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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

JESUS AGUILAR, on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

B.I. INCORPORATED, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. MSC21-01170

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFFS' MOTION TO APPROVE
PAGA SETTLEMENT**

Hearing Date:

Hearing Time:

Judge: Hon. Judge Edward Weil
Dept.: 39

1 I, JEAN-CLAUDE LAPUYADE, declare as follows:

2 1. I am the managing partner of the law firm of JCL Law Firm, APC, co-lead counsel of
3 record for Plaintiff Jesus Aguilar (“Plaintiff”) in this matter. As such, I am fully familiar with the facts,
4 pleadings, and history of the matter. The following facts are within my own personal knowledge, and
5 if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of the Motion for Approval of PAGA
7 Settlement with Defendant B.I. Incorporated (“Defendant”).

8 3. A true and correct copy of the fully executed Joint Stipulation of Settlement of PAGA
9 Action and Release of PAGA Claims (“Agreement”) is attached hereto as Exhibit #1.

10 4. A true and correct copy of Plaintiff’s February 11, 2021 PAGA Notice is attached hereto
11 as Exhibit #2.

12 5. A true and correct copy of the proof of filing of Motion for Approval of PAGA
13 Settlement, is attached hereto as Exhibit #3.

14 6. A true and correct copy of the JCL Law Firm, APC, “Time and Billing Journal” as of
15 June 15, 2023, is attached hereto as Exhibit #4.

16 7. A true and correct copy of the JCL Law Firm, APC, “Transaction Summary” as of March
17 31, 2023, is attached hereto as Exhibit #5.

18 8. A true and correct copy of the JCL Law Firm, APC, Firm Resume is attached hereto as
19 Exhibit #6.

20 INTRODUCTION

21 9. An objective evaluation of the proposed settlement confirms that the relief negotiated on
22 behalf of the PAGA Members and the LWDA is fair, reasonable, and valuable. The Settlement is a
23 product of informed, adversarial, and non-collusive and mediated negotiations between experienced
24 counsel. As discussed below, the proposed Settlement satisfies all criteria for PAGA settlement
25 approval. Accordingly, Plaintiff and Plaintiff’s Counsel respectfully request this Court grant approval
26 of the Agreement. PAGA Counsel’s Qualifications are set forth in the attached Resume attached hereto
27 as Exhibit #6.

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11. The 65-day “waiting period” on Plaintiff’s right to file a civil action under PAGA, *see* Cal. Lab. Code § 2699.3(a)(2)(A), lapsed without the LWDA notifying Plaintiff that they intended to investigate the claims in the PAGA Notice. To date, the LWDA still has not advised any of the Plaintiff of any intent to take action with respect to the claims in the PAGA Notice.

13. On October 19, 2022, the Parties attended a full-day mediation with experienced wage and hour class and PAGA action mediator Jeffrey Krivis. In advance of the with the mediation, Defendant provided Plaintiff with sufficient information to properly evaluate Defendant's class wide liability exposure. Among the data and documents Defendant produced included, but was not limited to, the total number of PAGA Members, pay periods, written wage and hour policies, employee handbooks, and over 800,000 unique cells of time and payroll data.

14. Unfortunately, the mediation concluded without a settlement. Notwithstanding, Mediator Krivis remained in communication with the Parties. After several months of continued backchannel communication conducted through Mediator Krivis, the Parties finally reached an agreement to resolve Plaintiff's PAGA action.

1 15. The Parties subsequently executed a binding and enforceable Memorandum of
2 Understanding (“MOU”). After reaching an agreement in the principle, the Parties drafted and
3 negotiated a long-form settlement which is the subject of the instant motion. The Settlement was
4 negotiated in light of all known facts and circumstances and the uncertainty associated with litigation –
5 including the risk of Plaintiff not being able to maintain representative claims and establishing
6 manageability, the difficulty of proving Plaintiff’s claims in a manageable trial, the merits of
7 Defendant’s potential defenses, and the significant delay and potential appellate issues inherent to
8 litigation – and was reached after extensive arm’s length negotiations, with the assistance of Mediator
9 Krivis.

10 16. The Settlement is intended to fully and finally resolve the Released PAGA Claims
11 asserted by Plaintiff on behalf of the PAGA Members and State of California. This is only a Settlement
12 of the PAGA claims for civil penalties and is not a class settlement and does not release the individual
13 claims, if any, of the PAGA Members. This Settlement does not release any claim that is not a PAGA
14 claim.¹ Nor does this Settlement waive Defendant’s right to assert *res judicata* or other available
15 defense to any asserted claim or lawsuit.

16 17. Pursuant to California Labor Code Section 2699(1), Plaintiff is providing a copy of the
17 Settlement Agreement and this motion to the LWDA concurrently with the filing of the instant motion
18 for settlement approval as set forth in the accompanying proof of service. Additionally, Plaintiff will
19 submit to the LWDA a copy of the Court’s judgment and order approving the Settlement Agreement
20 within ten (10) days after entry of judgment or order.

21 **THE SETTLEMENT IS FAIR AND REASONABLE**

22 18. The PAGA settlement is subject to Court approval consistent with Labor Code §
23 2699(1)(2). The Settlement Agreement negotiated by the Parties provides for a Gross Settlement
24 Amount payment in the amount of Three Hundred Twenty Thousand Dollars and Zero Cents
25 (\$320,000.00) to resolve the PAGA claims. From the Gross Settlement Amount, there is a deduction
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27 ¹ As explained by the Supreme Court in *ZB, N.A.*, 8 Cal. 5th 175 at 196: “Nonparty employees are bound by the judgment in
28 an action under the PAGA, but only with respect to recovery of civil penalties.”

of attorneys' fees in the amount of \$106,666.67 (which is one-third of the Gross Settlement Amount), reimbursement of incurred costs in an amount not to exceed \$20,000.00, and Settlement Administration Expenses which will not exceed \$6,000.00. Agreement at §§ I(T); III(J)(9)-(10). After these deductions, the amount remaining is the "PAGA Settlement Amount," which is estimated to be \$187,333.33.

19. The Gross Settlement Amount of \$320,000.00 is fair and reasonable and, therefore, should be approved.

20. Here, *without stacking* the PAGA penalties, Defendant's *maximum* liability exposure is estimated at approximately \$811,500 in PAGA penalties (8,115 pay periods multiplied by \$100 per pay period²).

21. Assuming the Court permitted Plaintiff to stack PAGA penalties, Plaintiff's third-party damages consultant estimated Defendant's maximum liability exposure at approximately \$1,848,000. Plaintiff's consultant estimated Defendant's exposure as follows:

Claim	Penalty Amount ³	Number of Pay Periods w/ Violation	Violation Rate	Total Penalties
<i>Rest Period Violations</i> Cal. Labor Code §§ 226.7 and 512	\$50	2,251	27.7% of PAGA Pay Periods	\$112,500
<i>Meal Period Violations</i> Cal. Labor Code §§ 226.7 and 512	\$50	2,251	27.7% of PAGA Pay Periods	\$112,500
<i>Wage Statement Violations</i> Cal. Labor Code §§ 226 and 226.2	\$100	8,115	100% of PAGA Pay Periods	\$811,500
<i>Unpaid Wages Violations</i> Cal. Labor Code §§ 201, 202, 203, 204, 1194, 1197, 1997.1, 1198 and 558	\$100	8,115	100% of PAGA Pay Periods	\$811,500

² California Labor Code section 2699(f)(2) provides the default penalty for PAGA violations of \$100 for initial violations and \$200 for subsequent violations.

³ In *Bernstein v. Virgin America, Inc.* (2021) 3 F.4th 1127, 1144, the court decided that "[u]ntil the employer has been notified that it is violating a Labor Code provision ... the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties." Therefore, Plaintiff used only penalties for initial violations.

22. Plaintiff also alleged that Defendants failed to provide compliant rest periods. Specifically, Plaintiff alleged that because of their rigorous work schedules, Plaintiff and PAGA Members were not able to take timely and duty-free rest periods. Specifically, Plaintiff argued that Defendant maintained a rest period policy that required employees to remain on premises during their rest periods.

23. Plaintiff's expert identified a 27.7% violation rate for meal periods based upon the expert's review of time and payroll records. Plaintiff's expert analysis did not, however, consider instances where meal periods were non-compliant because an employee voluntarily waived a compliant break. Because rest periods are not recorded, Plaintiff's expert could not identify a violation rate. Plaintiff therefore made the reasonable assumption that rest period violations were committed at a rate similar to that of meal period violations.

24. Defendant argued that Plaintiff's rest break claim would have mainly relied on the testimony of PAGA Members, making it a riskier claim. Establishing liability likely would have entailed competing testimony stating either rest breaks were taken, or rest breaks were voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at *11 ("Because of the competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United Site Servs. of California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiff's own evidence confirms that the written policy does not generate uniform practices.").

25. Based on an estimated 27.7% violation rate, Plaintiff contended that his claim for rest period violations was potentially worth approximately \$405,700 dollars. This was calculated by multiplying the number of total pay periods with a rest period violation by a violation rate of \$50 dollars. The \$50 penalty rate was used for a number of reasons in this instance. First, Defendant argued that increased civil penalties for subsequent violations do not apply unless the Plaintiff can present evidence that the Labor Commission or a court notified the employer that it was in violation of the Labor Code. *Bernstein v. Virgin America, Inc.* (2021) 3 F.4th 1127, 1144 citing *Amaral v. Cintas Corp. No. 2* (2008)

1 163 Cal.App.4th 1157, 1209 [“Until the employer has been notified that it is violating a Labor Code
2 provision ... the employer cannot be presumed to be aware that its continuing underpayment of
3 employees is a ‘violation’ subject to penalties.”].) Separately, Defendant also argued that courts have
4 considerable discretion to reduce the penalty awards under PAGA. *See, e.g. Carrington v. Starbucks*
5 *Corp.* (2018) 30 Cal.App.5th 504 (reducing the maximum PAGA penalty amount by 90%, at \$5 per
6 pay period). Accordingly, it is unlikely that Plaintiff would recover full penalty amounts even if he
7 prevailed in establishing the underlying Labor Code violations. Pursuant to California Labor Code
8 section 558(a)(1), an employer is subject to a penalty of \$50 for violations of a Labor Code section
9 regulating hours and days of work, including meal period and rest period violations. Thus, because
10 section 558(a)(1) specifically provides for a civil penalty, Plaintiff used a \$50 penalty per violation for
11 the meal and rest break claims.

12 26. Plaintiff also alleged that Defendant’s time records reflected non-compliant meal periods,
13 and that Plaintiff and other PAGA Members were encouraged to work through their meal period.
14 Additionally, Plaintiff’s expert found that 80.8% of shifts between 10 and 12 hours were without a
15 recorded second meal period. Conversely, Defendant asserted that it maintained facially compliant
16 meal period policies and practices throughout the PAGA Period. Thus, Defendant argued that there
17 was no potential liability for Plaintiff’s alleged meal period violations. Plaintiff estimated the damages
18 for this claim at \$112,500. This number was calculated by multiplying the number of total pay periods
19 where there was a meal period violation by a violation rate of \$50 dollars. The \$50 penalty rate was
20 used for the same reasons as stated above.

