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Superior Court of California,

County of San Diego

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Clerk of the Superior Court

By M. Schwenke ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

SHARISSE ARBOLEDA, an individual, on
behalf of herself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

GUARDIAN PHARMACY OF
SOUTHERN CALIFORNIA, LLC, a
Limited Liability Company; GUARDIAN
PHARMACY OF ANAHEIM, LLC, a
Limited Liability Company; GUARDIAN
PHARMACY, LLC (Doe 1), a Limited
Liability Company; and Does 2 through 50,
Inclusive;

Defendants.

Case No. **37-2021-00008791-CU-OE-CTL**
FIRST AMENDED CLASS ACTION
COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
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. FAILURE TO KEEP ACCURATE RECORDS IN VIOLATION OF CAL. LAB. CODE § 1174;
- and,
10. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, et seq.]

DEMAND FOR A JURY TRIAL

Sharisse Arboleda (“PLAINTIFF”), an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following.

THE PARTIES

1. Defendant Guardian Pharmacy of Southern California, LLC is a limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California. Defendant Guardian Pharmacy of Anaheim, LLC is a limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California. Defendant Guardian Pharmacy LLC is a limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. PLAINTIFF alleges there has existed a unity of interest and ownership between these Defendants such that any individuality and separateness between the entities has ceased. Defendants Guardian Pharmacy of Southern California, LLC, Guardian Pharmacy of Anaheim, LLC, and Guardian Pharmacy LLC are therefore alter egos of each other. Adherence to the fiction of the separate existence of would permit an abuse of the corporative privilege, and would promote injustice by protecting Guardian Pharmacy of Southern California, LLC Guardian Pharmacy of Anaheim, LLC, and Guardian Pharmacy LLC from liability for the wrongful acts committed by them. As evidenced by PLAINTIFF's paychecks and company documents, Defendants Guardian Pharmacy of Southern California, LLC, Guardian Pharmacy of Anaheim, LLC, and Guardian Pharmacy LLC were joint employers of PLAINTIFF and are referred to herein as ("DEFENDANT").

3. PLAINTIFF further alleges that Defendants Guardian Pharmacy of Southern California, LLC, Guardian Pharmacy of Anaheim, LLC an Guardian Pharmacy LLC are alter egos of each other for the following reasons:

(A) On the California Secretary of State's website

1 [\(https://businesssearch.sos.ca.gov/\)](https://businesssearch.sos.ca.gov/) Defendants Guardian Pharmacy of
2 Southern California, LLC, Guardian Pharmacy of Anaheim, LLC, and
3 Guardian Pharmacy LLC have the same entity address and/or mailing
4 address;

5 (B) On information and belief Defendants Guardian Pharmacy of Southern
6 California, LLC, Guardian Pharmacy of Anaheim, LLC, and Guardian
7 Pharmacy LLC utilize the same standardized employment forms and issue
8 the same employment policies; and,

9 (C) Defendants Guardian Pharmacy of Southern California, LLC, Guardian
10 Pharmacy of Anaheim, LLC, and Guardian Pharmacy LLC all have the
11 same agent for service of process and all have the same Chief Executive
12 Officer.

13 4. DEFENDANT provides pharmaceuticals and pharmaceutical services, to assisted
14 living, skilled nursing and correctional facilities to hospice programs and to behavioral health
15 group homes.

16 5. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
17 employee entitled to overtime pay and meal and rest periods from August of 2011 to April 8,
18 2020. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT as
19 a non-exempt employee.

20 6. PLAINTIFF brings this Class Action on behalf of herself and a California class,
21 defined as all individuals who are or previously were employed by Guardian Pharmacy of
22 Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC and/or Guardian
23 Pharmacy LLC in California and classified as non-exempt employees (the "CALIFORNIA
24 CLASS") at any time during the period beginning October 9, 2019 and ending on the date as
25 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
26 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
27 (\$5,000,000.00).
28

1 7. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
2 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred
3 during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice
4 which failed to lawfully compensate these employees. DEFENDANT's policy and practice
5 alleged herein was an unlawful, unfair and deceptive business practice whereby
6 DEFENDANT retained and continues to retain wages due PLAINTIFF and the other
7 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the
8 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the
9 future, relief for the named PLAINTIFF and the other members of the CALIFORNIA
10 CLASS who have been economically injured by DEFENDANT's past and current unlawful
11 conduct, and all other appropriate legal and equitable relief.

12 8. PLAINTIFF, and such persons that may be added from time to time who
13 satisfy the requirements and exhaust the administrative procedures under the Private
14 Attorney General Act, brings this Representative Action on behalf of the State of California
15 with respect to herself and all individuals who worked for Guardian Pharmacy of Southern
16 California, LLC and/or Guardian Pharmacy of Anaheim, LLC and/or Guardian Pharmacy
17 LLC in California and classified as non-exempt employees ("AGGRIEVED
18 EMPLOYEES") during the time period of October 9, 2019, until a date as determined by the
19 Court (the "PAGA PERIOD").

20 9. PLAINTIFF, on behalf of herself and all AGGRIEVED EMPLOYEES
21 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this
22 representative action pursuant to Labor Code § 2699, et seq. seeking fixed civil penalties for
23 DEFENDANT's violation of California Labor Code §§ 203, 204, 210, 226(a), 226.7, 510,
24 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, and the applicable Wage Order. Based
25 upon the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved
26 employees within the meaning of Labor Code § 2699, et seq.

