

James R. Hawkins (SBN 192925)
james@Jameshawkinsaplc.com
Christina M. Lucio (SBN 253677)
christina@Jameshawkinsaplc.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

Attorneys for Plaintiff EMI BRUEMMER,
on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN

EMI BRUEMMER, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

MACY'S WEST STORES, INC., an Ohio
Corporation, DOING BUSINESS AS
MACY'S; and DOES 1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:

Hon.

Dept.:

COMPLAINT FOR DAMAGES FOR:

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

DEMAND FOR JURY TRIAL

1 Plaintiff EMI BRUEMMER (“Plaintiff”), an individual, asserts claims against defendant
2 MACY’S WEST STORES, INC., an Ohio Corporation, DOING BUSINESS AS MACY’S and
3 DOES 1-50, inclusive (collectively “MACY’S” or “Defendants”) as follows:

4 **INTRODUCTION**

5 1. This is a Class Action, pursuant to California Code of Civil Procedure section 382,
6 on behalf of Plaintiff and any and all persons who are or were employed by Defendants as non-
7 exempt employees, however titled, in Defendants’ retail stores in the State of California within
8 four (4) years prior to the filing of the Complaint in this action until the resolution of this lawsuit
9 (collectively referred to as the “Class” or “Class Members” or “Non-Exempt Employees”).

10 2. During the “liability period,” as defined as the applicable statute of limitations for
11 each and every cause of action contained herein – i.e. Plaintiff’s claims under the Unfair
12 Competition Law is four (4) years; Plaintiff’s claims for either unpaid wages or actual damages is
13 three (3) years; and Plaintiff’s claims for statutory penalties is one (1) year from the filing of this
14 action through the present (referred to as “the liability period(s)”) – Defendants consistently
15 maintained and enforced against its Non-Exempt Employees unlawful practices and policies in
16 violation of California state wage and hour laws, including failing to lawfully and accurately pay
17 Plaintiff and Class Members for all hours worked, including minimum wages and overtime;
18 failing to lawfully provide meal periods and authorize and permit rest periods; failing to pay one
19 (1) hour of pay at the employee’s regular rate of pay when legally mandated meal or rest periods
20 were not lawfully provided; failing to accurately pay overtime; failing to reimburse necessary
21 expenses; failing to provide accurate itemized wage statements; and failing to keep accurate
22 records.

23 3. Defendants implemented uniform policies and practices that deprived Plaintiff and
24 Class Members of earned wages, including minimum wages; straight time wages; overtime
25 wages; premium wages; and which failed to reimburse necessary expenses; and lawful meal
26 and/or rest breaks.

27 4. Such actions and policies, as described above and further herein, were and
28 continue to be in violation of the California Labor Code. Plaintiff, on behalf of herself and all

1 Class members, brings this action pursuant to the California Labor Code, including sections 201,
2 202, 203, 204, 210, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 246, 510, 512, 516, 558, 1174,
3 1194, 1194.2, 1195, 1197, 1198, 2802, applicable IWC California Wage Orders and California
4 Code of Regulations, Title 8, section 11000, *et seq.*, seeking unpaid wages, unpaid meal and rest
5 period compensation, proper sick pay, penalties, liquidated damages, and reasonable attorneys'
6 fees and costs.

7 5. Plaintiff, on behalf of herself and others similarly situated, pursuant to Business
8 and Professions Code sections 17200-17208, also seeks injunctive relief and restitution from
9 Defendants for their failure to pay to Plaintiff and the Class Members all of their wages, including
10 minimum wages, overtime and premium wages, their failure to timely pay wages, failure to
11 provide lawful meal and rest breaks, and their failure to reimburse expenses.

12 **JURISDICTION AND VENUE**

13 6. This action is brought as a Class Action on behalf of Plaintiff and similarly
14 situated employees of Defendants pursuant to California Code of Civil Procedure section 382.
15 The monetary damages and restitution sought by Plaintiff exceeds the minimum jurisdiction
16 limits of the California Superior Court and will be established according to proof at trial.

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

21 8. This Court has jurisdiction over this Action pursuant to California Code of Civil
22 Procedure section 410.10 and California Business & Professions Code section 17203.

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

28 10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other

1 similarly situated Non-Exempt Employees within Marin County and it is believed that
2 Defendants have employed hundreds of Class Members as Non-Exempt Employees throughout
3 the state.

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

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

16 **PARTIES**

17 13. Macy's West Stores, Inc., which will do business in California as Macy's, is an
18 Ohio corporation in good standing that is authorized to do business throughout the state. Macy's
19 West Stores, Inc.'s headquarters are located at 7 West 7th Street; Cincinnati, Ohio 45202.

20 14. Macy's West Stores, Inc. operates numerous retail stores in California from
21 numerous locations.