21 27. Plaintiff alleged derivative wage statement violations based Defendant’s failure to
22 provide meal and rest periods. Plaintiff’s expert estimated that Defendant’s exposure for this claim was
23 approximately \$811,500 in penalties. This was calculated by multiplying the total number of pay
24 periods by a violation rate of \$100 per pay period. Plaintiff assumed a 100% violation rate for inaccurate
25 wage statements upon the derivative wage statement penalties as a result of Defendant’s failure to
26 provide meal and rest periods. Plaintiff’s Counsel considered the arguable presence of various penalties
27 and weighed the potential recoveries against probable defenses. Specifically, Defendant could also

1 argue that that meal and rest period violations do not entitle employees like Plaintiff and the PAGA
2 Members to pursue the derivative itemized wage statement penalties. (*Naranjo v. Spectrum Security*
3 *Services, Inc.* (2023) 88 Cal.App.5th 927). Plaintiff could not give the penalty claims great weight
4 given that they depended on proving the underlying claims, which had their own risks.

5 28. Plaintiff also alleged that Defendant failed to pay its employees for all hours worked.
6 Specifically, Plaintiff asserts that Defendant failed to pay employees for time spent undergoing COVID-
7 19 questionnaires before being able to clock in for their shifts. Defendant vigorously denied liability
8 for this claim. Defendant argued, among other things, that all PAGA Members were properly paid
9 minimum and overtime compensation for all hours worked and that PAGA Members were instructed
10 not to work off-the-clock. Plaintiff's expert estimated that Defendant's exposure for this claim was
11 approximately \$811,500 in penalties. This number was calculated by multiplying the number of pay
12 periods with a violation by a violation rate of \$100 per pay period.

13 29. In light of the above, the Gross Settlement Amount is approximately 17.3% of
14 Defendant's potential PAGA exposure. The Gross Settlement Amount compares favorably to the
15 likely recovery of PAGA penalties through continued litigation.

16 30. Defendant's maximum exposure to PAGA penalties is not a realistic outcome of the
17 litigation because it fails to account for the risks of continued litigation including, but not limited to,
18 Defendant's defenses. *See, Zayerz v. Kiewit Infrastructure West*, 2018 U.S. Dist. LEXIS 14918, *14
19 (C.D. Cal. January 18, 2018). For instance, Defendant contended that Plaintiff's PAGA claims could
20 be and likely would be wiped out in the light of the United States Supreme Court decision in *Viking*
21 *River Cruises v. Moriana*, (2022) 142 S.Ct. 1906.

22 31. In *Viking River*, the U.S. Supreme Court held that PAGA claims are preempted by the
23 Federal Arbitration Act, where, as here, arbitration agreements were signed by the employees. This
24 posed a very significant risk to Plaintiff's case which was ultimately realized. *See Viking River Cruises*
25 *v. Moriana*, (2022) 142 S.Ct. 1906. Therefore, Plaintiff was mindful that their case could be potentially
26 wiped because of the U.S. Supreme Court's adverse decision. Plaintiff's claims are arguably worthless
27 in the post-*Viking River* world. *Cf. Adolph v. Uber Technologies* (California Supreme Court has agreed
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1 to examine if SCOTUS relied on an incorrect understanding of California state law in *Viking River*.
2 Specifically, whether the representative side of the PAGA claim can, under state law, continue even if
3 the individual portion of the claim, if any exists, is compelled to arbitration). *Id.*

4 32. Second, Defendant argued that it can only be assessed civil penalties for actual violations
5 of the Labor Code. *See* Lab. Code § 2699(f)(2). In other words, to recover any civil penalties, Plaintiff
6 would be required to prove the underlying Labor Code violations. (*Cardenas v. McLane Foodservice,*
7 *Inc.*, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011) [“Given the statutory language [of PAGA], a
8 plaintiff cannot recover on behalf of individuals whom the plaintiff has not proven suffered a violation
9 of the Labor Code by the defendant.”].) To do this, Plaintiff would need to prove each PAGA Member
10 was subject to the alleged Labor Code violation, which would be difficult to do, since Defendant denies
11 any liability or wrongdoing of any kind associated with the claims alleged in this action.

12 33. Thus, Defendant contended that Plaintiff would be required to “prove Labor Code
13 violations with respect to each and every individual on whose behalf Plaintiff seek to recover civil
14 penalties under PAGA.” *Hibbs-Rines v. Seagate Technologies*, 2009 WL 513496, *4 (N.D. Cal. Mar.
15 2, 2009). When “determining whether the employer committed Labor Code violations with respect to
16 each employee” is impractical, the PAGA action can be dismissed. *Wesson v. Staples the Off.*
17 *Superstore*, 2021 WL 4099059, *11 (Cal. Ct. App. Sept. 9, 2021).

18 34. Third, Defendant contended that PAGA actions with numerous employees, many
19 locations, and different types of employees are not manageable and may be dismissed on that basis. *See,*
20 *Wesson v. Staples the Office Superstore*, (2021) 68 Cal.App.5th 746 (holding that courts can dismiss
21 PAGA claims if significant variation exists among aggrieved employees, who have unique factual
22 situations) *see also*, *Ortiz v. CVS Caremark Corp.* (N.D. Cal. 2014) 2014 U.S. Dist. LEXIS 36833
23 (dismissing PAGA claim as unmanageable because “a multitude of individualized assessments would
24 be necessary”); *Lifty v. Merrill Lynch & Co.* (C.D. Cal. 2014) 2014 U.S. Dist. LEXIS 160448 (striking
25 PAGA claim as unmanageable because “individualized issues predominate in this action” and a
26 “multitude of individualized assessments would be necessary”); *Amiri v. Cox Communs. Cal., LLC*
27 (C.D. Cal.) 272 F.Supp.3d 1187, 1194 (striking PAGA claim as unmanageable). Here, with over 200
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1 PAGA Members working in different types of jobs, Defendant asserted that Plaintiff's theories were
2 unmanageable. *Cf. Estrada v. Royalty Carpet Mills, Inc.*, (Cal.App. 4th Dist. March 30, 2022)
3 (disagreeing with *Wesson* and creating a split among the Courts of Appeal on whether manageability is
4 a prerequisite to bringing a PAGA claim).

5 35. Fourth, a ballot initiative to eliminate PAGA has qualified for the 2024 ballot.
6 See [https://news.ballotpedia.org/2022/07/26/california-ballot-initiative-to-repeal-paga-qualifies-for-](https://news.ballotpedia.org/2022/07/26/california-ballot-initiative-to-repeal-paga-qualifies-for-2024-ballot/)
7 [2024-ballot/](https://news.ballotpedia.org/2022/07/26/california-ballot-initiative-to-repeal-paga-qualifies-for-2024-ballot/). If this initiative passes, it will effectively repeal PAGA by taking away the ability to pursue
8 civil penalties via a representative action. Plaintiff views this initiative as a significant additional risk
9 due to the potential limitation on their ability to recover penalties against Defendant should litigation
10 continue.

11 36. Finally, the maximum penalty figure does not consider that Courts have complete
12 discretion to “award a lesser amount than the maximum civil penalty amount specified [by PAGA] if,
13 based on the facts and circumstances of the particular case, to do otherwise would result in an award
14 that is unjust, arbitrary and oppressive, or confiscatory.” (Cal. Lab. Code § 2699(e)(2)). In fact, Courts
15 routinely exercise their authority to reduce PAGA penalties by 85% to 95%. *See e.g. Carrington v.*
16 *Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (reducing PAGA penalties to \$5 per pay period;
17 “Although the trial court may have disagreed with Starbucks regarding the issue of liability, it clearly
18 took the circumstances proffered by Starbucks into consideration when it imposed the penalty ... only
19 \$5 per initial violation”); *Kaanaana v. Barrett Bus. Servs., Inc.*, 29 Cal App 5th 778, 788 (2018), review
20 granted on other grounds (noting that the trial court “exercised its discretion to reduce the [PAGA]
21 penalties to 13 percent of the full amount [requested, because] [o]n average, plaintiffs were deprived of
22 13 percent of the 30-minute meal period”); *Fleming v. Covidien, Inc.*, 2011 WL 7563047, *4 (C.D. Cal.
23 2011) (exercising discretion to reduce the maximum amount of PAGA civil penalties for plaintiffs’
24 section 226 claims from \$2,800,000 to \$500,000 because the employees suffered no injuries as a result
25 of the erroneous wage statements and made no complaints about the errors or omissions in the wage
26 statements, thus reducing the maximum penalty by 82%); *see also, Gola v. University of San Francisco*,
27 San Francisco Superior Court Case No. CGC-18-5655018, Proposed Statement of Decision, dated July

21, 2020, Judge Curtis A. Karnow of San Francisco Complex (concluding after a full-blown bench trial that a penalty of 15% of the maximum PAGA penalties was the appropriate penalty). The gross amount obtained by Plaintiff's Counsel is reasonable in light Defendant's arguments. Further, the adverse decisions in *Viking River Cruises* and *Wesson* pose very significant, and even fatal, risk to Plaintiff's case.

37. Defendant's substantial compliance could also operate to prevent the imposition of PAGA penalties.

38. Given Defendant's defenses to the claimed Labor Code violations at issue, and the risks and costs of continued litigation, Plaintiff and Plaintiff's Counsel believe that the Gross Settlement Amount is fair and reasonable. This settlement was negotiated by experienced counsel at arm's length.

39. The LWDA has been provided notice of this motion and the PAGA settlement, and the decision of LWDA to accept the PAGA settlement and not oppose the motion should be given considerable weight. Moreover, the LWDA is a sophisticated government entity that can assert and protect its own rights.

THE ATTORNEYS' FEES AND EXPENSES FAIR AND REASONABLE

40. Plaintiff's Counsel seeks approval of Attorneys' Fees in the amount of \$106,666.67 (one-third of the Gross Settlement Amount) and Attorneys' Expenses not to exceed \$20,000.00⁴ for reimbursement of actually incurred litigation expenses. PAGA does not have any requirements for reviewing attorneys' fees, and Plaintiff's position is that the payment of attorneys' fees and costs in this Settlement is a matter of contract for a contingent representation. Nevertheless, should this Court review the requested attorneys' fees, the requested fees and costs are reasonable for experience wage and hour counsel.

41. The requested Attorneys' Fee of \$106,666.67 and reimbursement of Attorneys' Expenses of up to \$20,000.00 is fair, reasonable, and justified by the result achieved.

⁴ As detailed *infra*, at the time of filing this motion, Plaintiff's Counsel incurred \$12,935.77 litigating this matter. Plaintiff will provide the Court with a final amount of litigation costs at the time of hearing on this motion.

