on
5 an hourly basis, and entitled to the legally required meal and rest periods and payment of
6 minimum and overtime wages due for all time worked.

7 7. PLAINTIFF and such persons that may be added from time to time who satisfy
8 the requirements and exhaust the administrative procedures under the Private Attorney General
9 Act, brings this Representative Action on behalf of the State of California with respect to
10 himself and all individuals who are or previously were employed by DEFENDANT in
11 California and who were classified as non exempt employees ("AGGRIEVED EMPLOYEES")
12 during the time period of September 3, 2019 until a date as determined by the Court (the
13 "PAGA PERIOD").

14 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
15 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
16 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
17 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512,
18 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040,
19 Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFF
20 and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor
21 Code § 2699, *et seq.*

22 9. The true names and capacities, whether individual, corporate, subsidiary,
23 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
24 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
25 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
26 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
27 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
28 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are

1 responsible in some manner for one or more of the events and happenings that proximately
2 caused the injuries and damages hereinafter alleged.

3 10. The agents, servants and/or employees of the Defendants and each of them acting
4 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
5 agent, servant and/or employee of the Defendants, and personally participated in the conduct
6 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
7 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
8 all Defendants are jointly and severally liable to PLAINTIFF and the other AGGRIEVED
9 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
10 agents, servants and/or employees.

11 THE CONDUCT

12
13 11. During the PAGA PERIOD, DEFENDANT did not have in place an immutable
14 timekeeping system to accurately record and pay PLAINTIFF and other AGGRIEVED
15 EMPLOYEES for the actual time these employees worked each day. DEFENDANT engaged
16 in the unilateral modification of PLAINTIFF's and AGGRIEVED EMPLOYEES' time records
17 to avoid paying meal break penalties and proper wages to these employees. Pursuant to the
18 Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF
19 and AGGRIEVED EMPLOYEES for all their time worked, meaning the time during which an
20 employee is subject to the control of an employer, including all the time the employee is
21 suffered or permitted to work. DEFENDANT requires PLAINTIFF and AGGRIEVED
22 EMPLOYEES to work without paying them for all the time they are under DEFENDANT's
23 control. Specifically, DEFENDANT requires PLAINTIFF to work while clocked out during
24 what is supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF is from time to time
25 interrupted by work assignments while clocked out for what should have been PLAINTIFF's
26 off-duty meal break. Additionally, PLAINTIFF and AGGRIEVED EMPLOYEES clock out
27 of DEFENDANT's timekeeping system, in order to perform additional work for DEFENDANT
28 as required to meet DEFENDANT's job requirements. DEFENDANT's policy and practice not

1 to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked, is evidenced
2 by DEFENDANT's business records.

3 12. State and federal law provides that employees must be paid overtime at one-and-
4 one-half times their "regular rate of pay." PLAINTIFF and other AGGRIEVED EMPLOYEES
5 are compensated at an hourly rate plus incentive pay that is tied to specific elements of an
6 employee's performance.

7 13. The second component of PLAINTIFF's and other AGGRIEVED EMPLOYEES'
8 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFF
9 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
10 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
11 hourly basis with incentive compensation when the employees met the various performance
12 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
13 overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES, DEFENDANT failed to
14 include the incentive compensation as part of the employees' "regular rate of pay" for purposes
15 of calculating overtime pay. Management and supervisors described the incentive program to
16 potential and new employees as part of the compensation package. As a matter of law, the
17 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must
18 be included in the "regular rate of pay." The failure to do so has resulted in a underpayment of
19 overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by
20 DEFENDANT.

21 14. As a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED
22 EMPLOYEES are from time to time unable to take thirty (30) minute off duty meal breaks and
23 are not fully relieved of duty for their meal periods. PLAINTIFF and other AGGRIEVED
24 EMPLOYEES are required from time to time to perform work as ordered by DEFENDANT for
25 more than five (5) hours during some shifts without receiving a meal break. Further,
26 DEFENDANT from time to time fails to provide PLAINTIFF and AGGRIEVED
27 EMPLOYEES with a second off-duty meal period for some workdays in which these employees
28 are required by DEFENDANT to work ten (10) hours of work. PLAINTIFF and other

1 AGGRIEVED EMPLOYEES therefore forfeit meal breaks without additional compensation
2 and in accordance with DEFENDANT's corporate policy and practice.

3 15. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
4 are also required from time to time to work in excess of four (4) hours without being provided
5 ten (10) minute rest periods. Further, these employees are denied their first rest periods of at
6 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
7 time, a first and second rest period of at least ten (10) minutes for some shifts worked of
8 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
9 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
10 PLAINTIFF and other AGGRIEVED EMPLOYEES are also not provided with one hour wages
11 in lieu thereof. Additionally, the applicable California Wage Order requires employers to
12 provide employees with off-duty rest periods, which the California Supreme Court defined as
13 time during which an employee is relieved from all work related duties and free from employer
14 control. In so doing, the Court held that the requirement under California law that employers
15 authorize and permit all employees to take rest period means that employers must relieve
16 employees of all duties and relinquish control over how employees spend their time which
17 includes control over the locations where employees may take their rest period. Employers
18 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out,
19 five minutes back. Here, DEFENDANT's policy restricts PLAINTIFF and other AGGRIEVED
20 EMPLOYEES from unconstrained walks and is unlawful based on DEFENDANT's rule which
21 states PLAINTIFF and other AGGRIEVED EMPLOYEES cannot leave the work premises
22 during their rest period.

23 16. During the PAGA PERIOD, DEFENDANT fails to accurately record and pay
24 PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
25 employees work. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
26 is required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked,
27 meaning the time during which an employee was subject to the control of an employer,
28 including all the time the employee was permitted or suffered to permit this work.

1 DEFENDANT requires these employees to work off the clock without paying them for all the
2 time they are under DEFENDANT's control. As such, DEFENDANT knew or should have
3 known that PLAINTIFF and the other AGGRIEVED EMPLOYEES are under compensated for
4 all time worked. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeit time
5 worked by working without their time being accurately recorded and without compensation at
6 the applicable minimum wage and overtime wage rates. To the extent that the time worked off
7 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay minimum
8 wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and
9 1197.1.

10 17. From time to time, DEFENDANT also fails to provide PLAINTIFF and the other
11 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to
12 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
13 provides that every employer shall furnish each of his or her employees with an accurate
14 itemized wage statement in writing showing, among other things, gross wages earned and all
15 applicable hourly rates in effect during the pay period and the corresponding amount of time
16 worked at each hourly rate. Specifically, DEFENDANT violated Section 226 by failing to
17 identify the correct rates of pay and number of hours worked, including for the "Dir. Lab
18 1.0""Dir. Lab 1.5.0 Dir. Lab 2.0""Undist. Lab 1.0""Undist. Lab 1.5""Undist. Lab 2.0" and
19 "FLD Train 1.0" items of pay, which are wage payments. Aside, from the violations listed
20 above in this paragraph, DEFENDANT fails to issue to PLAINTIFF an itemized wage
21 statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,
22 DEFENDANT from time to time provides PLAINTIFF and the other AGGRIEVED
23 EMPLOYEES with wage statements which violated Cal. Lab. Code § 226.

