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Sherri R. Carter, Executive Officer/Clerk of Court

1 MICHAEL R. CROSNER (SBN 41294)
2 mike@crosnerlegal.com
3 ZACHARY M. CROSNER (SBN 272295)
4 zach@crosnerlegal.com
5 BLAKE R. JONES (SBN 211221)
6 blake@crosnerlegal.com
7 CROSNER LEGAL, PC
8 9440 Santa Monica Blvd. Suite 301
9 Beverly Hills, CA 90210
10 Tel: (310) 496-5818
11 Fax: (310) 510-6429
12 Attorneys for EDDIE MCKINNIE, Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF LOS ANGELES

11 EDDIE MCKINNIE on behalf of himself
12 and all others similarly situated and
13 aggrieved,

14 Plaintiff,

15 vs.

16 IRON MOUNTAIN SECURE
17 SHREDDING, INC., a Delaware
18 corporation; IRON MOUNTAIN
19 MANAGEMENT SERVICES, INC., a
20 Delaware corporation; IRON MOUNTAIN
21 INCORPORATED, a Delaware corporation;
22 IRON MOUNTAIN FULFILLMENT
23 SERVICES, INC., a Delaware corporation;
24 IRON MOUNTAIN INFORMATION
25 MANAGEMENT SERVICES, INC., a
26 Delaware corporation; IRON MOUNTAIN
27 DATA CENTERS, LLC, a Delaware limited
28 liability company; IRON MOUNTAIN
INFORMATION MANAGEMENT, LLC, a
Delaware limited liability company; IRON
MOUNTAIN DATA CENTERS
SERVICES, LLC, a Delaware limited
liability company; and DOES 1 to 100,
inclusive,

Defendants.

Case No.:

21STCV05707

**CLASS ACTION AND REPRESENTATIVE
COMPLAINT**

JURY TRIAL DEMANDED

1 Plaintiff EDDIE MCKINNIE, an individual on behalf of himself and all others similarly
2 situated and aggrieved, hereby files this Complaint against Defendants IRON MOUNTAIN
3 SECURE SHREDDING, INC., a Delaware corporation, IRON MOUNTAIN MANAGEMENT
4 SERVICES, INC., a Delaware corporation, IRON MOUNTAIN INCORPORATED, a Delaware
5 corporation, IRON MOUNTAIN FULFILLMENT SERVICES, INC., a Delaware corporation,
6 IRON MOUNTAIN INFORMATION MANAGEMENT SERVICES, INC., a Delaware
7 corporation, IRON MOUNTAIN DATA CENTERS, LLC, a Delaware limited liability company,
8 IRON MOUNTAIN INFORMATION MANAGEMENT, LLC, a Delaware limited liability
9 company, IRON MOUNTAIN DATA CENTERS SERVICES, LLC, a Delaware limited liability
10 company, and DOES 1 to 100, inclusive. Plaintiff is informed and believes, and on the basis of that
11 information and belief, alleges as follows:

12 **JURISDICTION AND VENUE**

13 1. This court possesses original subject matter jurisdiction over this matter. Venue is
14 proper in Los Angeles, California, because Defendants transact business in Los Angeles,
15 California, some of the complained of conduct occurred in this judicial district, and Defendants
16 have not designated a principal place of business with the California Secretary of State thereby
17 allowing Plaintiff to file in a venue of his choice within the State of California.

18 **THE PARTIES**

19 2. Plaintiff EDDIE MCKINNIE is, and at relevant times was, an individual domiciled
20 in the State of California and a citizen of the State of California who worked as a non-exempt
21 warehouse worker/"hiker" for Defendants in the State of California.

22 3. Defendant IRON MOUNTAIN SECURE SHREDDING, INC. is a Delaware
23 corporation that, at all relevant times, was authorized to do business within the State of California
24 and is doing business in the State of California.

25 4. Defendant IRON MOUNTAIN MANAGEMENT SERVICES, INC. is a Delaware
26 corporation that, at all relevant times, was authorized to do business within the State of California
27 and is doing business in the State of California.

28 5. Defendant IRON MOUNTAIN INCORPORATED is a Delaware corporation that, at

1 all relevant times, was authorized to do business within the State of California and is doing business
2 in the State of California.

