

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

DANIEL NAVARRO, ANDREW ORTEGA,
DAVITSHEA SINGLETARY KAREEM TERRY,
JOHN NELSON, RICHARD VASQUEZ, JOSEPH
CHAROGOFF, MARTIN FELIX, SAM
BLAGOVICH, PEDRO VARGAS, JR., LUIS
LOMELI, MARIAH BRAVO, SYLVIRA BREWER
AND SHERRY MORROW, individuals, on behalf of
themselves and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

SAN GORGONIO MEMORIAL HOSPITAL, a
California Corporation; and Does 1 through 50,
Inclusive;

Defendants.

Case No. CVRI2101033

**THIRD AMENDED CLASS ACTION
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
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;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. RETALIATION IN VIOLATION OF LABOR CODE § 1102.5, *ET SEQ.*; and,
10. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, *et seq.*]

DEMAND FOR A JURY TRIAL

1 Plaintiffs Daniel Navarro, Andrew Ortega, Davitshea Singletary, Kareem Terry, John
2 Nelson, Richard Vasquez, Joseph Charogoff, Martin Felix, Sam Blagovich, Pedro Vargas, Jr.,
3 Luis Lomeli, Mariah Bravo, Sylvira Brewer and Sherry Morrow (“PLAINTIFFS”), individuals,
4 on behalf of themselves and all other similarly situated current and former employees, allege
5 on information and belief, except for their own acts and knowledge which are based on personal
6 knowledge, the following:

7
8 **THE PARTIES**

9 1. Defendant San Gorgonio Memorial Hospital (“DEFENDANT”) is California
10 Corporation that at all relevant times mentioned herein conducted and continues to conduct
11 substantial and regular business throughout California.

12 2. DEFENDANT is a hospital. Founded in 1951, DEFENDANT tends to those in
13 need of medical attention in Riverside county.

14 3. Plaintiff Navarro has been employed by DEFENDANT as a non-exempt
15 employee entitled to overtime pay and meal and rest periods since August of 2019.
16 PLAINTIFF has been at all times relevant mentioned herein classified by DEFENDANT as
17 a non-exempt employee paid in whole or in part on an hourly basis and receives additional
18 compensation from DEFENDANT in the form of non-discretionary incentive wages.

19 4. Plaintiff Ortega has been employed by DEFENDANT in California as a non-
20 exempt employee entitled to overtime pay and meal and rest periods since 2015.
21 PLAINTIFF has been at all times relevant mentioned herein classified by DEFENDANT as
22 a non-exempt employee paid in whole or in part on an hourly basis and receives additional
23 compensation from DEFENDANT in the form of non-discretionary incentive wages.

24 5. Plaintiff Singletary was employed by DEFENDANT in California as a non-
25 exempt employee entitled to overtime pay and meal and rest periods from July of 2020 until
26 September of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
27 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
28

1 received additional compensation from DEFENDANT in the form of non-discretionary
2 incentive wages.

3 6. Plaintiff Terry was employed by DEFENDANT in California as a non-exempt
4 employee entitled to overtime pay and meal and rest periods from March of 2020 until
5 October of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
6 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
7 received additional compensation from DEFENDANT in the form of non-discretionary
8 incentive wages.

9 7. Plaintiff Nelson has been employed by DEFENDANT in California as a non-
10 exempt employee entitled to overtime pay and meal and rest periods since 2013.
11 PLAINTIFF has been at all times relevant mentioned herein classified by DEFENDANT as
12 a non-exempt employee paid in whole or in part on an hourly basis and receives additional
13 compensation from DEFENDANT in the form of non-discretionary incentive wages.

14 8. Plaintiff Vasquez was employed by DEFENDANT in California as a non-
15 exempt employee entitled to overtime pay and meal and rest periods from December of 2017
16 until October of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
17 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
18 received additional compensation from DEFENDANT in the form of non-discretionary
19 incentive wages.

20 9. Plaintiff Charogoff was employed by DEFENDANT in California as a non-
21 exempt employee entitled to overtime pay and meal and rest periods from September of
22 2017 until December of 2019. PLAINTIFF was at all times relevant mentioned herein
23 classified by DEFENDANT as a non-exempt employee paid in whole or in part on an hourly
24 basis and received additional compensation from DEFENDANT in the form of non-
25 discretionary incentive wages.

26 10. Plaintiff Felix was employed by DEFENDANT in California as a non-exempt
27 employee entitled to overtime pay and meal and rest periods from October of 2015 until
28

1 November of 2019. PLAINTIFF was at all times relevant mentioned herein classified by
2 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
3 received additional compensation from DEFENDANT in the form of non-discretionary
4 incentive wages.

5 11. Plaintiff Blagovich was employed by DEFENDANT in California as a non-
6 exempt employee entitled to overtime pay and meal and rest periods from October of 2012
7 until October of 2017. PLAINTIFF was at all times relevant mentioned herein classified by
8 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
9 received additional compensation from DEFENDANT in the form of non-discretionary
10 incentive wages.

11 12. Plaintiff Vargas Jr. was employed by DEFENDANT in California as a non-
12 exempt employee entitled to overtime pay and meal and rest periods from January of 2018
13 until October of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
14 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
15 received additional compensation from DEFENDANT in the form of non-discretionary
16 incentive wages.

17 13. Plaintiff Lomeli was employed by DEFENDANT in California as a non-
18 exempt employee entitled to overtime pay and meal and rest periods from December of 2019
19 until May of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
20 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
21 received additional compensation from DEFENDANT in the form of non-discretionary
22 incentive wages.

23 14. Plaintiff Bravo was employed by DEFENDANT in California as a non-exempt
24 employee entitled to overtime pay and meal and rest periods from February 2020 through
25 November 22, 2021. PLAINTIFF was at all times relevant mentioned herein classified by
26 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
27 received additional compensation from DEFENDANT in the form of non-discretionary
28

1 incentive wages.

2 15. Plaintiff Brewer was employed by DEFENDANT in California as a non-
3 exempt employee entitled to overtime pay and meal and rest periods from January 11, 2016 to
4 the present. PLAINTIFF was at all times relevant mentioned herein classified by
5 DEFENDANT as a non-exempt employee paid in whole or in part on an hourly basis and
6 received additional compensation from DEFENDANT in the form of non-discretionary
7 incentive wages.

8 16. Plaintiff Morrow was employed by DEFENDANT in California as a non-
9 exempt employee entitled to overtime pay and meal and rest periods from July 2019 to the
10 present. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT
11 as a non-exempt employee paid in whole or in part on an hourly basis and received
12 additional compensation from DEFENDANT in the form of non-discretionary incentive
13 wages.

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

21 18. PLAINTIFFS bring this Class Action on behalf of themselves and a
22 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their
23 losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's
24 policy and practice which failed to lawfully compensate these employees for all their
25 overtime worked. DEFENDANT's policy and practice alleged herein is an unlawful, unfair
26 and deceptive business practice whereby DEFENDANT retained and continues to retain
27 wages due PLAINTIFFS and the other members of the CALIFORNIA CLASS.