24 18. All of the conduct and violations alleged herein occurred during the PAGA
25 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
26 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
27 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
28 AJDAR 12157 (Certified for Publication 12/19/18).

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1 himself and all individuals who are or previously were employed by DEFENDANT in
2 California and who were classified as non exempt employees ("AGGRIEVED EMPLOYEES")
3 during the time period of September 3, 2019 until a date as determined by the Court (the
4 "PAGA PERIOD").

5 24. On September 3, 2020, PLAINTIFF gave written notice by electronic mail to the
6 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
7 employer of the specific provisions of this code alleged to have been violated as required by
8 Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference
9 herein. The statutory waiting period for PLAINTIFF to add these allegations to the Complaint
10 has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a
11 representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of
12 California with respect to all AGGRIEVED EMPLOYEES as herein defined.

13 25. The policies, acts and practices heretofore described were and are an unlawful
14 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the other
15 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
16 and provide legally required meal and rest periods, (c) failed to pay minimum wages, and (d)
17 failed to pay overtime wages, all in violation of the applicable Labor Code sections listed in
18 Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194,
19 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision
20 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result
21 of such conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by
22 the Labor Code Private Attorney General Act of 2004 as the representative of the State of
23 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
24 EMPLOYEES.

25 PRAYER FOR RELIEF

26 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and

27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

severally, as follows:

1. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004; and,

B) An award of attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §2699.

Dated: November 13, 2020

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: 

Norman B. Blumenthal
Attorneys for Plaintiff

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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS E-MAIL:
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WRITERS EXT:
1004

September 3, 2020
CA2192

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency	Kone Inc.
Online Filing	Certified Mail #70192970000014863449
	CSC - Lawyers Incorporating Service
	2710 Gateway Oaks Drive, Suite 150N
	Sacramento, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Kone Inc. in California and classified as non-exempt employees during the time period of September 3, 2019 until a date as determined by the Court. Our offices represent Plaintiff Matthew Lucchese (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Kone Inc. (“Defendant”). Plaintiff has been employed by Defendant in California as a non-exempt employee as a Mechanic since June of 2016 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further,

Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant fails to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The filing fee of \$75 is being mailed to the Department of Industrial Relations Accounting unit with an identification of the Plaintiff, the Defendant and the notice. The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

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6 Attorneys for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

10 MATTHEW LUCCHESI, an individual, on
11 behalf of himself and on behalf of all persons
12 similarly situated,

13 Plaintiff,

14 vs.

15 KONE INC., a Corporation ; and DOES 1
16 through 50, inclusive,

17 Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION
OF CAL. BUS. & PROF. CODE §§ 17200, *et*
seq.;

2. FAILURE TO PAY MINIMUM WAGES IN
VIOLATION OF CAL. LAB. CODE §§ 1194,
1197 & 1197.1;

3. FAILURE TO PAY OVERTIME WAGES IN
VIOLATION OF CAL. LAB. CODE §§ 510, *et*
seq.;

4. FAILURE TO PROVIDE REQUIRED MEAL
PERIODS IN VIOLATION OF CAL. LAB.
CODE §§ 226.7 & 512 AND THE APPLICABLE
IWC WAGE ORDER;

5. FAILURE TO PROVIDE REQUIRED REST
PERIODS IN VIOLATION OF CAL. LAB.
CODE §§ 226.7 & 512 AND THE APPLICABLE
IWC WAGE ORDER;

6. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN VIOLATION OF
CAL. LAB. CODE § 226; and,

7. RETALIATION IN VIOLATION OF LABOR
CODE § 1102.5, *ET SEQ*

DEMAND FOR A JURY TRIAL

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26 **BY FAX**
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1 Plaintiff Matthew Lucchese ("PLAINTIFF"), an individual, on behalf of himself and all
2 other similarly situated current and former employees alleges on information and belief, except
3 for his own acts and knowledge which are based on personal knowledge, the following:

4
5 **THE PARTIES**

6 1. Defendant Kone Inc. ("DEFENDANT") is a corporation that at all relevant times
7 mentioned herein conducted and continues to conduct substantial business in the state of
8 California.

9 2. DEFENDANT provides elevators, escalators and automatic building doors, as
10 well as solutions for maintenance and modernization to add value to buildings throughout their
11 life cycle.

12 3. PLAINTIFF has been employed by DEFENDANT in California since June of
13 2016 and has been at all times classified by DEFENDANT as a non-exempt employee, paid on
14 an hourly basis, and entitled to the legally required meal and rest periods and payment of
15 minimum and overtime wages due for all time worked.

16 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,
17 defined as all individuals who are or previously were employed by DEFENDANT in California
18 and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
19 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
20 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
21 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
22 (\$5,000,000.00).

23 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
24 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
25 the CALIFORNIA CLASS PERIOD caused by DEFENDANT's uniform policy and practice
26 which failed to lawfully compensate these employees. DEFENDANT's uniform policy and
27 practice alleged herein was an unlawful, unfair and deceptive business practice whereby
28 DEFENDANT retained and continues to retain wages due PLAINTIFF and the other members

1 of the CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA
2 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the
3 named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been
4 economically injured by DEFENDANT's past and current unlawful conduct, and all other
5 appropriate legal and equitable relief.

6 6. The true names and capacities, whether individual, corporate, subsidiary,
7 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
8 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
9 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
10 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
11 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
12 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
13 responsible in some manner for one or more of the events and happenings that proximately
14 caused the injuries and damages hereinafter alleged.

15 7. The agents, servants and/or employees of the Defendants and each of them acting
16 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
17 agent, servant and/or employee of the Defendants, and personally participated in the conduct
18 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
19 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
20 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the
21 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
22 Defendants' agents, servants and/or employees.