42. Plaintiff's Counsel negotiated a recovery of \$320,000.00, and this result justifies the requested fees equal to one third of this recovery. This percentage is within the standard contingent recovery percentage of one-third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal.5th 480, 504, (2016). At the time this case was brought, the result was far from certain. Defendant's defenses to the merits of the case created difficulties with proof and complex legal issues for Plaintiff's Counsel to overcome. Here, several defenses asserted by Defendant present serious threats to the claims of Plaintiff and the PAGA Members. Defendant asserted that its employment practices complied with all applicable Labor laws. If successful, Defendant's factual and legal defenses would eliminate *any recovery* to the PAGA Members. While Plaintiff believes that these defenses could be overcome, Defendant maintains that these defenses have merit and therefore present a serious risk to recovery. The Settlement was possible because, in Plaintiff's Counsels' eyes, Plaintiff's Counsel was able to persuade Defendant that there was an appreciable risk that Plaintiff would prevail on the factual and legal issues underlying liability and overcome difficulties in proof as to monetary relief.

43. Plaintiff is represented by competent and experienced counsel to pursue his claims. I establish the JCL Law Firm, APC (“Firm”), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and consumers throughout California in wage and hour class actions and complex multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre (Associate Attorney), Tesla Stone (Paralegal), Maria Watters (Paralegal), Jennifer Hemming (Legal Secretary), Sara Christensen (Legal Assistant), and Madelyn Uchiyama (Legal Assistant).

44. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff, the State of California, and the Aggrieved Employees throughout this action.

45. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 14 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

46. I am qualified to represent the Plaintiff, the State of California and the Aggrieved Employees. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. My credentials are reflected in the JCL Law Firm, APC, Firm Resume, a true and correct copy of which is attached hereto as **Exhibit “6”** Some of the major cases the Firm has undertaken are also set forth in **Exhibit “6.”**

47. The JCL Law Firm's rates are comparable to those judicially approved for other plaintiff's firms, such as Baron & Budd (rates ranging from \$775 for the requested partner to \$390-\$630 for non-partners), Western Comden Casselman & Essensten (rates ranging from \$670-\$750 for partners and \$300-\$500 for associates), and Blood Hurst & Rearden (\$510-\$695 for partners). See *Aarons v. BMW of North America*, No. 11-7667-PSG, 2014 U.S. Dist. LEXIS 118442, *40-41 (C.D. Cal. Apr. 29, 2014). Other Southern California courts have approved hourly rates in the requested range. See e.g., *Kearney v. Hyundai Motor Am.*, 2013 U.S. Dist. LEXIS 91636, *24 (C.D. Cal. June 28, 2013) (approving hourly rates of \$650 -\$800 for senior attorneys in consumer class action); *Parkinson v. Hyundai Motor America*, 796 F.Supp.2d 1160, 1172 (C.D. Cal. 2010)(approving hourly rates between \$445 and \$675); *Faigman v. AT&T Mobility, LLC*, 2011 U.S. Dist. LEXIS 15825, *2 (N.D. Cal. Feb. 15, 2011)(Approving hourly rates of \$650 an hour for partners and \$500 for associates); *Richard v. Ameri-Force Mgmt. Servs., Inc.*, No 37-2008-00096019 (San Diego Superior Court, August 27, 2010)(\$695 to \$750 an hour for partners and \$495 for associates); *Barrera v. Gamestop*, No. CV 09-1399 (C.D. Cal. Nov. 29, 2010)(\$700 for partners and \$475 for associates); *Anderson v. Nextel Retail Stores, LLC*, No. CV 07-4480 (C.D. Cal. June 20, 2010)(\$655- \$750 for partners and \$300 – 515 for associates); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San Francisco Sup. Ct.) (approving 2012 partner rates between \$550 and \$850 per hour); and *Holoway v. Best Buy Co.*, C-05-5056-PJH (MEJ)(N.D. Cal.)(approving 2011 partner rates between \$825 and \$700, and associates hourly rates between \$355 and \$405 an hour).

1 48. Moreover, my billing rate has been approved multiple times within the last twelve months
2 by California Superior Court judges. (*See generally Martinello v. Century Wilshire, Inc.*, Los Angeles
3 Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing
4 rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel; *Wilson*
5 *v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6,
6 2022) Hon. David Cohn approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the
7 JCL Law Firm, APC, as Class Counsel; *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case
8 No. 56-2021-00549844-CU-OE-VTA (April 12, 2022) Hon. Mark Borrell a \$550 billing rate and
9 appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel, in a \$1,500,000
10 wage and hour class and PAGA action; *Roa v. Otay Mesa Sales Inc.*, San Diego Superior Court Case
11 No. 37-2019-00057735-CU-OE-CTL (May 13, 2022) Hon. Gregory Pollack approved a \$550 billing
12 rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel; *Dula v.*
13 *2 Kings*, Merced Superior Court Case No. 20CV-02289 (July 15, 2022) Hon. Brian McCabe approved
14 a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class
15 Counsel; *Foss v. Anderson Hospitality, Inc.*, Shasta Superior Court Case No. 195317 (July 18, 2022)
16 Hon. Stephen H. Baker approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the
17 JCL Law Firm, APC, as Class Counsel; *De Jesus v. Guardian Angel Home Care, Inc.*, San Diego
18 Superior Court Case No. 37-2020-00021049-CU-OE-CTL (July 27, 2022) Hon. Ronald Frazier
19 approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as
20 Class Counsel in a \$1,000,000 wage and hour class and PAGA action; *Almanza v. Xtreme Xpress, Inc.*,
21 Los Angeles Superior Court Case No. 20STCV15387 (July 28, 2022) Hon. Elihu M. Berle approved a
22 \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class
23 Counsel; *Vejar v. Fineline Woodworking, Inc., et al*, Orange Superior Court Case No. 30-2021-
24 01208607-CU-OE-CXC (October 24, 2022) Hon. Randall J. Sherman approved a \$550 billing rate and
25 appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.

26 49. As of June 15, 2023, The JCL Law Firm, APC incurred a total lodestar of \$45,780.00 for
27 94.1 hours worked by attorneys and staff successfully litigating this matter. I have reviewed my firm's
28

1 lodestar in this matter and believe the charges are reasonable and were reasonably necessary to the
2 conduct of the case. Detailed Time and Billing Journals for the JCL Law Firm are attached hereto as
3 Exhibit 4.

4 50. Additionally, the attorneys and staff at co-counsel the Zakay Law Group, APLC (“ZLG”),
5 billed \$22,820.00 for 48.5 hours successfully litigating this action. A true and accurate copy of the
6 ZLG time and billing entries is attached to the Declaration of Shani O. Zakay, Esq. filed concurrently
7 herewith.

8 51. Additionally, the attorneys and staff at co-counsel the Blumenthal Nordrehaug Bhowmik
9 De Blouw LLP (“BNBD”), billed \$21,565.00 for 50.2 hours successfully litigating this action. A true
10 and accurate copy of the BNBD time and billing entries is attached to the Declaration of Norman B.
11 Blumenthal, Esq. filed concurrently herewith.

12 52. Collectively, Plaintiff’s Counsel spent a total of 192.8 hours successfully litigating this
13 matter for a total combined loadstar of \$90,165.00. Thus, the Attorneys’ Fee request is equal to Class
14 Counsel’s loadstar with a modest 1.38 multiplier.

15 53. Plaintiff’s Counsel’s loadstar is summarized by firm below:

<u>FIRM</u>	<u>Hours</u>	<u>Total</u>
JCL Law Firm, APC.	94.1	\$45,780.00
ZLG	48.5	\$22,820.00
BNBD	50.2	\$21,565.00
Total	192.8	\$90,165.00

22 **THE ATTORNEYS’ EXPENSES SHOULD BE APPROVED**

23 54. Prior to incurring costs for filing of this motion, PAGA Counsel collectively expended
24 \$12,935.77 prosecuting this action (JCL Law Firm, APC - \$800.52, Zakay Law Group, APLC - \$735.79
25 and BNBD - \$11,399.46).

26 55. Plaintiff’s Counsel’s out-of-pocket expenses are the types of expenses normally charged
27 to paying clients including the following: filing fees; copying; postage; factual and legal research

1 charges; mediation fees; and expert costs which were all incurred during, and were necessary for the
2 successful prosecution of, the litigation and, therefore, should be reimbursed.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is
4 true and correct. Executed this June 20, 2023, at San Diego, California.

5
6 **JCL LAW FIRM, APC**

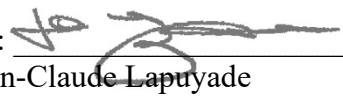
7 By: 
8 Jean-Claude Lapuyade

EXHIBIT 1

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
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JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
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Attorneys for Plaintiff JESUS AGUILAR

SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA

JESUS AGUILAR, on behalf of the State of
California, as a private attorney general,

PLAINTIFF,

vs.

B.I. INCORPORATED, a Corporation; and
Does 1 through 50, Inclusive,

DEFENDANTS.

Case No. MSC21-01170

[Action Filed February 4, 2022]

**JOINT STIPULATION OF
SETTLEMENT OF PAGA ACTION AND
RELEASE OF PAGA CLAIMS**

1 This Joint Stipulation of Settlement of PAGA Action and Release of PAGA Claims is entered
2 into by and between Plaintiff JESUS AGUILAR (hereinafter “Plaintiff”), in his representative
3 capacity on behalf of the State of California and fellow PAGA Members, and Defendant B.I.
4 INCORPORATED (hereinafter “Defendant”):