3 6. Defendant IRON MOUNTAIN FULFILLMENT SERVICES, INC. is a Delaware
4 corporation that, at all relevant times, was authorized to do business within the State of California
5 and is doing business in the State of California.

6 7. Defendant IRON MOUNTAIN INFORMATION MANAGEMENT SERVICES, INC.
7 is a Delaware corporation that, at all relevant times, was authorized to do business within the State
8 of California and is doing business in the State of California.

9 8. Defendant IRON MOUNTAIN DATA CENTERS, LLC is a Delaware limited liability
10 company that, at all relevant times, was authorized to do business within the State of California and
11 is doing business in the State of California.

12 9. Defendant IRON MOUNTAIN INFORMATION MANAGEMENT, LLC is a Delaware
13 limited liability company that, at all relevant times, was authorized to do business within the State
14 of California and is doing business in the State of California.

15 10. Defendant IRON MOUNTAIN DATA CENTERS SERVICES, LLC is a Delaware
16 limited liability company that, at all relevant times, was authorized to do business within the State
17 of California and is doing business in the State of California.

18 11. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
19 100, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendant by said
20 fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the
21 unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to reflect
22 the true names and capacities of the Doe Defendants when such identities become known.

23 12. Plaintiff is further informed and believes that, at all relevant times, each of the
24 Defendants was the principal, agent, partner, joint venturer, joint employer, officer, director,
25 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
26 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
27 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
28 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this

1 complaint. Plaintiff is further informed and believes and thereon alleges that each Defendant acted
2 pursuant to and within the scope of the relationships alleged above, and that at all relevant times,
3 each Defendant knew or should have known about, authorized, ratified, adopted, approved,
4 controlled, aided and abetted the conduct of all other Defendants.

5 13. At all relevant times, Defendants were and are legally responsible for all of the unlawful
6 conduct, policies, practices, acts and omissions complained of herein. Further, Defendants are
7 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
8 respondent superior. The conduct of Defendants' managers and supervisors was at all relevant times
9 undertaken as employees of Defendants, acting within the scope of their employment or authority
10 in all of the unlawful activities described herein.

11 **CLASS ALLEGATIONS**

12 14. Plaintiff brings this action as a class action under Code of Civil Procedure section 382
13 on behalf of himself and all others similarly situated. The class Plaintiff seeks to represent is defined
14 as follows: "All non-exempt workers who were employed by IRON MOUNTAIN SECURE
15 SHREDDING, INC., IRON MOUNTAIN MANAGEMENT SERVICES, INC., IRON
16 MOUNTAIN INCORPORATED, IRON MOUNTAIN FULFILLMENT SERVICES, INC., IRON
17 MOUNTAIN INFORMATION MANAGEMENT SERVICES, INC., IRON MOUNTAIN DATA
18 CENTERS, LLC, IRON MOUNTAIN INFORMATION MANAGEMENT, LLC, and or IRON
19 MOUNTAIN DATA CENTERS SERVICES, LLC in California at any time within the four years
20 prior to the filing of the initial complaint."

- 21 a. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
22 because common questions of law and fact predominate over individual issues.
23 Common questions include, but are not limited to, the following: (1) whether
24 Defendants provided Plaintiff and the Class Members with all meal periods or
25 premium payments in lieu thereof in compliance with California law; (2) whether
26 Defendants provided Plaintiff and the Class Members with all rest periods, or
27 premium payments in lieu thereof, in compliance with California law; (3)
28 whether Defendants failed to pay Plaintiff and the Class Members all owed

1 minimum wages; (4) whether Defendants failed to pay Plaintiff and the Class
2 Members all owed overtime wages; (5) whether Defendant failed to pay Plaintiff
3 and the Class Members all sick leave time benefits in compliance with California
4 law; (6) whether Defendants failed to maintain records showing true start and
5 stop times of shifts as well as accurately documenting all meal periods; (7)
6 whether Defendants provided Plaintiff and the Class Members with accurate,
7 itemized wage statements in compliance with California law; (8) whether
8 Defendants timely paid Plaintiff and the Class Members all wages due during
9 their employment and upon separation of employment; and (9) whether
10 Defendants violated California Business and Professions Code sections 17200,
11 et seq.