23 THE CONDUCT

24 8. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
25 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
26 CALIFORNIA CLASS Members for the actual time these employees worked each day.
27 DEFENDANT engaged in the unilateral modification of PLAINTIFF's and CALIFORNIA
28

1 CLASS Members' time records to avoid paying meal break penalties and proper wages to these
2 employees. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
3 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
4 meaning the time during which an employee is subject to the control of an employer, including
5 all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF
6 and CALIFORNIA CLASS Members to work without paying them for all the time they are
7 under DEFENDANT's control. Specifically, DEFENDANT requires PLAINTIFF to work
8 while clocked out during what is supposed to be PLAINTIFF's off-duty meal break.
9 PLAINTIFF is from time to time interrupted by work assignments while clocked out for what
10 should have been PLAINTIFF's off-duty meal break. Additionally, PLAINTIFF and
11 CALIFORNIA CLASS Members clock out of DEFENDANT's timekeeping system, in order
12 to perform additional work for DEFENDANT as required to meet DEFENDANT's job
13 requirements. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other
14 CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's
15 business records.

16 9. State and federal law provides that employees must be paid overtime at one-and-
17 one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS
18 Members are compensated at an hourly rate plus incentive pay that is tied to specific elements
19 of an employee's performance.

20 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS
21 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
22 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
23 performance for DEFENDANT. The non-discretionary incentive program provided all
24 employees paid on an hourly basis with incentive compensation when the employees met the
25 various performance goals set by DEFENDANT. However, when calculating the regular rate
26 of pay in order to pay overtime to PLAINTIFF and other CALIFORNIA CLASS Members,
27 DEFENDANT failed to include the incentive compensation as part of the employees' "regular
28 rate of pay" for purposes of calculating overtime pay. Management and supervisors described

1 the incentive program to potential and new employees as part of the compensation package. As
2 a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
3 CLASS Members must be included in the "regular rate of pay." The failure to do so has
4 resulted in a underpayment of overtime compensation to PLAINTIFF and other CALIFORNIA
5 CLASS Members by DEFENDANT.

6 11. As a result of their rigorous work schedules, PLAINTIFF and other
7 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off
8 duty meal breaks and are not fully relieved of duty for their meal periods. PLAINTIFF and
9 other CALIFORNIA CLASS Members are required from time to time to perform work as
10 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
11 meal break. Further, DEFENDANT from time to time fails to provide PLAINTIFF and
12 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in
13 which these employees are required by DEFENDANT to work ten (10) hours of work.
14 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks
15 without additional compensation and in accordance with DEFENDANT's strict corporate policy
16 and practice.

17 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
18 CALIFORNIA CLASS Members are also required from time to time to work in excess of four
19 (4) hours without being provided ten (10) minute rest periods. Further, these employees are
20 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
21 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
22 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
23 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
24 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members are also
25 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage
26 Order requires employers to provide employees with off-duty rest periods, which the California
27 Supreme Court defined as time during which an employee is relieved from all work related
28 duties and free from employer control. In so doing, the Court held that the requirement under

1 California law that employers authorize and permit all employees to take rest period means that
2 employers must relieve employees of all duties and relinquish control over how employees
3 spend their time which includes control over the locations where employees may take their rest
4 period. Employers cannot impose controls that prohibit an employee from taking a brief walk -
5 five minutes out, five minutes back. Here, DEFENDANT's uniform policy restricts
6 PLAINTIFF and other CALIFORNIA CLASS Members from unconstrained walks and is
7 unlawful based on DEFENDANT's rule which states PLAINTIFF and other CALIFORNIA
8 CLASS Members cannot leave the work premises during their rest period.

9 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT fails to accurately
10 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount
11 of time these employees work. Pursuant to the Industrial Welfare Commission Wage Orders,
12 DEFENDANT is required to pay PLAINTIFF and other CALIFORNIA CLASS Members for
13 all time worked, meaning the time during which an employee was subject to the control of an
14 employer, including all the time the employee was permitted or suffered to permit this work.
15 DEFENDANT requires these employees to work off the clock without paying them for all the
16 time they are under DEFENDANT's control. As such, DEFENDANT knew or should have
17 known that PLAINTIFF and the other members of the CALIFORNIA CLASS are under
18 compensated for all time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS
19 Members forfeit time worked by working without their time being accurately recorded and
20 without compensation at the applicable minimum wage and overtime wage rates. To the extent
21 that the time worked off the clock does not qualify for overtime premium payment,
22 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of
23 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

24 14. From time to time, DEFENDANT also fails to provide PLAINTIFF and the other
25 members of the CALIFORNIA CLASS with complete and accurate wage statements which
26 failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
27 226 provides that every employer shall furnish each of his or her employees with an accurate
28 itemized wage statement in writing showing, among other things, gross wages earned and all

1 applicable hourly rates in effect during the pay period and the corresponding amount of time
2 worked at each hourly rate. Specifically, DEFENDANT violated Section 226 by failing to
3 identify the correct rates of pay and number of hours worked, including for the "Dir. Lab
4 1.0""Dir. Lab 1.5.0 Dir. Lab 2.0""Undist. Lab 1.0""Undist. Lab 1.5""Undist. Lab 2.0" and
5 "FLD Train 1.0" items of pay, which are wage payments. Aside, from the violations listed
6 above in this paragraph, DEFENDANT fails to issue to PLAINTIFF an itemized wage
7 statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,
8 DEFENDANT from time to time provides PLAINTIFF and the other members of the
9 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

10 15. Specifically as to PLAINTIFF, DEFENDANT fails to provide all the legally
11 required off-duty meal and rest breaks to him as required by the applicable Wage Order and
12 Labor Code and failed to pay him all minimum and overtime wages due to him. DEFENDANT
13 does not have a policy or practice which provided timely off-duty meal and rest breaks to
14 PLAINTIFF and also fails to compensate PLAINTIFF for his missed meal and rest breaks. The
15 nature of the work performed by the PLAINTIFF does not prevent him from being relieved of
16 all of his duties for the legally required off-duty meal periods. As a result, DEFENDANT's
17 failure to provide PLAINTIFF with the legally required meal periods is evidenced by
18 DEFENDANT's business records.

19 16. Furthermore, specifically as to PLAINTIFF, DEFENDANT failed to properly
20 maintain standard safety measures at job sites as well as on work Machinery. As such,
21 PLAINTIFF was placed in a constant risk of harm while performing his job duties for
22 DEFENDANT. In March of 2020, PLAINTIFF informed DEFENDANT about such safety
23 issues, but to no avail. In or around March of 2020, and continuing through out the rest of
24 PLAINTIFF's employment, PLAINTIFF engaged in protected activity by complaining to
25 DEFENDANT of DEFENDANT's failure to maintain compliant safety standards, including,
26 but not limited to, DEFENDANT's failure to maintain the safety of work machines on
27 DEFENDANT's job sites, and DEFENDANT's insistence on jeopardizing public safety and
28 worker safety in order to accommodate the best interests of DEFENDANT itself. As a direct

1 consequence of PLAINTIFF's complaints to DEFENDANT, DEFENDANT retaliated against
2 PLAINTIFF by removing him from the job site and demoting him to a helper position from the
3 mechanic position which resulted in lost wages. The amount in controversy for PLAINTIFF
4 individually does not exceed the sum or value of \$75,000.