5 **I. DEFINITIONS**

- 6 A. “Action” shall mean the case of *Jesus Aguilar v. B.I. Incorporated*, filed on June 17,
7 2021, in Contra Costa Superior Court, Case No. MSC21-01170.
8
9 B. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Settlement
10 of PAGA Action and Release of PAGA Claims.
11
12 C. “Court” means the Superior Court for the State of California, County of Contra Costa
13 presiding over the Action.
14
15 D. “Defendant” shall mean B.I. INCORPORATED, a Corporation.
16
17 E. “Effective Date” means the date upon which both of the following have occurred: (i)
18 approval of the PAGA Settlement is granted by the Court, and (ii) the Court’s
19 Judgment approving the PAGA Settlement becomes Final. Final shall mean the latest
20 of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed
21 on appeal, the date of dismissal of such appeal, or the expiration of the time to file a
22 petition for writ of certiorari to the United States Supreme Court or California
23 Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of the
24 petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such
25 petition; or (iii) if no appeal is filed, the expiration date of the time for filing or
26 noticing any appeal of the Judgment, i.e., sixty-five (65) calendar days.
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- 1 F. "Funding Date" shall mean ten (10) business days after the Effective Date and is the
2 date Defendant transfers the Gross Settlement Amount to the Settlement
3 Administration in accordance with the terms of this Agreement.
- 4 G. "Gross Settlement Amount" means Three Hundred Twenty Thousand Dollars and
5 Zero Cents (\$320,000.00), which Defendant shall pay into the QSF in connection with
6 this Settlement, inclusive of the LWDA Payment, PAGA Member Payments,
7 Plaintiff's Attorneys' Fees and Costs, Plaintiff's Counsel's expenses, and the
8 Settlement Administration Expenses.
- 9 H. "LWDA" means the California Labor and Workforce Development Agency.
- 10 I. "Notice of PAGA Settlement" means the notice to be provided to the PAGA Members
11 by the Settlement Administrator in the form set forth as Exhibit A to this Agreement.
- 12 J. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
13 Labor Code § 2698, *et seq.*
- 14 K. "PAGA Members" shall mean all current and former non-exempt employees
15 employed by Defendant in California at any time during the PAGA Period.
- 16 L. "PAGA Members List" means information regarding the PAGA Members that
17 Defendant will in good faith compile from its records and provide to the Settlement
18 Administrator. It shall be formatted in the manner requested by the Settlement
19 Administrator and shall include sufficient information to effectuate this settlement,
20 including but not limited to: each PAGA Member's full name; last known address;
21 Social Security Number; the number of Pay Periods worked during the PAGA Period;
22 and any other information reasonably required by the Settlement Administrator in
23 order to effectuate the terms of the Settlement.
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- 1 M. "PAGA Payment Ratio" means the respective Pay Periods worked during the PAGA
2 Period for each PAGA Member divided by the total of the Pay Periods for all PAGA
3 Members during the PAGA Period.
- 4 N. "PAGA Period" means the period between April 13, 2020, through and including
5 January 8, 2023, unless the number of pay periods worked by PAGA Members
6 exceeds 8,770 by more than 15% and Defendant elects to shorten the PAGA Period
7 to avoid triggering the Escalator Provision in section III(A)(2), in which case the
8 period will be from April 13, 2020, until the day prior to the date that the number of
9 pay periods worked by PAGA Members exceeds 8,700 by more than 15%.
- 10 O. "PAGA Settlement Amount" or "PSA" means the amount remaining from the Gross
11 Settlement Amount after deducting Plaintiff's Attorneys' Fees and Costs, Plaintiff's
12 Incentive Payment, and Settlement Administration Expenses. The PSA shall be used
13 to satisfy Plaintiff's claims for civil penalties arising under PAGA asserted on behalf
14 of the PAGA Members and the LWDA. Twenty-five percent (25%) of the PSA shall
15 be allocated to the PAGA Members ("PAGA Member Payment") and distributed
16 based on the pro rata number of Pay Periods worked by each PAGA Member during
17 the PAGA Period. Seventy-five percent (75%) of the PSA shall be paid to the LWDA
18 ("LWDA Payment").
- 19 P. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
20 Plaintiff or Defendant, individually.
- 21 Q. "Pay Period" for purposes of calculating the distribution of the PAGA Member
22 Payment, as defined herein, means any bimonthly pay period in which PAGA
23 Members received wages during their employment with Defendant during the PAGA
24 Period.
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- 1 R. "Plaintiff" or "PAGA Representative" shall mean JESUS AGUILAR.
- 2 S. "Plaintiff's Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC
- 3 ("JCL"), Shani O. Zakay, Esq. of Zakay Law Group, APLC ("ZLG"), and Nicholas
- 4 De Blouw of Blumenthal Nordrehaug Bhowmik De Blouw LLP ("BNBD").
- 5
- 6 T. "Plaintiff's Attorneys' Fees and Costs" means the award of attorneys' fees and
- 7 reimbursement of litigation expenses that the Court authorizes to be paid to Plaintiff's
- 8 Counsel for the services they have rendered to Plaintiff, the State of California, and
- 9 the PAGA Members consisting of attorneys' fees not to exceed one-third of the Gross
- 10 Settlement Amount *plus* actually incurred litigation costs up to \$20,000.00 as
- 11 documented by Plaintiff Counsel's billing records. Plaintiff Counsel's application for
- 12 the Plaintiff's Attorneys' Fees and Costs is subject to Court approval, and a reduction
- 13 in attorneys' fees or costs awarded by the Court is not a basis for Plaintiff to void,
- 14 rescind, or terminate this Agreement. Plaintiff's Counsel's award of attorneys' fees
- 15 shall be divided by Plaintiff's Counsel as follows: 32.5% to Zakay Law Group,
- 16 APLC, 32.5% to The JCL Law Firm, APC, and 35% to Blumenthal Nordrehaug
- 17 Bhowmik De Blouw LLP.
- 18
- 19 U. "QSF" means the Qualified Settlement Fund established, designated, and maintained
- 20 by the Settlement Administrator to fund the Gross Settlement Amount.
- 21
- 22 V. "Released PAGA Claims" shall mean all claims, demands, rights, liabilities and
- 23 causes of action for civil penalties under PAGA alleged or that could have been
- 24 alleged based on the facts alleged in February 11, 2021 letter to the Labor &
- 25 Workforce Development Agency ("LWDA"), and the operative Complaint, that arose
- 26 during the PAGA Period, including claims for civil penalties under PAGA arising
- 27 from alleged violations of *Labor Code* sections 200,201,202,203,204, 210,226,226.3,
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226.7, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802, and 2698 et seq., applicable IWC Wage Orders, and all PAGA penalties arising from the violations alleged.

W. “Released Parties” shall mean (a) Defendant and any direct or indirect parents, subsidiaries, divisions, affiliates, and related entities of Defendant; (b) any predecessors, successors, or assigns of any of the foregoing (a); and (c) any past, present or future employees, officers, directors, affiliates, partners, joint venturers, co-venturers, licensors, licensees, principals, members, managers, managing agents, agents, attorneys, accountants, insurers, reinsurers, shareholders, investment bankers, trusts, trustees, representatives, administrators, fiduciaries, heirs, subrogees, and executors of any of the foregoing (a)-(b) in his, her, their, or its capacity as such.

X. “Settlement” means the disposition of the Action pursuant to this Agreement.

Y. “Settlement Administrator” means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement Administrator establishes, designates, and maintains a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1 into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims in the Action on behalf of the LWDA and the PAGA Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendant and any person related to Defendant. ***All accrued interest shall be paid and distributed to the PAGA Members as part of their respective share of the PAGA Member Payment.***

Z. “Settlement Administration Expenses” means the amount to be paid for the costs of administration of the Settlement from the Gross Settlement Amount not to exceed

1 \$6,000.00.

2 **II. RECITALS**

3 A. On February 11, 2021, Plaintiff filed a Notice of Violations with the Labor and
4 Workforce Development Agency (LWDA) and served the same on Defendant.

5 B. On June 17, 2021, Plaintiff filed the Action against Defendant alleging a single cause
6 of action for violations of PAGA for, *inter alia*, the following:

- 7
- 8 1. Failure to pay for all hours worked, including minimum and overtime wages;
 - 9 2. Failure to provide complaint meal and rest periods;
 - 10 3. Failure to provide accurate itemized wages statements;
 - 11 4. Failure to pay at the correct regular rate of pay; and
 - 12 5. Failure to timely pay wages.

13 C. On October 19, 2022, the Parties participated in an all-day mediation presided over
14 by Jeffrey Krivis, Esq., an experienced mediator of wage and hour PAGA Actions.
15 The mediation concluded without a settlement. In the days following the mediation,
16 Mediator Krivis issued a Mediator's Proposal, which was accepted by the Parties.

17 D. This Agreement replaces and supersedes any other agreements, understandings, or
18 representations between the Parties. This Agreement represents a compromise and
19 settlement of highly disputed claims. Nothing in this Agreement is intended or will
20 be construed as an admission by Defendant that the claims in the Action of Plaintiff
21 or the PAGA Members have merit or that Defendant bears any liability to Plaintiff or
22 the PAGA Members on those claims or any other claims, or as an admission by
23 Plaintiff that Defendant's defenses in the Action have merit.

24 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:
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1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

3 1. Settlement Consideration. In full and complete settlement of the Action, and
4 in exchange for the releases set forth below, Defendant will pay the Gross
5 Settlement Amount of Three Hundred Twenty Thousand Dollars and Zero
6 Cents (\$320,000.00). The Parties agree that this is a non-reversionary
7 Settlement and that no portion of the Gross Settlement Amount shall revert to
8 Defendant. Except as provided for in Section III(A)(2), Defendant shall not
9 be required to pay more or less than the Gross Settlement Amount.

10 2. Number of PAGA Members and Pay Periods. At the time of mediation it was
11 estimated that there were approximately 207 PAGA Members who worked an
12 aggregate total of 8,770 Pay Periods (“Projected Pay Periods”) during the
13 PAGA Period. If the actual number of Pay Periods through January 8, 2023
14 is 15% higher than the Projected Pay Periods, the Gross Settlement Amount
15 shall increase proportionally with each Pay Period added (i.e., 16% increase
16 in pay periods = 1% increase in the Gross Settlement Amount). Defendant
17 may also choose to shorten the PAGA Period by pulling back the end date of
18 the PAGA and release period so as not to trigger an escalator.

19 3. Settlement Payment. Defendant shall pay, via wire transfer or check, the
20 Gross Settlement Amount to the Settlement Administrator on or before the
21 Funding Date.

22 B. PAGA Release. As of the Funding Date, in exchange for the consideration set forth in
23 this Agreement, the Plaintiff, the LWDA and the State of California shall release the
24 Defendant from the Released PAGA Claims for the PAGA Period.
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1 C. General Release by Plaintiff. As of the Funding Date, for the consideration set forth in
2 this Agreement, Plaintiff waives, releases, acquits and forever discharges the
3 Defendant from any and all claims, whether known or unknown, which exist or may
4 exist on his behalf as of the date of this Agreement, including but not limited to any
5 and all tort claims, contract claims, wage claims, wrongful termination claims,
6 disability claims, benefit claims, public policy claims, retaliation claims, statutory
7 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
8 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising
9 under any federal, state or other governmental statute, law, regulation or ordinance,
10 including, but not limited to claims for violation of the Fair Labor Standards Act, the
11 California Labor Code, the Wage Orders of California's Industrial Welfare
12 Commission, other state wage and hour laws, the Americans with Disabilities Act, the
13 Age Discrimination in Employment Act (ADEA), the Employee Retirement Income
14 Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment
15 and Housing Act, the California Family Rights Act, the Family Medical Leave Act,
16 California's Whistleblower Protection Act, California Business & Professions Code
17 Section 17200 et seq., and any and all claims arising under any federal, state or other
18 governmental statute, law, regulation or ordinance. This Release expressly excludes
19 claims for unemployment insurance, disability, social security, and workers'
20 compensation (except for claims pursuant to Labor Code sections 132a and 4553).
21 Plaintiff also waives and relinquishes any and all claims, rights, or benefits that he may
22 have under California Civil Code § 1542, which provides as follows:
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27 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
28

1 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
2 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
3 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
4 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
5 ***OR RELEASED PARTY.***
6

7
8 Thus, notwithstanding the provisions of section 1542, and to implement a full and
9 complete release and discharge of the Defendant, Plaintiff expressly acknowledges this
10 Settlement Agreement is intended to include in its effect, without limitation, all claims
11 Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing
12 this Settlement Agreement, and that this Settlement Agreement contemplates the
13 extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this
14 Settlement Agreement, including this waiver of California Civil Code section 1542,
15 and that Plaintiff has consulted with or had the opportunity to consult with counsel of
16 Plaintiff's choosing about this Settlement Agreement and specifically about the waiver
17 of section 1542, and that Plaintiff understands this Settlement Agreement and the
18 section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement
19 Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts
20 different from or in addition to those Plaintiff now knows or believes to be true
21 regarding the matters released or described in this Settlement Agreement, and even so
22 Plaintiff agrees that the releases and agreements contained in this Settlement
23 Agreement shall remain effective in all respects notwithstanding any later discovery
24 of any different or additional facts. Plaintiff expressly assumes any and all risk of any
25 mistake in connection with the true facts involved in the matters, disputes, or
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1 controversies released or described in this Settlement Agreement or with regard to any
2 facts now unknown to Plaintiff relating thereto.