- 12 b. Ascertainable Class. The proposed class is ascertainable as its members can be
13 identified and located using information in Defendants' business, payroll and
14 personnel records.
- 15 c. Numerosity. The plaintiff class is so numerous that the individual joinder of all
16 members is impractical under the circumstances of this case. While the exact
17 number of Class Members is unknown to Plaintiff, Plaintiff is informed and
18 believes the class consists of at least 100 individuals.
- 19 d. Typicality. Plaintiff's claims are typical of the claims of the Class Members.
20 Plaintiff suffered a similar injury as the other Class Members as a result of
21 Defendants' common practices regarding, inter alia, failure to pay all owed
22 minimum and overtime wages, failure to provide proper meal and rest periods or
23 premium compensation in lieu thereof, failure to provide all paid sick leave time,
24 failure to provide accurate wage statements and maintain accurate records, and
25 failure to pay all wages due upon termination. In addition, Plaintiff will fairly and
26 adequately protect the interests of the Class Members. Plaintiff has no interests
27 adverse to the interests of the other Class Members.
- 28 e. Superiority. A class action is superior to other available means for the fair and

1 efficient adjudication of this controversy since individual joinder of all members
2 of the class is impractical. Class action treatment will permit a large number of
3 similarly situated persons to prosecute their common claims in a single forum
4 simultaneously, efficiently, and without the unnecessary duplication of effort and
5 expense that numerous individual actions would engender. Furthermore, as the
6 damages suffered by each individual member of the class may be relatively small,
7 the expenses and burden of individual litigation would make it difficult or
8 impossible for individual members of the class to redress the wrongs done to
9 them, while an important public interest will be served by addressing the matter
10 as a class action. The cost to the court system of adjudication of such
11 individualized litigation would be substantial. Individualized litigation would
12 also present the potential for inconsistent or contradictory judgments. Finally,
13 the alternative of filing a claim with the California Labor Commissioner is not
14 superior, given the lack of discovery in such proceedings, the fact that there are
15 fewer available remedies, and the losing party has the right to a trial de novo in
16 the Superior Court.

17 **FACTUAL ALLEGATIONS**

18 15. During the four-year period preceding filing of this complaint, Plaintiff and each of the
19 Class Members were jointly employed by Defendants in the State of California as non-exempt
20 workers. Defendants at all times exercised control over Plaintiff and each of the Class Members,
21 and suffered and/or permitted them to work.

22 16. Plaintiff was hired by Defendants as a warehouse worker/“hiker” in or about December
23 2018. He worked for Defendants performing his job in a competent and capable until Defendants
24 terminated Plaintiff’s employment, on or about July 21, 2020. Plaintiff typically worked eight (8)
25 hours per day, five (5) days per week, occasionally working over ten (10) hours per shift.

26 17. Plaintiff was unable to take timely, thirty-minute uninterrupted first meal periods often
27 being forced to take late first meal periods and/or work through his first meal periods or said meal
28 periods would be interrupted/cut short due to the nature and constraints of the job duties/

1 commentary from supervisors to the effect that Plaintiff should take non-compliant breaks or no
2 breaks at all. With respect to second meal periods, Defendants had a policy and practice of failing
3 to provide any version of a second meal period for shifts during which Plaintiff worked more than
4 ten hours. Defendants did not execute any written on-duty meal period waiver agreement(s) with
5 Plaintiff. Plaintiff did not receive premium pay for these interrupted, cut short, missed and/or late
6 meal periods and/or any paid meal period premium failed to incorporate all non-discretionary pay
7 into the regular pay rate for purposes of calculating the owed meal period premium. Furthermore,
8 Defendants implemented a policy and practice of failing to record the true start and stop times of all
9 owed meal periods.

10 18. Plaintiff did not receive compliant, timely 10 (ten)- minute rest periods every four
11 hours or major fraction thereof. Plaintiff was typically required to take late rest periods and/or work
12 through his rest periods, or any purported rest periods would be interrupted/cut short due to the
13 nature and constraints of his job duties and commentary from supervisors to take late/shorter breaks
14 than he was entitled to or no breaks at all. With respect to third rest periods that were owed for those
15 shifts Plaintiff worked more than ten hours, it was simply Defendants' policy and practice to not
16 provide those owed third rest periods. Plaintiff was not paid rest period premiums for these
17 denied/on-duty rest periods.