5 6 JURISDICTION AND VENUE

7 17. This Court has jurisdiction over this Action pursuant to California Code of Civil
8 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
9 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees
10 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

11 18. Venue is proper in this Court pursuant to California Code of Civil Procedure,
12 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
13 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
14 in this County and/or conducts substantial business in this County, and (ii) committed the
15 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

16 17 THE CALIFORNIA CLASS

18 19. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
19 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
20 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as
21 all individuals who are or previously were employed by DEFENDANT in California and
22 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
23 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
24 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
25 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
26 (\$5,000,000.00).

27 20. To the extent equitable tolling operates to toll claims by the CALIFORNIA
28 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted

1 accordingly.

2 21. DEFENDANT, as a matter of company policy, practice and procedure, and in
3 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
4 requirements, and the applicable provisions of California law, intentionally, knowingly, and
5 wilfully, engaged in a practice whereby DEFENDANT systematically failed to record all meal
6 and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though
7 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
8 permits or suffers to permit this work.

9 22. DEFENDANT has the legal burden to establish that each and every
10 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as
11 required by California laws. The DEFENDANT, however, as a matter of uniform and
12 systematic policy and procedure failed to have in place during the CALIFORNIA CLASS
13 PERIOD and still fails to have in place a policy or practice to ensure that each and every
14 CALIFORNIA CLASS Member is paid as required by law. This common business practice is
15 applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-
16 wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§
17 17200, *et seq.* (the "UCL") as causation, damages, and reliance are not elements of this claim.

18 23. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
19 CLASS Members is impracticable.

20 24. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
21 California law by:

- 22 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.
23 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or
24 deceptively having in place company policies, practices and procedures
25 that uniformly and systematically failed to record and pay PLAINTIFF
26 and the other members of the CALIFORNIA CLASS for all time worked,
27 including minimum wages owed and overtime wages owed for work
28 performed by these employees; and,

- 1 (b) Committing an act of unfair competition in violation of the UCL, by
2 failing to provide the PLAINTIFF and the other members of the
3 CALIFORNIA CLASS with the legally required meal and rest periods.

4 25. This Class Action meets the statutory prerequisites for the maintenance of a Class
5 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 6 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
7 that the joinder of all such persons is impracticable and the disposition of
8 their claims as a class will benefit the parties and the Court;
- 9 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
10 that are raised in this Complaint are common to the CALIFORNIA
11 CLASS will apply uniformly to every member of the CALIFORNIA
12 CLASS;
- 13 (c) The claims of the representative PLAINTIFF are typical of the claims of
14 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the
15 other members of the CALIFORNIA CLASS, was classified as a non-
16 exempt employee paid on an hourly basis who was subjected to the
17 DEFENDANT's deceptive practice and policy which failed to provide the
18 legally required meal and rest periods to the CALIFORNIA CLASS and
19 thereby systematically underpaid compensation to PLAINTIFF and
20 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
21 result of DEFENDANT's employment practices. PLAINTIFF and the
22 members of the CALIFORNIA CLASS were and are similarly or
23 identically harmed by the same unlawful, deceptive, unfair and pervasive
24 pattern of misconduct engaged in by DEFENDANT; and,
- 25 (d) The representative PLAINTIFF will fairly and adequately represent and
26 protect the interest of the CALIFORNIA CLASS, and has retained
27 counsel who are competent and experienced in Class Action litigation.
28 There are no material conflicts between the claims of the representative

1 PLAINTIFF and the members of the CALIFORNIA CLASS that would
2 make class certification inappropriate. Counsel for the CALIFORNIA
3 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
4 Members.

5 26. In addition to meeting the statutory prerequisites to a Class Action, this action is
6 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

7 (a) Without class certification and determination of declaratory, injunctive,
8 statutory and other legal questions within the class format, prosecution of
9 separate actions by individual members of the CALIFORNIA CLASS will
10 create the risk of:

- 11 1) Inconsistent or varying adjudications with respect to individual
12 members of the CALIFORNIA CLASS which would establish
13 incompatible standards of conduct for the parties opposing the
14 CALIFORNIA CLASS; and/or,
15 2) Adjudication with respect to individual members of the
16 CALIFORNIA CLASS which would as a practical matter be
17 dispositive of interests of the other members not party to the
18 adjudication or substantially impair or impede their ability to
19 protect their interests.

20 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to
21 act on grounds generally applicable to the CALIFORNIA CLASS, making
22 appropriate class-wide relief with respect to the CALIFORNIA CLASS
23 as a whole in that DEFENDANT uniformly failed to pay all wages due to
24 members of the CALIFORNIA CLASS as required by law;

- 25 1) With respect to the First Cause of Action, the final relief on behalf
26 of the CALIFORNIA CLASS sought does not relate exclusively to
27 restitution because through this claim PLAINTIFF seeks
28 declaratory relief holding that the DEFENDANT's policy and

1 practices constitute unfair competition, along with declaratory
2 relief, injunctive relief, and incidental equitable relief as may be
3 necessary to prevent and remedy the conduct declared to constitute
4 unfair competition;

5 (c) Common questions of law and fact exist as to the members of the
6 CALIFORNIA CLASS, with respect to the practices and violations of
7 California law as listed above, and predominate over any question
8 affecting only individual CALIFORNIA CLASS Members, and a Class
9 Action is superior to other available methods for the fair and efficient
10 adjudication of the controversy, including consideration of:

11 1) The interests of the members of the CALIFORNIA CLASS in
12 individually controlling the prosecution or defense of separate
13 actions in that the substantial expense of individual actions will be
14 avoided to recover the relatively small amount of economic losses
15 sustained by the individual CALIFORNIA CLASS Members when
16 compared to the substantial expense and burden of individual
17 prosecution of this litigation;

18 2) Class certification will obviate the need for unduly duplicative
19 litigation that would create the risk of:

20 A. Inconsistent or varying adjudications with respect to
21 individual members of the CALIFORNIA CLASS, which
22 would establish incompatible standards of conduct for the
23 DEFENDANT; and/or,

24 B. Adjudications with respect to individual members of the
25 CALIFORNIA CLASS would as a practical matter be
26 dispositive of the interests of the other members not parties
27 to the adjudication or substantially impair or impede their
28 ability to protect their interests;

- 1 3) In the context of wage litigation because a substantial number of
2 individual CALIFORNIA CLASS Members will avoid asserting
3 their legal rights out of fear of retaliation by DEFENDANT, which
4 may adversely affect an individual's job with DEFENDANT or
5 with a subsequent employer, the Class Action is the only means to
6 assert their claims through a representative; and,
7 4) A class action is superior to other available methods for the fair
8 and efficient adjudication of this litigation because class treatment
9 will obviate the need for unduly and unnecessary duplicative
10 litigation that is likely to result in the absence of certification of
11 this action pursuant to Cal. Code of Civ. Proc. § 382.