27 10. The true names and capacities, whether individual, corporate, subsidiary,
28 partnership, associate or otherwise of defendants DOES 2 through 50, inclusive, are

1 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
2 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
3 Complaint to allege the true names and capacities of Does 2 through 50, inclusive, when
4 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
5 and belief alleges, that the Defendants named in this Complaint, including DOES 2 through
6 50, inclusive, are responsible in some manner for one or more of the events and happenings
7 that proximately caused the injuries and damages hereinafter alleged.

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

16 17 **THE CONDUCT**

18 12. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
19 was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time
20 worked, meaning the time during which an employee is subject to the control of an
21 employer, including all the time the employee is suffered or permitted to work.
22 DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without
23 paying them for all the time they are under DEFENDANT's control. Among other things,
24 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
25 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
26 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
27 break. DEFENDANT, as a matter of established company policy and procedure, administers
28 a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and

1 CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the
2 course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less
3 than they would have been paid had they been paid for actual recorded time rather than
4 “rounded” time. Additionally, DEFENDANT engages in the practice of requiring
5 PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clock. As a
6 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage,
7 overtime wage compensation, and off-duty meal breaks by working without their time being
8 correctly recorded and without compensation at the applicable rates. DEFENDANT’s policy
9 and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time
10 worked, is evidenced by DEFENDANT’s business records.

11 13. State and federal law provides that employees must be paid overtime and meal
12 and rest break premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFF
13 and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive
14 pay that is tied to specific elements of an employee’s performance.

15 14. The second component of PLAINTIFF’s and other CALIFORNIA CLASS
16 Members’ compensation is DEFENDANT’s non-discretionary incentive program that paid
17 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
18 performance for DEFENDANT. The non-discretionary incentive program provided all
19 employees paid on an hourly basis with incentive compensation when the employees met the
20 various performance goals set by DEFENDANT. However, when calculating the regular
21 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
22 other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
23 compensation as part of the employees’ “regular rate of pay” for purposes of calculating
24 overtime pay and meal and rest break premium pay. Management and supervisors described
25 the incentive program to potential and new employees as part of the compensation package.
26 As a matter of law, the incentive compensation received by PLAINTIFF and other
27 CALIFORNIA CLASS Members must be included in the “regular rate of pay.” The failure
28

1 to do so has resulted in a underpayment of overtime compensation and meal and rest break
2 premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

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

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

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

9 17. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to
10 accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the
11 actual amount of time these employees worked. Pursuant to the Industrial Welfare
12 Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and other
13 CALIFORNIA CLASS Members for all time worked, meaning the time during which an
14 employee was subject to the control of an employer, including all the time the employee was
15 permitted or suffered to permit this work. DEFENDANT required these employees to work
16 off the clock without paying them for all the time they were under DEFENDANT's control.
17 As such, DEFENDANT knew or should have known that PLAINTIFF and the other
18 members of the CALIFORNIA CLASS were under compensated for all time worked. As a
19 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time worked by
20 working without their time being accurately recorded and without compensation at the
21 applicable minimum wage and overtime wage rates. To the extent that the time worked off
22 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
23 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
24 1197, and 1197.1.

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

1 accurate itemized wage statement in writing showing, among other things, gross wages
2 earned and all applicable hourly rates in effect during the pay period and the corresponding
3 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS
4 Members were paid on an hourly basis. As such, the wage statements should reflect all
5 applicable hourly rates during the pay period and the total hours worked, and the applicable
6 pay period in which the wages were earned pursuant to California Labor Code Section
7 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
8 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
9 wage statements failed to identify the accurate total hours worked each pay period. When
10 the hours shown on the wage statements were added up, they did not equal the actual total
11 hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
12 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
13 itemized wage statement that lists all the requirements under California Labor Code 226. As
14 a result, DEFENDANT from time to time provided PLAINTIFF and the other members of
15 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

16 19. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
17 and other members of the CALIFORNIA CLASS their correct wages and accordingly owe
18 waiting time penalties pursuant to Cal. Lab. Code Section 203.

19 20. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
20 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses
21 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct
22 consequence of discharging their duties on behalf of DEFENDANT. Under California
23 Labor Code Section 2802, employers are required to indemnify employees for all expenses
24 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
25 states that "an employer shall indemnify his or her employee for all necessary expenditures
26 or losses incurred by the employee in direct consequence of the discharge of his or her
27 duties, or of his or her obedience to the directions of the employer, even though unlawful,
28 unless the employee, at the time of obeying the directions, believed them to be unlawful."

21. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS Members as a business expense, were required by DEFENDANT to use their own personal cellular phones as a result of and in furtherance of their job duties as employees for DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated with the use of their personal cellular phones for DEFENDANT's benefit. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cellular phones. As a result, in the course of their employment with DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not limited to, costs related to the use of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

22. Based on the above-described unlawful policies and practices, DEFENDANT failed and continue to fail, to keep accurate and complete payroll records as required by Labor Code section 1174 and section 7 of all applicable Wage Orders. DEFENDANT failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFF and other CALIFORNIA CLASS Members began and ended each work period, time records of meal periods, and accurate itemized wage statements. DEFENDANT has failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANT'S time rounding, automatic meal period deductions, failure to relieve PLAINTIFF and the CALIFORNIA CLASS Members of all duties and employer control during unpaid meal periods, failure to record the true start and end times of meal periods, shift start times and shift end times, and other off-the-clock work policies and practices described herein.

JURISDICTION AND VENUE

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

1 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly
2 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

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

9
10 **THE CALIFORNIA CLASS**

11 25. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and
12 Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as
13 a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of the CALIFORNIA
14 CLASS during the CALIFORNIA CLASS PERIOD. The amount in controversy for the
15 aggregate claim of CALIFORNIA CLASS Members is under five million dollars
16 (\$5,000,000.00).