18 19. Additionally, Defendants failed to properly accrue and pay sick leave time benefits
19 resulting in the underpayment of sick leave time benefits. Specifically, Defendants failed to
20 incorporate all forms of non-discretionary remuneration (e.g., non-discretionary bonuses and shift
21 differential pay) into the regular pay rate(s) for purposes of calculating the owed sick leave pay.

22 20. During Plaintiff's employment, Plaintiff was subjected to Defendants' illegal policy and
23 practice of rounding/time-shaving hours worked. Upon information and belief, Defendants used
24 a time-rounding system that as applied worked to detrimentally shave and round time off from
25 Plaintiff's workdays. Plaintiff alleges on information and belief that through the operation of
26 Defendants' time-rounding system, Plaintiff would systematically be deprived of compensable time
27 because the time-recording system implemented by Defendants would almost always, if not always,
28 understate actual compensable work time due to the rounding. Upon information and belief,

1 Defendants had actual or constructive knowledge that its rounding policy resulted in underpaying
2 its workers the wages they were owed. This time-shaving system, implemented by and through
3 Defendants' unlawful rounding policies and procedures, resulted in not only recordkeeping
4 violations but also violations of California's minimum and overtime wage laws.

5 21. Plaintiff was denied overtime wages, *to wit*: In addition to the effects of Defendants'
6 rounding/time-shaving system described above, Defendants denied Plaintiff overtime wages for
7 failure to incorporate all forms of non-discretionary remuneration, such as, but not limited to, all
8 non-discretionary bonus and shift differential pay, into the regular rate(s) of pay for purposes of
9 calculating the owed overtime rates.

10 22. During his employment, Plaintiff failed to receive accurate wage statements in
11 compliance with Labor Code section 226. Among other things, Plaintiff's paystubs did not
12 accurately reflect, *inter-alia*, all owed minimum and overtime wages, all owed sick leave pay, and
13 all owed meal and rest period premiums for all denied meal and rest periods. Accordingly,
14 Defendants have violated Labor Code section 226.

15 23. Plaintiff's employment with Defendants ended, on or about July 21, 2020, however,
16 Defendants did not provide Plaintiff a final paycheck containing all remuneration owed.
17 Specifically, Plaintiff's final paycheck was devoid of all minimum and overtime wages and all owed
18 meal and rest break premiums owed.

19 24. Lastly, Defendants required Plaintiff to submit to unlawful criminal and/or financial
20 background checks as a condition of obtaining and/or holding employment in violation of Labor
21 Code sections 1024.5 and/or 432.7. Defendants also required Plaintiff to agree in writing to unlawful
22 background checks not in conformance with the requirements of the Investigative Consumer
23 Reporting Agencies Act, Civil Code §§ 1786, et seq. ("ICRAA"), and/or the Fair Credit Reporting
24 Act, 15 U.S.C. §§ 1681, et seq. ("FCRA"), in violation of Labor Code section 432.5.

25 25. Plaintiff is informed and believes and alleges that Defendants engaged in these same
26 herein described unlawful practices with regard to all of the Class Members (as identified above)
27 and the Aggrieved Employees (as identified below), and that Defendants applied these same herein
28 described unlawful practices to all of its employees that it applied to Plaintiff.

1 **FIRST CAUSE OF ACTION**

2 **(Recovery of Unpaid Minimum Wages and Liquidated Damages -**

3 **Labor Code §§ 510, 1194 and 1194.2)**

4 26. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

5 27. California law provides employees in California must be paid for all hours worked, up
6 to 40 per week or eight (8) per day, at a regular time rate no less than the mandated minimum wage.
7 As alleged herein, Plaintiff and the Class Members regularly worked hours for which they were not
8 compensated by Defendants as required by California law. Upon information and belief, Defendants
9 used a time-rounding system that as applied worked to detrimentally shave and round time off from
10 Plaintiff and the Class Members' workdays. Plaintiff alleges on information and belief that through
11 the operation of Defendants' time-rounding system, Plaintiff and the Class Members would
12 systematically be deprived of compensable time because the time-recording system implemented
13 by Defendants would almost always, if not always, understate actual compensable work time due to
14 the rounding. Upon information and belief, Defendants had actual or constructive knowledge that
15 its rounding policy resulted in underpaying its workers the wages they were owed. This time-
16 shaving system, implemented by and through Defendants' unlawful rounding policies and
17 procedures, resulted in violations of California's minimum wage laws.