3 D. Conditions Precedent: This Settlement will become final and effective only upon (1)
4 the Court entering judgment pursuant to either the Parties' Motion for Settlement
5 Approval or Joint Stipulation re: Settlement Approval, and (2) Defendant fully funding
6 the Gross Settlement Amount.

7
8 E. Nullification of Settlement Agreement. If this Settlement Agreement is not approved
9 by the Court, fails to become effective, or is reversed, withdrawn, or in any way
10 prevents or prohibits Defendant from obtaining a complete resolution of the Released
11 PAGA Claims, or if Defendant fails to fully fund the Gross Settlement Amount:

12 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
13 and shall not be admissible in any judicial, administrative, or arbitral
14 proceeding for any purpose or with respect to any issue, substantive or
15 procedural; and

16
17 2. None of the Parties to this Settlement will be deemed to have waived any
18 claims, objections, defenses, or arguments in the Action.

19 F. Tax Liability. The Parties make no representations as to the tax treatment or legal
20 effect of the payments called for in this Agreement. The PAGA Members are not
21 relying on any statement or representation by the Parties in this regard. PAGA
22 Members understand and agree that they will be responsible for the payment of any
23 taxes and penalties assessed on their respective share of the PAGA Member Payments
24 and will be solely responsible for any penalties or other obligations resulting from their
25 personal tax reporting of the PAGA Members Payments.
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1 G. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
2 the “acknowledging party” and each Party to this Agreement other than the
3 acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision
4 of this Agreement, and no written communication or disclosure between or among the
5 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
6 such communication or disclosure constitute or be construed or be relied upon as, tax
7 advice within the meaning of United States Treasury Department circular 230 (31 CFR
8 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
9 her or its own, independent legal and tax counsel for advice (including tax advice) in
10 connection with this Agreement, (b) has not entered into this Agreement based upon
11 the recommendation of any other Party or any attorney or advisor to any other Party,
12 and (c) is not entitled to rely upon any communication or disclosure by any attorney
13 or adviser to any other party to avoid any tax penalty that may be imposed on the
14 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
15 any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
16 strategies (regardless of whether such limitation is legally binding) upon disclosure by
17 the acknowledging party of the tax treatment or tax structure of any transaction,
18 including any transaction contemplated by this Agreement.
19

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21
22 H. Settlement Administrator. The Settlement Administrator shall be responsible for:
23 establishing and administering the QSF; calculating, processing and mailing payments
24 to Plaintiff’s Counsel, LWDA, and PAGA Members; printing and mailing the Notice
25 of PAGA Settlement to the PAGA Members as directed by the Court; calculating, and
26 distributing tax forms for the PAGA Member Payments; providing declaration(s) as
27 necessary in support of approval of this Settlement; and other tasks as the Parties
28

1 mutually agree or the Court orders the Settlement Administrator to perform. The
2 Settlement Administrator shall keep the Parties timely apprised of the performance of
3 all Settlement Administrator responsibilities.

4
5 I. PAGA Members List. No later than twenty-one (21) calendar days after the Effective
6 Date, Defendant shall provide the Settlement Administrator with the PAGA Members
7 List.

8 J. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
9 the Gross Settlement Amount on or before the Funding Date.

10 1. Calculation of Individual Payments to the PAGA Members. Using the PAGA
11 Members List, the Settlement Administrator shall add up the total number of
12 Pay Periods for all PAGA Members during the PAGA Period. The respective
13 Pay Periods for each PAGA Member will be divided by the total Pay Periods
14 for all PAGA Members, resulting in the “PAGA Payment Ratio” for each
15 PAGA Member. Each PAGA Member’s PAGA Payment Ratio will then be
16 multiplied by the PAGA Member Payment to calculate each PAGA Member’s
17 estimated share of the PAGA Member Payment.

18
19 2. Allocation of Individual PAGA Member Payments. For tax purposes,
20 individual PAGA Member Payments shall be allocated and treated 100% as
21 penalties and interest. The individual PAGA Member Payments shall not be
22 subject to wage withholdings and shall be reported on IRS Form 1099.

23
24 3. No Credit Toward Benefit Plans. The individual PAGA Member Payments
25 made to the PAGA Members under this Settlement Agreement, as well as any
26 other payments made pursuant to this Settlement Agreement, will not be
27 utilized to calculate any additional benefits under any benefit plans to which
28

1 any PAGA Member may be eligible, including, but not limited to profit-
2 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
3 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
4 Parties' intention that this Settlement Agreement will not affect any rights,
5 contributions, or amounts to which any PAGA Member may be entitled under
6 any benefit plans.
7

8 4. Mailing. Individual PAGA Member Payments shall be mailed by regular
9 First-Class U.S. Mail to the PAGA Members' last known mailing address no
10 later than five (5) calendar days after the Funding Date. Upon receipt of the
11 PAGA Members List, the Settlement Administrator will perform a search
12 based on the National Change of Address Database to update and correct any
13 known or identifiable address changes. No later than fourteen (14) calendar
14 days after receiving the PAGA Members List from Defendant, the Settlement
15 Administrator shall mail Individual PAGA Member Payments to all PAGA
16 Members via regular First-Class U.S. Mail. The Settlement Administrator
17 shall exercise its best judgment to determine the current mailing address for
18 each PAGA Member. The address identified by the Settlement Administrator
19 as the current mailing address shall be presumed to be the best mailing address
20 for each PAGA Member.
21

22 5. Undeliverable PAGA Member Payments. Any Individual PAGA Member
23 Payments returned to the Settlement Administrator as non-delivered on or
24 before the check cashing expiration deadline shall be re-mailed to any
25 forwarding address provided within seven (7) days of receiving the returned
26 notice. If no forwarding address is provided, the Settlement Administrator
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1 shall promptly attempt to determine a correct address by lawful use of skip-
2 tracing, or other search using the name, address and/or Social Security number
3 of the PAGA Member involved, and shall then perform a re-mailing, if
4 another mailing address is identified by the Settlement Administrator. In
5 addition, if any Individual PAGA Member Payment, which is addressed to
6 any PAGA Member who is currently employed by Defendant, is returned to
7 the Settlement Administrator as non-delivered and no forwarding address is
8 provided, the Settlement Administrator shall notify Defendant. Defendant
9 will request that the currently employed PAGA Member provide a corrected
10 address and transmit to the Administrator any corrected address provided by
11 the PAGA Member. PAGA Members who received a re-mailed Individual
12 PAGA Member Payment shall have their check expiration deadline extended
13 fifteen (15) days from the original check expiration deadline.

- 14
15
16 6. Check Expiration Deadline. Any checks issued to PAGA Members shall
17 remain valid and negotiable for one hundred and eighty (180) days from the
18 date of their issuance. If an PAGA Member does not cash his or her settlement
19 check within ninety (90) days, the Settlement Administrator will send a letter
20 to such persons, advising that the check will expire after the 180th day, and
21 invite that PAGA Member to request reissuance in the event the check was
22 destroyed, lost, or misplaced. In the event PAGA Member Payment checks
23 have not been cashed within one hundred and eighty (180) days, such funds
24 will escheat to the State of California's Controller, to be held in the name of
25 each expired check payee, pursuant to applicable unclaimed property laws.
26
27 The Parties agree that this disposition results in no "unpaid residue" under
28

1 California Code of Civil Procedures section 384 as the entire PAGA
2 Settlement Amount will be paid out to PAGA Members, whether or not they
3 all cash their settlement checks.

4
5 7. Plaintiff's Incentive Payment. Plaintiff will apply to the Court for an award
6 of up to \$10,000.00, as the Incentive Payment. Defendant will not oppose an
7 Incentive Payment of up to \$10,000.00 for Plaintiff. The Settlement
8 Administrator shall pay the Incentive Payment, either in the amount stated
9 herein if approved by the Court or some other amount as approved by the
10 Court, to Plaintiff from the Gross Settlement Amount no later than thirty (30)
11 business days after the Funding Date. Any portion of the requested Incentive
12 Payment that is not awarded to the Plaintiff shall be part of the PAGA
13 Settlement Amount and shall be distributed to the PAGA Members as
14 provided in this Agreement. The Settlement Administrator shall issue an IRS
15 Form 1099 — MISC to Plaintiff for his Incentive Payment. Plaintiff shall be
16 solely and legally responsible to pay any and all applicable taxes on his
17 Incentive Payment and shall hold harmless the Released Parties from any
18 claim or liability for taxes, penalties, or interest arising as a result of the
19 Incentive Payment. Approval of this Settlement shall not be conditioned on
20 Court approval of the requested amount of the Incentive Payment. If the Court
21 reduces or does not approve the requested Incentive Payment, Plaintiff shall
22 not have the right to revoke the Settlement, and it will remain binding.

23
24
25 8. PAGA Settlement Amount. The PAGA Settlement Amount is estimated to
26 be approximately Two Hundred Three Thousand, Three Hundred Forty-Four
27 Dollars and Zero Cents (\$203,344.00). The Settlement Administrator shall
28

1 pay seventy-five percent (75%) of the PAGA Settlement Amount (\$152,508)
2 to the California Labor and Workforce Development Agency no later than
3 thirty (30) business days after the Effective Date (hereinafter "LWDA
4 Payment"). Twenty-five percent (25%) of the PAGA Settlement Amount
5 (\$50,836) will be distributed to the PAGA Members as described in this
6 Agreement (hereinafter "PAGA Member Payment"). For purposes of
7 distributing the PAGA Settlement Amount to the PAGA Members, each
8 PAGA Member shall receive their pro-rata share of the PAGA Member
9 Payment using the PAGA Payment Ratio as defined above.

- 11 9. Plaintiff's Attorneys' Fees and Costs. Defendant understands a request by
12 Plaintiff's Counsel for attorneys' fees not to exceed one-third of the Gross
13 Settlement Amount (currently estimated to be \$106,666.67) plus costs and
14 expenses supported by declaration not to exceed Twenty Thousand Dollars
15 (\$20,000.00), from the Gross Settlement Amount will be made. Any portion
16 of the requested Plaintiff's Attorneys' Fees and Costs that is not awarded to
17 Plaintiff's Counsel shall be part of the PAGA Settlement Amount and shall be
18 placed in the PSA and distributed to the LWDA and the PAGA Members as
19 provided in this Agreement. The Settlement Administrator shall distribute
20 and pay the Plaintiff's Attorneys' Fees and Costs to Plaintiff's Counsel from
21 the Gross Settlement Amount no later than fifteen (15) calendar days after the
22 Funding Date. Plaintiff's Counsel shall be solely and legally responsible to
23 pay all applicable taxes on the payment made pursuant to this paragraph. The
24 Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff's
25 Counsel for the payments made pursuant to this paragraph. In the event that
26
27
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1 the Court reduces or does not approve the requested Plaintiff's Attorneys'
2 Fees and Costs, Plaintiff and Plaintiff's Counsel shall not have the right to
3 revoke the Settlement, or to appeal such order, and the Settlement will remain
4 binding.

5
6 10. Settlement Administration Expenses. The Settlement Administrator shall be
7 paid for the costs of administration of the Settlement from the Gross
8 Settlement Amount. The estimate of the Settlement Administration Expenses
9 is \$6,000.00. The Settlement Administrator shall be paid the Settlement
10 Administration Expenses no later than fifteen (15) calendar days after the
11 Funding Date.

12
13 K. Approval Motion. Plaintiff's Counsel and Plaintiff shall use best efforts to file with
14 the Court a Motion for Settlement Approval and Entering Judgment Finally
15 Approving Settlement, within sixty (60) days following the execution of this
16 Agreement.

17
18 L. Notice of Settlement to LWDA. In connection with the Motion for Approval of
19 PAGA Settlement and/or Joint Stipulation re: Settlement Approval, Plaintiff's
20 Counsel shall submit this Agreement to the LWDA pursuant to California Labor Code
21 section 2699(1)(2). Plaintiff's Counsel shall within ten (10) days after the entry of the
22 judgment or order approving this Settlement, submit the order approving the
23 Settlement to the LWDA pursuant to California Labor Code section 2699(1)(3).

24
25 N. Review of Motion for Settlement Approval. Plaintiff's Counsel will provide an
26 opportunity for Counsel for Defendant to review the Motion for Settlement Approval,
27 including the Order Granting Approval of the Settlement, and Judgment Finally
28 Approving Settlement before filing with the Court. The Parties and their counsel will

1 cooperate with each other and use their best efforts to affect the Court's approval of
2 the Motion for Approval of the Settlement, and entry of Judgment.

3 O. Cooperation. The Parties and their counsel will cooperate with each other and use
4 their best efforts to implement the Settlement.

5
6 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
7 except such proceedings necessary to implement and complete the Settlement.

8 Q. Amendment or Modification. This Agreement may be amended or modified only by
9 a written instrument signed by counsel for all Parties or their successors-in-interest.

10 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
11 Agreement among these Parties, and no oral or written representations, warranties or
12 inducements have been made to any Party concerning this Agreement or its Exhibit
13 other than the representations, warranties and covenants contained and memorialized
14 in this Agreement and its Exhibit.

15
16 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
17 represent they are expressly authorized by the Parties whom they represent to negotiate
18 this Agreement and to take all appropriate Action required or permitted to be taken by
19 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
20 documents required to effectuate the terms of this Agreement. The person signing this
21 Agreement on behalf of Defendant represents and warrants that he/she is authorized to
22 sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he
23 is authorized to sign this Agreement and that he has not assigned any claim, or part of
24 a claim, covered by this Settlement to a third-party.

25
26 T. No Public Comment/Non-Disparagement: The Parties and their counsel agree that
27 they will not issue any press releases, initiate any contact with the press, respond to
28

1 any press inquiry, or have any communication with the press about the fact, amount,
2 or terms of the Settlement Agreement. Plaintiff's Counsel further agrees not to use the
3 Settlement Agreement or any of its terms for any marketing or promotional purposes.
4 Finally, Plaintiff's counsel and Plaintiff agree to not engage in any conduct or
5 communications that are designed to disparage or have the effect of disparaging
6 Defendant. Nothing herein will restrict Plaintiff's Counsel from including publicly
7 available information regarding this settlement in future judicial submissions
8 regarding Plaintiff Counsel's qualifications and experience. Further, Plaintiff Counsel
9 will not include, reference, or use the Settlement Agreement for any marketing or
10 promotional purposes, either before or after the Motion for Settlement Approval is
11 filed.
12

13
14 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
15 to the benefit of, the successors or assigns of the Parties, as previously defined.

16 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
17 shall be governed by and interpreted according to the laws of the State of California.

18 W. Counterparts. This Agreement may be executed in one or more counterparts. All
19 executed counterparts and each of them shall be deemed to be one and the same
20 instrument provided that counsel for the Parties to this Agreement shall exchange
21 among themselves copies or originals of the signed counterparts.
22

23 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
24 is a fair, adequate, and reasonable settlement of this Action and have arrived at this
25 Settlement after extensive arms-length negotiations, taking into account all relevant
26 factors, present and potential.
27
28

1 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
2 respect to the interpretation, implementation, and enforcement of the terms of this
3 Agreement and all orders and judgments entered in connection therewith, and the
4 Parties and their counsel submit to the jurisdiction of the Court for purposes of
5 interpreting, implementing, and enforcing the settlement and all orders and judgments
6 entered in connection with this Agreement.
7

8 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
9 the Court shall first attempt to construe the provisions valid to the fullest extent
10 possible consistent with applicable precedents so as to define all provisions of this
11 Agreement valid and enforceable.
12

13 AA. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
14 Released PAGA Claims have merit and give rise to liability on the part of Defendant.
15 Defendant contends that the Released PAGA Claims have no merit and do not give
16 rise to liability. This Agreement is a compromise of disputed claims. Nothing
17 contained in this Agreement and no documents referred to and no action taken to carry
18 out this Agreement may be construed or used as an admission by or against the
19 Defendant or Plaintiff or Plaintiff's Counsel as to the merits or lack thereof of the
20 claims asserted. Other than as may be specifically set forth herein, each Party shall be
21 responsible for and shall bear its/his own attorney's fees and costs.
22

23 **[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]**
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IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: May 4, 2023


Jesus Aguilar (May 4, 2023 09:04 PDT)

JESUS AGUILAR

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED: 5-17-23


B.I. INCORPORATED
James R. Bryan

Name

EVP, Corporate Counsel

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: May 4, 2023

JCL LAW FIRM, A.P.C.

By: 

Jean-Claude Lapuyade

Attorneys for the Plaintiff and the PAGA Members

DATED: May 4, 2023

ZAKAY LAW GROUP, A.P.L.C.

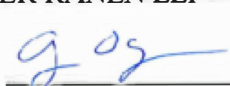
By: 

Shani O. Zakay

Attorneys for the Plaintiff and the PAGA Members

DATED: May 17, 2023

BARBER RANEN LLP

By: 

Anthony C. Ocegueda

Attorneys for Defendant

EXHIBIT A

[Administrator Notice]

You are receiving this payment because of a lawsuit brought by a former California employee Jesus Aguilar ("Plaintiff") against B.I. Incorporated ("Company"), for civil penalties pursuant to the Private Attorneys General Act, Labor Code § 2698 et seq. ("PAGA"). Plaintiff claimed that he and other employees were not provided legally compliant meal and rest periods, not properly paid minimum, regular and overtime wages, not provided with accurate wage statements, not timely paid final wages, and not paid at the correct regular rate of pay.

The Company denies these claims and denies that it owes any penalties, but to avoid further time and expense in litigation, the Company and Plaintiff have agreed to settle the case. The settlement resolves the claims asserted in the lawsuit on behalf of all current and former non-exempt employees of Defendant from February 11, 2021, to January 8, 2023. ("Aggrieved Employees").

According to Company records, you are an Aggrieved Employee and are therefore entitled to a share of the settlement. This settlement check shall remain valid until [insert date].

This check is issued pursuant to the terms of the PAGA settlement in the case entitled *Jesus Aguilar v. B.I. Incorporated*, filed on June 17, 2021, in Contra Costa Superior Court, Case No. MSC21-01170.

This payment is taxable income for federal, state, and local tax purposes and may be reported to the appropriate taxing authorities. You may be required to make additional tax payments. Please consult a tax advisor to determine your individual tax payment and reporting situation. You will be mailed appropriate tax forms in MONTH 2023. Please notify us of any address changes so that any necessary tax forms can be mailed to your most current address.

If you have any questions about your award, please contact the [insert administrator information].

EXHIBIT 2

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

February 11, 2021

CA2321

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

B.I. Incorporated
Certified Mail #70203160000068262926
Corporate Creations Network Inc.
4650 Admiralty Way, 5th Floor
Marina del Rey, CA 90292

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

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant B.I. Incorporated in California and classified as non-exempt employees during the time period of February 11, 2020 until a date as determined by the Court. Our offices represent Plaintiff Jesus Aguilar (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant B.I. Incorporated (“Defendant”). Plaintiff has been employed by Defendant in California as a Case Specialist from November of 2018 and classified as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10)

minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). More specifically, when the hours shown on the wage statements were added up, they did not equal the actual hours worked during the pay period. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Defendant violated California Labor Code 221 by illegally deducting from Plaintiff and other Aggrieved Employees' wages. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant fails to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

JESUS AGUILAR, an individual, on behalf
of himself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

B.I. INCORPORATED, a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN
VIOLATION OF CAL. BUS. & PROF.
CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES
IN VIOLATION OF CAL. LAB. CODE §§
1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF CAL. LAB. CODE §§
510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED
MEAL PERIODS IN VIOLATION OF CAL.
LAB. CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED
REST PERIODS IN VIOLATION OF CAL.
LAB. CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE
EMPLOYEES FOR REQUIRED
EXPENSES IN VIOLATION OF CAL. LAB.
CODE § 2802; and,
7. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN VIOLATION
OF CAL. LAB. CODE § 226.

DEMAND FOR A JURY TRIAL

1 Plaintiff Jesus Aguilar (“PLAINTIFF”), an individual, on behalf of himself and all other
2 similarly situated current and former employees alleges on information and belief, except for
3 his own acts and knowledge which are based on personal knowledge, the following:

4
5 **THE PARTIES**

6 1. Defendant B.I. Incorporated (“DEFENDANT”) is a Corporation that at all
7 relevant times mentioned herein conducted and continues to conduct substantial business in the
8 state of California.

9 2. DEFENDANT provides offender monitoring technology and community reentry
10 services for parolees, probationers and many more. Founded in 1978, DEFENDANT is a
11 subsidiary of The Geo Group and works closely with federal, state, and local government
12 agencies.

13 3. PLAINTIFF has been employed by DEFENDANT in California from November
14 of 2018 and has been at all times classified by DEFENDANT as a non-exempt employee, paid
15 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
16 minimum and overtime wages due for all time worked.

17 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,
18 defined as all individuals who are or previously were employed by DEFENDANT in California
19 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the
20 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
21 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy
22 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
23 (\$5,000,000.00).

24 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
25 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
26 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which
27 failed to lawfully compensate these employees. DEFENDANT’s policy and practice alleged
28 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained

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

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

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

24 25 **THE CONDUCT**

26 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
27 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
28 meaning the time during which an employee is subject to the control of an employer, including

1 all the time the employee is suffered or permitted to work. DEFENDANT required PLAINTIFF
2 and CALIFORNIA CLASS Members to work without paying them for all the time they were
3 under DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to work
4 while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.
5 PLAINTIFF was from time to time interrupted by work assignments while clocked out for what
6 should have been PLAINTIFF's off-duty meal break. Additionally, PLAINTIFF and
7 CALIFORNIA CLASS Members would clock out of DEFENDANT's timekeeping system, in
8 order to perform additional work for DEFENDANT as required to meet DEFENDANT's job
9 requirements. Also, DEFENDANT, as a matter of established company policy and procedure,
10 administered a uniform practice of rounding the actual time worked and recorded by
11 PLAINTIFF and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so
12 that during the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members
13 were paid less than they would have been paid had they been paid for actual recorded time
14 rather than "rounded" time. DEFENDANT's policy and practice not to pay PLAINTIFF and
15 other CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's
16 business records. As a result, DEFENDANT failed to pay PLAINTIFF and other
17 CALIFORNIA CLASS Members the proper minimum and overtime wages.

18 9. In addition, State and federal law provides that employees must be paid overtime
19 at one-and-one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA
20 CLASS Members were compensated at an hourly rate plus incentive pay that is tied to specific
21 elements of an employee's performance.

22 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS
23 Members' compensation was DEFENDANT's non-discretionary incentive program that paid
24 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
25 performance for DEFENDANT. The non-discretionary incentive program provided all
26 employees paid on an hourly basis with incentive compensation when the employees met the
27 various performance goals set by DEFENDANT. However, when calculating the regular rate
28 of pay in order to pay overtime to PLAINTIFF and other CALIFORNIA CLASS Members,

1 DEFENDANT failed to include the incentive compensation (“BONUS”) as part of the
2 employees’ “regular rate of pay” for purposes of calculating overtime pay. As a matter of law,
3 the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS
4 Members must be included in the “regular rate of pay.” The failure to do so has resulted in an
5 underpayment of overtime compensation to PLAINTIFF and other CALIFORNIA CLASS
6 Members by DEFENDANT.

7 11. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA
8 CLASS Members by failing to pay such wages at the regular rate of pay. Specifically,
9 PLAINTIFF and other non-exempt employees regularly earn non-discretionary remuneration,
10 including but not limited to, incentives, shift differential pay, and bonuses. Rather than pay sick
11 pay at the regular rate of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other
12 CALIFORNIA CLASS Members at their base rates of pay.

13 12. As a result of their rigorous work schedules, PLAINTIFF and other
14 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off
15 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
16 other CALIFORNIA CLASS Members were required from time to time to perform work as
17 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
18 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
19 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in
20 which these employees were required by DEFENDANT to work ten (10) hours of work.
21 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks
22 without additional compensation and in accordance with DEFENDANT’s corporate policy and
23 practice.

24 13. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
25 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
26 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
27 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
28 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes

1 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
2 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
3 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members were also
4 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage
5 Order requires employers to provide employees with off-duty rest periods, which the California
6 Supreme Court defined as time during which an employee is relieved from all work related
7 duties and free from employer control. In so doing, the Court held that the requirement under
8 California law that employers authorize and permit all employees to take rest period means that
9 employers must relieve employees of all duties and relinquish control over how employees
10 spend their time which includes control over the locations where employees may take their rest
11 period. Employers cannot impose controls that prohibit an employee from taking a brief walk -
12 five minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and
13 other CALIFORNIA CLASS Members from unconstrained walks and was unlawful based on
14 DEFENDANT's rule which stated PLAINTIFF and other CALIFORNIA CLASS Members
15 could not leave the work premises during their rest period. As a result of PLAINTIFF being
16 required to be present on the premises she was from time to time required by DEFENDANT to
17 work during what should of been her off duty rest period.

18 14. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
19 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount
20 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
21 DEFENDANT is required to pay PLAINTIFF and other CALIFORNIA CLASS Members for
22 all time worked, meaning the time during which an employee was subject to the control of an
23 employer, including all the time the employee was permitted or suffered to permit this work.
24 DEFENDANT required these employees to work off the clock without paying them for all the
25 time they were under DEFENDANT's control. Specifically, Plaintiff had to complete all case work
26 during a particular day and often arrived early, working off the clock to prep materials for the case work
27 which ensued. Considering his overwhelming workload and pressure to complete his work on-time,
28 Plaintiff often took his breaks late. Additionally, PLAINTIFF also had to have his temperature checked

1 during the COVID-19 pandemic. This work also was done off-the-clock and before PLAINTIFF
2 clocked in for the day. As such, DEFENDANT knew or should have known that PLAINTIFF and
3 the other members of the CALIFORNIA CLASS were under compensated for all time worked.
4 As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time worked by
5 working without their time being accurately recorded and without compensation at the
6 applicable minimum wage and overtime wage rates. To the extent that the time worked off the
7 clock did not qualify for overtime premium payment, DEFENDANT failed to pay minimum
8 wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and
9 1197.1.

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

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

1 17. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
2 other members of the CALIFORNIA CLASS with complete and accurate wage statements
3 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
4 Code § 226 provides that every employer shall furnish each of his or her employees with an
5 accurate itemized wage statement in writing showing, among other things, gross wages
6 earned and all applicable hourly rates in effect during the pay period and the corresponding
7 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS
8 Members were paid on an hourly basis. As such, the wage statements should reflect all
9 applicable hourly rates during the pay period and the total hours worked, and the applicable
10 pay period in which the wages were earned pursuant to California Labor Code Section
11 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
12 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
13 wage statements failed to identify the accurate total hours worked each pay period. When
14 the hours shown on the wage statements were added up, they did not equal the actual total
15 hours worked during the pay period. Additionally, DEFENDANT violated Cal. Lab. Code
16 Section 226(a)(8) as DEFENDANT failed to list the correct name of the legal entity that employed
17 PLAINTIFF and other CALIFORNIA CLASS Members.. Aside, from the violations listed above in
18 this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists
19 all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from
20 time to time provided PLAINTIFF and the other members of the CALIFORNIA CLASS
21 with wage statements which violated Cal. Lab. Code § 226. DEFENDANT violated
22 California Labor Code 221 by illegally deducting from PLAINTIFF and other CALIFORNIA
23 CLASS MEMBERS' wages.

24 18. Cal. Lab. Code § 204 provides that “[a]ll wages. . . earned by any person in any
25 employment are due and payable twice during each calendar month, on days designated in
26 advance by the employer as the regular paydays.” Further, Cal. Lab. Code § 204(d) expressly
27 requires employers to pay employees all wages owed within seven (7) days of the close of
28 the payroll period. DEFENDANT from time to time failed to pay PLAINTIFF and other

1 CALIFORNIA CLASS Members all wages owed to them within seven (7) days of the close
2 of the payroll period, including but not limited to for the “Unpaid Earnings” line items of
3 pay.

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

13 20. By reason of this conduct applicable to PLAINTIFF and all CALIFORNIA
14 CLASS Members, DEFENDANT committed acts of unfair competition in violation of the
15 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the “UCL”),
16 by engaging in a company-wide policy and procedure which failed to accurately calculate
17 and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA
18 CLASS Members. The proper recording of these employees’ missed meal and rest breaks is
19 the DEFENDANT’s burden. As a result of DEFENDANT’s intentional disregard of the
20 obligation to meet this burden, DEFENDANT failed to properly calculate and/or pay all
21 required compensation for work performed by the members of the CALIFORNIA CLASS
22 and violated the California Labor Code and regulations promulgated thereunder as herein
23 alleged.

24 21. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
25 required off-duty meal and rest breaks to him as required by the applicable Wage Order and
26 Labor Code and failed to pay him all minimum and overtime wages due to him.
27 DEFENDANT did not have a policy or practice which provided timely off-duty meal and
28 rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for his missed meal

1 and rest breaks. The nature of the work performed by the PLAINTIFF did not prevent him
2 from being relieved of all of his duties for the legally required off-duty meal periods. As a
3 result, DEFENDANT's failure to provide PLAINTIFF with the legally required meal
4 periods is evidenced by DEFENDANT's business records. The amount in controversy for
5 PLAINTIFF individually does not exceed the sum or value of \$75,000.

6 7 **JURISDICTION AND VENUE**

8 22. This Court has jurisdiction over this Action pursuant to California Code of
9 Civil Procedure, Section 410.10 and California Business & Professions Code, Section
10 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly
11 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

12 23. Venue is proper in this Court pursuant to California Code of Civil Procedure,
13 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
14 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
15 facilities in this County and/or conducts substantial business in this County, and (ii)
16 committed the wrongful conduct herein alleged in this County against members of the
17 CALIFORNIA CLASS.

18 19 **THE CALIFORNIA CLASS**

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

1 25. To the extent equitable tolling operates to toll claims by the CALIFORNIA
2 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
3 accordingly.

4 26. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
5 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
6 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
7 failed to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA
8 CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required
9 employees to perform this work and permits or suffers to permit this work.

10 27. DEFENDANT has the legal burden to establish that each and every
11 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as
12 required by California laws. The DEFENDANT, however, as a matter of policy and
13 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails
14 to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS
15 Member is paid as required by law. This common business practice is applicable to each
16 and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as
17 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.*
18 (the "UCL") as causation, damages, and reliance are not elements of this claim.

19 28. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
20 CLASS Members is impracticable.

21 29. DEFENDANT violated the rights of the CALIFORNIA CLASS under
22 California law by:

- 23 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
24 Prof. Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly
25 and/or deceptively having in place company policies, practices and
26 procedures that failed to record and pay PLAINTIFF and the other
27 members of the CALIFORNIA CLASS for all time worked, including
28 minimum wages owed and overtime wages owed for work performed

1 by these employees;

- 2 (b) Committing an act of unfair competition in violation of the UCL, by
3 failing to provide the PLAINTIFF and the other members of the
4 CALIFORNIA CLASS with the legally required meal and rest periods;
5 and,
6 (c) Committing an act of unfair competition in violation of the California
7 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by
8 violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF
9 and the CALIFORNIA CLASS members with necessary expenses
10 incurred in the discharge of their job duties.