17 26. To the extent equitable tolling operates to toll claims by the CALIFORNIA
18 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
19 accordingly.

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

27 28. DEFENDANT has the legal burden to establish that each and every
28 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as

1 required by California laws. The DEFENDANT, however, as a matter of policy and
2 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails
3 to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS
4 Member is paid as required by law. This common business practice is applicable to each
5 and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as
6 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, (the
7 “UCL”) as causation, damages, and reliance are not elements of this claim.

8 29. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
9 CLASS Members is impracticable.

10 30. DEFENDANT violated the rights of the CALIFORNIA CLASS under
11 California law by:

- 12 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
13 Prof. Code §§ 17200, (the "UCL"), by unlawfully, unfairly and/or
14 deceptively having in place company policies, practices and procedures
15 that failed to record and pay PLAINTIFF and the other members of the
16 CALIFORNIA CLASS for all time worked, including minimum wages
17 owed and overtime wages owed for work performed by these
18 employees; and,
- 19 (b) Committing an act of unfair competition in violation of the UCL, by
20 failing to provide the PLAINTIFF and the other members of the
21 CALIFORNIA CLASS with the legally required meal and rest periods.

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

- 24 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
25 that the joinder of all such persons is impracticable and the disposition
26 of their claims as a class will benefit the parties and the Court;
- 27 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
28 issues that are raised in this Complaint are common to the

CALIFORNIA CLASS will apply to every member of the CALIFORNIA CLASS;

(c) The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of the CALIFORNIA CLASS, was classified as a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's deceptive practice and policy which failed to provide the legally required meal and rest periods to the CALIFORNIA CLASS and thereby underpaid compensation to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA CLASS were and are similarly or identically harmed by the same unlawful, deceptive and unfair misconduct engaged in by DEFENDANT; and,

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

32. 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 to 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 PLAINTIFF seeks declaratory relief holding that the DEFENDANT's policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;
- (c) Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA 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 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 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 CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the CALIFORNIA 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 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

1 duplicative litigation that is likely to result in the absence of
2 certification of this action pursuant to Cal. Code of Civ. Proc. §
3 382.

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

- 6 (a) The questions of law and fact common to the CALIFORNIA CLASS
7 predominate over any question affecting only individual CALIFORNIA
8 CLASS Members because the DEFENDANT's employment practices
9 are applied with respect to the CALIFORNIA CLASS;
- 10 (b) A Class Action is superior to any other available method for the fair
11 and efficient adjudication of the claims of the members of the
12 CALIFORNIA CLASS because in the context of employment litigation
13 a substantial number of individual CALIFORNIA CLASS Members
14 will avoid asserting their rights individually out of fear of retaliation or
15 adverse impact on their employment;
- 16 (c) The members of the CALIFORNIA CLASS are so numerous that it is
17 impractical to bring all members of the CALIFORNIA CLASS before
18 the Court;
- 19 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
20 be able to obtain effective and economic legal redress unless the action
21 is maintained as a Class Action;
- 22 (e) There is a community of interest in obtaining appropriate legal and
23 equitable relief for the acts of unfair competition, statutory violations
24 and other improprieties, and in obtaining adequate compensation for the
25 damages and injuries which DEFENDANT's actions have inflicted
26 upon the CALIFORNIA CLASS;
- 27
28

- 1 (f) There is a community of interest in ensuring that the combined assets of
2 DEFENDANT are sufficient to adequately compensate the members of
3 the CALIFORNIA CLASS for the injuries sustained;
- 4 (g) DEFENDANT has acted or refused to act on grounds generally
5 applicable to the CALIFORNIA CLASS, thereby making final class-
6 wide relief appropriate with respect to the CALIFORNIA CLASS as a
7 whole;
- 8 (h) The members of the CALIFORNIA CLASS are readily ascertainable
9 from the business records of DEFENDANT; and,
- 10 (i) Class treatment provides manageable judicial treatment calculated to
11 bring a efficient and rapid conclusion to all litigation of all wage and
12 hour related claims arising out of the conduct of DEFENDANT as to
13 the members of the CALIFORNIA CLASS.

14 34. DEFENDANT maintains records from which the Court can ascertain and
15 identify by job title each of DEFENDANT's employees who have been intentionally
16 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
17 PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of
18 similarly situated employees when they have been identified.

19 35. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,
20 Eighth and Ninth causes Action on behalf of the CALIFORNIA CLASS during the
21 CALIFORNIA CLASS PERIOD.

22 36. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
23 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
24 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
25 failed to correctly calculate compensation for the time worked by PLAINTIFF and the other
26 members of the CALIFORNIA CLASS and reporting time wages owed to these employees,
27 even though DEFENDANT enjoyed the benefit of this work, required employees to perform
28 this work and permitted or suffered to permit this work. DEFENDANT has denied these

1 CALIFORNIA CLASS Members wages to which these employees are entitled in order to
2 unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
3 operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the
4 CALIFORNIA CLASS PERIOD should be adjusted accordingly.

5 37. DEFENDANT maintains records from which the Court can ascertain and
6 identify by name and job title, each of DEFENDANT's employees who have been
7 intentionally subjected to DEFENDANT's company policy, practices and procedures as
8 herein alleged. PLAINTIFF will seek leave to amend the complaint to include any
9 additional job titles of similarly situated employees when they have been identified.

10 38. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA
11 CLASS Members is impracticable.