18 28. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Class Members are
19 entitled to recover all unpaid minimum time wages and liquidated damages thereon, plus attorney's
20 fees and costs, in an amount to be proved at trial.

21 **SECOND CAUSE OF ACTION**

22 **(Recovery of Unpaid Overtime – Labor Code §510)**

23 29. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

24 30. California law provides employees in California must be paid overtime, equal to 1.5
25 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or eight (8)
26 per day, and must be paid double wages for all hours worked in excess of 12 per day, unless they
27 are exempt. As alleged herein, Plaintiff and the Class Members worked overtime hours for which
28 they were not compensated by Defendants as required by California law. They were required to

1 perform off-the-clock work, *to wit*: Upon information and belief, Defendants used a time-
2 rounding system that as applied worked to detrimentally shave and round time off from
3 similarly situated aggrieved employees' workdays. Plaintiff alleges on information and belief that
4 through the operation of Defendants' time-rounding system, Plaintiff and the Class Members would
5 systematically be deprived of compensable time because the time-recording system implemented
6 by Defendants would almost always, if not always, understate actual compensable work time due to
7 the rounding. Upon information and belief, Defendants had actual or constructive knowledge that
8 its rounding policy resulted in underpaying its workers the wages they were owed. This time-
9 shaving system, implemented by and through Defendants' unlawful rounding policies and
10 procedures, resulted in violations of California's overtime wage laws.

11 31. Plaintiff and the Class Members are entitled to recover all unpaid overtime wages, plus
12 attorney's fees and costs, in an amount to be proved at trial.

13 **THIRD CAUSE OF ACTION**

14 **(Failure to Provide Meal Periods or Compensation in Lieu Thereof --** 15 **Labor Code § 226.7)**

16 32. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

17 33. Under the Labor Code and IWC Wage Orders, Defendants were required to provide
18 Plaintiff and the Class Members with one 30-minute meal break free from all duties for all shifts
19 longer than five (5) hours, and a second 30-minute meal break free from all duties for all shifts
20 longer than 10 hours. Meal periods can be waived, but only under the following circumstances: (1)
21 if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the
22 required meal period may be waived by mutual consent of the employer and employee, and (2) if
23 an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours,
24 the required second meal period may be waived by mutual consent of the employer and employee,
25 but only if the first meal period was not waived. Employers covered by the Wage Orders have an
26 obligation to both (1) relieve their employees for at least one meal period for shifts over five hours
27 (see above), and (2) to record having done so. If the employer fails to properly record a valid meal
28 period, it is presumed no meal period was provided.

34. Plaintiff and Class Members regularly worked periods of more than five and ten hours in a workday without being provided proper mandatory thirty-minute, duty-free meal periods. Plaintiff and the Class Members were unable to take timely, thirty-minute uninterrupted first meal periods often being forced to take late first meal periods and/or work through their first meal periods or said meal periods would be interrupted/cut short due to the nature and constraints of the job duties/ commentary from supervisors to the effect that Plaintiff and the Class Members should take non-compliant breaks or no breaks at all. With respect to second meal periods, Defendants had a policy and practice of failing to provide any version of a second meal period for shifts during which Plaintiff and the Class Members worked more than ten hours. Defendants did not execute any written on-duty meal period waiver agreement(s) with Plaintiff nor the Class Members. Plaintiff and the Class Members did not receive premium pay for these interrupted, cut short, missed and/or late meal periods and/or any paid meal period premium failed to incorporate all non-discretionary pay into the regular pay rate for purposes of calculating the owed meal period premium. As a result, under Labor Code section 226.7, Plaintiff and the Class Members are entitled to one additional hour's pay for each day a meal period was missed, late or interrupted, all in an amount to be proved at trial.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods or Compensation in Lieu Thereof --

Labor Code § 226.7)

35. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

36. California law requires an employer to authorize or permit an employee to take a rest period of ten minutes for every four hours worked, or major fraction thereof, and such rest periods must be in the middle of the four-hour period insofar as practicable. If the employer fails to provide any required rest periods or fails to provide a fully compliant rest break of 10 minutes wherein the employee is fully relieved of all duties and all employer control, the employer must pay the employee one hour of pay at the employee's regular rate of compensation for each workday the employer did not provide a legally required and/or fully compliant rest period.

37. Defendants employed policies and procedures that ensured Plaintiff and the Class

1 Members would not receive all legally required rest periods, as Defendants did not authorize nor
2 permit all required rest periods in strict accordance with, and in compliance with, the timing
3 requirements of all applicable Wage Orders. Defendants failed to relieve Plaintiff and the Class
4 Members of all duties and all employer control for purposes of taking any rest breaks. Plaintiff and
5 the Class Members regularly worked enough hours to be entitled to at least two (2) rest breaks in a
6 shift, which Defendants failed to allow for. Similar to meal breaks, Plaintiff and the Class Members
7 were not able to avail themselves of their due rest breaks for various reasons, including, the pressures
8 from their workloads and commentary from their supervisors instructing them to take non-
9 compliant/shorter breaks than they were entitled to or no breaks at all. With respect to third rest
10 periods that were owed for those shifts Plaintiff and the Class Members worked more than ten hours,
11 it was simply Defendants' policy and practice to not provide those owed third rest periods.
12 Defendants further employed policies and procedures ensuring Plaintiff and Class Members did not
13 receive premium wages to compensate them for workdays they did not receive all legally required
14 and fully compliant rest periods.

15 38. Defendants failed to provide Plaintiff and the Class Members with all required rest
16 periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff
17 and the Class Members are entitled to one additional hour's pay for each day a rest break was missed,
18 late or interrupted, all in an amount to be proved at trial.

19 **FIFTH CAUSE OF ACTION**

20 **(Failure To Pay Sick Time Benefits – Labor Code §246)**

21 39. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

22 40. California Labor Code §246(1)(1) provides that paid sick time for non-exempt
23 employees be "calculated in the same manner as the regular rate of pay for the workweek in which
24 the employee uses paid sick time, whether or not the employee actually works overtime in the
25 workweek."

26 41. California Labor Code §246(1)(2) further provides that paid sick time for non-exempt
27 employees be "calculated by dividing the employee's total hours worked in the full pay periods of
28 the prior 90 days of employment.

1 42. Defendants violated Labor Code §246 by failing to pay all owed sick leave time. Upon
2 information and belief, Defendants failed to comply with California Sick Leave Laws as to Plaintiff
3 and the Class Members by including but not limited to, failing to incorporate all forms of non-
4 discretionary remuneration into the regular pay rate(s) for purposes of calculating the owed sick
5 time pay.

6 **SIXTH CAUSE OF ACTION**

7 **(Failure to Provide Accurate Wage Statements – Labor Code § 226)**

8 43. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

9 44. Labor Code section 226(a) provides, in relevant part, that “[a]n employer, semimonthly
10 or at the time of each payment of wages, shall furnish to her or his employee, either as a detachable
11 part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by
12 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned,
13 (2) total hours worked by the employee . . . , (5) net wages earned, [and] (6) the inclusive dates of
14 the period for which the employee is paid . . . , (8) the name and address of the legal entity that is
15 the employer . . . (9) all applicable hourly rates in effect during the pay period and the corresponding
16 number of hours worked at each hourly rate by the employee”

17 45. Labor Code section 226(e) provides that “[a]n employee suffering injury as a result of a
18 [k]nowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover
19 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
20 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
21 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
22 costs and reasonable attorney’s fees.

23 46. Labor Code section 226.3 provides that “[a]ny employer who violates subdivision (a) of
24 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per
25 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each
26 violation in a subsequent citation, for which the employer fails to provide the employee a wage
27 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

28 47. Defendants knowingly and intentionally failed to provide Plaintiff and the Class

1 Members with proper, itemized wage statements as the wage statements provided by Defendants do
2 not accurately reflect, *inter alia*, all gross and net wages earned, all applicable hourly rates in effect
3 during the pay period and the corresponding number of hours worked at each hourly rate;
4 Defendants' wage statements are devoid of any amounts owed in meal and rest period premiums as
5 well as all owed sick time pay. Accordingly, Plaintiff and the Class Members are entitled to
6 damages and penalties.

7 **SEVENTH CAUSE OF ACTION**

8 **(Failure to Timely Pay Wages During Employment and Upon Separation of Employment)**

9 48. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

10 49. Labor Code section 204 requires employers to pay all wages (other than those mentioned
11 in Labor Code sections 201, 201.3, 202, 204.1 , or 204.2) earned by any person in any employment
12 twice during each calendar month, on days designated in advance by the employer as the regular
13 paydays. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer
14 discharges an employee, the wages earned and unpaid at the time of discharge are due and payable
15 immediately."

16 50. California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee
17 not having a written contract for a definite period quits his or her employment, his or her wages
18 shall become due and payable not later than 72 hours thereafter, unless the employee has given 72
19 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or
20 her wages at the time of quitting."

21 51. Defendants failed to pay Plaintiff and the Class Members all wages that were due and
22 owing during their employment; and, failed to Plaintiff and the Class Members who are former
23 employees all wages that were due and owing upon termination or resignation. Among other things,
24 Plaintiff and the Class Members were not paid all owed minimum and overtime wages, all owed
25 sick pay nor all owed meal and rest break premiums. Furthermore, upon the termination of his
26 employment, Defendants did not provide Plaintiff with any final pay check for his final weeks
27 worked.

28 52. Plaintiff and the Class Members therefore seeks damages and penalties.

1 **EIGHTH CAUSE OF ACTION**

2 **(Failure to Maintain Accurate Records)**

3 53. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

4 54. California Labor Code sections 226 and 1174-75 require an employer to keep accurate
5 records of all hour an employee works.

6 55. California Labor Code section 1174.5 provides that “[a]ny person employing labor who
7 willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and
8 complete records required by subdivision (d) of Section 1174 . . . shall be subject to a civil penalty
9 of five hundred dollars (\$500).”

10 56. Section 7(A)(3) of the IWC Wage Orders similarly requires an employer to keep accurate
11 records showing when an employee begins and ends each meal period.

12 57. Plaintiff is informed and believes that Defendants failed to maintain accurate records in
13 compliance with these statutes. Among other things, Defendants failed to record the true start and
14 stop times of all meal periods owed to Plaintiff and the Class Members and failed to record the true
15 start and stop times of shifts for Plaintiff and the Class Members.

16 58. Plaintiff and the Class Members therefore seek damages and penalties as a result of
17 these violations.

18 **NINTH CAUSE OF ACTION**

19 **(Violation of Unfair Competition Law – Bus. & Prof. Code § 17200, et seq.)**

20 59. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

21 60. Defendants’ failure, *inter alia*, to pay all wages earned and failure to pay all minimum
22 and overtime wages earned, failure to provide all required meal and rest periods or compensation in
23 lieu thereof, failure to maintain accurate records, failure to provide all owed sick leave pay, failure
24 to timely pay wages during employment and at time of separation, and failure to provide accurate
25 itemized wage statements, all in violation of the Labor Code and Wage Orders, constitutes an
26 unlawful, unfair or fraudulent business act or practice, in violation of Business & Professions Code
27 sections 17200, et seq.

28 61. Pursuant to Business & Professions Code section 17203, Plaintiff and the Class Members

1 are entitled to restitution of all unpaid wages, unreimbursed expenses, and other sums owed, plus
2 attorney's fees and costs, in an amount to be proved at trial.

3 **TENTH CAUSE OF ACTION**

4 **(Violation of Private Attorneys General Act of 2004 – Labor Code §§ 2698, et seq.)**

5 62. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

6 63. Plaintiff gave timely written notice by certified mail to Defendants of the violations of
7 various provisions of the California Labor Code as alleged in this complaint and filed notice of the
8 violations online with the Labor and Workforce Development Agency ("LWDA").

9 64. The LWDA did not provide notice of its intention to investigate Defendants' violations
10 after expiration of the 65-day waiting time period, or at any time. Defendants also failed to cure
11 within the time allotted by PAGA. Consequently, Plaintiff's right to file the instant lawsuit then duly
12 accrued.

13 65. Plaintiff is an "Aggrieved Employee" under PAGA, as he was employed by Defendants
14 during the applicable statutory limitations period and suffered one or more of the Labor Code
15 violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other
16 current and former Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable
17 attorney's fees and costs.