22 15. Plaintiff Emi Bruemmer is and during the liability period has been, a resident of
23 California.

24 16. Plaintiff was employed by Defendants at various times during the liability period
25 as a non-exempt, hourly customer service associate in Corte Madera, CA.

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

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

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

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

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

FACTUAL ALLEGATIONS

22. During the relevant time frame, Defendants compensated Plaintiff and the Non-Exempt Employees based upon an hourly wage.

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

24. Plaintiff has been employed as an hourly non-exempt customer service associate since in or about November 2020.

25. Plaintiff provided customer service, sales, and related retail functions at Defendants' retail store location in Corte Madera, California.

26. The members of the putative class worked as non-exempt employees for Defendants at their retail locations throughout the state of California during the liability period.

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

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

29. Plaintiff and the Class Members were not properly compensated for all hours worked, in part because they were frequently required to work off the clock. For example, Class Members were required to work off the clock to respond to communications from store management and other personnel, and from clients and prospective clients while off duty.

30. In addition, by virtue of Defendant's requirement that employees clock in and out at register terminals and its failure to provide a sufficient number of dedicated register terminals for clocking in and out, employees were frequently required to wait in line to clock in or out and often had to address customer inquiries and requests during such time.

31. In addition, the Class Members frequently worked in excess of eight (8) hours a day and/or over forty (40) hours in a workweek, but were not properly paid for such time at a rate

1 of time and one-half (1.5) the employee's regular rate of pay per hour. Plaintiff and the Class
2 Members also often worked in excess of twelve (12) hours in one (1) day and/or over eight (8)
3 hours on the seventh (7th) day of the workweek, but were not properly paid for such time at a rate
4 of two (2) times the employee's regular rate of pay per hour.

5 32. Defendants failed to properly calculate Plaintiff's and the Class Members' regular
6 rate of pay because Defendants failed to include all forms of compensation in the regular rate
7 including differentials, bonuses, incentives, commissions, and other compensation.

8 33. Plaintiff and the Class Members were regularly required to work shifts in excess of
9 five (5) hours without being provided a lawful, timely meal period and over ten (10) hours in a
10 day without being provided a second lawful, timely meal period as required by law.

11 34. Indeed, during the relevant time, as a consequence of Defendants' staffing and
12 scheduling practices, lack of coverage, work demands, and Defendants' policies and practices,
13 Defendants frequently failed to provide Plaintiff and the Class Members timely, legally compliant
14 uninterrupted thirty (30) minute meal periods on shifts over five (5) hours and second (2nd) meal
15 periods on shifts over ten (10) hours as required by law.

16 35. On information and belief, Plaintiff and Class Members did not waive their rights
17 to meal periods under the law.

18 36. Plaintiff and the Class Members were not provided with valid lawful on-duty meal
19 periods.

20 37. Despite the above-mentioned meal period violations, Defendants failed to
21 compensate Plaintiff, and on information and belief, failed to compensate Class Members, one (1)
22 additional hour of pay at their regular rate as required by California law when meal periods were
23 not timely or lawfully provided in a compliant manner.

24 38. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
25 should know, knew, and/or should have known that Plaintiff and the other Class Members were
26 entitled to receive premium wages based on their regular rate of pay under Labor Code section
27 226.7 but were not receiving such compensation.

28 39. In addition, during the relevant time frame, Plaintiff and the Non-Exempt

1 Employees were systematically not authorized and permitted to take one (1) net ten (10) minute
2 paid, rest period for every four (4) hours worked or major fraction thereof, which is a violation of
3 the Labor Code and IWC wage order.

4 40. Defendants maintained and enforced staffing and scheduling practices and
5 policies, coverage policies, and imposed work demands that frequently required Plaintiff and
6 Class Members to forego their lawful, paid rest periods of a net ten (10) minutes for every four
7 (4) hours worked or major fraction thereof. Such requisite rest periods were not timely and
8 lawfully authorized and permitted.

9 41. Despite the above-mentioned rest period violations, Defendants did not
10 compensate Plaintiff, and on information and belief, did not pay Class Members one (1)
11 additional hour of pay at their regular rate as required by California law, including Labor Code
12 section 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were
13 not authorized and permitted.

14 42. Moreover, Plaintiff and the Class Members were required to incur necessary
15 expenses in the discharge of their duties, including without limitation cell phone expenses, but
16 were not reimbursed for such necessary expenses.

17 43. Defendants also failed to provide accurate, lawful itemized wage statements to
18 Plaintiff and the Class Members in part because of the above specified violations. In addition,
19 upon information and belief, Defendants omitted an accurate itemization of total hours worked,
20 hours of sick leave accrued, all applicable rates of pay, gross pay and net pay figures from
21 Plaintiff and the Class Members' wage statements.