12 27. This Court should permit this action to be maintained as a Class Action pursuant
13 to Cal. Code of Civ. Proc. § 382 because:

- 14 (a) The questions of law and fact common to the CALIFORNIA CLASS
15 predominate over any question affecting only individual CALIFORNIA
16 CLASS Members because the DEFENDANT's employment practices are
17 uniform and systematically applied with respect to the CALIFORNIA
18 CLASS;
19 (b) A Class Action is superior to any other available method for the fair and
20 efficient adjudication of the claims of the members of the CALIFORNIA
21 CLASS because in the context of employment litigation a substantial
22 number of individual CALIFORNIA CLASS Members will avoid
23 asserting their rights individually out of fear of retaliation or adverse
24 impact on their employment;
25 (c) The members of the CALIFORNIA CLASS are so numerous that it is
26 impractical to bring all members of the CALIFORNIA CLASS before the
27 Court;
28 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be

1 able to obtain effective and economic legal redress unless the action is
2 maintained as a Class Action;

3 (e) There is a community of interest in obtaining appropriate legal and
4 equitable relief for the acts of unfair competition, statutory violations and
5 other improprieties, and in obtaining adequate compensation for the
6 damages and injuries which DEFENDANT's actions have inflicted upon
7 the CALIFORNIA CLASS;

8 (f) There is a community of interest in ensuring that the combined assets of
9 DEFENDANT are sufficient to adequately compensate the members of
10 the CALIFORNIA CLASS for the injuries sustained;

11 (g) DEFENDANT has acted or refused to act on grounds generally applicable
12 to the CALIFORNIA CLASS, thereby making final class-wide relief
13 appropriate with respect to the CALIFORNIA CLASS as a whole;

14 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
15 the business records of DEFENDANT; and,

16 (i) Class treatment provides manageable judicial treatment calculated to bring
17 a efficient and rapid conclusion to all litigation of all wage and hour
18 related claims arising out of the conduct of DEFENDANT as to the
19 members of the CALIFORNIA CLASS.

20 28. DEFENDANT maintains records from which the Court can ascertain and identify
21 by job title each of DEFENDANT's employees who as have been systematically, intentionally
22 and uniformly subjected to DEFENDANT's company policy, practices and procedures as herein
23 alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles
24 of similarly situated employees when they have been identified.

25
26 **THE CALIFORNIA LABOR SUB-CLASS**

27 29. PLAINTIFF further brings the Second, Third, Fourth, Fifth and Sixth causes
28 Action on behalf of a California sub-class, defined as all members of the CALIFORNIA

1 CLASS who are or previously were employed by DEFENDANT in California (the
2 "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior to
3 the filing of the complaint and ending on the date as determined by the Court (the
4 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.
5 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS
6 Members is under five million dollars (\$5,000,000.00).

7 30. DEFENDANT, as a matter of company policy, practice and procedure, and in
8 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
9 requirements, and the applicable provisions of California law, intentionally, knowingly, and
10 wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate
11 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA
12 LABOR SUB-CLASS and reporting time wages owed to these employees, even though
13 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
14 permitted or suffered to permit this work. DEFENDANT has uniformly denied these
15 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled
16 in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
17 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the
18 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

19 31. DEFENDANT maintains records from which the Court can ascertain and identify
20 by name and job title, each of DEFENDANT's employees who have been systematically,
21 intentionally and uniformly subjected to DEFENDANT's company policy, practices and
22 procedures as herein alleged. PLAINTIFF will seek leave to amend the complaint to include
23 any additional job titles of similarly situated employees when they have been identified.

24 32. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
25 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

26 33. Common questions of law and fact exist as to members of the CALIFORNIA
27 LABOR SUB-CLASS, including, but not limited, to the following:

28 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay

1 compensation due to members of the CALIFORNIA LABOR SUB-
2 CLASS for missed meal and rest breaks in violation of the California
3 Labor Code and California regulations and the applicable California Wage
4 Order;

5 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
6 members of the CALIFORNIA LABOR SUB-CLASS with accurate
7 itemized wage statements;

8 (c) Whether DEFENDANT has engaged in unfair competition by the
9 above-listed conduct;

10 (d) The proper measure of damages and penalties owed to the members of the
11 CALIFORNIA LABOR SUB-CLASS; and,

12 (e) Whether DEFENDANT's conduct was willful.

13 34. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
14 under California law by:

15 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
16 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
17 CLASS all wages due for overtime worked, for which DEFENDANT is
18 liable pursuant to Cal. Lab. Code § 1194;

19 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
20 accurately pay PLAINTIFF and the members of the CALIFORNIA
21 LABOR SUB-CLASS the correct minimum wage pay for which
22 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

23 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
24 members of the CALIFORNIA LABOR SUB-CLASS with an accurate
25 itemized statement in writing showing the corresponding correct amount
26 of wages earned by the employee;

27 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
28 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-

1 CLASS with all legally required off-duty, uninterrupted thirty (30) minute
2 meal breaks and the legally required off-duty rest breaks;

3 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
4 when an employee is discharged or quits from employment, the employer
5 must pay the employee all wages due without abatement, by failing to
6 tender full payment and/or restitution of wages owed or in the manner
7 required by California law to the members of the CALIFORNIA LABOR
8 SUB-CLASS who have terminated their employment; and,

9 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and
10 the CALIFORNIA LABOR SUB-CLASS members with necessary
11 expenses incurred in the discharge of their job duties.

12 35. This Class Action meets the statutory prerequisites for the maintenance of a Class
13 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

14 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are
15 so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
16 Members is impracticable and the disposition of their claims as a class
17 will benefit the parties and the Court;

18 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
19 that are raised in this Complaint are common to the CALIFORNIA
20 LABOR SUB-CLASS and will apply uniformly to every member of the
21 CALIFORNIA LABOR SUB-CLASS;

22 (c) The claims of the representative PLAINTIFF are typical of the claims of
23 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF,
24 like all the other members of the CALIFORNIA LABOR SUB-CLASS,
25 was a non-exempt employee paid on an hourly basis who was subjected
26 to the DEFENDANT's practice and policy which failed to pay the correct
27 amount of wages due to the CALIFORNIA LABOR SUB-CLASS.
28 PLAINTIFF sustained economic injury as a result of DEFENDANT's

1 employment practices. PLAINTIFF and the members of the
2 CALIFORNIA LABOR SUB-CLASS were and are similarly or
3 identically harmed by the same unlawful, deceptive, unfair and pervasive
4 pattern of misconduct engaged in by DEFENDANT; and,