12 39. Common questions of law and fact exist as to members of the CALIFORNIA
13 CLASS, including, but not limited, to the following:

- 14 (a) Whether DEFENDANT unlawfully failed to correctly calculate and
15 pay compensation due to members of the CALIFORNIA CLASS for
16 missed meal and rest breaks in violation of the California Labor Code
17 and California regulations and the applicable California Wage Order;
- 18 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
19 members of the CALIFORNIA CLASS with accurate itemized wage
20 statements;
- 21 (c) Whether DEFENDANT has engaged in unfair competition by the
22 above-listed conduct;
- 23 (d) The proper measure of damages and penalties owed to the members of
24 the CALIFORNIA CLASS; and,
- 25 (e) Whether DEFENDANT's conduct was willful.

26 40. DEFENDANT violated the rights of the CALIFORNIA CLASS under
27 California law by:
28

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

26 41. This Class Action meets the statutory prerequisites for the maintenance of a
27 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:
28

- 1 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
2 that the joinder of all CALIFORNIA CLASS Members is impracticable
3 and the disposition of their claims as a class will benefit the parties and
4 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 and will apply to every member of the
8 CALIFORNIA CLASS;
- 9 (c) The claims of the representative PLAINTIFF are typical of the claims
10 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
11 the other members of the CALIFORNIA CLASS, was a non-exempt
12 employee paid on an hourly basis who was subjected to the
13 DEFENDANT's practice and policy which failed to pay the correct
14 amount of wages due to the CALIFORNIA CLASS. PLAINTIFF
15 sustained economic injury as a result of DEFENDANT's employment
16 practices. PLAINTIFF and the members of the CALIFORNIA CLASS
17 were and are similarly or identically harmed by the same unlawful,
18 deceptive, and unfair misconduct engaged in by DEFENDANT; and,
- 19 (d) The representative PLAINTIFF will fairly and adequately represent and
20 protect the interest of the CALIFORNIA CLASS, and has retained
21 counsel who are competent and experienced in Class Action litigation.
22 There are no material conflicts between the claims of the representative
23 PLAINTIFF and the members of the CALIFORNIA CLASS that would
24 make class certification inappropriate. Counsel for the CALIFORNIA
25 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
26 Members.

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

- 1 (a) Without class certification and determination of declaratory, injunctive,
2 statutory and other legal questions within the class format, prosecution
3 of separate actions by individual members of the CALIFORNIA
4 CLASS will create the risk of:
- 5 1) Inconsistent or varying adjudications with respect to individual
6 members of the CALIFORNIA CLASS which would establish
7 incompatible standards of conduct for the parties opposing the
8 CALIFORNIA CLASS; or,
- 9 2) Adjudication with respect to individual members of the
10 CALIFORNIA CLASS which would as a practical matter be
11 dispositive of interests of the other members not party to the
12 adjudication or substantially impair or impede their ability to
13 protect their interests.
- 14 (b) The parties opposing the CALIFORNIA CLASS have acted or refused
15 to act on grounds generally applicable to the CALIFORNIA CLASS,
16 making appropriate class-wide relief with respect to the CALIFORNIA
17 CLASS as a whole in that DEFENDANT fails to pay all wages due.
18 Including the correct wages for all time worked by the members of the
19 CALIFORNIA CLASS as required by law;
- 20 (c) Common questions of law and fact predominate as to the members of
21 the CALIFORNIA CLASS, with respect to the practices and violations
22 of California Law as listed above, and predominate over any question
23 affecting only individual CALIFORNIA CLASS Members, and a Class
24 Action is superior to other available methods for the fair and efficient
25 adjudication of the controversy, including consideration of:
- 26 1) The interests of the members of the CALIFORNIA CLASS in
27 individually controlling the prosecution or defense of separate
28 actions in that the substantial expense of individual actions will

1 be avoided to recover the relatively small amount of economic
2 losses sustained by the individual CALIFORNIA CLASS
3 Members when compared to the substantial expense and burden
4 of individual prosecution of this litigation;

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

7 A. Inconsistent or varying adjudications with respect to
8 individual members of the CALIFORNIA CLASS, which
9 would establish incompatible standards of conduct for the
10 DEFENDANT; and/or,

11 B. Adjudications with respect to individual members of the
12 CALIFORNIA CLASS would as a practical matter be
13 dispositive of the interests of the other members not
14 parties to the adjudication or substantially impair or
15 impede their ability to protect their interests;

16 3) In the context of wage litigation because a substantial number of
17 individual CALIFORNIA CLASS Members will avoid asserting
18 their legal rights out of fear of retaliation by DEFENDANT,
19 which may adversely affect an individual's job with
20 DEFENDANT or with a subsequent employer, the Class Action
21 is the only means to assert their claims through a representative;
22 and,

23 4) A class action is superior to other available methods for the fair
24 and efficient adjudication of this litigation because class
25 treatment will obviate the need for unduly and unnecessary
26 duplicative litigation that is likely to result in the absence of
27 certification of this action pursuant to Cal. Code of Civ. Proc. §
28 382.