22 44. In addition, upon information and belief, Defendants failed to timely and properly
23 pay sick leave as required by law, including as required by the Healthy Workplace Healthy
24 Family Act of 2014 (HWHFA), the Families First Coronavirus Response Act (FFCRA) and
25 California Covid-19 Supplemental Paid Sick Leave laws.

26 45. This failure to timely and properly pay sick leave pay to Plaintiff and the Class
27 Members when they took sick leave also constitutes a violation of Labor Code section 204, 1194
28 and 1197.

46. Defendants have also made it difficult to determine applicable rates of pay and account with precision for the unlawfully withheld wages and deductions due to be paid to Non-exempt Employees, including Plaintiff, during the liability period because they did not implement and preserve a lawful record-keeping method to record all hours worked, meal periods, and non-provided rest and meal periods owed to employees as required for non-exempt employees by 29 U.S.C. section 211(c), California Labor Code section 226, and applicable California Wage Orders.

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

48. Plaintiff and the Class Members are covered by applicable California IWC Wage Orders and corresponding applicable provisions of the California Code of Regulations, Title 8, section 11000, *et seq.*

CLASS ACTION ALLEGATIONS

49. Plaintiff brings this action on her own behalf, as well as on behalf of each and every other person similarly situated, and thus, seeks class certification under California Code of Civil Procedure section 382.

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

51. The **proposed class** is comprised of and defined as: All persons currently or formerly employed by Defendants as non-exempt employees, however titled, at Defendants' retail locations throughout the state of California within four (4) years prior to the filing of the Complaint in this action until the resolution of this lawsuit (hereinafter collectively referred to as the "Class" or "Class Members").

1 52. Plaintiff also seeks to represent Subclasses included in the Plaintiff's Class, which
2 are composed of Class Members satisfying the following definitions:

3 a. All Class Members who were not paid at least minimum wage for each
4 hour worked (**collectively "Minimum Wage Subclass"**);

5 b. All Class Members who were not timely and properly paid sick leave when
6 taken (**collectively "Sick Leave Subclass"**);

7 c. All Class Members who were not accurately paid overtime for hours
8 worked over eight (8) in a day or over forty (40) in a workweek (**collectively "Overtime**
9 **Subclass"**);

10 d. All Class Members who worked more than five (5) hours in a workday and
11 were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and
12 were not paid compensation of one (1) hour premium wages at the employee's regular rate in lieu
13 thereof (hereinafter collectively referred to as the **"First Meal Period Subclass"**);

14 e. All Class Members who worked more than ten (10) hours in a workday and
15 were not provided with a timely, uninterrupted lawful second meal period of net thirty (30)
16 minutes, and were not paid compensation of one (1) hour premium wages at the employee's
17 regular rate in lieu thereof (hereinafter collectively referred to as the **"Second Meal Period**
18 **Subclass"**);

19 f. All Class Members who worked more than three and a half (3.5) hours in a
20 workday and were not authorized and permitted to take a lawful net ten (10) minute rest period
21 and were not paid compensation of one (1) hour premium wages at the employee's regular rate in
22 lieu thereof (hereinafter collectively referred to as the **"First Rest Period Subclass"**);

23 g. All Class Members who worked more than six (6) hours in a workday and
24 were not authorized and permitted to take a second lawful net ten (10) minute rest period and
25 were not paid compensation of one (1) hour premium wages at the employee's regular rate in lieu
26 thereof (hereinafter collectively referred to as the **"Second Rest Period Subclass"**);

27 h. All Class Members who worked more than ten (10) hours in a workday and
28 were not authorized and permitted to take a third lawful net ten (10) minute rest period and were

not paid compensation of one (1) hour premium wages at the employee's regular rate in lieu thereof (hereinafter collectively referred to as the "**Third Rest Period Subclass**");

i. All Class Members who did not receive all owed wages at the time of separation or within seventy-two (72) hours in the case of resignation (hereinafter collectively referred to as the "**Waiting Time Subclass**");

j. All Class Members who were not provided with accurate and complete itemized wage statements (hereinafter collectively referred to as the "**Inaccurate Wage Statement Subclass**");

k. All Class Members who were not reimbursed for all necessary expenditures (collectively "**Indemnification Subclass**").

l. All Class Members who were employed by Defendants and subject to Defendant's Unfair Business Practices (hereinafter collectively referred to as the "**Unfair Business Practices Subclass**").