- 5 (d) The representative PLAINTIFF will fairly and adequately represent and
6 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has
7 retained counsel who are competent and experienced in Class Action
8 litigation. There are no material conflicts between the claims of the
9 representative PLAINTIFF and the members of the CALIFORNIA
10 LABOR SUB-CLASS that would make class certification inappropriate.
11 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
12 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

13 36. In addition to meeting the statutory prerequisites to a Class Action, this action is
14 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 15 (a) Without class certification and determination of declaratory, injunctive,
16 statutory and other legal questions within the class format, prosecution of
17 separate actions by individual members of the CALIFORNIA LABOR
18 SUB-CLASS will create the risk of:

- 19 1) Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA LABOR SUB-CLASS which
21 would establish incompatible standards of conduct for the parties
22 opposing the CALIFORNIA LABOR SUB-CLASS; or,
23 2) Adjudication with respect to individual members of the
24 CALIFORNIA LABOR SUB-CLASS which would as a practical
25 matter be dispositive of interests of the other members not party to
26 the adjudication or substantially impair or impede their ability to
27 protect their interests.

- 28 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted

1 or refused to act on grounds generally applicable to the CALIFORNIA
2 LABOR SUB-CLASS, making appropriate class-wide relief with respect
3 to the CALIFORNIA LABOR SUB-CLASS as a whole in that
4 DEFENDANT uniformly fails to pay all wages due. Including the correct
5 wages for all time worked by the members of the CALIFORNIA LABOR
6 SUB-CLASS as required by law;

7 (c) Common questions of law and fact predominate as to the members of the
8 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
9 violations of California Law as listed above, and predominate over any
10 question affecting only individual CALIFORNIA LABOR SUB-CLASS
11 Members, and a Class Action is superior to other available methods for
12 the fair and efficient adjudication of the controversy, including
13 consideration of:

14 1) The interests of the members of the CALIFORNIA LABOR SUB-
15 CLASS in individually controlling the prosecution or defense of
16 separate actions in that the substantial expense of individual
17 actions will be avoided to recover the relatively small amount of
18 economic losses sustained by the individual CALIFORNIA
19 LABOR SUB-CLASS Members when compared to the substantial
20 expense and burden of individual prosecution of this litigation;

21 2) Class certification will obviate the need for unduly duplicative
22 litigation that would create the risk of:

23 A. Inconsistent or varying adjudications with respect to
24 individual members of the CALIFORNIA LABOR SUB-
25 CLASS, which would establish incompatible standards of
26 conduct for the DEFENDANT; and/or,

27 B. Adjudications with respect to individual members of the
28 CALIFORNIA LABOR SUB-CLASS would as a practical

1 matter be dispositive of the interests of the other members
2 not parties to the adjudication or substantially impair or
3 impede their ability to protect their interests;

4 3) In the context of wage litigation because a substantial number of
5 individual CALIFORNIA LABOR SUB-CLASS Members will
6 avoid asserting their legal rights out of fear of retaliation by
7 DEFENDANT, which may adversely affect an individual's job
8 with DEFENDANT or with a subsequent employer, the Class
9 Action is the only means to assert their claims through a
10 representative; and,

11 4) A class action is superior to other available methods for the fair
12 and efficient adjudication of this litigation because class treatment
13 will obviate the need for unduly and unnecessary duplicative
14 litigation that is likely to result in the absence of certification of
15 this action pursuant to Cal. Code of Civ. Proc. § 382.

16 37. This Court should permit this action to be maintained as a Class Action pursuant
17 to Cal. Code of Civ. Proc. § 382 because:

18 (a) The questions of law and fact common to the CALIFORNIA LABOR
19 SUB-CLASS predominate over any question affecting only individual
20 CALIFORNIA LABOR SUB-CLASS Members;

21 (b) A Class Action is superior to any other available method for the fair and
22 efficient adjudication of the claims of the members of the CALIFORNIA
23 LABOR SUB-CLASS because in the context of employment litigation a
24 substantial number of individual CALIFORNIA LABOR SUB-CLASS
25 Members will avoid asserting their rights individually out of fear of
26 retaliation or adverse impact on their employment;

27 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
28 numerous that it is impractical to bring all members of the CALIFORNIA

LABOR SUB-CLASS before the Court;

(d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;

(e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

(f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

(g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;

(h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who worked for DEFENDANT in California at any time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

(i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

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1 FIRST CAUSE OF ACTION

2 **For Unlawful Business Practices**

3 [Cal. Bus. And Prof. Code §§ 17200, *et seq.*]

4 (By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)

5 38. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
7 Complaint.

8 39. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof.
9 Code § 17021.

10 40. California Business & Professions Code §§ 17200, *et seq.* (the "UCL") defines
11 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
12 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
13 competition as follows:

14 Any person who engages, has engaged, or proposes to engage in unfair
15 competition may be enjoined in any court of competent jurisdiction. The court
16 may make such orders or judgments, including the appointment of a receiver, as
17 may be necessary to prevent the use or employment by any person of any practice
which constitutes unfair competition, as defined in this chapter, or as may be
necessary to restore to any person in interest any money or property, real or
personal, which may have been acquired by means of such unfair competition.

18 Cal. Bus. & Prof. Code § 17203.

19 41. By the conduct alleged herein, DEFENDANT has engaged and continues to
20 engage in a business practice which violates California law, including but not limited to, the
21 applicable Industrial Wage Order(s), the California Code of Regulations and the California
22 Labor Code including Sections 204, 210, 226.7, 510, 512, 1194, 1197, 1197.1 & 1198, for
23 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &
24 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
25 unfair competition, including restitution of wages wrongfully withheld.

26 42. By the conduct alleged herein, DEFENDANT's practices were unlawful and
27 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
28 unscrupulous or substantially injurious to employees, and were without valid justification or

1 utility for which this Court should issue equitable and injunctive relief pursuant to Section
2 17203 of the California Business & Professions Code, including restitution of wages wrongfully
3 withheld.

4 43. By the conduct alleged herein, DEFENDANT's practices were deceptive and
5 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
6 mandated meal and rest periods, the required amount of compensation for missed meal and rest
7 periods and overtime and minimum wages owed, failed to timely pay wages, and failed to
8 reimburse all necessary business expenses incurred, due to a systematic business practice that
9 cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
10 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
11 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
12 including restitution of wages wrongfully withheld.

13 44. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
14 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
15 other members of the CALIFORNIA CLASS to be underpaid during their employment with
16 DEFENDANT.