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

- 3 (a) The questions of law and fact common to the CALIFORNIA CLASS
4 predominate over any question affecting only individual CALIFORNIA
5 CLASS Members;
- 6 (b) A Class Action is superior to any other available method for the fair
7 and efficient adjudication of the claims of the members of the
8 CALIFORNIA CLASS because in the context of employment litigation
9 a substantial number of individual CALIFORNIA CLASS Members
10 will avoid asserting their rights individually out of fear of retaliation or
11 adverse impact on their employment;
- 12 (c) The members of the CALIFORNIA CLASS are so numerous that it is
13 impractical to bring all members of the CALIFORNIA CLASS before
14 the Court;
- 15 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
16 be able to obtain effective and economic legal redress unless the action
17 is maintained as a Class Action;
- 18 (e) There is a community of interest in obtaining appropriate legal and
19 equitable relief for the acts of unfair competition, statutory violations
20 and other improprieties, and in obtaining adequate compensation for the
21 damages and injuries which DEFENDANT's actions have inflicted
22 upon the CALIFORNIA CLASS;
- 23 (f) There is a community of interest in ensuring that the combined assets of
24 DEFENDANT are sufficient to adequately compensate the members of
25 the CALIFORNIA CLASS for the injuries sustained;
- 26 (g) DEFENDANT has acted or refused to act on grounds generally
27 applicable to the CALIFORNIA CLASS, thereby making final class-
28

1 wide relief appropriate with respect to the CALIFORNIA CLASS as a
2 whole;

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

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

12
13 **FIRST CAUSE OF ACTION**

14 **For Unlawful Business Practices**

15 **[Cal. Bus. And Prof. Code §§ 17200]**

16 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

17 44. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
18 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
19 this Complaint.

20 45. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
21 Code § 17021.

22 46. California Business & Professions Code §§ 17200, (the “UCL”) defines unfair
23 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
24 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
25 competition as follows:

26 Any person who engages, has engaged, or proposes to engage in unfair
27 competition may be enjoined in any court of competent jurisdiction. The court
28 may make such orders or judgments, including the appointment of a receiver,
as 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

1 may be necessary to restore to any person in interest any money or property,
2 real or personal, which may have been acquired by means of such unfair
competition.

3 Cal. Bus. & Prof. Code § 17203.

4 47. By the conduct alleged herein, DEFENDANT has engaged and continues to
5 engage in a business practice which violates California law, including but not limited to, the
6 applicable Industrial Wage Order(s), the California Code of Regulations and the California
7 Labor Code including Sections 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802
8 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for which
9 this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof.
10 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
11 unfair competition, including restitution of wages wrongfully withheld.

12 48. By the conduct alleged herein, DEFENDANT's practices were unlawful and
13 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
14 unscrupulous or substantially injurious to employees, and were without valid justification or
15 utility for which this Court should issue equitable and injunctive relief pursuant to Section
16 17203 of the California Business & Professions Code, including restitution of wages
17 wrongfully withheld.

18 49. By the conduct alleged herein, DEFENDANT's practices were deceptive and
19 fraudulent in that DEFENDANT's policy and practice failed to provide the legally
20 mandated meal and rest periods, the required amount of compensation for missed meal and
21 rest periods and overtime and minimum wages owed, failed to timely pay wages, and failed
22 to reimburse all necessary business expenses incurred, and failed to provide Fair Labor
23 Standards Act overtime wages due for overtime worked as a result of failing to include non-
24 discretionary incentive compensation into their regular rates of pay for purposes of
25 computing the proper overtime pay due to a business practice that cannot be justified,
26 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
27 in violation of Cal. Bus. Code §§ 17200, and for which this Court should issue injunctive
28

1 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of
2 wages wrongfully withheld.

3 50. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
4 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and
5 the other members of the CALIFORNIA CLASS to be underpaid during their employment
6 with DEFENDANT.

7 51. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
8 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to
9 provide all legally required meal breaks to PLAINTIFF and the other members of the
10 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

11 52. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
12 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty
13 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of
14 pay for each workday in which a second off-duty meal period was not timely provided for
15 each ten (10) hours of work.

16 53. PLAINTIFF further demands on behalf of himself and each member of the
17 CALIFORNIA CLASS, one (1) hour of pay for each workday in which an off duty paid rest
18 period was not timely provided as required by law.

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

25 55. All the acts described herein as violations of, among other things, the
26 Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the
27 California Labor Code, were unlawful and in violation of public policy, were immoral,
28

1 unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful,
2 unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200.

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

8 57. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
9 entitled to, and do, seek a declaration that the described business practices are unlawful,
10 unfair and deceptive, and that injunctive relief should be issued restraining DEFENDANT
11 from engaging in any unlawful and unfair business practices in the future.

12 58. PLAINTIFF and the other members of the CALIFORNIA CLASS have no
13 plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business
14 practices of DEFENDANT. Further, the practices herein alleged presently continue to occur
15 unabated. As a result of the unlawful and unfair business practices described herein,
16 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will
17 continue to suffer irreparable legal and economic harm unless DEFENDANT is restrained
18 from continuing to engage in these unlawful and unfair business practices.

19
20 **SECOND CAUSE OF ACTION**

21 **For Failure To Pay Minimum Wages**

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

23 **(By PLAINTIFF and the CALIFORNIA CLASS**

24 **and Against All Defendants)**

25 59. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
26 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
27 this Complaint.
28

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

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

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

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

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

21 65. 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 PLAINTIFF 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
25 other benefits in violation of the California Labor Code, the Industrial Welfare Commission
26 requirements and other applicable laws and regulations.

1 66. As a direct result of DEFENDANT's unlawful wage practices as alleged
2 herein, PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive
3 the correct minimum wage compensation for their time worked for DEFENDANT.

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

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

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

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

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

THIRD CAUSE OF ACTION

For Failure To Pay Overtime Compensation

[Cal. Lab. Code § 510]

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

72. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this Complaint.

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

74. Cal. Lab. Code § 510 further provides that employees in California shall not be employed more than eight (8) hours per workday and more than forty (40) hours per

workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

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

76. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members were required, permitted or suffered by DEFENDANT to work for DEFENDANT and were not paid for all the time they worked, including overtime work.

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

78. In committing these violations of the California Labor Code, DEFENDANT inaccurately recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for overtime worked.