18 66. **THE "AGGRIEVED EMPLOYEES"**: Plaintiff brings this action on behalf of
19 himself and all similarly situated aggrieved employees. **The other Aggrieved Employees shall be**
20 **defined as follows**: "All non-exempt workers who were employed by IRON MOUNTAIN
21 SECURE SHREDDING, INC., IRON MOUNTAIN MANAGEMENT SERVICES, INC., IRON
22 MOUNTAIN INCORPORATED, IRON MOUNTAIN FULFILLMENT SERVICES, INC., IRON
23 MOUNTAIN INFORMATION MANAGEMENT SERVICES, INC., IRON MOUNTAIN DATA
24 CENTERS, LLC, IRON MOUNTAIN INFORMATION MANAGEMENT, LLC, and or IRON
25 MOUNTAIN DATA CENTERS SERVICES, LLC in California at any time within the one year and
26 sixty-five days prior to the filing of this Complaint."

27 67. Plaintiff seeks to recover the PAGA civil penalties through a representative action
28

1 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th
2 969. Therefore, class certification of the PAGA claims is not required.

3 68. Under the provisions of PAGA and Labor Code sections 201-203, 204, 216, 221,
4 223, 226, 226.7, 245-248.5, 256, 432.5, 510, 512, 1174, 1194, 1197, 1198, 1199, and 2810.5,
5 and all relevant sections of the applicable Wage Orders, as well as all interpretations of these laws
6 by California Courts and administrative bodies, as well as any other law that is enforceable through
7 PAGA, Defendants are liable for all statutorily-specified penalties recoverable under PAGA as
8 enumerated in the relevant California Labor Code provisions listed herein, or for default PAGA
9 penalties under Labor Code Section 2699(f) for any violation of a Labor Code section without a
10 specified civil penalty.

11 69. Plaintiff complied with the procedures for bringing suit specified in Labor Code
12 sections 2699.3 and 2699.5. Plaintiff gave written notice to the California Labor and Workforce
13 Development Agency (“LWDA”) via electronic mail at PAGAfilings@dir.ca.gov and to
14 Defendants via certified mail 65 days prior to this Complaint of the specific provisions of the
15 Labor Code and Wage Orders allegedly violated, including the facts and theories to support the
16 alleged violations.

17 70. Under Labor Code section 2699.3, the LWDA must give written notice by certified
18 mail to the parties it intends to investigate the alleged violations within 65 days of the date of
19 Plaintiff’s written notice. As of the expiration of the statutory exhaustion period, the LWDA has
20 not provided the parties any notice of its intention to investigate Plaintiff’s claims on behalf of the
21 State of California and the Aggrieved Employees. As of the filing of this Complaint, Defendants
22 have not responded to Plaintiff’s PAGA notice in an attempt to cure. Accordingly, Plaintiff has
23 exhausted all administrative remedies required by law.

24 71. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws,
25 Plaintiff is entitled to recover civil penalties, costs, plus reasonable attorney’s fees and costs, all in
26 an amount to be proved.

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28 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for relief and judgment as follows on behalf of himself, the
3 Class Members and the Aggrieved Employees:

- 4 1. For an order that the action, be certified as a class action;
5 2. For an order that Plaintiff, be appointed class representative;
6 3. For an order that counsel for Plaintiff be appointed class counsel;
7 4. For compensatory damages according to proof;
8 5. For an order requiring Defendants to make restitution of all amounts wrongfully
9 withheld from Plaintiff and the class;
10 6. For pre-judgment interest as permitted by law;
11 7. For civil penalties according to proof, including PAGA penalties;
12 8. Attorney's fees and costs reasonably incurred; and
13 9. Such other and further relief that the Court deems just and proper.

14
15 Dated: February 11, 2021

CROSNER LEGAL, P.C.

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17 _____
18 Michael R. Crosner
19 Zachary M. Crosner
20 Blake R. Jones
21 Attorneys for Plaintiff
22 EDDIE MCKINNIE
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Dated: February 11, 2021

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Michael R. Crosner
Zachary M. Crosner
Blake R. Jones
Attorneys for Plaintiff
EDDIE MCKINNIE