17 45. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
18 unfair and deceptive in that DEFENDANT's uniform policies, practices and procedures failed
19 to provide all legally required meal breaks to PLAINTIFF and the other members of the
20 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

21 46. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
22 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty
23 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
24 for each workday in which a second off-duty meal period was not timely provided for each ten
25 (10) hours of work.

26 47. PLAINTIFF further demands on behalf of himself and each member of the
27 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off
28 duty paid rest period was not timely provided as required by law.

1 48. By and through the unlawful and unfair business practices described herein,
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
3 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
4 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
5 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
6 to unfairly compete against competitors who comply with the law.

7 49. All the acts described herein as violations of, among other things, the Industrial
8 Welfare Commission Wage Orders, the California Code of Regulations, and the California
9 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,
10 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and
11 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

12 50. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
13 and do, seek such relief as may be necessary to restore to them the money and property which
14 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the
15 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
16 unfair business practices, including earned but unpaid wages for all time worked.

17 51. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
18 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
19 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
20 engaging in any unlawful and unfair business practices in the future.

21 52. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
22 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices
23 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.
24 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the
25 other members of the CALIFORNIA CLASS have suffered and will continue to suffer
26 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to
27 engage in these unlawful and unfair business practices.

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1 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to
2 minimum wage pay.

3 60. In committing these violations of the California Labor Code, DEFENDANT
4 inaccurately calculated the correct time worked and consequently underpaid the actual time
5 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
6 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
7 benefits in violation of the California Labor Code, the Industrial Welfare Commission
8 requirements and other applicable laws and regulations.

9 61. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
10 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
11 receive the correct minimum wage compensation for their time worked for DEFENDANT.

12 62. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
13 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that
14 they were entitled to, constituting a failure to pay all earned wages.

15 63. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
16 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
17 CLASS for the true time they worked, PLAINTIFF and the other members of the
18 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
19 injury in amounts which are presently unknown to them and which will be ascertained
20 according to proof at trial.

21 64. DEFENDANT knew or should have known that PLAINTIFF and the other
22 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
23 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
24 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
25 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to
26 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
27 correct minimum wages for their time worked.

28 65. In performing the acts and practices herein alleged in violation of California labor

1 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
2 all time worked and provide them with the requisite compensation, DEFENDANT acted and
3 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other
4 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for
5 their legal rights, or the consequences to them, and with the despicable intent of depriving them
6 of their property and legal rights, and otherwise causing them injury in order to increase
7 company profits at the expense of these employees.

8 66. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
9 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as
10 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided
11 by the California Labor Code and/or other applicable statutes. To the extent minimum wage
12 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members
13 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§
14 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties
15 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
16 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein
17 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA
18 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

19
20 **THIRD CAUSE OF ACTION**

21 **For Failure To Pay Overtime Compensation**

22 **[Cal. Lab. Code §§ 510, *et seq.*]**

23 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
24 **Defendants)**

25 67. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
26 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs
27 of this Complaint.

28 68. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS

1 bring a claim for DEFENDANT's willful and intentional violations of the California Labor
2 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay
3 these employees for all overtime worked, including, work performed in excess of eight (8)
4 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
5 workweek.

6 69. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
7 public policy, an employer must timely pay its employees for all hours worked.

8 70. Cal. Lab. Code § 510 further provides that employees in California shall not be
9 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
10 unless they receive additional compensation beyond their regular wages in amounts specified
11 by law.

12 71. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
13 including minimum wage and overtime compensation and interest thereon, together with the
14 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for
15 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

16 72. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
17 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
18 DEFENDANT and were not paid for all the time they worked, including overtime work.

19 73. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
20 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
21 result of implementing a uniform policy and practice that failed to accurately record overtime
22 worked by PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied
23 accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR
24 SUB-CLASS for overtime worked, including, the overtime work performed in excess of eight
25 (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
26 workweek.

27 74. In committing these violations of the California Labor Code, DEFENDANT
28 inaccurately recorded overtime worked and consequently underpaid the overtime worked by

1 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted
2 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
3 of the California Labor Code, the Industrial Welfare Commission requirements and other
4 applicable laws and regulations.

5 75. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
6 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
7 receive full compensation for overtime worked.

8 76. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
9 from the overtime requirements of the law. None of these exemptions are applicable to the
10 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
11 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not
12 subject to a valid collective bargaining agreement that would preclude the causes of action
13 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of himself
14 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-
15 negotiable, non-waiveable rights provided by the State of California.

16 77. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
17 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
18 worked that they are entitled to, constituting a failure to pay all earned wages..

19 78. DEFENDANT failed to accurately pay the PLAINTIFF and the other members
20 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which
21 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,
22 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR
23 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT
24 failed to accurately record and pay as evidenced by DEFENDANT's business records and
25 witnessed by employees.

26 79. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
27 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
28 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the

1 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
2 injury in amounts which are presently unknown to them and which will be ascertained
3 according to proof at trial.

4 80. DEFENDANT knew or should have known that PLAINTIFF and the other
5 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime
6 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
7 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
8 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to
9 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for
10 overtime worked.

11 81. In performing the acts and practices herein alleged in violation of California labor
12 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
13 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT
14 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and
15 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter
16 disregard for their legal rights, or the consequences to them, and with the despicable intent of
17 depriving them of their property and legal rights, and otherwise causing them injury in order
18 to increase company profits at the expense of these employees.

19 82. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
20 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,
21 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided
22 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or
23 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS
24 Members who have terminated their employment, DEFENDANT's conduct also violates Labor
25 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time
26 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
27 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein
28 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA

1 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

2 **FOURTH CAUSE OF ACTION**

3 **For Failure to Provide Required Meal Periods**

4 **[Cal. Lab. Code §§ 226.7 & 512]**

5 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
6 **Defendants)**

7 83. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
8 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
9 of this Complaint.

10 84. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
11 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
12 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and
13 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR
14 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their
15 duties for the legally required off-duty meal periods. As a result of their rigorous work
16 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from
17 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,
18 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
19 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced
20 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to
21 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period
22 in some workdays in which these employees were required by DEFENDANT to work ten (10)
23 hours of work from time to time. As a result, PLAINTIFF and other members of the
24 CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional
25 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

26 85. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable
27 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-
28

1 CLASS Members who were not provided a meal period, in accordance with the applicable
2 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
3 each workday that a meal period was not provided.

4 86. As a proximate result of the aforementioned violations, PLAINTIFF and
5 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
6 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
7 suit.

8
9 **FIFTH CAUSE OF ACTION**

10 **For Failure to Provide Required Rest Periods**

11 **[Cal. Lab. Code §§ 226.7 & 512]**

12 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
13 **Defendants)**

14 87. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
15 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
16 of this Complaint.