79. Cal. Lab. Code § 515 sets out various categories of employees who are exempt

1 from the overtime requirements of the law. None of these exemptions are applicable to the
2 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF
3 and the other members of the CALIFORNIA CLASS were not subject to a valid collective
4 bargaining agreement that would preclude the causes of action contained herein this
5 Complaint. Rather, PLAINTIFF brings this Action on behalf of himself and the
6 CALIFORNIA CLASS based on DEFENDANT's violations of non-negotiable, non-
7 waiveable rights provided by the State of California.

8 80. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and the other
9 members of the CALIFORNIA CLASS have been paid less for overtime worked that they
10 are entitled to, constituting a failure to pay all earned wages.

11 81. DEFENDANT failed to accurately pay the PLAINTIFF and the other
12 members of the CALIFORNIA CLASS overtime wages for the time they worked which was
13 in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,
14 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA
15 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT
16 failed to accurately record and pay as evidenced by DEFENDANT's business records and
17 witnessed by employees.

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

23 83. DEFENDANT knew or should have known that PLAINTIFF and the other
24 members of the CALIFORNIA CLASS were under compensated for all overtime worked.
25 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not
26 pay employees for their labor as a matter of company policy, practice and procedure, and
27 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other
28 members of the CALIFORNIA CLASS for overtime worked.

1 84. In performing the acts and practices herein alleged in violation of California
2 labor laws, and refusing to compensate the members of the CALIFORNIA CLASS for all
3 overtime worked and provide them with the requisite overtime compensation,
4 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously
5 toward PLAINTIFF and the other members of the CALIFORNIA CLASS with a conscious
6 of and utter disregard for their legal rights, or the consequences to them, and with the
7 despicable intent of depriving them of their property and legal rights, and otherwise causing
8 them injury in order to increase company profits at the expense of these employees.

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

20
21 **FOURTH CAUSE OF ACTION**

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

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

24 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

25 86. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
26 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
27 this Complaint.
28

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

17 88. DEFENDANT further violates California Labor Code §§ 226.7 and the
18 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
19 CLASS Members who were not provided a meal period, in accordance with the applicable
20 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
21 each workday that a meal period was not provided.

22 89. As a proximate result of the aforementioned violations, PLAINTIFF and
23 CALIFORNIA CLASS Members have been damaged in an amount according to proof at
24 trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.
25
26
27
28

1 **FIFTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

8 91. PLAINTIFF and other CALIFORNIA CLASS Members were from time to
9 time required to work in excess of four (4) hours without being provided ten (10) minute rest
10 periods. Further, these employees from time to time were denied their first rest periods of at
11 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
12 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
13 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
14 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
15 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu
16 thereof. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA
17 CLASS Members were periodically denied their proper rest periods by DEFENDANT and
18 DEFENDANT's managers.

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

24 93. As a proximate result of the aforementioned violations, PLAINTIFF and
25 CALIFORNIA CLASS Members have been damaged in an amount according to proof at
26 trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.
27
28

1 **SIXTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 226]**

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

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

8 95. Cal. Labor Code § 226 provides that an employer must furnish employees
9 with
10 an “accurate itemized” statement in writing showing:

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

96. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
other members of the CALIFORNIA CLASS with complete and accurate wage statements
which failed to show, among other things, the correct gross and net wages earned. 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. PLAINTIFF and CALIFORNIA CLASS
Members were paid on an hourly basis. As such, the wage statements should reflect all

1 applicable hourly rates during the pay period and the total hours worked, and the applicable
2 pay period in which the wages were earned pursuant to California Labor Code Section
3 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
4 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
5 wage statements failed to identify the accurate total hours worked each pay period. When
6 the hours shown on the wage statements were added up, they did not equal the actual total
7 hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
8 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF
9 an itemized wage statement that lists all the requirements under California Labor Code 226.
10 As a result, DEFENDANT from time to time provided PLAINTIFF and the other members
11 of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

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

24
25 **SEVENTH CAUSE OF ACTION**

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

27 **[Cal. Lab. Code § 2802]**

28 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

1 98. PLAINTIFF and the other CALIFORNIA CLASS members reallege and
2 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
3 Complaint.

4 99. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

10 100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,
11 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
12 members for required expenses incurred in the discharge of their job duties for
13 DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the
14 CALIFORNIA CLASS members for expenses which included, but were not limited to, costs
15 related to using their personal cellular phones on behalf of and for the benefit of
16 DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were
17 required by DEFENDANT to use their personal cellular phones and home offices in order to
18 perform work related job tasks. DEFENDANT's policy and practice was to not reimburse
19 PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from using
20 their personal cellular phones and home offices for DEFENDANT within the course and
21 scope of their employment for DEFENDANT. These expenses were necessary to complete
22 their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert
23 any waiver of this expectation. Although these expenses were necessary expenses incurred
24 by PLAINTIFF and the CALIFORNIA CLASS members, DEFENDANT failed to
25 indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS members for these
26 expenses as an employer is required to do under the laws and regulations of California.

27 101. PLAINTIFF therefore demands reimbursement for expenditures or losses
28 incurred by himself and the CALIFORNIA CLASS members in the discharge of their job
duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with
interest at the statutory rate and costs under Cal. Lab. Code § 2802.

EIGHTH CAUSE OF ACTION

For Failure to Pay Wages When Due

[Cal. Lab. Code §§ 201, 202, 203]

(By PLAINTIFF and the CALIFORNIA CLASS

and Against All Defendants)

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

103. Cal. Lab. Code § 200 provides, in relevant part, 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.

104. 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."

105. 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.

106. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members' employment contract.

107. Cal. Lab. Code § 203 provides, in relevant part, that:

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

1 or until an action therefor is commenced; but the wages shall not continue
2 for more than 30 days.