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

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

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

23 **THE CONDUCT**

24 21. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed and
25 continues to fail to accurately calculate and pay PLAINTIFFS and the other members of the
26 CALIFORNIA CLASS for their minimum and overtime wages. DEFENDANT unlawfully
27 and unilaterally failed to accurately calculate minimum and overtime wages for time worked
28 by PLAINTIFFS and other members of the CALIFORNIA CLASS in order to avoid paying

1 these employees the correct compensation. As a result, PLAINTIFFS and the other
2 members of the CALIFORNIA CLASS forfeited wages due them for working without
3 compensation at the correct minimum wage and overtime rates. DEFENDANT's policy and
4 practice to not pay the members of the CALIFORNIA CLASS the correct compensation for
5 all time worked in accordance with applicable law is evidenced by DEFENDANT's business
6 records. This policy and practice of DEFENDANT was intended to purposefully avoid the
7 payment of the correct compensation as required by California law which allowed
8 DEFENDANT to illegally profit and gain an unfair advantage over competitors who
9 complied with the law.

10 22. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to
11 accurately record and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the
12 actual amount of time these employees worked. Pursuant to the Industrial Welfare
13 Commission Wage Orders, DEFENDANT is required to pay PLAINTIFFS and other
14 CALIFORNIA CLASS Members for all time worked, meaning the time during which an
15 employee was subject to the control of an employer, including all the time the employee was
16 permitted or suffered to permit this work. DEFENDANT required these employees to work
17 off the clock without paying them for all the time they were under DEFENDANT's control.
18 Specifically, DEFENDANT required PLAINTIFFS to work while clocked out during what
19 was supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS were from time to
20 time interrupted by work assignments. Indeed there were days where PLAINTIFFS did not
21 even receive a partial lunch. Additionally, DEFENDANT engaged in the practice of
22 requiring PLAINTIFFS and CALIFORNIA CLASS Members to perform work off the clock
23 in that DEFENDANT, as a condition of employment, required these employees to wait in
24 line and submit to mandatory temperature checks for COVID-19 screening prior to clocking
25 into DEFENDANT's timekeeping system for the workday. Further, PLAINTIFFS and other
26 members of the CALIFORNIA CLASS from time to time were not paid wages for all time
27 worked, including overtime wages, such that in the aggregate employees were underpaid
28 wages as a result of DEFENDANT's pattern and practice of unevenly rounding time worked

1 by its employees. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members
2 forfeited minimum wage and overtime compensation by working without their time being
3 accurately recorded and without compensation at the applicable minimum wage and
4 overtime rates. To the extent that the time worked off the clock did not qualify for overtime
5 premium payment, DEFENDANT failed to pay minimum wages for the time worked off-
6 the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

7 23. State and federal law provides that employees must be paid overtime at one-
8 and-one-half times their “regular rate of pay.” PLAINTIFFS and other CALIFORNIA
9 CLASS Members were compensated at an hourly rate plus incentive pay that was tied to
10 specific elements of an employee’s performance.

11 24. The second component of PLAINTIFFS’ and other CALIFORNIA CLASS
12 Members’ compensation was DEFENDANT’s non-discretionary incentive program that paid
13 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their
14 performance for DEFENDANT. The non-discretionary incentive program provided all
15 employees paid on an hourly basis with incentive compensation when the employees met the
16 various performance goals set by DEFENDANT. However, when calculating the regular
17 rate of pay in order to pay overtime to PLAINTIFFS and other CALIFORNIA CLASS
18 Members, DEFENDANT failed to include the incentive compensation as part of the
19 employees’ “regular rate of pay” for purposes of calculating overtime pay. Management and
20 supervisors described the incentive program to potential and new employees as part of the
21 compensation package. As a matter of law, the incentive compensation received by
22 PLAINTIFFS and other CALIFORNIA CLASS Members must be included in the “regular
23 rate of pay.” DEFENDANT also underpaid sick pay wages to PLAINTIFFS and other
24 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of
25 pay. Specifically, PLAINTIFFS and other non-exempt employees regularly earn non-
26 discretionary remuneration, including but not limited to, incentives, shift differential pay,
27 and bonuses. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid
28 sick pay to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of

1 pay. The failure to do so has resulted in a underpayment of overtime compensation to
2 PLAINTIFFS and other CALIFORNIA CLASS Members by DEFENDANT.

3 25. In violation of the applicable sections of the California Labor Code and the
4 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
5 intentionally and knowingly failed to compensate PLAINTIFFS and the other members of
6 the CALIFORNIA CLASS at the correct rate of pay for all overtime worked. This policy
7 and practice of DEFENDANT is intended to purposefully avoid the payment of the correct
8 overtime compensation as required by California law which allowed DEFENDANT to
9 illegally profit and gain an unfair advantage over competitors who complied with the law.
10 To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against
11 DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

12 26. As a result of their rigorous work schedules, PLAINTIFFS and other
13 CALIFORNIA CLASS Members were from time to time unable to take off duty meal
14 breaks and were not fully relieved of duty for meal periods. PLAINTIFFS and other
15 CALIFORNIA CLASS Members were from time to time required to perform work as
16 ordered by DEFENDANT for more than five (5) hours during a shift without receiving an
17 off-duty meal break. Additionally, DEFENDANT required PLAINTIFF to wait in line and
18 submit to mandatory temperature checks for COVID-19 screening prior to clocking into
19 DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFF forfeited
20 minimum wage, overtime wage compensation, and off-duty meal breaks by working without
21 his time being correctly recorded and without compensation at the applicable rates. Further,
22 DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a
23 second off-duty meal period from time to time in which these employees were required by
24 DEFENDANT to work ten (10) hours of work. PLAINTIFFS and the other CALIFORNIA
25 CLASS Members therefore forfeited meal breaks without additional compensation and in
26 accordance with DEFENDANT's corporate policy and practice.

27 27. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other
28 CALIFORNIA CLASS Members were from time to time also required to work in excess of

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

22 28. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or
23 her employees with an accurate itemized wage statement in writing showing, among other
24 things, gross wages earned and all applicable hourly rates in effect during the pay period and
25 the corresponding amount of time worked at each hourly rate. DEFENDANT from time to
26 time failed to provide to PLAINTIFFS and the CALIFORNIA CLASS wage statements that
27 identify the correct gross and net wages earned, the applicable number of hours worked and
28 rates of pay. Aside, from the violations listed above in this paragraph, DEFENDANT failed

1 to issue to PLAINTIFFS and other CALIFORNIA CLASS members an itemized wage
2 statement that lists all the requirements under California Labor Code 226 *et seq.*

3 29. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
4 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business
5 expenses incurred by the PLAINTIFFS and other CALIFORNIA CLASS Members in direct
6 consequence of discharging their duties on behalf of DEFENDANT. Under California
7 Labor Code Section 2802, employers are required to indemnify employees for all expenses
8 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
9 states that "an employer shall indemnify his or her employee for all necessary expenditures
10 or losses incurred by the employee in direct consequence of the discharge of his or her
11 duties, or of his or her obedience to the directions of the employer, even though unlawful,
12 unless the employee, at the time of obeying the directions, believed them to be unlawful."

13 30. In the course of their employment PLAINTIFFS and other CALIFORNIA
14 CLASS Members as a business expense, were required by DEFENDANT to use their own
15 personal cellular phones as a result of and in furtherance of their job duties as employees for
16 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
17 associated with the use of their personal cellular phones for DEFENDANT's benefit.
18 Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members were required by
19 DEFENDANT to use their personal cellular phones to for work related issues. As a result,
20 in the course of their employment with DEFENDANT, PLAINTIFFS and other members of
21 the CALIFORNIA CLASS incurred unreimbursed business expenses which included, but
22 were not limited to, costs related to the use of their personal cellular phones all on behalf of
23 and for the benefit of DEFENDANT.