17 88. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from
18 time to time required to work in excess of four (4) hours without being provided ten (10) minute
19 rest periods. Further, these employees from time to time were denied their first rest periods of
20 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
21 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
22 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
23 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
24 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages
25 in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
26 CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest
27 periods by DEFENDANT and DEFENDANT's managers.

28 89. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable

1 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-
2 CLASS Members who were not provided a rest period, in accordance with the applicable Wage
3 Order, one additional hour of compensation at each employee's regular rate of pay for each
4 workday that rest period was not provided.

5 90. As a proximate result of the aforementioned violations, PLAINTIFF and
6 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
7 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
8 suit.

9 **SEVENTH CAUSE OF ACTION**

10 **For Failure to Provide Accurate Itemized Statements**

11 **[Cal. Lab. Code § 226]**

12 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
13 **Defendants)**

14 91. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
15 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
16 paragraphs of this Complaint.

17 92. Cal. Labor Code § 226 provides that an employer must furnish employees with
18 an "accurate itemized" statement in writing showing:

- 19 (1) gross wages earned,
20 (2) total hours worked by the employee, except for any employee whose
21 compensation is solely based on a salary and who is exempt from payment of
22 overtime under subdivision (a) of Section 515 or any applicable order of the
23 Industrial Welfare Commission,
24 (3) the number of piece-rate units earned and any applicable piece rate if the employee
25 is paid on a piece-rate basis,
26 (4) all deductions, provided that all deductions made on written orders of the
27 employee may be aggregated and shown as one item,
28 (5) net wages earned,
(6) the inclusive dates of the period for which the employee is paid,
(7) the name of the employee and his or her social security number, except that by
January 1, 2008, only the last four digits of his or her social security number or an
employee identification number other than a social security number may be shown on
the itemized statement,
(8) the name and address of the legal entity that is the employer, and
(9) all applicable hourly rates in effect during the pay period and the corresponding
number of hours worked at each hourly rate by the employee.

1 93. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
2 other members of the CALIFORNIA CLASS with complete and accurate wage statements
3 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
4 Code § 226 provides that every employer shall furnish each of his or her employees with an
5 accurate itemized wage statement in writing showing, among other things, gross wages
6 earned and all applicable hourly rates in effect during the pay period and the corresponding
7 amount of time worked at each hourly rate. Specifically, DEFENDANT violated Section
8 226 by failing to identify the correct rates of pay and number of hours worked, including for
9 the “Dir. Lab 1.0” “Dir. Lab 1.5.0 Dir. Lab 2.0” “Undist. Lab 1.0” “Undist. Lab 1.5” “Undist.
10 Lab 2.0” and “FLD Train 1.0” items of pay, which are wage payments. Aside, from the
11 violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
12 itemized wage statement that lists all the requirements under California Labor Code 226 *et*
13 *seq.* As a result, DEFENDANT from time to time provided PLAINTIFF and the other
14 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.
15 Code § 226.

16 94. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.
17 Code § 226, causing injury and damages to PLAINTIFF and the other members of the
18 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
19 expended calculating the correct wages for all missed meal and rest breaks and the amount
20 of employment taxes which were not properly paid to state and federal tax authorities.
21 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of
22 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty
23 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred
24 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §
25 226, in an amount according to proof at the time of trial (but in no event more than four
26 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the
27 CALIFORNIA LABOR SUB-CLASS herein).

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1 humiliation, emotional distress, and mental and physical pain and anguish, all to his damage
2 in a sum according to proof.

3 99. As a result of DEFENDANT'S adverse employment actions against
4 PLAINTIFF, PLAINTIFF has suffered general and special damages in sums according to
5 proof.

6 100. DEFENDANT'S misconduct was committed intentionally, in a malicious,
7 oppressive manner, and fraudulent manner entitling PLAINTIFF to punitive damages
8 against defendants.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
12 severally, as follows:

13 1. On behalf of the CALIFORNIA CLASS:

- 14 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
15 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
16 B) An order temporarily, preliminarily and permanently enjoining and restraining
17 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
18 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
19 withheld from compensation due to PLAINTIFF and the other members of the
20 CALIFORNIA CLASS; and,
21 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
22 for restitution of the sums incidental to DEFENDANT's violations due to
23 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

24 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 25 A) That the Court certify the Second, Third, Fourth, Fifth and Sixth Causes of
26 Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
27 pursuant to Cal. Code of Civ. Proc. § 382;
28 B) Compensatory damages, according to proof at trial, including compensatory

1 damages for minimum and overtime compensation due PLAINTIFF and the other
2 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
3 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
4 statutory rate;

5 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
6 in which a violation occurs and one hundred dollars (\$100) per each member of
7 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
8 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
9 an award of costs for violation of Cal. Lab. Code § 226;

10 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
11 the applicable IWC Wage Order; and,

12 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
13 1197.

14 3. On behalf of PLAINTIFF for the Seventh Cause of Action:

15 A) For all special damages which were sustained as a result of DEFENDANT's
16 conduct, including, but not limited to, back pay, front pay, lost compensation and
17 job benefits that PLAINTIFF would have received but for the retaliatory practices
18 of DEFENDANT; and,

19 B) For all exemplary damages, according to proof, which were sustained as a result
20 of DEFENDANT's conduct.

21 4. On all claims:

22 A) An award of interest, including prejudgment interest at the legal rate;

23 B) Such other and further relief as the Court deems just and equitable; and,

24 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
25 law, including, but not limited to, pursuant to Labor Code §226, §1194, and/or
26 §2802.

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Dated: August 17, 2020

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Attorneys for Plaintiff

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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: August 17, 2020 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street, City, State, ZIP Code, telephone number, and address):
 Norman B. Blumenthal (Bar # 68687)
 Kyle Nordrehaug (Bar # 205975)
 Blumenthal Nordrehaug Bhowmik De Blouw LLP
 2255 Calle Clara, La Jolla, CA 92037
 TELEPHONE NO.: (858) 551-1223 FAX NO.: (858) 551-1232

ATTORNEY FOR (Name): Plaintiff Matthew Lucchese

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
 STREET ADDRESS: 400 McAllister St.
 MAILING ADDRESS: 400 McAllister St.
 CITY AND ZIP CODE: San Francisco 94102-4514
 BRANCH NAME: Central

CASE NAME:
 MATTHEW LUCCHESI v. KONE INC.

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation
☐ **Counter** ☐ **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
 DEPT:

CM-010
 FOR COURT USE ONLY
 Superior Court of California
 County of San Francisco
 NOV 16 2020
 CLERK OF THE COURT
 BY: Amaya Jones Deputy Clerk

20-588227

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): ONE (1)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 13, 2020

Norman Blumenthal

(TYPE OR PRINT NAME)

BY FAX

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage

Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review

Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition