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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO**

MANSOOR MUNRUDDIN, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

ABBOTT LABORATORIES, an Illinois
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.:

FCSO 56090

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1197, AND 1197.1;
- (2) VIOLATION OF LABOR CODE §§ 226.7 AND 512;
- (3) VIOLATION OF LABOR CODE §§ 201-203
- (4) VIOLATION OF LABOR CODE § 226(A);
- (5) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200, *ET SEQ.*; AND
- (6) VIOLATION OF THE PAGA, LABOR CODE § 2698, *ET SEQ.*

DEMAND OVER \$25,000.00

**ASSIGNED TO
JUDGE *Carmichael*
FOR ALL PURPOSES**

ENDORSED FILED
Clerk of the Superior Court

FEB 19 2021

By J. WOOD
DEPUTY CLERK

1 Plaintiff Mansoor Munruddin (“Plaintiff”) hereby submits this Class and Representative
2 Action (“Complaint”) against Defendant Abbott Laboratories (“Defendant”) and Does 1 through
3 50 (collectively, “Defendants”), on behalf of himself and all other similarly situated current and
4 former employees of Defendants for penalties and/or damages under the California Labor Code
5 and the California Business & Professions Code, resulting from Defendant’s failure to pay
6 minimum, regular, and overtime wages for all hours worked, failure to provide off-duty meal
7 breaks, failure to timely pay wages upon separation of employment, failure to pay sick pay at the
8 regular rate of pay, and failure to provide accurate itemized wage statements, as follows:

9 **INTRODUCTION**

10 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
11 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the Private
12 Attorney General Act (“PAGA”), California Business and Professions Code § 17200, *et seq.* (the
13 “UCL”), and the applicable Wage Orders of the California Industrial Welfare Commission
14 (“IWC”).

15 2. This Complaint challenges systemic illegal employment practices resulting in
16 violations of the California Labor Code and the UCL against individuals who worked for
17 Defendants.

18 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
19 jointly and severally, have acted intentionally and with deliberate indifference and conscious
20 disregard to the rights of all employees by failing to pay minimum, regular, and overtime wages
21 for all hours worked, failing to provide off-duty meal breaks, failing to timely pay wages upon
22 separation of employment, failing to pay sick pay at the regular rate of pay, and failing to
23 provide accurate itemized wage statements to its employees in the State of California.

24 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 have engaged in, among other things a system of willful violations of the California Labor Code,
26 the UCL, and the applicable IWC Wage Orders, by creating and maintaining policies, practices,
27 and customs that knowingly deny employees the above stated rights and benefits.

28 5. The policies, practices and customs of Defendants described above and below

1 have resulted in unjust enrichment of Defendants and an unfair business advantage over
2 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

3 **JURISDICTION AND VENUE**

4 6. The Court has jurisdiction over the violations of the California Labor Code §§
5 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the UCL, and
6 the applicable IWC Wage Orders.

7 7. Venue is proper in Solano County, because Defendant does business in Solano
8 County and Plaintiff worked for Defendant in Solano County.

9 **PARTIES**

10 8. Plaintiff is a former employee of Defendant. Plaintiff was employed by
11 Defendant as a Wrapper Operator from in or about October 2015, to in or about January 2020.
12 Throughout his employment with Defendant, Plaintiff worked as a non-exempt employee.

13 9. Plaintiff was and is the victims of the policies, practices, and customs of
14 Defendant complained of in this action in ways that have deprived him of the rights guaranteed
15 by California Labor Code §§ 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
16 and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

17 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant was
18 and is an Illinois corporation that continues to maintain operations and do business in the State of
19 California, including in Solano County, California. Plaintiff is informed and believes, and based
20 thereon alleges, that Defendant is a medical devices and health care company.

21 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
22 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
23 and partnerships, licensed to do business and actually doing business in the State of California.
24 As such and based upon all the facts and circumstances incident to Defendants' business,
25 Defendants are subject to the California Labor Code, the IWC Wage Orders, and the UCL.

26 12. Plaintiff does not know the true names or capacities, whether individual, partner
27 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
28 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this

1 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
2 based thereon alleges that each of said fictitious defendants was responsible in some way for the
3 matters alleged herein and proximately caused Plaintiff and members of the general public and
4 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

5 13. At all times herein mentioned, each of said Defendant participated in the doing of
6 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
7 Defendants, and each of them, were the agents, servants and employees of each of the other
8 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
9 acting within the course and scope of said agency and employment.

10 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
11 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
12 joint venturer of, or working in concert with each of the other co-Defendants and was acting
13 within the course and scope of such agency, employment, joint venture, or concerted activity. To
14 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
15 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
16 Defendants.

17 15. At all times herein mentioned, Defendants, and each of them, were members of,
18 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
19 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

20 16. At all times herein mentioned, the acts and omissions of various Defendants, and
21 each of them, concurred and contributed to the various acts and omissions of each and all of the
22 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
23 herein mentioned, Defendants, and each of them, ratified each and every act or omission
24 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
25 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
26 damages as herein alleged.

27 **CLASS ACTION ALLEGATIONS**

28 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to

California Code of Civil Procedure § 382, of the following Class and Sub-Classes:

a. All current and former non-exempt employees who worked for Defendants in the State of California at any time from August 25, 2016, through the present (the “Class”);

b. All current and former non-exempt employees of Defendants in the State of California who worked more than five (5) hours in any shift, at any time from August 25, 2016, through the present (the “Meal Period Sub-Class”);

c. All current and former non-exempt employees of Defendants in the State of California who were paid shift premium wages, including without limitation, “SHIFT OT PR” wages, at any time from August 25, 2019, through the present (the “Total Hours Worked Wage Statement Sub-Class”); and

d. All non-exempt employees of Defendants in the State of California who were paid non-discretionary incentives, including without limitation, shift differential and/or shift premium wages, and sick pay in the same workweek, and whose employment ended (either voluntarily or involuntarily) at any time from August 25, 2017, through the present (the “Sick Pay Sub-Class”).

18. Numerosity and Ascertainability: The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records.

19. Adequacy of Representation: The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

20. Defendants uniformly administered a corporate policy and practice of: (a) failing to pay minimum, regular, and overtime wages for time spent undergoing check-in/check-out procedures while off-the-clock, in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to provide off-duty meal breaks as a result of having employees undergo check-out procedures prior to being allowed to take their meal breaks, in violation of Labor Code

1 §§ 226.7 and 512; (c) failing to timely pay wages upon separation of employment as a result of
2 the unpaid wages for off-the-clock work, in violation of Labor Code §§ 201-204; (d) failing to
3 pay sick pay at the regular rate of pay, in violation of Labor Code §§ 201-204 and 246; (e) failing
4 to provide accurate itemized wage statements, in violation of Labor Code § 226(a); and (f)
5 engaging in unfair business practices in violation of the California Labor Code, the applicable
6 IWC Wage Orders, and the UCL.

7 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
8 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
9 Labor Code §§ 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, the applicable
10 IWC Wage Orders, and the UCL.

11 22. **Common Question of Law and Fact:** There are predominant common questions
12 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
13 concerning Defendants' policy and practice of: (a) failing to pay minimum, regular, and overtime
14 wages for time spent undergoing check-in/check-out procedures while off-the-clock, in violation
15 of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to provide off-duty
16 meal breaks as a result of having employees undergo security check-out procedures prior to
17 being allowed to take their meal breaks, in violation of Labor Code §§ 226.7 and 512; (c) failing
18 to timely pay wages upon separation of employment as a result of the unpaid wages for off-the-
19 clock work, in violation of Labor Code §§ 201-204; (d) failing to pay sick pay at the regular rate
20 of pay, in violation of Labor Code §§ 201-204 and 246; (e) failing to provide accurate itemized
21 wage statements, in violation of Labor Code § 226(a); and (f) engaging in unfair business
22 practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the
23 UCL.

24 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
25 class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical
26 manner as the Class Members. As with other non-exempt employees of Defendant, Plaintiff was
27 required to undergo check-in and check-out procedures while off-the-clock. Specifically,
28 Plaintiff had to undergo check-in procedures before being allowed to enter work premises at the

1 start of his work shifts. Similarly, Plaintiff also had to undergo check-out procedures after
2 clocking out at the end of his shift, before he was allowed to leave work premises. Said check-
3 in/out procedures were performed off-the-clock, and Plaintiff was not paid any applicable
4 minimum, regular, or overtime wages for undergoing said security checks. Moreover, Plaintiff
5 also had to undergo said check-out procedures before taking his meal breaks, and vice versa, and
6 thus Plaintiff did not receive off-duty meal breaks as required by law. Plaintiff was not paid any
7 applicable meal period premium compensation for said non-compliant meal breaks.
8 Furthermore, as a result of the off-the-clock violations alleged above, Plaintiff also received
9 inaccurate wage statements that identified the wrong net wages earned, gross wages earned, and
10 total hours worked, in violation of Labor Code § 226(a). As a separate, independent violation of
11 Labor Code § 226(a), whenever Plaintiff was paid shift premium wages, such as “SHIFT OT
12 PR” wages, the corresponding wage statements failed to list the accurate total number of hours
13 worked. Lastly, Plaintiff also routinely earned non-discretionary incentives such as shift
14 premiums and shift differentials that raised his regular rate of pay to a rate that was higher than
15 his base rate of pay. However, whenever said non-discretionary incentives and sick pay were
16 paid to Plaintiff in the same workweek, Defendant only paid sick pay at Plaintiff’s base rate of
17 pay, rather than the higher regular rate of pay that included non-discretionary incentives. To
18 date, Plaintiff has yet to receive all of the wages owed to him, including the minimum, regular,
19 and overtime wages, the unpaid meal period compensation, and the underpaid sick pay wages,
20 and thus Defendants owe waiting time penalties under Labor Code § 203. Therefore, Plaintiff is
21 a member of the Class and Sub-Classes and has suffered the alleged violations of Labor Code §§
22 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, the applicable Wage Orders,
23 and the UCL.

24 24. The California Labor Code upon which Plaintiff bases these claims are broadly
25 remedial in nature. These laws and labor standards serve an important public interest in
26 establishing minimum working conditions and standards in California. These laws and labor
27 standards protect the average working employee from exploitation by employers who may seek
28 to take advantage of superior economic and bargaining power in setting onerous terms and

1 conditions of employment.

2 25. The nature of this action and the format of laws available to Plaintiff and
3 members of the class identified herein make the class action format a particularly efficient and
4 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
5 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
6 advantage since it would be able to exploit and overwhelm the limited resources of each
7 individual plaintiff with their vastly superior financial and legal resources. Requiring each class
8 member to pursue an individual remedy would also discourage the assertion of lawful claims by
9 employees who would be disinclined to file an action against their former and/or current
10 employer for real and justifiable fear of retaliation and permanent damage to their careers at
11 subsequent employment.

12 26. The prosecution of separate actions by the individual class members, even if
13 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
14 to individual class members against the Defendants and which would establish potentially
15 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
16 individual class members which would, as a practical matter, be dispositive of the interest of the
17 other class members not parties to the adjudications or which would substantially impair or
18 impede the ability of the class members to protect their interests. Further, the claims of the
19 individual members of the class are not sufficiently large to warrant vigorous individual
20 prosecution considering all of the concomitant costs and expenses.

21 27. Such a pattern, practice and uniform administration of corporate policy regarding
22 illegal employee compensation described herein is unlawful and creates an entitlement to
23 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
24 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
25 according to the mandate of California Labor Code §§ 201-203, 218.5, 226, 510, 558, 1194,
26 1197, 1197.1, 2698, and Code of Civil Procedure § 1021.5.

27 28. Proof of a common business practice or factual pattern, which the named Plaintiff
28 experienced and is representative of, will establish the right of each of the members of the Class

1 to recovery on the causes of action alleged herein.

2 29. The Class is commonly entitled to a specific fund with respect to the
3 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
4 restitution of those funds being improperly withheld by Defendants. This action is brought for
5 the benefit of the entire Class and will result in the creation of a common fund.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF LABOR CODE §§ 510, 558, 1194, 1197, AND 1197.1**

8 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

9 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
10 though fully set forth herein.

11 31. This cause of action is brought pursuant to Labor Code §§ 510, 558, 1194, 1197,
12 and 1197.1, which require an employer to pay employees minimum and regular wages for all
13 hours worked fewer than eight hours in a day and/or fewer than 40 hours in a workweek. The
14 Labor Code also requires an employer to pay employees overtime wages for all hours worked
15 greater than eight hours in a day and/or greater than 40 hours in a workweek.

16 32. As a pattern and practice, Defendants suffered and permitted Plaintiff and Class
17 Members to work without payment of minimum and regular wages for all hours worked in a
18 workday and workweek, and without payment of overtime wages for all hours worked greater
19 than eight hours in a day and/or greater than 40 hours in a workweek. Specifically, Defendants
20 required Plaintiff and Class Members to undergo check-in procedures before being allowed to
21 enter work premises. Similarly, Defendants also required Plaintiff and Class Members to
22 undergo check-out procedures before leaving work premises. However, said check-in and
23 check-out procedures were conducted off-the-clock, before Plaintiff and Class Members clocked
24 in for the shifts and/or after they had already clocked out of the shifts at the end of the day.
25 Defendants failed to pay Plaintiff and Class Members for any time spent undergoing said check-
26 in and check-out procedures, and thus Plaintiff and Class Members were not paid minimum,
27 regular, and overtime wages for all hours worked.

28 33. Defendants had a uniform corporate pattern, practice, and procedure regarding the

1 above practices in violation of the California Labor Code.

2 34. Such a pattern, practice and uniform administration of corporate policy regarding
3 illegal employee compensation as described herein is unlawful and creates an entitlement to
4 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
5 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
6 to the mandate of California Labor Code §§ 510, 558, 1194, 1197, and 1197.1.

7 **SECOND CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

9 **(BY PLAINTIFF AND THE MEAL PERIOD SUB-CLASS AGAINST ALL**
10 **DEFENDANTS)**

11 35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
12 though fully set forth herein.

13 36. This cause of action is brought pursuant to Labor Code §§ 226.7 and 512, which
14 requires an employer to provide a duty-free, 30-minute meal period within the first five (5) hours
15 for shifts in excess of five (5) hours per day. Plaintiff and Class Members regularly worked in
16 excess of five (5) hours per day and accordingly had a right to take a 30-minute meal period each
17 day worked in excess of five (5) hours.

18 37. At all relevant times, Defendants failed in their affirmative obligation to ensure
19 that Plaintiff and Class Members had the opportunity to take and were provided with off-duty
20 meal periods in accordance with the mandate of the California Labor Code and the applicable
21 IWC Wage Order. At all relevant times, Plaintiff and Class Members were suffered and
22 permitted to work through legally required meal breaks and were denied the opportunity to take
23 their off-duty meal breaks. This included, without limitation, Defendants requiring Plaintiff and
24 Class Members to undergo check-in/check-out procedures before being allowed to take meal
25 breaks. In this regard, Plaintiff and Class Members had to undergo the check-out procedures
26 after they clocked out, but before they could take their meal breaks. Thus, Plaintiff and Class
27 Members were denied their right to duty-free, 30-minute meal breaks for any and all shifts in
28 which they worked five (5) hours or more.

1 38. As a pattern and practice, Defendants regularly required Plaintiff and Class
2 Members to undergo check-in/check-out procedures after clocking out for their meal breaks.
3 Plaintiff and Class Members were denied the opportunity to take off-duty meal breaks because
4 they remained under Defendants' control by virtue of having to undergo these security checks.

5 39. As Plaintiff and Class Members were denied off-duty meal periods, Defendants
6 are responsible for paying premium compensation pursuant to Labor Code §§ 226.7 and 512 and
7 the applicable IWC Wage Order. Defendants, as a matter of corporate policy and procedure,
8 regularly failed to pay such premium compensation for each 30-minute duty-free meal period
9 Plaintiff and Class Members missed.

10 40. Such a pattern, practice and uniform administration of corporate policy as
11 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class in a
12 civil action, for the unpaid balance of the unpaid premium compensation pursuant to California
13 Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order, including interest thereon,
14 penalties, and costs of suit.

15 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
16 willful failure to provide all meal period premium wages due and owing to Plaintiff and Class
17 Members upon separation of employment results in a continued payment of wages up to thirty
18 (30) days from the time the wages were due. Therefore, Plaintiff and Class Members who have
19 separated from employment are entitled to compensation pursuant to Labor Code § 203.

20 **THIRD CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE §§ 201-203**

22 **(BY PLAINTIFF, THE CLASS, THE MEAL PERIOD SUB-CLASS, AND THE SICK**
23 **PAY SUB-CLASS AGAINST ALL DEFENDANTS)**

24 42. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
25 though fully set forth herein.

26 43. This cause of action is brought pursuant to Labor Code §§ 201-203. Labor Code
27 § 201 provides that all wages earned and unpaid at the time of an employee's discharge are due
28 and payable immediately. Labor Code § 202 provides that, in the case of an employee who

1 resigns or quits, such wages must be paid not later than 72 hours thereafter, unless the employee
2 has given 72 hours previous notice, in which case the employee must be paid all wages due and
3 earned at the time of quitting. Labor Code § 203 provides that an employer who willfully fails to
4 pay such wages due to an employee who is discharged or quits must pay that employee waiting-
5 time penalties in the form of a day's wages up to 30 days until all of the wages owed are paid.

6 44. As a pattern and practice, Defendants regularly and willfully failed and refused to
7 pay all wages due and earned to discharged employees at the time of their termination, or within
8 72 hours of employees who quit and/or have resigned, or at the time of termination for those
9 employees who gave 72 hours' notice. More specifically, Defendants have violated Labor Code
10 §§ 201-203 as to Plaintiff and Class Members by refusing to pay minimum, regular, and/or
11 overtime wages for time spent by employees in check-in/check-out procedures off-the-clock, and
12 by refusing to pay meal period premium pay for non-compliant meal periods as a result of having
13 to undergo said check-in/check-out procedures.

14 45. Additionally, Defendants have also violated Labor Code § 246 as to Plaintiff and
15 Sick Pay Sub-Class Members. Labor Code § 246(1)(1) provides that paid sick time for non-
16 exempt employees be "calculated in the same manner as the regular rate of pay for the workweek
17 in which the employee uses paid sick time, whether or not the employee actually works overtime
18 in that workweek." Labor Code § 246(1)(2) further provides that paid sick time for non-exempt
19 employees be "calculated by dividing the employee's total wages, not including overtime
20 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
21 of employment."

22 46. Here, Defendants violated Labor Code § 246 by failing to pay sick pay at the
23 regular rate of pay. Plaintiff and Sick Pay Sub-Class Members routinely earned non-
24 discretionary incentive wages, including without limitation, shift differentials and/or shift
25 premiums, thereby increasing their regular rates of pay to amounts that were higher than their
26 base rates of pay. However, whenever sick pay was paid to Plaintiff and Sick Pay Sub-Class
27 Members, it was paid at their base rates of pay rather than the correct, higher regular rates of pay
28 as required under Section 246.

1 47. As a pattern and practice, Defendants regularly and willfully failed to pay
2 Plaintiff and Sick Pay Sub-Class Members their correct sick pay wages pursuant to the timing
3 requirements under the Labor Code, and accordingly owe waiting time penalties pursuant to
4 Labor Code § 203.

5 48. As such, Defendants had a uniform corporate pattern, practice, and procedure
6 regarding the above practices in violation of Labor Code §§ 201-203.

7 49. Such a pattern, practice and uniform administration of corporate policy regarding
8 illegal employee compensation as described herein is unlawful and creates an entitlement to
9 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
10 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
11 to the mandate of California Labor Code §§ 201-203, 218.5, and 1194.

12 **FOURTH CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 226(A)**

14 **(BY PLAINTIFF, THE CLASS, AND THE TOTAL HOURS WORKED WAGE**
15 **STATEMENT SUB-CLASS AGAINST ALL DEFENDANTS)**

16 50. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
17 though fully set forth herein.

18 51. Labor Code § 226(a) requires employers to provide itemized wage statements to
19 its employees that identify accurate information regarding their compensation. Defendants, as a
20 matter of policy and practice, failed in its affirmative obligation to provide accurate itemized
21 wage statements to Plaintiff and Class Members, in violation of Labor Code § 226(a).

22 52. As a result of Defendants' failure to pay wages violations as identified above, the
23 wage statements issued to Plaintiff and Class Members failed to identify the correct gross wages
24 earned, net wages earned, and total hours worked, in violation of Labor Code § 226(a).

25 53. As a separate, independent violation of Labor Code § 226(a), Defendants also
26 failed to issue accurate itemized wage statements to Plaintiff and Total Hours Worked Wage
27 Statement Sub-Class Members. In this regard, whenever shift premium wages, such as "SHIFT
28 OT PR" wages, were paid, Defendants failed to list the accurate total hours worked on the

1 corresponding wage statements issued to Plaintiff and Total Hours Worked Wage Statement
2 Sub-Class Members. Whenever shift premium wages, such as “SHIFT OT PR” wages, were
3 paid, the wage statements blatantly display inaccurate total hours worked. Similarly, whenever
4 the hours shown on the wage statements are added up, they do not add up to the correct amount
5 of actual total hours that were worked by Plaintiff and Total Hours Worked Wage Statement
6 Sub-Class Members. This is a direct violation of Labor Code § 226(a)(2).

7 54. The issuance of inaccurate wage statements caused injury to Plaintiff and Class
8 Members under Labor Code § 226(e), as they cannot accurately verify and/or calculate their
9 wages. Without identifying the correct total hours worked, net wages earned, or gross wages
10 earned, Plaintiff and Class Members will have no way of verifying the amount of hours they
11 worked each particular pay period or whether they were correctly paid wages for each particular
12 pay period.

13 55. Such a pattern, practice and uniform administration of corporate policy as
14 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
15 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
16 including interest thereon, attorneys’ fees, and costs of suit according to the mandate of
17 California Labor Code § 226.

18 **FIFTH CAUSE OF ACTION**

19 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

20 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

21 56. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
22 though fully set forth herein.

23 57. Defendants, and each of them, have engaged and continue to engage in unfair and
24 unlawful business practices in California by practicing, employing, and utilizing the employment
25 practices outlined above, including by: (a) failing to pay minimum wages for time spent
26 undergoing check-in/check-out procedures while off-the-clock, in violation of Labor Code §§
27 558, 1194, 1197, and 1197.1; (b) failing to pay overtime wages for time spent undergoing check-
28 in/check-out procedures while off-the-clock, in violation of Labor Code §§ 510, 558, 1194, and

1 1197.1; and (c) failing to provide off-duty meal breaks as a result of having employees undergo
2 security check-out procedures prior to being allowed to take their meal breaks, in violation of
3 Labor Code §§ 226.7 and 512.

4 58. Defendants' utilization of such unfair and unlawful business practices constitutes
5 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors.

6 59. Plaintiff seeks, individually and on behalf of other members of the Class similarly
7 situated, full restitution of monies, as necessary and according to proof, to restore any and all
8 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
9 complained of herein.

10 60. Plaintiff is informed and believes, and based thereon alleges, that at all times
11 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
12 as proscribed by California Business & Professions Code § 17200, *et seq.*, including those set
13 forth herein above thereby depriving Plaintiff and other Class Members the minimum working
14 standards and conditions due to them under the California laws as specifically described therein.

15 **SIXTH CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

17 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

18 61. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
19 though fully set forth herein.

20 62. Plaintiff brings this cause of action as a proxy for the State of California and in
21 this capacity, seeks penalties on behalf of all Aggrieved Employees from August 23, 2019,
22 through the present, for Defendants' violations of Labor Code §§ 201-204, 226(a), 226.7, 246,
23 510, 512, 558, 1194, 1197, and 1197.1, arising from Defendants' following misconduct: (a)
24 failure to pay minimum, regular, and overtime wages for time spent undergoing check-in/check-
25 out procedures while off-the-clock, in violation of Labor Code §§ 201-204, 510, 558, 1194,
26 1197, and 1197.1; (b) failure to provide off-duty meal breaks as a result of having employees
27 undergo security check-out procedures prior to being allowed to take their meal breaks, in
28 violation of Labor Code §§ 226.7 and 512; (c) failure to timely pay wages upon separation of

1 employment as a result of the unpaid wages for off-the-clock work, in violation of Labor Code
2 §§ 201-204; (d) failure to pay sick pay at the regular rate of pay, in violation of Labor Code §§
3 201-204 and 246; and (e) failure to provide accurate itemized wage statements, in violation of
4 Labor Code § 226(a).

5 63. Based on the above-stated Labor Code violations, Plaintiff is an “aggrieved
6 employee” as defined in Labor Code § 2699(a). As such, Plaintiff brings this cause of action on
7 behalf of the State of California for violations committed against all similarly situated Aggrieved
8 Employees of Defendants.

9 64. On or about February 17, 2021, Plaintiff sent written notice to the California
10 Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code
11 §§ 201-204, 226(a), 226.7, 246, 510, 512, 558, 1194, 1197, and 1197.1, pursuant to Labor Code
12 § 2698, *et seq.* As of the date of the filing of this Complaint, the LWDA has yet to provide
13 notice to Plaintiff as to whether it intends to investigate the violations provided for in the written
14 notice. In addition to the LWDA, Plaintiff also sent his written notice to Defendants via certified
15 mail according to Labor Code § 2699.3.

16 65. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
17 applicable civil penalties for Defendants’ violation of Labor Code §§ 201-204, 226(a), 226.7,
18 246, 510, 512, 558, 1194, 1197, and 1197.1, for the time period described above, on behalf of
19 himself and other Aggrieved Employees.

20 **PRAYER FOR RELIEF**

21 1. WHEREFORE, Plaintiff prays for judgment for himself and all others on whose
22 behalf this suit is brought against Defendants, jointly and severally, as follows:

23 2. For an order certifying the proposed Class and Sub-Classes;

24 3. For an order appointing Plaintiff as the representative of the classes as described
25 herein;

26 4. For an order appointing Counsel for Plaintiff as Class Counsel;

27 5. Upon the First Cause of Action, for damages and/or penalties pursuant to
28 California Labor Code §§ 510, 558, 1194, 1197, and 1197.1, and for costs and attorneys’ fees;

1 6. Upon the Second Cause of Action, for damages and/or penalties pursuant to
2 California Labor Code §§ 201-203, 226.7 and 512, and for costs and attorneys' fees;

3 7. Upon the Third Cause of Action, for damages and/or penalties pursuant to
4 California Labor Code §§ 201-203, and for costs and attorneys' fees;

5 8. Upon the Fourth Cause of Action, for damages or penalties pursuant to California
6 Labor Code § 226, and for costs and attorneys' fees;

7 9. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly
8 affected members of the general public of all funds unlawfully acquired by Defendants by means
9 of any acts or practices declared by this Court to be in violation of Business & Professions Code
10 § 17200, *et seq.*, and for costs and attorneys' fees;

11 10. Upon the Sixth Cause of Action, for the full amount of civil penalties pursuant to
12 Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees; and

13 11. On all causes of action for attorneys' fees and costs as provided by California
14 Labor Code §§ 218.5, 226, 510, 558, 1194, 1197, and 2699, and Code of Civil Procedure §
15 1021.5; and

16 12. For such other and further relief the Court may deem just and proper.

17
18 DATED: February 19, 2021

DIVERSITY LAW GROUP, P.C.

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20 By: 
21 Larry W. Lee
22 Mai Tulyathan
23 Attorneys for Plaintiff, the Class, and Aggrieved
24 Employees
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