24 31. By reason of this conduct applicable to PLAINTIFFS and all CALIFORNIA
25 CLASS Members, DEFENDANT committed acts of unfair competition in violation of the
26 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL"),
27 by engaging in a company-wide policy and procedure which failed to accurately calculate
28 and record the correct overtime rate for the overtime worked by PLAINTIFFS and other

1 CALIFORNIA CLASS Members. The proper calculation of these employees' overtime
2 hour rates is the DEFENDANT's burden. As a result of DEFENDANT's intentional
3 disregard of the obligation to meet this burden, DEFENDANT failed to properly calculate
4 and/or pay all required overtime compensation for work performed by the members of the
5 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated
6 thereunder as herein alleged.

7 32. Specifically as to PLAINTIFFS' pay, DEFENDANT provided compensation
8 to them in the form of two components. One component of PLAINTIFFS' compensation
9 was a base hourly wage. The second component of PLAINTIFFS' compensation were non-
10 discretionary incentive wages. DEFENDANT paid the incentive wages, so long as
11 PLAINTIFFS met certain predefined performance requirements. PLAINTIFFS met
12 DEFENDANT's predefined eligibility performance requirements in various pay periods
13 throughout their employment with DEFENDANT and DEFENDANT paid PLAINTIFFS the
14 non-discretionary incentive wages. During these pay periods in which PLAINTIFFS were
15 paid the non-discretionary incentive wages by DEFENDANT, PLAINTIFFS also worked
16 overtime for DEFENDANT, but DEFENDANT never included the incentive compensation
17 in PLAINTIFFS' regular rate of pay for the purposes of calculating what should have been
18 PLAINTIFFS' accurate overtime rate and thereby underpaid PLAINTIFFS for overtime
19 worked throughout their employment with DEFENDANT. The incentive compensation
20 paid by DEFENDANT constituted wages within the meaning of the California Labor Code
21 and thereby should have been part of PLAINTIFFS' "regular rate of pay." PLAINTIFFS
22 were also from time to time unable to take off duty meal and rest breaks and was not fully
23 relieved of duty for their meal periods. PLAINTIFFS were required to perform work as
24 ordered by DEFENDANT for more than five (5) hours during a shift without receiving an
25 off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFFS with a second
26 off-duty meal period from time to time in which they were required by DEFENDANT to
27 work ten (10) hours of work. PLAINTIFFS therefore forfeited meal and rest breaks
28 without additional compensation and in accordance with DEFENDANT's corporate policy

1 and practice. DEFENDANT also provided PLAINTIFFS with a pay stub that failed to
2 accurately display PLAINTIFFS' correct net and gross wages earned and all hourly rates for
3 certain pay periods in violation of Cal. Lab. Code § 226(a). To date, DEFENDANT has not
4 fully paid PLAINTIFFS the wage compensation still owed to them or any penalty wages
5 owed to them under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFFS
6 individually do not exceed the sum or value of \$75,000.

7 33. DEFENDANT failed to properly maintain standard safety measures at the
8 hospital during the Covid-19 pandemic. As such, Plaintiff Navarro was placed in a constant
9 risk of harm while performing his job duties for DEFENDANT. In March of 2020, Plaintiff
10 Navarro first informed DEFENDANT about such safety issues, but to no avail. In or around
11 March of 2020, and continuing through much of PLAINTIFF's employment, Plaintiff
12 Navarro's engaged in protected activity by complaining to DEFENDANT of
13 DEFENDANT's failure to maintain compliant safety standards. DEFENDANT's failure to
14 maintain safety standards including, but not limited to, DEFENDANT's failure to provide
15 personal protective equipment (PPE) during the COVID-19 pandemic at DEFENDANT's
16 hospital, in violation of Occupational Safety and Health Administration ("OSHA") COVID-
17 19 guidelines and procedures; National Institute for Occupational Safety and Health
18 ("NIOSH") COVID-19 requirements; Center Disease Control and Prevention ("CDC")
19 protocols; California Department of Public Health ("CDPH") COVID-19 guidance; and/or
20 California Executive Orders. Specifically, although not exclusively, Defendant violated
21 California Title 8 §3380; California Labor Code §142.3; California Labor Code §6403;
22 Cal/OSHA's Respiratory Protection Standard (5144); Cal/OSHA's Aerosol Transmissible
23 Diseases (ATD) Standard (5199); 72 Fed. Reg. 64341-64430; 21 CFR 878.4040; 42 CFR
24 Part 84; and 29 CFR 1910.134. DEFENDANT insisted on jeopardizing public safety and
25 worker safety in order to accommodate the best interests of DEFENDANT itself.
26 Specifically, PLAINTIFF complained to Human Resources, Annah Karaam; Chief Nursing
27 Officer, Pat Brown; Employee Health Nurse, Kim Nelsen; House Supervisor, Anna Sanjakorn;
28 Disaster Preparedness/Director of Security, Joey Hunter; and/or Security Manager, Frank Ussery, of

1 DEFENDANT's failure to maintain compliant safety standard and provide necessary and compliant
2 PPE to employees, such as Plaintiff, working in a hospital during the COVID-19 pandemic and
3 regularly interfacing with COVID-19 patients. Plaintiff was a front-line worker in a hospital
4 that serviced and treated COVID-19 patients, yet Plaintiff, despite multiple complaints, was
5 not provided with compliant PPE. As a direct consequence of Plaintiff Navarro's complaints
6 to DEFENDANT, through the aforementioned personnel, DEFENDANT retaliated against
7 Plaintiff Navarro by bypassing him and neglecting to even interview him, despite his
8 extensive qualifications, for the lead security position. This fact, along with the constant
9 bullying and harassment at DEFENDANT's work place, has resulted in resulted in lost time,
10 lost opportunities and therefore, lost wages. Plaintiff Navarro has raised complaints of
11 illegality while working for DEFENDANT and was believed to be willing to raise
12 complaints, and DEFENDANT retaliated against him by taking adverse employment
13 actions, including bypassing him for a promotion, bullying and harassment.

14 15 **JURISDICTION AND VENUE**

16 34. This Court has jurisdiction over this Action pursuant to California Code of
17 Civil Procedure, Section 410.10 and California Business & Professions Code, Section
18 17203. This action is brought as a Class Action on behalf of PLAINTIFFS and similarly
19 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

20 35. Venue is proper in this Court pursuant to California Code of Civil Procedure,
21 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant
22 times maintained offices and facilities in this County and/or conducts substantial business in
23 this County, and (ii) committed the wrongful conduct herein alleged in this County against
24 members of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS.

25 26 **THE CALIFORNIA CLASS**

27 36. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and
28

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

9 37. To the extent equitable tolling operates to toll claims by the CALIFORNIA
10 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
11 accordingly.