3 108. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
4 has terminated and DEFENDANT has not tendered payment of all wages owed as required
5 by law. Additionally, at all times during the term of PLAINTIFF's employment with
6 DEFENDANT, PLAINTIFF and CALIFORNIA CLASS Members earned and accrued
7 vested vacation and holiday time on the date of their termination pursuant to
8 DEFENDANT's uniform vacation policies and applicable California law. The amount of
9 vacation pay PLAINTIFF and the other CALIFORNIA CLASS Members earned and
10 accumulated is evidenced by DEFENDANT's business records. Additionally,
11 DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFF and other
12 CALIFORNIA CLASS MEMBERS by failing to pay such wages at the regular rate of pay
13 and more specifically the final rate of pay that included all non-discretionary incentive
14 compensation. Rather than pay vacation wages at the regular rate of pay, DEFENDANT
15 underpaid vacation wages to PLAINTIFF and other CALIFORNIA CLASS Members at
16 their base rates of pay, instead of including all of PLAINTIFF's and CALIFORNIA CLASS
17 Members' non-discretionary incentive compensation into the vacation wage payment
18 calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy
19 the rate at which PLAINTIFF and other CALIFORNIA LABOR CLASS Members would
20 be paid vacation upon leaving employment with DEFENDANT. As a result of
21 DEFENDANT's unlawful practice, policy and procedure to deny paying the PLAINTIFF
22 and the other members of the CALIFORNIA CLASS all of their vested vacation and
23 holiday time, DEFENDANT failed to pay the PLAINTIFF and the members of the
24 CALIFORNIA CLASS all vested vacation time as wages due upon employment
25 termination, in violation of the California Labor Code, Sections 201, 202, 203 and 227.3.
26 Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFF and other
27 CALIFORNIA CLASS Members at their base rates of pay, instead of including all of
28 PLAINTIFF's' and CALIFORNIA CLASS Members' non-discretionary compensation into

1 the waiting time penalty calculations. This failure by DEFENDANT is believed to be the
2 result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for
3 earned, accrued and vested vacation and holiday time, as well as the corresponding waiting
4 time penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and
5 deceptive practice to the detriment of the PLAINTIFF and the members of the
6 CALIFORNIA CLASS . DEFENDANT's uniform practice and policy of failing to pay the
7 CALIFORNIA CLASS Members for all vested vacation and holiday time accumulated at
8 employment termination violated and continues to violate Section 227.3 of the California
9 Labor Code.

10 109. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the
11 members of the CALIFORNIA CLASS whose employment has terminated and who have
12 not been fully paid their wages due to them, PLAINTIFF demands thirty days of pay as
13 penalty for not paying all wages due at time of termination for all employees who
14 terminated employment during the CALIFORNIA CLASS PERIOD and demands an
15 accounting and payment of all wages due, plus interest and statutory costs as allowed by
16 law.

17 **NINTH CAUSE OF ACTION**

18 **For Failure to Keep Accurate Records**

19 **[Cal. Lab. Code §§ 1174, 1198, 1199)**

20 **(By PLAINTIFF and the CALIFORNIA CLASS and Against all Defendants)**

21 110. PLAINTIFF realleges and incorporates by this reference, as though fully set
22 forth herein, the prior paragraphs of this Complaint.

23 111. California Labor Code § 1174 requires employers to keep "accurate and
24 complete" payroll records showing, among other things, the hours worked daily by all
25 non-exempt employees. All applicable Wage Orders § 7 similarly requires employers to
26 keep time records reflecting the times during which all owed meal periods were provided
27 each day.
28

1 112. At all relevant times, DEFENDANT failed, and continues to fail, to keep
2 accurate and complete records as required by law, including but not limited to the following
3 records: total daily hours worked, applicable rates of pay, time records showing when
4 PLAINTIFF and other CALIFORNIA CLASS Members began and ended each work period,
5 time records of meal periods, and accurate itemized wage statements.

6 113. DEFENDANT'S failure to keep "accurate and complete" payroll records for
7 PLAINTIFF and other CALIFORNIA CLASS Members violates Labor Code § 1174 and
8 all applicable Wage Orders, section 7.

9
10 **TENTH CAUSE OF ACTION**

11 **For Violation of the Private Attorneys General Act**

12 **[Cal. Lab. Code §§ 2698]**

13 **(By PLAINTIFF and Against All Defendants)**

14 114. PLAINTIFF realleges and incorporates by this reference, as though fully set
15 forth herein, the prior paragraphs of this Complaint.

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

26 116. PLAINTIFF, and such persons that may be added from time to time who
27 satisfy the requirements and exhaust the administrative procedures under the Private
28 Attorney General Act, brings this Representative Action on behalf of the State of California

1 with respect to himself and all individuals who are or previously were employed by
2 Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim,
3 LLC and/or Guardian Pharmacy LLC in California and classified as non-exempt employees
4 (the "AGGRIEVED EMPLOYEES") during the time period of October 9, 2019 until a date
5 as determined by the Court (the "PAGA PERIOD").

6 117. On October 1, 2020 and August 2, 2021, PLAINTIFF gave written notice by
7 electronic mail to the Labor and Workforce Development Agency (the "Agency") and by
8 certified mail to the employer of the specific provisions of this code alleged to have been
9 violated as required by Labor Code § 2699.3. See Exhibits #1 and 2, attached hereto and
10 incorporated by this reference herein. The statutory waiting period for PLAINTIFF to add
11 these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3,
12 PLAINTIFF may now commence a representative civil action under PAGA pursuant to
13 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
14 EMPLOYEES as herein defined.

15 118. The policies, acts and practices heretofore described were and are an unlawful
16 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
17 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to
18 properly record and provide legally required meal and rest periods, (c) failed to pay
19 overtime wages, (d) failed to pay wages when due, (e) failed to pay minimum wages, and,
20 (f) failed to reimburse for necessary business expenses incurred, all in violation of the
21 applicable Labor Code sections listed in Labor Code Sections §§ 203, 204, 210, 226(a),
22 226.7, 510, 512, 558(a)(1), 558(a)(2), 1194, 1197, 1197.1, 1198, 2802, and the applicable
23 Industrial Wage Order(s), and thereby gives rise to civil penalties as a result of such
24 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
25 Labor Code Private Attorney General Act of 2004 as the representative of the State of

26
27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
2 EMPLOYEES.

3 119. Some or all of the conduct and violations alleged herein occurred during the
4 PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not
5 affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those
6 violations that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v.*
7 *Starbucks Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

8
9 **PRAYER FOR RELIEF**

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

12 1. On behalf of the CALIFORNIA CLASS:

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

23 2. On behalf of the CALIFORNIA CLASS:

- 24 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth
25 and Ninth Causes of Action asserted by the CALIFORNIA CLASS as a class
26 action pursuant to Cal. Code of Civ. Proc. § 382;
27 B) Compensatory damages, according to proof at trial, including compensatory
28 damages for minimum and overtime compensation due PLAINTIFF and the other

members of the CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus interest thereon at the statutory rate;

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

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

E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.; and,

G) The wages of all terminated employees in the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

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

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

4. On all claims:

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

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

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

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Dated: November 19, 2025 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/Norman B. Blumenthal
Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiff

DEMAND FOR A JURY TRIAL

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

Dated: November 19, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/Norman B. Blumenthal

Norman B. Blumenthal

Nicholas J. De Blouw

Attorneys for Plaintiff

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EXHIBIT #1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

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Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

October 9, 2020

CA2176

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Guardian Pharmacy of Anaheim, LLC
Certified Mail #70192970000014864262
Registered Agent Solutions Inc.
1220 S. Street, Suite 150
Sacramento, CA 95811

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

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC in California and classified as non-exempt employees during the time period of October 9, 2019 until a date as determined by the Court. Our offices represent Plaintiff Sharisse Arboleda (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC (“Defendant”). Plaintiff was employed by Defendant in California as a Medical Billing Specialist from August of 2011 to April 8, 2020 as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd.

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

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

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

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

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Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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**WRITERS E-MAIL:
Nick@bamlawca.com**

**WRITERS EXT:
1004**

October 9, 2020
CA2176

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Guardian Pharmacy of Southern California,
LLC
Certified Mail #70192970000014864231
Registered Agent Solutions Inc.
1220 S. Street, Suite 150
Sacramento, CA 95811

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

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC in California and classified as non-exempt employees during the time period of October 9, 2019 until a date as determined by the Court. Our offices represent Plaintiff Sharisse Arboleda (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC (“Defendant”). Plaintiff was employed by Defendant in California as a Medical Billing Specialist from August of 2011 to April 8, 2020 as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay

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

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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EXHIBIT #2

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS E-MAIL:
piya@bamlawca.com

WRITERS EXT:
1005

August 2, 2021
CA2176

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANTS

Labor and Workforce Development Agency
Online Filing

Guardian Pharmacy, LLC
Certified Mail #70203160000075433289____
Travis Jang-Busby
Janna Jamil
Gordon Rees Scully Mansukhani, LLP
101 West Broadway, Suite 2000
San Diego, CA 92101
tjang-busby@grsm.com
jjamil@grsm.com

RE: AMENDED NOTICE FOR LWDA CASE NO. LWDA-CM-809257-20

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

Our offices represent Plaintiff Sharisse Arboleda (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendants Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC and/or Guardian Pharmacy, LLC, DOE 1 (“Defendants”). “Aggrieved Employees” refers to all individuals who are or previously were employed by Guardian Pharmacy of Southern California, LLC and/or Guardian Pharmacy of Anaheim, LLC and/or Guardian Pharmacy, LLC and classified as non-exempt employees during the time period of October 9, 2019 until a date as determined by the Court.

Plaintiff sent a PAGA Notice on October 9, 2020 to Guardian Pharmacy of Anaheim, LLC on October 9, 2020 and a PAGA Notice on October 9, 2020 to Guardian Pharmacy of Southern California, LLC. Guardian Pharmacy LLC has been or will be designated as DOE 1 through an Amendment to Complaint.

Plaintiff was employed by Defendants in California as a Medical Billing Specialist from August of 2011 to April 8, 2020 as a non-exempt employee entitled to the legally

required meal and rest breaks and payment for all time worked under Defendants' control. Defendants, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendants required Plaintiff and Aggrieved Employees to report for work, but "furnished less than half said employee's usual or scheduled day's work," Defendants violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours' worth of work at their regular rate of pay. In addition, when Defendants required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendants failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendants failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendants failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendants failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Additionally, Plaintiff contends that Defendants failed to comply with Industrial Wage Order 7(A)(3) in that Defendants failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendants fails to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the operative Complaint by Plaintiff which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendants, was attached to the notices sent to the LWDA on October 9, 2020. Defendant Guardian Pharmacy, LLC has been or will be designated as DOE 1 to the operative complaint filed by Plaintiff. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the allegations against Defendants as authorized by California Labor Code section 2699, *et seq.* The pending lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint against the Defendants, and to procure civil

penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

/s/ Piya Mukherjee

Piya Mukherjee, Esq.