53. Plaintiff reserves the right, under Rule 3.765, California Rules of Court, to amend or modify the descriptions of the Class and Subclasses to provide greater specificity as appropriate, or if it should be deemed necessary by the Court or to further divide the Class Members into additional Subclasses or to limit the Subclasses to particular issues. Any reference herein to the Class Members or the Plaintiffs' Class includes the members of each of the Subclasses. As set forth in further detail below, this action has been brought and may properly be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation, and the proposed Class and Subclasses are easily ascertainable through Defendants' records.

a. Numerosity: The members of the Class and Subclasses are so numerous that joinder of all members of the Class and Subclasses would be unfeasible and impractical. The membership of the entire Class and Subclasses is unknown to Plaintiff at this time; however, the Class is estimated to be hundreds of individuals. Accounting for employee turnover during the relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants'

1 employment records would provide information as to the number and location of all Class
2 Members. Joinder of all members of the proposed Class is not practicable.

3 b. Ascertainability: The proposed class is easily ascertainable. The number
4 and identity of the class members are determinable from Defendants' payroll records and time
5 records for each class member.

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

9 1) Whether Defendants were required to pay Class Members for hours
10 worked off the clock to respond to client and store inquiries;

11 2) Whether Defendants were required to pay Class Members for time spent
12 waiting to clock in;

13 3) Whether Defendants paid Class Members at least minimum wage for all
14 hours worked;

15 4) Whether Defendants knew or should have known that Class Members were
16 required to perform work off the clock;

17 5) Whether Defendants paid overtime using the proper regular rate;

18 6) Whether Defendants paid sick time pay using the proper regular rate;

19 7) Whether Defendants were required to timely pay sick leave when taken;

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

23 9) Whether Defendants had a policy and practice of providing lawful, timely
24 meal periods in accordance with Labor Code section 512, as well as the applicable Industrial
25 Welfare Commission ("IWC") wage order;

26 10) Whether Defendants had a policy and practice of complying with Labor
27 Code section 226.7 and IWC Wage Order 7-2001 on each instance that a lawful meal period was
28 not lawfully provided;

1 11) Whether Defendants authorized and permitted lawful, net ten (10) minute
2 rest period to the Class Members for every four (4) hours or major fraction thereof worked;

3 12) Whether Defendants had a policy and practice of complying with Labor
4 Code section 226.7 and the IWC Wage Order 7-2001 on each instance that a lawful rest period
5 was not provided;

6 13) Whether Defendants timely paid wages earned during employment as
7 required by the IWC Wage Order 7-2001, Labor Code sections 204 and 210;

8 14) Whether Defendants failed to timely pay all wages upon separation in
9 accordance with Labor Code sections 201-202;

10 15) Whether Defendants were required to reimburse Plaintiff and the Class
11 Members for cellular phone usage;

12 16) Whether Defendants reimbursed employees for necessary expenses in
13 accordance with Labor Code section 2802;

14 17) Whether Defendants omitted required information from itemized wage
15 statements;

16 18) Whether Defendants maintained accurate records of Class Members'
17 earned wages, applicable hourly rates, hours worked, work periods, meal periods and deductions;

18 19) Whether Defendants engaged in unfair competition in violation of section
19 17200, *et seq.* of the Business and Professions Code;

20 20) Whether Defendants' conduct was willful and/or reckless;

21 21) Whether Defendants provided accurate itemized wage statements in
22 violation of Labor Code section 226; and

23 22) The appropriate amount of damages, restitution, and/or monetary penalties
24 resulting from Defendants' violations of California law.

25 d. Typicality: Plaintiff is qualified to, and will fairly and adequately protect
26 the interests of each member of the Class and Subclasses with whom she has a well-defined
27 community of interest. Plaintiff's claims herein alleged are typical of those claims which could be
28 alleged by any member of the Class and/or Subclasses, and the relief sought is typical of the relief

1 which would be sought by each member of the Class and/or Subclasses in separate actions. All
2 members of the Class and/or Subclasses have been similarly harmed by Defendants' failure to
3 provide lawful meal and rest periods, failure to provide accurate wage statements, failure to
4 timely pay wages at termination, failure to pay minimum wages, failure to properly pay overtime,
5 failure to reimburse necessary expenses, failure to timely and properly pay sick leave, failure to
6 timely pay wages during employment, and failure to accurately pay all wages earned including all
7 owed premium and overtime wages, all due to Defendants' policies and practices that affected
8 each member of the Class and/or Subclasses similarly. Further, Defendants benefited from the
9 same type of unfair and/or wrongful acts as to each member of the Class and/or Subclasses.

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

19 f. Superiority: The nature of this action makes the use of class action
20 adjudication superior to other methods. A class action will achieve economies of time, effort,
21 judicial resources, and expense, which would not be achieved with separate lawsuits. The
22 prosecution of separate actions by individual members of the Class and/or Subclasses would
23 create a risk of inconsistent and/or varying adjudications with respect to the individual members
24 of the Class and/or Subclasses, establishing incompatible standards of conduct for the
25 Defendants, and resulting in the impairment of the rights of the members of the Class and/or
26 Subclasses and the disposition of their interests through actions to which they were not parties.
27 Thus, a class action is superior to other available means for the fair and efficient adjudication of
28 this controversy because individual joinder of all Class Members is not practicable, and questions

1 of law and fact common to the Class predominate over any questions affecting only individual
2 Class Members. Each member of the Class has been damaged and is entitled to recovery by
3 reason of Defendants' unlawful policies and practices, including Defendants' failure to provide
4 lawful meal and rest periods, failure to provide accurate wage statements, failure to timely pay
5 wages at termination, failure to pay minimum wages, failure to properly pay overtime, failure to
6 reimburse necessary expenses, failure to timely and properly pay sick leave, failure to timely pay
7 wages during employment, and failure to accurately pay all wages earned including all owed
8 premium and overtime wages, all due to Defendants' policies and practices that affected each
9 member of the Class and/or Subclasses similarly. Class action treatment will allow those similarly
10 situated persons to litigate their claims in the manner that is most efficient and economical for
11 both parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be
12 encountered in the management of this action that would preclude its maintenance as a class
13 action.

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

23 **CLASS ACTION CLAIMS**

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM WAGES**

26 **(By Plaintiff and the Class Against Defendants)**

27 55. Plaintiff incorporates each and every allegation set forth in all of the foregoing
28 paragraphs as if fully set forth herein.

1 56. Labor Code section 204 establishes the fundamental right of all employees in the
2 State of California to be paid wages, including minimum wage, straight time and overtime, in a
3 timely fashion for their work.

4 57. Labor Code section 1194(a) provides that notwithstanding any agreement to work
5 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
6 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
7 of the full amount of this minimum wage or overtime compensation, including interest thereon,
8 reasonable attorney's fees, and costs of suit.

9 58. Labor Code section 1197 provides: The minimum wage for employees fixed by
10 the commission or by any applicable state or local law, is the minimum wage to be paid to
11 employees, and the payment of a lower wage than the minimum so fixed is unlawful.

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

15 60. The applicable wage orders and California Labor Code sections 1197 and 1182.12
16 establish the right of employees to be paid minimum wages for all hours worked, in amounts set
17 by state law.

18 61. Labor Code sections 1194(a) and 1194.2(a) provide that an employee who has not
19 been paid the legal minimum wage as required by Labor Code section 1197 may recover the
20 unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an
21 amount equal to the unpaid wages and interest accrued thereon.

22 62. During all relevant periods, the California Labor Code and wage orders required
23 that Defendants fully and timely pay its non-exempt, hourly employees all wages earned and due
24 for all hours worked.

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

28 64. At all times relevant, Plaintiff and Class Members consistently worked hours for

1 which they were not paid because Defendants frequently required Plaintiff and the Class
2 Members to work off the clock.

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

5 66. In addition, upon information and belief, the Defendants failed to pay Plaintiff and
6 Class Members at least minimum wage for each hour worked in accordance with the local, city
7 and state minimum wage orders, and statutes setting minimum wage standards (including without
8 limitation applicable sick pay laws).

9 67. Defendants knew or should have known Plaintiffs and the Class Members were
10 undercompensated as a result of these practices.

11 68. Defendant's policy and practice of not paying all minimum wages earned violates
12 California Labor Code sections 204, 210, 216, 558, 1182.12, 1194, 1197, 1197.1, 1198, and the
13 applicable wage order 7-2001.

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

18 **SECOND CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME OWED**

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

21 70. Plaintiff incorporates each and every allegation set forth in all of the foregoing
22 paragraphs as if fully set forth herein.

23 71. During all relevant periods, Defendant required Plaintiff and the Class members to
24 work shifts in excess of eight (8) hours per workday and/or to work in excess of forty (40) hours
25 per workweek.

26 72. During all relevant periods, both the California Labor Code sections 1194, 1197,
27 510, 1198, and the pertinent wage order 7-2001 required that all work performed by an employee
28 in excess of eight (8) hours in any workday, on the seventh day of work in any workweek, or in

1 excess of forty (40) hours in any workweek be compensated at one and one-half (1.5) times the
2 employee's regular rate of pay. Any work in excess of twelve (12) hours in one (1) day is
3 required to be compensated at the rate of no less than twice the regular rate of pay for an
4 employee. In addition, any work in excess of eight (8) hours on any seventh (7th) day of a
5 workweek is required to be compensated at the rate of no less than twice the regular rate of pay of
6 an employee.

7 73. During all relevant periods, Defendants had a uniform policy of requiring Plaintiff
8 and the Class members to work in excess of eight (8) hours in a workday and/or in excess of forty
9 (40) hours in a workweek without compensating them at a rate of one and one-half (1.5) times
10 their regular rate of pay. Upon information and belief, Defendants also failed to properly
11 compensate Plaintiff and the Class Members for hours worked in excess of twelve (12) hours in
12 one (1) day, or eight (8) hours on the seventh (7th) day of a workweek.

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

16 75. At all times relevant, Plaintiff and Class Members consistently worked hours for
17 which they were not paid because Plaintiff and the Class Members were required to work off the
18 clock—some of these hours were over eight (8) hours in one (1) workday or in excess of forty
19 (40) hours in a workweek and should have been paid at the overtime rate.

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

22 77. In addition, upon information and belief, Defendants failed to incorporate all forms
23 of compensation, including without limitation bonuses and incentives, into the regular rate for
24 overtime purposes.

25 78. As a result, Defendants failed to pay Plaintiff and the Class members earned
26 overtime wages and such employees suffered damages as a result.

27 79. Defendants knew or should have known Plaintiffs and the Class Members were
28 undercompensated as a result of these practices.

80. Due to Defendant's violations of the California Labor Code, Plaintiff and the Class members are entitled to recover from Defendants their unpaid overtime wages, reasonable attorneys' fees and costs in this action, and pre-judgment and post-judgment interest, statutory penalties, and liquidated damages.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

(By Plaintiff and the Class Against All Defendants)

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

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

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

84. For the four (4) years preceding the filing of this lawsuit, Defendants failed to provide Plaintiff and Class Members timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five (5) hours of a shift.

85. For the four (4) years preceding the filing of this lawsuit, Defendants also failed to provide Plaintiff and Class Members timely and uninterrupted second (2nd) meal periods of not less than thirty (30) minutes on shifts longer than ten (10) hours.

86. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, labor budgets, lack of coverage, work demands, and Defendants' policies and practices, Plaintiff and the Class Members were frequently not provided with legally required

1 timely meal periods. In addition, meal periods were frequently late or short.

2 87. On information and belief, Plaintiff and Class Members did not waive their rights
3 to meal periods under the law and were not provided with valid lawful on-duty meal periods.

4 88. Plaintiff and the Class Members were not paid one (1) hour of pay at their regular
5 rate for each day that a first (1st) or second (2nd) meal period was not lawfully provided.

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

8 90. Pursuant to Labor Code section 226.7, Plaintiff and Class Members are entitled to
9 recover one (1) hour of premium pay for each day in which a meal period violation occurred.
10 They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as
11 applicable.

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

17 **FOURTH CAUSE OF ACTION**

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

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

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

22 93. Pursuant to the IWC wage orders applicable to Plaintiff's and Class Members'
23 employment by Defendants, "Every employer shall authorize and permit all employees to take
24 rest periods, which insofar as practicable shall be in the middle of each work period.... [The]
25 authorized rest period time shall be based on the total hours worked daily at the rate of ten (10)
26 minutes net rest time per four (4) hours worked or major fraction thereof.... Authorized rest
27 period time shall be counted as hours worked, for which there shall be no deduction from wages."
28

1 94. Labor Code section 226.7(a) prohibits an employer from requiring any employee
2 to work during any rest period mandated by an applicable order of the IWC.

3 95. Defendants were required to authorize and permit employees such as Plaintiff and
4 Class Members to take rest periods during shifts in excess of three and one-half (3.5) hours, based
5 upon the total hours worked at a rate of ten (10) minutes net rest per four (4) hours worked, or
6 major fraction thereof, with no deduction from wages.

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

11 97. Defendants did not pay Plaintiff one (1) additional hour of pay at his regular rate
12 of pay for each day that a rest period violation occurred. On information and belief, the other
13 members of the Class endured similar violations as a result of Defendants' rest period policies
14 and practices and Defendant did not pay said Class Members premium pay as required by law.

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

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

28 100.

FIFTH CAUSE OF ACTION
FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING
EMPLOYMENT

(By Plaintiff and the Class Against All Defendants)

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

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

103. The wages required by Labor Code sections 226.7, 246, 510, 1194 and other sections became due and payable to each employee in each month that he or she was not provided with a meal period or rest period or paid minimum wage, sick leave, straight or overtime wages to which he or she was entitled.

104. Defendants violated Labor Code section 204 by systematically refusing to pay wages due under the Labor Code.

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

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

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

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

1 **SIXTH CAUSE OF ACTION**

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

4 **By Plaintiff and Class Against Defendants**

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

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

18 109. Further, the IWC Wage Orders require in pertinent part: Every employer shall
19 keep accurate information with respect to each employee including the following: (3) Time
20 records showing when the employee begins and ends each work period. Meal periods, split shift
21 intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the
22 payroll period and applicable rates of pay....”

23 110. Labor Code section 1174 also requires Defendants to maintain and preserve, in a
24 centralized location, among other items, records showing the names and addresses of all
25 employees employed and payroll records showing the hours worked daily by, and the wages paid
26 to, its employees.

27 111. On information and belief and based thereon, Defendants have knowingly and
28 intentionally failed to comply with Labor Code section 1174, including by implementing the

1 policies and procedures and committing the violations alleged in the preceding causes of action
2 and herein. Defendants' failure to comply with Labor Code section 1174 is unlawful pursuant to
3 Labor Code section 1175.

4 112. Defendants have failed to record many of the items delineated in applicable
5 Industrial Wage Orders and Labor Code section 226, and required under Labor Code section
6 1174, including by virtue of the fact that each wage statement which failed to accurately
7 compensate Plaintiff and Class Members for all hours worked and for missed and non-provided
8 meal and rest periods, or which failed to include compensation for all minimum wages earned or
9 overtime hours worked, was an inaccurate wage statement.

10 113. On information and belief, Defendants failed to implement and preserve a lawful
11 record-keeping method to record all hours worked, meal periods, and non-provided meal and rest
12 periods owed to employees, as required for Non-Exempt Employees under California Labor Code
13 section 226 and applicable California Wage Orders.

14 114. Upon information and belief, Defendants also failed to include accrued sick leave,
15 accurate itemizations of total hours worked, net pay, gross pay and all applicable hourly rates
16 from Class Member wage statements. In addition, Defendants have failed to provide accurate
17 itemized wage statements as a consequence of the above-specified violations.

18 115. In order to determine if they had been paid the correct amount and rate for all
19 hours worked, Plaintiff and Class Members have been, would have been, and are compelled to try
20 to discover the required information missing from their wage statements and to perform complex
21 calculations in light of the inaccuracies and incompleteness of the wage statements Defendants
22 provided to them.

23 116. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC
24 Wage Orders, Defendants did not and still do not furnish each of the members of the Wage
25 Statement Class with an accurate itemized statement in writing accurately reflecting all of the
26 required information.

27 117. Moreover, upon information and belief, as a pattern and practice, in violation of
28 Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain

1 accurate records pertaining to the total hours worked for Defendants by the members of the Wage
2 Statement Class, including but not limited to, beginning and ending of each work period, meal
3 period and split shift interval, the total daily hours worked, and the total hours worked per pay
4 period and applicable rates of pay.

5 118. Plaintiffs and the members of the Wage Statement Class have suffered injury as a
6 result of Defendants' failure to maintain accurate records for the members of the Wage Statement
7 Class in that the members of the Wage Statement Class were not timely provided written accurate
8 itemized statements showing all requisite information, such that the members of the Wage
9 Statement Class were misled by Defendants as to the correct information regarding various items.
10 The lack of information hindered Plaintiff and the Class from determining the amount of wages
11 owed to them and led them to believe they were not entitled to be paid wages for all hours
12 worked, sick pay, for overtime, missed meal and rest breaks, or for each hour of labor performed
13 and the proper hourly rate, although they were so entitled.

14 119. Pursuant to Labor Code section 226, and in light of Defendants' violations
15 addressed above, Plaintiff and the Wage Statement Class Members are each entitled to recover up
16 to a maximum of four thousand dollars (\$4,000.00), along with an award of costs and reasonable
17 attorneys' fees.

18 SEVENTH CAUSE OF ACTION

19 FAILURE TO REIMBURSE NECESSARY EXPENSES

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

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

23 121. Plaintiff repeats and incorporates herein by reference each and every allegation set
24 forth above, as though fully set forth herein.

25 122. Labor Code section 2802 requires Defendants to indemnify Plaintiff and Class
26 Members for necessary expenditures incurred in direct consequence of the discharge of his or her
27 duties.

28 123. Plaintiff and the Class were required to incur expenses in the performance of their

1 assigned job duties. For example, Plaintiff and the Class Members were required to incur
2 numerous out of pocket expenses, including without limitation, cellular phones, in direct
3 consequence of the discharge of their duties.

4 124. Upon information and belief, the Defendants did not reimburse Plaintiff or the
5 Class for such expenses.

6 125. As a result of the unlawful acts of Defendants, Plaintiff and the Class Members
7 have been deprived of unreimbursed sums in amounts to be determined at trial, and are entitled to
8 the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
9 pursuant to Labor Code section 2802.

10 **EIGHTH CAUSE OF ACTION**

11 **VIOLATION OF THE UNFAIR COMPETITION LAW**

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

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

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

19 128. Defendants' policies, activities, and actions as alleged herein are violations of
20 California law and constitute unlawful, unfair, and deceptive business acts and practices in
21 violation of California Business and Professions Code sections 17200, *et seq.*

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

24 130. The state law violations, including violations of the relevant IWC Wage Order,
25 detailed herein above are the predicate violations for this cause of action. By way of example
26 only, in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class
27 with timely lawful meal and rest periods or pay one (1) hour of premium pay when a meal or rest
28 period was not lawfully provided violates Labor Code sections 512, 1198 and 226.7, and the IWC

1 Wage Orders. Defendants further violated the law through their policies of failing to fully and
2 accurately compensate Plaintiff and the Class Members for all hours worked, including minimum
3 wages, sick pay, and overtime as well as failing to timely pay wages during employment, failing
4 to keep proper records, failing to pay all wages and compensation due at termination, failing to
5 provide accurate wage statements, and failing to reimburse expenses as specified above.

6 131. Plaintiff and the Class Members have been personally aggrieved by Defendants'
7 unlawful and unfair business acts and practices alleged herein by the loss of money and/or
8 property.

9 132. As a result of the unlawful acts specified herein, Defendants have reaped and
10 continue to reap unfair benefits and unlawful profits at the expense of the Plaintiff and the Class
11 Members she seeks to represent. Defendants have been unjustly enriched through Defendants'
12 unlawful, unfair, and fraudulent business practices alleged herein.

13 133. Pursuant to California Business and Professions Code sections 17200, *et seq.*,
14 Plaintiff and the Class Members are entitled to an injunction and other equitable relief against
15 such unlawful practices and are entitled to restitution of the wages withheld and retained by
16 Defendants during a period that commences four (4) years prior to the filing of this complaint; an
17 award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5; interest;
18 and an award of costs.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against Defendants, as follows:

21 **Class Certification**

- 22 1. That this action be certified as a class action;
23 2. That Plaintiff be appointed as the representatives of the Class;
24 3. That Plaintiff be appointed as the representative of the Subclasses; and
25 4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

26 **On the First Cause of Action**

27 **(Failure to pay Minimum Wages)**

- 28 1. For the unpaid balance of the full amount of any minimum wages and regular

1 wages owed, as well as interest thereon,

2 2. Penalties according to statute,

3 3. Liquidated damages,

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

5 5. For interest and

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

7 **On the Second Cause of Action**

8 **(Failure to Pay Overtime Owed)**

9 1. For the unpaid balance of the full amount of overtime earned,

10 2. Penalties according to statute,

11 3. Liquidated damages,

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

13 5. For interest; and

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

15 **On the Third Cause of Action**

16 **(Failure to Provide Lawful Meal Periods)**

17 1. For one (1) hour of premium pay for each day in which a required meal period was
18 not lawfully provided;

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

20 3. For interest; and

21 4. For such other and further relief as the Court deems proper.

22 **On the Fourth Cause of Action**

23 **(Failure to Authorize and Permit Lawful Rest Periods)**

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

26 2. For interest; and

27 3. For reasonable attorneys' fees and costs pursuant to statute; and

28 4. For such other and further relief as the Court deems proper.

1 **On the Fifth Cause of Action**

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

- 3 1. For unpaid wages;
- 4 2. For penalties pursuant to Labor Code section 210 and 25% of the amount of wages
- 5 unlawfully withheld;
- 6 3. For interest;
- 7 4. For reasonable attorneys' fees and costs pursuant to statute; and
- 8 5. For such other and further relief as the Court deems proper.

9

10 **On the Sixth Cause of Action**

11 (Failure to Provide Accurate Itemized Wage Statements)

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

15 **On the Seventh Cause of Action**

16 (Failure to Reimburse Necessary Expenses)

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

21 **On the Eighth Cause of Action**

22 (Violation of the Unfair Competition Law)

- 23 1. For an order enjoining Defendants from continuing to engage in the
- 24 aforementioned unlawful business practice in violation of California Business & Professions
- 25 Code section 17200; and
- 26 2. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of
- 27 sums to Plaintiff and Class Members for the Defendants' past failure to pay minimum wages,
- 28 overtime and regular wages, for Defendants' past failure to reimburse necessary expenses, and for

1 premium wages for meal and rest periods that were not provided to Plaintiff and Class Members
2 over the last four (4) years in an amount according to proof;

3 3. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to
4 recover under California Code of Civil Procedure section 1021.5 and Labor Code section 1194;

5 4. For pre-judgment interest on any unpaid minimum wages, straight time wages,
6 overtime wages and premium wages due from the day that such amounts were due;

7 5. For costs of suit incurred herein that Plaintiff and Class Members are entitled to
8 recover under the Labor Code; and

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

10 **DEMAND FOR JURY TRIAL**

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

13
14 Respectfully submitted,

15 **JAMES HAWKINS APLC**

16 Dated: January 26, 2021

17 /s/ James R. Hawkins

18 James R. Hawkins, Esq.
19 Christina M. Lucio, Esq.

20 Attorneys for Plaintiff EMI BRUEMMER, on behalf of
21 herself and all others similarly situated
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