12 38. The California Legislature has commanded that "all wages... ..earned by any
13 person in any employment are due and payable twice during each calendar month, on days
14 designated in advance by the employer as the regular paydays", and further that "[a]ny
15 work in excess of eight hours in one workday and any work in excess of 40 hours in any one
16 workweek . . . shall be compensated at the rate of no less than one and one-half times the
17 regular rate of pay for an employee." (Lab. Code § 204 and § 510(a).) The Industrial
18 Welfare Commission (IWC), however, is statutorily authorized to "establish exemptions
19 from the requirement that an overtime rate of compensation be paid... ..for executive,
20 administrative, and professional employees, provided [inter alia] that the employee is
21 primarily engaged in duties that meet the test of the exemption, [and] customarily and
22 regularly exercises discretion and independent judgment in performing those duties..."
23 (Lab. Code § 510(a).) Neither the PLAINTIFFS nor the other members of the
24 CALIFORNIA CLASS and/or the CALIFORNIA LABOR SUB-CLASS qualify for
25 exemption from the above requirements.

26 39. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
27 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
28 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT

1 failed to correctly calculate and record overtime compensation for overtime worked by
2 PLAINTIFFS and the other members of the CALIFORNIA CLASS, even though
3 DEFENDANT enjoyed the benefit of this work, required employees to perform this work
4 and permitted or suffered to permit this overtime work.

5 40. DEFENDANT has the legal burden to establish that each and every
6 CALIFORNIA CLASS Member is paid the applicable rate for all overtime worked and to
7 accurately calculate the “regular rate of pay” by including the incentive compensation that
8 PLAINTIFFS and members of the CALIFORNIA CLASS were awarded by DEFENDANT.
9 DEFENDANT, however, as a matter of policy and procedure failed to have in place during
10 the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to
11 ensure that each and every CALIFORNIA CLASS Member is paid the applicable overtime
12 rate for all overtime worked, so as to satisfy their burden. This common business practice
13 applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-
14 wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§
15 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not elements of this
16 claim.

17 41. At no time during the CALIFORNIA CLASS PERIOD was the compensation
18 for any member of the CALIFORNIA CLASS properly recalculated so as to compensate the
19 employee for all overtime worked at the applicable rate, as required by California Labor
20 Code §§ 204 and 510, *et seq.* At no time during the CALIFORNIA CLASS PERIOD was
21 the overtime compensation for any member of the CALIFORNIA CLASS properly
22 recalculated so as to include all earnings in the overtime compensation calculation as
23 required by California Labor Code §§ 510, *et seq.*

24 42. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
25 CLASS Members is impracticable.

26 43. DEFENDANT violated the rights of the CALIFORNIA CLASS under
27 California law by:

28 (a) Violating the California Unfair Competition Laws, Cal. Bus. & Prof.

Code §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company policies, practices and procedures that failed to pay all minimum and overtime wages due the CALIFORNIA CLASS for all time worked, and failed to accurately record the applicable rates of all overtime worked by the CALIFORNIA CLASS;

(b) Committing an act of unfair competition in violation of the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by unlawfully, unfairly, and/or deceptively having in place a company policy, practice and procedure that failed to correctly calculate overtime compensation due to PLAINTIFFS and the members of the CALIFORNIA CLASS;

(c) Committing an act of unfair competition in violation of the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by violating the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, by failing to pay the correct federal overtime wages to the PLAINTIFFS and the members of the CALIFORNIA CLASS as legally required by the FLSA, and retaining the unpaid federal overtime to the benefit of DEFENDANT.;

(d) Committing an act of unfair competition in violation of the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members; and,

(e) Committing an act of unfair competition in violation of the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS members with necessary expenses incurred in the discharge of their job duties.

44. This Class Action meets the statutory prerequisites for the maintenance of a

1 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 2 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
3 that the joinder of all such persons is impracticable and the disposition
4 of their claims as a class will benefit the parties and the Court;
- 5 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
6 issues that are raised in this Complaint are common to the
7 CALIFORNIA CLASS will apply to every member of the
8 CALIFORNIA CLASS;
- 9 (c) The claims of the representative PLAINTIFFS are typical of the claims
10 of each member of the CALIFORNIA CLASS. PLAINTIFFS, like all
11 the other members of the CALIFORNIA CLASS, were subjected to the
12 employment practices of DEFENDANT and was a non-exempt
13 employee paid on an hourly basis and paid additional non-discretionary
14 incentive wages who was subjected to the DEFENDANT's practice and
15 policy which fails to pay the correct rate of overtime wages due to the
16 CALIFORNIA CLASS for all overtime worked by the CALIFORNIA
17 CLASS and thereby underpays overtime compensation to the
18 CALIFORNIA CLASS. PLAINTIFFS sustained economic injury as a
19 result of DEFENDANT's employment practices. PLAINTIFFS and the
20 members of the CALIFORNIA CLASS were and are similarly or
21 identically harmed by the same unlawful, deceptive and unfair
22 misconduct engaged in by DEFENDANT; and,
- 23 (d) The representative PLAINTIFFS will fairly and adequately represent
24 and protect the interest of the CALIFORNIA CLASS, and has retained
25 counsel who are competent and experienced in Class Action litigation.
26 There are no material conflicts between the claims of the representative
27 PLAINTIFFS and the members of the CALIFORNIA CLASS that
28 would make class certification inappropriate. Counsel for the

CALIFORNIA CLASS will vigorously assert the claims of all
CALIFORNIA CLASS Members.

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

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

1) Inconsistent or varying adjudications with respect to individual
members of the CALIFORNIA CLASS which would establish
incompatible standards of conduct for the parties opposing the
CALIFORNIA CLASS; and/or,

2) Adjudication with respect to individual members of the
CALIFORNIA CLASS which would as a practical matter be
dispositive of interests of the other members not party to the
adjudication or substantially impair or impede their ability to
protect their interests.

(b) The parties opposing the CALIFORNIA CLASS have acted or refused
to act on grounds generally applicable to the CALIFORNIA CLASS,
making appropriate class-wide relief with respect to the CALIFORNIA
CLASS as a whole in that DEFENDANT failed to pay all wages due.
Including the correct overtime rate, for all worked by the members of
the CALIFORNIA CLASS as required by law;

1) With respect to the First Cause of Action, the final relief on
behalf of the CALIFORNIA CLASS sought does not relate
exclusively to restitution because through this claim
PLAINTIFFS seek declaratory relief holding that the
DEFENDANT's policy and practices constitute unfair

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

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

- 10 1) The interests of the members of the CALIFORNIA CLASS in
11 individually controlling the prosecution or defense of separate
12 actions in that the substantial expense of individual actions will
13 be avoided to recover the relatively small amount of economic
14 losses sustained by the individual CALIFORNIA CLASS
15 Members when compared to the substantial expense and burden
16 of individual prosecution of this litigation;
- 17 2) Class certification will obviate the need for unduly duplicative
18 litigation that would create the risk of:
- 19 A. Inconsistent or varying adjudications with respect to
20 individual members of the CALIFORNIA CLASS, which
21 would establish incompatible standards of conduct for the
22 DEFENDANT; and/or,
- 23 B. Adjudications with respect to individual members of the
24 CALIFORNIA CLASS would as a practical matter be
25 dispositive of the interests of the other members not
26 parties to the adjudication or substantially impair or
27 impede their ability to protect their interests;
- 28 3) In the context of wage litigation because a substantial number of

individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

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

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

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

1 be able to obtain effective and economic legal redress unless the action
2 is 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
5 and other improprieties, and in obtaining adequate compensation for
6 the damages and injuries which DEFENDANT's actions have inflicted
7 upon 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
12 applicable to the CALIFORNIA CLASS, thereby making final class-
13 wide relief appropriate with respect to the CALIFORNIA CLASS as a
14 whole;
- 15 (h) The members of the CALIFORNIA CLASS are readily ascertainable
16 from the business records of DEFENDANT; and,
- 17 (i) Class treatment provides manageable judicial treatment calculated to
18 bring a efficient and rapid conclusion to all litigation of all wage and
19 hour related claims arising out of the conduct of DEFENDANT as to
20 the members of the CALIFORNIA CLASS.

21 47. DEFENDANT maintains records from which the Court can ascertain and
22 identify by job title each of DEFENDANT's employees who as have been intentionally
23 subjected to DEFENDANT's conduct as herein alleged. PLAINTIFFS will seek leave to
24 amend the Complaint to include any additional job titles of similarly situated employees
25 when they have been identified.

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

28 48. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh

1 and Eighth causes of Action on behalf of a California sub-class, defined as all members of
2 the CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA
3 LABOR SUB-CLASS”) at any time during the period beginning on the date three (3) years
4 prior to the filing of the complaint and ending on the date as determined by the Court (the
5 “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. §
6 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-
7 CLASS Members is under five million dollars (\$5,000,000.00).

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

20 50. DEFENDANT maintains records from which the Court can ascertain and
21 identify by name and job title, each of DEFENDANT’s employees who have been
22 intentionally subjected to DEFENDANT’s conduct as herein alleged. PLAINTIFFS will
23 seek leave to amend the complaint to include any additional job titles of similarly situated
24 employees when they have been identified.

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

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

- 1 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
2 overtime compensation to members of the CALIFORNIA LABOR
3 SUB-CLASS in violation of the California Labor Code and California
4 regulations and the applicable California Wage Order;
- 5 (b) Whether the members of the CALIFORNIA LABOR SUB-CLASS are
6 entitled to overtime compensation for overtime worked under the
7 overtime pay requirements of California law;
- 8 (c) Whether DEFENDANT failed to accurately record the applicable
9 overtime rates for all overtime worked PLAINTIFFS and the other
10 members of the CALIFORNIA LABOR SUB-CLASS;
- 11 (d) Whether DEFENDANT failed to provide PLAINTIFFS and the other
12 members of the CALIFORNIA LABOR SUB-CLASS with legally
13 required uninterrupted thirty (30) minute meal breaks and rest periods;
- 14 (e) Whether DEFENDANT failed to provide PLAINTIFFS and the other
15 members of the CALIFORNIA LABOR SUB-CLASS with accurate
16 itemized wage statements;
- 17 (f) Whether DEFENDANT has engaged in unfair competition by the
18 above-listed conduct;
- 19 (g) The proper measure of damages and penalties owed to the members of
20 the CALIFORNIA LABOR SUB-CLASS; and,
- 21 (h) Whether DEFENDANT's conduct was willful.

22 53. DEFENDANT failed to accurately calculate overtime compensation for the
23 CALIFORNIA LABOR SUB-CLASS Members and failed to provide accurate records of
24 the applicable overtime rates for the overtime worked by these employees. All of the
25 CALIFORNIA LABOR SUB-CLASS Members, including PLAINTIFFS, were non-exempt
26 employees who were paid on an hourly basis by DEFENDANT according to company
27 procedures as alleged herein above. This business practice was applied to each and every
28 member of the CALIFORNIA LABOR SUB-CLASS, and therefore, the propriety of this

1 conduct can be adjudicated on a class-wide basis.

2 54. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
3 CLASS under California law by:

- 4 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay
5 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
6 CLASS the correct overtime pay for which DEFENDANT is liable
7 pursuant to Cal. Lab. Code § 1194 & § 1198;
- 8 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
9 accurately pay PLAINTIFFS and the members of the CALIFORNIA
10 LABOR SUB-CLASS the correct minimum wage pay for which
11 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 12 (c) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
13 PLAINTIFFS and the other members of the CALIFORNIA LABOR
14 SUB-CLASS with all legally required off-duty, uninterrupted thirty
15 (30) minute meal breaks and the legally required rest breaks; and,
- 16 (d) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS
17 and the members of the CALIFORNIA LABOR SUB-CLASS with an
18 accurate itemized statement in writing showing all accurate and
19 applicable overtime rates in effect during the pay period and the
20 corresponding amount of time worked at each overtime rate by the
21 employee;
- 22 (e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS
23 and the CALIFORNIA LABOR SUB-CLASS members with necessary
24 expenses incurred in the discharge of their job duties; and,
- 25 (f) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
26 when an employee is discharged or quits from employment, the
27 employer must pay the employee all wages due without abatement, by
28 failing to tender full payment and/or restitution of wages owed or in the

1 manner required by California law to the members of the
2 CALIFORNIA LABOR SUB-CLASS who have terminated their
3 employment.

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

- 6 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS
7 are so numerous that the joinder of all CALIFORNIA LABOR SUB-
8 CLASS Members is impracticable and the disposition of their claims as
9 a class will benefit the parties and the Court;
- 10 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
11 issues that are raised in this Complaint are common to the
12 CALIFORNIA LABOR SUB-CLASS and will apply to every member
13 of the CALIFORNIA LABOR SUB-CLASS;
- 14 (c) The claims of the representative PLAINTIFFS are typical of the claims
15 of each member of the CALIFORNIA LABOR SUB-CLASS.
16 PLAINTIFFS, like all the other members of the CALIFORNIA
17 LABOR SUB-CLASS, were non-exempt employees paid on an hourly
18 basis and paid additional non-discretionary incentive wages who was
19 subjected to the DEFENDANT's practice and policy which failed to
20 pay the correct rate of overtime wages due to the CALIFORNIA
21 LABOR SUB-CLASS for all overtime worked. PLAINTIFFS
22 sustained economic injury as a result of DEFENDANT's employment
23 practices. PLAINTIFFS and the members of the CALIFORNIA
24 LABOR SUB-CLASS were and are similarly or identically harmed by
25 the same unlawful, deceptive and unfair misconduct engaged in by
26 DEFENDANT; and,
- 27 (d) The representative PLAINTIFFS will fairly and adequately represent
28 and protect the interest of the CALIFORNIA LABOR SUB-CLASS,

1 and has retained counsel who are competent and experienced in Class
2 Action litigation. There are no material conflicts between the claims of
3 the representative PLAINTIFFS and the members of the
4 CALIFORNIA LABOR SUB-CLASS that would make class
5 certification inappropriate. Counsel for the CALIFORNIA LABOR
6 SUB-CLASS will vigorously assert the claims of all CALIFORNIA
7 LABOR SUB-CLASS Members.

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

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

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

23 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have
24 acted or refused to act on grounds generally applicable to the
25 CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide
26 relief with respect to the CALIFORNIA LABOR SUB-CLASS as a
27 whole in that DEFENDANT failed to pay all wages due. Including the
28 correct overtime rate, for all overtime worked by the members of the

CALIFORNIA LABOR SUB-CLASS as required by law;

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

- 1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
- 2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- 3) In the context of wage litigation because a substantial number of

individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

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

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

- (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
- (d) PLAINTIFFS, 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 classified as non-exempt employees 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.

///

///

///

///

///

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

4 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

5 58. PLAINTIFFS, 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 59. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
9 Code § 17021.

10 60. 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 61. 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 Wage Order(s), the California Code of Regulations and the California Labor Code
22 including Sections 204 *et seq.*, 210, 226.7, 510, 512, 1194, 1197, 1197.1, 1198 & 2802, 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 62. By the conduct alleged herein, DEFENDANT’s practices were unlawful and
27 unfair in that these practices violated 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 63. By the conduct alleged herein, DEFENDANT's practices were deceptive and
5 fraudulent in that DEFENDANT's policy and practice failed to pay PLAINTIFFS, and other
6 members of the CALIFORNIA CLASS, minimum and overtime wages for all time worked,
7 failed to accurately to record the applicable rate of all overtime worked, failed to pay reporting
8 time wages owed, failed to reimburse necessary business expenses incurred, and failed to
9 provide the required amount of overtime compensation due to a miscalculation of the overtime
10 rate that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
11 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
12 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
13 including restitution of wages wrongfully withheld.

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

18 65. By the conduct alleged herein, DEFENDANT's practices were also unfair and
19 deceptive in that DEFENDANT's policies, practices and procedures failed to provide
20 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members.

21 66. Therefore, PLAINTIFFS demand on behalf of themselves 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 67. PLAINTIFFS further demand on behalf of themselves and on behalf of each
27 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off duty
28 paid rest period was not timely provided as required by law.

1 68. By and through the unlawful and unfair business practices described herein,
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the
3 other members of the CALIFORNIA CLASS, including earned wages for all overtime worked,
4 and 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 69. 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 70. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled
13 to, and do, seek such relief as may be necessary to restore to them the money and property
14 which DEFENDANT has acquired, or of which PLAINTIFFS 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 overtime worked.

17 71. PLAINTIFFS 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 72. PLAINTIFFS 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, PLAINTIFFS and
25 the 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.

1 **SECOND CAUSE OF ACTION**

2 **For Failure To Pay Overtime Compensation**

3 **[Cal. Lab. Code §§ 204, 510, 1194 and 1198]**

4 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
5 **Defendants)**

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

9 74. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
10 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California
11 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure
12 to accurately calculate the applicable rates for all overtime worked by PLAINTIFFS and other
13 members of the CALIFORNIA LABOR SUB-CLASS and DEFENDANT's failure to properly
14 compensate the members of the CALIFORNIA LABOR SUB-CLASS for overtime worked,
15 including, work performed in excess of eight (8) hours in a workday and/or forty (40) hours in
16 any workweek.

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

19 76. Cal. Lab. Code § 510 further provides that employees in California shall not be
20 employed more than eight (8) hours per workday and/or more than forty (40) hours per
21 workweek unless they receive additional compensation beyond their regular wages in amounts
22 specified by law.

23 77. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
24 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.
25 Code § 1198 further states that the employment of an employee for longer hours than those
26 fixed by the Industrial Welfare Commission is unlawful.

27 78. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
28 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by

1 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,
2 including overtime work. DEFENDANT maintained a wage practice of paying PLAINTIFFS
3 and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the
4 correct amount of overtime worked and correct applicable overtime rate for the amount of
5 overtime they worked. As set forth herein, DEFENDANT's policy and practice was to
6 unlawfully and intentionally deny timely payment of wages due for the overtime worked by
7 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS, and
8 DEFENDANT in fact failed to pay these employees the correct applicable overtime wages for
9 all overtime worked.

10 79. DEFENDANT's unlawful wage and hour practices manifested, without
11 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
12 implementing a policy and practice that denied accurate compensation to PLAINTIFFS and the
13 other members of the CALIFORNIA LABOR SUB-CLASS for all overtime worked, including,
14 the work performed in excess of eight (8) hours in a workday and/or forty (40) hours in any
15 workweek.

16 80. In committing these violations of the California Labor Code, DEFENDANT
17 inaccurately calculated the amount of overtime worked and the applicable overtime rates and
18 consequently underpaid the actual time worked by PLAINTIFFS and other members of the
19 CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal attempt to avoid the
20 payment of all earned wages, and other benefits in violation of the California Labor Code, the
21 Industrial Welfare Commission requirements and other applicable laws and regulations.

22 81. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
23 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
24 receive full compensation for all overtime worked.

25 82. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
26 from the overtime requirements of the law. None of these exemptions are applicable to
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
28 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are not

1 subject to a valid collective bargaining agreement that would preclude the causes of action
2 contained herein this Complaint. Rather, the PLAINTIFFS bring this Action on behalf of
3 themselves and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
4 of non-negotiable, non-waiveable rights provided by the State of California.

5 83. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
6 the other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
7 that they were entitled to, constituting a failure to pay all earned wages.

8 84. DEFENDANT failed to accurately pay PLAINTIFFS and the other members of
9 the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was
10 in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194
11 & 1198, even though PLAINTIFFS and the other members of the CALIFORNIA LABOR
12 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT
13 failed to accurately record and pay using the applicable overtime rate as evidenced by
14 DEFENDANT's business records and witnessed by employees.

15 85. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
16 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
17 CLASS for the true time they worked, PLAINTIFFS 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 86. DEFENDANT knew or should have known that PLAINTIFFS and the other
22 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime
23 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,
24 to not pay employees for their labor as a matter of company policy, practice and procedure, and
25 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS and the other members
26 of the CALIFORNIA LABOR SUB-CLASS the applicable overtime rate.

27 87. In performing the acts and practices herein alleged in violation of California labor
28 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for

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

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

19
20 **THIRD CAUSE OF ACTION**

21 **For Failure To Pay Minimum Wages**

22 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

23 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

24 **and Against All Defendants)**

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

28 90. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-

1 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California
2 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure
3 to accurately calculate and pay minimum and reporting time wages to PLAINTIFFS and
4 CALIFORNIA CLASS Members.

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

7 92. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
8 commission is the minimum wage to be paid to employees, and the payment of a less wage than
9 the minimum so fixed is unlawful.

10 93. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
11 including minimum wage compensation and interest thereon, together with the costs of suit.

12 94. DEFENDANT maintained a wage practice of paying PLAINTIFFS and the other
13 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of
14 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and
15 intentionally deny timely payment of wages due to PLAINTIFFS and the other members of the
16 CALIFORNIA LABOR SUB-CLASS.

17 95. DEFENDANT's unlawful wage and hour practices manifested, without
18 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
19 implementing a policy and practice that denies accurate compensation to PLAINTIFFS and the
20 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

21 96. In committing these violations of the California Labor Code, DEFENDANT
22 inaccurately calculated the correct time worked and consequently underpaid the actual time
23 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.
24 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
25 benefits in violation of the California Labor Code, the Industrial Welfare Commission
26 requirements and other applicable laws and regulations.

27 97. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
28 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not

1 receive the correct minimum wage compensation for their time worked for DEFENDANT.

2 98. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
3 required, permitted or suffered PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
4 Members to work without paying them for all the time they were under DEFENDANT's
5 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the
6 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that
7 they were entitled to, constituting a failure to pay all earned wages.

8 99. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
9 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
10 CLASS for the true time they worked, PLAINTIFFS and the other members of the
11 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
12 injury in amounts which are presently unknown to them and which will be ascertained
13 according to proof at trial.

14 100. DEFENDANT knew or should have known that PLAINTIFFS and the other
15 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
16 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,
17 to not pay employees for their labor as a matter of company policy, practice and procedure, and
18 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS and the other members
19 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

20 101. In performing the acts and practices herein alleged in violation of California labor
21 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
22 all time worked and provide them with the requisite compensation, DEFENDANT acted and
23 continues to act intentionally, oppressively, and maliciously toward PLAINTIFFS and the other
24 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for
25 their legal rights, or the consequences to them, and with the despicable intent of depriving them
26 of their property and legal rights, and otherwise causing them injury in order to increase
27 company profits at the expense of these employees.

28 102. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-

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

11
12 **FOURTH CAUSE OF ACTION**

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

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

15 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
16 **Defendants)**

17 103. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
19 paragraphs of this Complaint.

20 104. During the CALIFORNIA CLASS PERIOD, from time to time, DEFENDANT
21 failed to provide all the legally required off-duty meal breaks to PLAINTIFFS and the other
22 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and
23 Labor Code. The nature of the work performed by PLAINTIFFS and CALIFORNIA LABOR
24 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their
25 duties for the legally required off-duty meal periods. As a result of their rigorous work
26 schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from
27 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,
28 DEFENDANT's failure to provide PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS

1 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced
2 by DEFENDANT's business records. Further, DEFENDANT failed to provide PLAINTIFFS
3 and CALIFORNIA LABOR SUB-CLASS Members with a second off-duty meal period from
4 time to time in which these employees were required by DEFENDANT to work ten (10) hours
5 of work. As a result, PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-
6 CLASS therefore forfeited meal breaks without additional compensation and in accordance with
7 DEFENDANT's corporate policy and practice.

8 105. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
9 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-
10 CLASS Members who were not provided a meal period, in accordance with the applicable
11 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
12 each workday that a meal period was not provided.

13 106. As a proximate result of the aforementioned violations, PLAINTIFFS and
14 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
15 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
16 suit.

17
18 **FIFTH CAUSE OF ACTION**

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

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

21 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
22 **Defendants)**

23 107. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
24 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
25 paragraphs of this Complaint.

26 108. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were
27 from time to time required to work in excess of four (4) hours without being provided ten (10)
28 minute rest periods. Further, these employees were denied their first rest periods of at least ten

(10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

109. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members who were not provided a rest period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that rest period was not provided.

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

SIXTH CAUSE OF ACTION

For Failure to Provide Accurate Itemized Statements

[Cal. Lab. Code § 226]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

111. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

(1) gross wages earned,

- (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- (3) the number of piecerate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- (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.

113. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed to show, among other things, the correct gross and net wages earned and correct amount of time worked. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab.

1 Code § 226.

2 114. DEFENDANT knowingly and intentionally failed to comply with Cal. Labor
3 Code § 226, causing injury and damages to the PLAINTIFFS and the other members of the
4 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
5 expended calculating the correct rates for the overtime worked and the amount of employment
6 taxes which were not properly paid to state and federal tax authorities. These damages are
7 difficult to estimate. Therefore, PLAINTIFFS and the other members of the CALIFORNIA
8 LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the
9 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
10 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according
11 to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for
12 PLAINTIFFS and each respective member of the CALIFORNIA LABOR SUB-CLASS
13 herein).

14 **SEVENTH CAUSE OF ACTION**

15 **For Failure to Reimburse Employees for Required Expenses**

16 **[Cal. Lab. Code § 2802]**

17 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
18 **Defendants)**

19 115. PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS members
20 reallege and incorporate by this reference, as though fully set forth herein, the prior
21 paragraphs of this Complaint.

22 116. Cal. Lab. Code § 2802 provides, in relevant part, that:

23 An employer shall indemnify his or her employee for all necessary expenditures
24 or losses incurred by the employee in direct consequence of the discharge of his
25 or her duties, or of his or her obedience to the directions of the employer, even
though unlawful, unless the employee, at the time of obeying the directions,
believed them to be unlawful.

26 117. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by
27 failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
28

1 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
2 benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR
3 SUB-CLASS members for expenses which included, but were not limited to, costs related to
4 using their personal cellular phones on behalf of and for the benefit of DEFENDANT.
5 Specifically, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were
6 required by DEFENDANT to use their personal cellular phones in order to perform work
7 related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFFS and
8 the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their
9 personal cellular phones for DEFENDANT within the course and scope of their employment
10 for DEFENDANT. These expenses were necessary to complete their principal job duties.
11 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this
12 expectation. Although these expenses were necessary expenses incurred by PLAINTIFFS and
13 the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and
14 reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for these
15 expenses as an employer is required to do under the laws and regulations of California.

16 118. PLAINTIFFS therefore demand reimbursement for expenditures or losses
17 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of
18 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with
19 interest at the statutory rate and costs under Cal. Lab. Code § 2802.

20 **EIGHTH CAUSE OF ACTION**

21 **For Failure to Pay Wages When Due**

22 **[Cal. Lab. Code §§ 201, 202, 203]**

23 **(By Plaintiffs Singletary, Terry, Vasquez, Charogoff, Felix, Blagovich, Vargas Jr.,**
24 **Lomeli and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

25 119. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
26 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior
27 paragraphs of this Complaint.
28

120. Cal. Lab. Code § 200 provides that:

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

121. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

122. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

123. There was no definite term in Plaintiffs Singletary, Terry, Vasquez, Charogoff, Felix, Blagovich, Vargas Jr., Lomelis', or any CALIFORNIA LABOR SUB-CLASS Members' employment contract.

124. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

125. The employment of Plaintiffs Singletary, Terry, Vasquez, Charogoff, Felix, Blagovich, Vargas Jr., and Lomeli and many CALIFORNIA LABOR SUB-CLASS Members terminated and DEFENDANT has not tendered payment of overtime wages, to these employees who actually worked overtime, as required by law.

126. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members of the CALIFORNIA LABOR SUB-CLASS whose employment has ended, Plaintiffs Singletary, Terry, Vasquez, Charogoff, Felix, Blagovich, Vargas Jr., and Lomeli demand up to

thirty days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD, and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

NINTH CAUSE OF ACTION

Retaliation

[Violation of Cal. Lab. Code § 1102.5, *et seq.*]

(By Plaintiff Navarro Against All Defendants)

127. Plaintiff Navarro realleges and incorporates by reference, as though fully set forth herein, the prior paragraphs of this Complaint.

128. At all relevant times, Labor Code section 1102.5 was in effect and was binding on DEFENDANT. This statute prohibits DEFENDANT from retaliating against any employee, including Plaintiff Navarro, for raising complaints of illegality and/or belief that the employee may disclose illegality.

129. DEFENDANT failed to properly maintain standard safety measures at the hospital during the Covid-19 pandemic. As such, Plaintiff Navarro was placed in a constant risk of harm while performing his job duties for DEFENDANT. In March of 2020, Plaintiff Navarro first informed DEFENDANT about such safety issues, but to no avail. In or around March of 2020, and continuing through much of PLAINTIFF's employment, Plaintiff Navarro's engaged in protected activity by complaining to DEFENDANT of DEFENDANT's failure to maintain compliant safety standards. DEFENDANT's failure to maintain safety standards including, but not limited to, DEFENDANT's failure to provide personal protective equipment (PPE) during the COVID-19 pandemic at DEFENDANT's hospital, in violation of Occupational Safety and Heath Administration ("OSHA") COVID-19 guidelines and procedures; National Institute for Occupational Safety and Health ("NIOSH") COVID-19 requirements; Center Disease Control and Prevention ("CDC") protocols; California Department of Public Health ("CDPH") COVID-19 guidance; and/or California Executive Orders. Specifically, although not exclusively,

1 Defendant violated California Title 8 §3380; California Labor Code §142.3; California Labor
2 Code §6403; Cal/OSHA's Respiratory Protection Standard (5144); Cal/OSHA's Aerosol
3 Transmissible Diseases (ATD) Standard (5199); 72 Fed. Reg. 64341-64430; 21 CFR 878.4040;
4 42 CFR Part 84; and 29 CFR 1910.134. DEFENDANT insisted on jeopardizing public safety
5 and worker safety in order to accommodate the best interests of DEFENDANT itself.
6 Specifically, PLAINTIFF complained to Human Resources, Annah Karaam; Chief Nursing Officer,
7 Pat Brown; Employee Health Nurse, Kim Nelsen; House Supervisor, Anna Sanjakorn; Disaster
8 Preparedness/Director of Security, Joey Hunter; and/or Security Manager, Frank Ussery, of
9 DEFENDANT's failure to maintain compliant safety standard and provide necessary and compliant
10 PPE to employees, such as Plaintiff, working in a hospital during the COVID-19 pandemic and
11 regularly interfacing with COVID-19 patients. Plaintiff was a front-line worker in a hospital that
12 serviced and treated COVID-19 patients, yet Plaintiff, despite multiple complaints, was not
13 provided with compliant PPE. As a direct consequence of Plaintiff Navarro's complaints to
14 DEFENDANT, through the aforementioned personnel, DEFENDANT retaliated against
15 Plaintiff Navarro by bypassing him and neglecting to even interview him, despite his extensive
16 qualifications, for the lead security position. This fact, along with the constant bullying and
17 harassment at DEFENDANT's work place, has resulted in resulted in lost time, lost
18 opportunities and therefore, lost wages. Plaintiff Navarro has raised complaints of illegality
19 while working for DEFENDANT and was believed to be willing to raise complaints, and
20 DEFENDANT retaliated against him by taking adverse employment actions, including
21 bypassing him for a promotion, bullying and harassment.

22 130. As a proximate result of DEFENDANT'S willful, knowing, and intentional
23 violation(s) of Labor Code section 1102.5, Plaintiff Navarro has suffered and continues to
24 suffer humiliation, emotional distress, and mental and physical pain and anguish, all to his
25 damage in a sum according to proof.

26 131. As a result of DEFENDANT'S adverse employment actions against Plaintiff
27 Navarro, Plaintiff Navarro has suffered general and special damages in sums according to
28 proof.

132. DEFENDANT'S misconduct was committed intentionally, in a malicious, oppressive manner, and fraudulent manner entitling Plaintiff Navarro to punitive damages against defendants.

TENTH CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab. Code §§ 2698, *et seq.*]

(By Plaintiffs Navarro, Ortega, Singletary and Terry and Against All Defendants)

129. PLAINTIFFS reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this Complaint.

130. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

131. Plaintiffs Navarro, Ortega, Singletary and Terry, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to themselves and all individuals who worked for DEFENDANT in California and were classified as non-exempt employees (the "AGGRIEVED EMPLOYEES") during the time period of October 26, 2019 until a date as determined by the Court (the "PAGA PERIOD").

132. On October 26, 2020, Plaintiffs Navarro, Ortega, Singletary and Terry gave

1 written notice by electronic mail to the Labor and Workforce Development Agency (the
2 "Agency") and by certified mail to the employer of the specific provisions of this code alleged
3 to have been violated as required by Labor Code § 2699.3. The statutory waiting period for
4 Plaintiffs Navarro, Ortega, Singletary and Terry to add these allegations to the Complaint has
5 expired. As a result, pursuant to Section 2699.3, Plaintiffs Navarro, Ortega, Singletary and
6 Terry may now commence a representative civil action under PAGA pursuant to Section 2699
7 as the proxies of the State of California with respect to all AGGRIEVED EMPLOYEES as
8 herein defined.

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

23 134. All of the conduct and violations alleged herein occurred during the
24 PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not
25 affect Plaintiffs Navarro, Ortega, Singletary and Terry during the PAGA PERIOD, Plaintiffs
26

27 ¹Plaintiffs Navarro, Ortega, Singletary and Terry specifically exclude and/or do not allege
28 any claims under California Labor Code §558(a)(3).

1 Navarro, Ortega, Singletary and Terry seek penalties for those violations that affected other
2 AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157
3 (Certified for Publication 12/19/18).

4
5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
8 severally, as follows:

9 1. On behalf of the CALIFORNIA CLASS:

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

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

- 21 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
22 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class
23 action pursuant to Cal. Code of Civ. Proc. § 382;
24 B) Compensatory damages, according to proof at trial, including compensatory
25 damages for overtime compensation due PLAINTIFFS and the other members
26 of the CALIFORNIA LABOR SUB-CLASS, during the applicable
27 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
28 statutory rate;

- 1 C) Meal and rest period compensation pursuant to California Labor Code Section
2 226.7 and the applicable IWC Wage Order;
- 3 D) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
4 in which a violation occurs and one hundred dollars (\$100) per each member of
5 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
6 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
7 an award of costs for violation of Cal. Lab. Code § 226;
- 8 E) The amount of the expenses PLAINTIFFS and each member of the
9 CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties,
10 plus interest, and costs of suit;
- 11 F) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
12 1197;
- 13 G) The wages of all terminated employees from the CALIFORNIA LABOR SUB-
14 CLASS as a penalty from the due date thereof at the same rate until paid or until
15 an action therefore is commenced, in accordance with Cal. Lab. Code § 203; and,
- 16 H) The greater of all actual damages or one hundred dollars (\$100) for the initial pay
17 period in which a violation occurs and two hundred dollars (\$200) per each
18 member of the CALIFORNIA LABOR SUB-CLASS for each violation in a
19 subsequent pay period, for violation of Cal. Lab. Code § 204(a), in accordance
20 with Cal. Lab. Code § 210.
- 21 3. On behalf of Plaintiff Navarro for the Ninth Cause of Action:
- 22 A) For all special damages which were sustained as a result of DEFENDANT's
23 conduct, including, but not limited to, back pay, front pay, lost compensation and
24 job benefits that PLAINTIFF would have received but for the retaliatory practices
25 of DEFENDANT; and,
- 26 B) For all exemplary damages, according to proof, which were sustained as a result
27 of DEFENDANT's conduct.
- 28 4. On behalf of the State of California and with respect to all AGGRIEVED

1 EMPLOYEES:

2 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
3 General Act of 2004.

4 5. On all claims:

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

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

7 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
8 law, including, but not limited to, pursuant to Labor Code §226, §1194 and/or
9 §2802.

10
11 Dated: April 29, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

12
13 By: /s/ Nicholas J. De Blouw

14 Nicholas J. De Blouw
15 Attorneys for Plaintiffs
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: April 29, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

By: /s/ Nicholas J. De Blouw
Nicholas J. De Blouw
Attorneys for Plaintiffs