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

- 13 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
14 that the joinder of all such persons is impracticable and the disposition
15 of their claims as a class will benefit the parties and the Court;
16 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
17 issues that are raised in this Complaint are common to the
18 CALIFORNIA CLASS will apply to every member of the
19 CALIFORNIA CLASS;
20 (c) The claims of the representative PLAINTIFF are typical of the claims
21 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
22 the other members of the CALIFORNIA CLASS, was classified as a
23 non-exempt employee paid on an hourly basis who was subjected to the
24 DEFENDANT's deceptive practice and policy which failed to provide
25 the legally required meal and rest periods to the CALIFORNIA CLASS
26 and thereby underpaid compensation to PLAINTIFF and
27 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
28 result of DEFENDANT's employment practices. PLAINTIFF and the

1 members of the CALIFORNIA CLASS were and are similarly or
2 identically harmed by the same unlawful, deceptive, and unfair
3 misconduct engaged in by DEFENDANT; and,

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

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

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

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

- 27 (b) The parties opposing the CALIFORNIA CLASS have acted or refused
28 to act on grounds generally applicable to the CALIFORNIA CLASS,

1 making appropriate class-wide relief with respect to the CALIFORNIA
2 CLASS as a whole in that DEFENDANT failed to pay all wages due to
3 members of the CALIFORNIA CLASS as required by law;

4 1) With respect to the First Cause of Action, the final relief on
5 behalf of the CALIFORNIA CLASS sought does not relate
6 exclusively to restitution because through this claim
7 PLAINTIFF seeks declaratory relief holding that the
8 DEFENDANT's policy and practices constitute unfair
9 competition, along with declaratory relief, injunctive relief, and
10 incidental equitable relief as may be necessary to prevent and
11 remedy the conduct declared to constitute unfair competition;

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

18 1) The interests of the members of the CALIFORNIA CLASS in
19 individually controlling the prosecution or defense of separate
20 actions in that the substantial expense of individual actions will
21 be avoided to recover the relatively small amount of economic
22 losses sustained by the individual CALIFORNIA CLASS
23 Members when compared to the substantial expense and burden
24 of individual prosecution of this litigation;

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

27 A. Inconsistent or varying adjudications with respect to
28 individual members of the CALIFORNIA CLASS, which

1 would establish incompatible standards of conduct for the
2 DEFENDANT; and/or,

3 B. Adjudications with respect to individual members of the
4 CALIFORNIA CLASS would as a practical matter be
5 dispositive of the interests of the other members not
6 parties to the adjudication or substantially impair or
7 impede their ability to protect their interests;

8 3) In the context of wage litigation because a substantial number of
9 individual CALIFORNIA CLASS Members will avoid asserting
10 their legal rights out of fear of retaliation by DEFENDANT,
11 which may adversely affect an individual's job with
12 DEFENDANT or with a subsequent employer, the Class Action
13 is the only means to assert their claims through a representative;
14 and,

15 4) A class action is superior to other available methods for the fair
16 and efficient adjudication of this litigation because class
17 treatment will obviate the need for unduly and unnecessary
18 duplicative litigation that is likely to result in the absence of
19 certification of this action pursuant to Cal. Code of Civ. Proc. §
20 382.

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

23 (a) The questions of law and fact common to the CALIFORNIA CLASS
24 predominate over any question affecting only individual CALIFORNIA
25 CLASS Members because the DEFENDANT's employment practices
26 are applied with respect to the CALIFORNIA CLASS;

27 (b) A Class Action is superior to any other available method for the fair
28 and efficient adjudication of the claims of the members of the

1 CALIFORNIA CLASS because in the context of employment litigation
2 a substantial number of individual CALIFORNIA CLASS Members
3 will avoid asserting their rights individually out of fear of retaliation or
4 adverse impact on their employment;

5 (c) The members of the CALIFORNIA CLASS are so numerous that it is
6 impractical to bring all members of the CALIFORNIA CLASS before
7 the Court;

8 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
9 be able to obtain effective and economic legal redress unless the action
10 is maintained as a Class Action;

11 (e) There is a community of interest in obtaining appropriate legal and
12 equitable relief for the acts of unfair competition, statutory violations
13 and other improprieties, and in obtaining adequate compensation for
14 the damages and injuries which DEFENDANT's actions have inflicted
15 upon the CALIFORNIA CLASS;

16 (f) There is a community of interest in ensuring that the combined assets of
17 DEFENDANT are sufficient to adequately compensate the members of
18 the CALIFORNIA CLASS for the injuries sustained;

19 (g) DEFENDANT has acted or refused to act on grounds generally
20 applicable to the CALIFORNIA CLASS, thereby making final class-
21 wide relief appropriate with respect to the CALIFORNIA CLASS as a
22 whole;

23 (h) The members of the CALIFORNIA CLASS are readily ascertainable
24 from the business records of DEFENDANT; and,

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

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

6
7 **THE CALIFORNIA LABOR SUB-CLASS**

8 34. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth and Seventh
9 Causes of Action on behalf of a California sub-class, defined as all members of the
10 CALIFORNIA CLASS who are or previously were employed by DEFENDANT in
11 California and classified as non-exempt employees (the "CALIFORNIA LABOR SUB-
12 CLASS") at any time during the period beginning three (3) years prior to the filing of this
13 Complaint and ending on the date as determined by the Court(the "CALIFORNIA LABOR
14 SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in
15 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is
16 under five million dollars (\$5,000,000.00).

17 35. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
18 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
19 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
20 failed to correctly calculate compensation for the time worked by PLAINTIFF and the other
21 members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to
22 these employees, even though DEFENDANT enjoyed the benefit of this work, required
23 employees to perform this work and permitted or suffered to permit this work.
24 DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to
25 which these employees are entitled in order to unfairly cheat the competition and unlawfully
26 profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
27 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD
28 should be adjusted accordingly.

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

6 37. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
7 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

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

23 39. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
24 CLASS under California law by:

- 25 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
26 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
27 CLASS all wages due for overtime worked, for which DEFENDANT is
28 liable pursuant to Cal. Lab. Code § 1194;

- 1 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
2 accurately pay PLAINTIFF and the members of the CALIFORNIA
3 LABOR SUB-CLASS the correct minimum wage pay for which
4 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 5 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and
6 the members of the CALIFORNIA LABOR SUB-CLASS with an
7 accurate itemized statement in writing showing the corresponding
8 correct amount of wages earned by the employee;
- 9 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
10 PLAINTIFF and the other members of the CALIFORNIA LABOR
11 SUB-CLASS with all legally required off-duty, uninterrupted thirty
12 (30) minute meal breaks and the legally required off-duty rest breaks;
13 and,
- 14 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF
15 and the CALIFORNIA LABOR SUB-CLASS members with necessary
16 expenses incurred in the discharge of their job duties.

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

- 19 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS
20 are so numerous that the joinder of all CALIFORNIA LABOR SUB-
21 CLASS Members is impracticable and the disposition of their claims as
22 a class will benefit the parties and the Court;
- 23 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
24 issues that are raised in this Complaint are common to the
25 CALIFORNIA LABOR SUB-CLASS and will apply to every member
26 of the CALIFORNIA LABOR SUB-CLASS;
- 27 (c) The claims of the representative PLAINTIFF are typical of the claims
28 of each member of the CALIFORNIA LABOR SUB-CLASS.

1 PLAINTIFF, like all the other members of the CALIFORNIA LABOR
2 SUB-CLASS, was a non-exempt employee paid on an hourly basis who
3 was subjected to the DEFENDANT's practice and policy which failed
4 to pay the correct amount of wages due to the CALIFORNIA LABOR
5 SUB-CLASS. PLAINTIFF sustained economic injury as a result of
6 DEFENDANT's employment practices. PLAINTIFF and the members
7 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
8 identically harmed by the same unlawful, deceptive, and unfair
9 misconduct engaged in by DEFENDANT; and,

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

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

- 21 (a) Without class certification and determination of declaratory, injunctive,
22 statutory and other legal questions within the class format, prosecution
23 of separate actions by individual members of the CALIFORNIA
24 LABOR SUB-CLASS will create the risk of:
- 25 1) Inconsistent or varying adjudications with respect to individual
26 members of the CALIFORNIA LABOR SUB-CLASS which
27 would establish incompatible standards of conduct for the
28 parties opposing the CALIFORNIA LABOR SUB-CLASS; or,

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

6 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have
7 acted or refused to act on grounds generally applicable to the
8 CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide
9 relief with respect to the CALIFORNIA LABOR SUB-CLASS as a
10 whole in that DEFENDANT fails to pay all wages due. Including the
11 correct wages for all time worked by the members of the
12 CALIFORNIA LABOR SUB-CLASS as required by law;

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

20 1) The interests of the members of the CALIFORNIA LABOR
21 SUB-CLASS in individually controlling the prosecution or
22 defense of separate actions in that the substantial expense of
23 individual actions will be avoided to recover the relatively small
24 amount of economic losses sustained by the individual
25 CALIFORNIA LABOR SUB-CLASS Members when compared
26 to the substantial expense and burden of individual prosecution
27 of this litigation;

28 2) Class certification will obviate the need for unduly duplicative

litigation that would create the risk of:

A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

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

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

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

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

(a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

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

1 CLASS Members who worked for DEFENDANT in California at any
2 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
3 (i) Class treatment provides manageable judicial treatment calculated to
4 bring a efficient and rapid conclusion to all litigation of all wage and
5 hour related claims arising out of the conduct of DEFENDANT as to
6 the members of the CALIFORNIA LABOR SUB-CLASS.

7
8 **FIRST CAUSE OF ACTION**

9 **For Unlawful Business Practices**

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

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

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

16 44. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
17 Code § 17021.

18 45. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”)
19 defines
20 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
21 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
22 competition as follows:

23 Any person who engages, has engaged, or proposes to engage in unfair
24 competition may be enjoined in any court of competent jurisdiction. The court
25 may make such orders or judgments, including the appointment of a receiver,
26 as may be necessary to prevent the use or employment by any person of any
27 practice which constitutes unfair competition, as defined in this chapter, or as
28 may be necessary to restore to any person in interest any money or property,
real or personal, which may have been acquired by means of such unfair
competition.

Cal. Bus. & Prof. Code § 17203.

1 46. By the conduct alleged herein, DEFENDANT has engaged and continues to
2 engage in a business practice which violates California law, including but not limited to, the
3 applicable Industrial Wage Order(s), the California Code of Regulations and the California
4 Labor Code including Sections 204, 210, 221, 226.7, 233, 246, 510, 512, 1194, 1197,
5 1197.1, 1198 & 2802, for which this Court should issue declaratory and other equitable
6 relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and
7 remedy the conduct held to constitute unfair competition, including restitution of wages
8 wrongfully withheld.

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

15 48. By the conduct alleged herein, DEFENDANT's practices were deceptive and
16 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated
17 meal and rest periods, the required amount of compensation for missed meal and rest
18 periods and overtime and minimum wages owed, failed to timely pay wages, and failed to
19 reimburse al necessary business expenses incurred, due to a business practice that cannot be
20 justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission
21 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court
22 should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
23 including restitution of wages wrongfully withheld.

24 49. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
25 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and
26 the other members of the CALIFORNIA CLASS to be underpaid during their employment
27 with DEFENDANT.

28 50. By the conduct alleged herein, DEFENDANT's practices were also unlawful,

1 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to
2 provide all legally required meal breaks to PLAINTIFF and the other members of the
3 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

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

9 52. PLAINTIFF further demands on behalf of himself and each member of the
10 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off
11 duty paid rest period was not timely provided as required by law.

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

18 54. All the acts described herein as violations of, among other things, the
19 Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the
20 California Labor Code, were unlawful and in violation of public policy, were immoral,
21 unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful,
22 unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et*
23 *seq.*

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

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

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

SECOND CAUSE OF ACTION

For Failure To Pay Minimum Wages

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

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

59. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

61. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by

1 the commission is the minimum wage to be paid to employees, and the payment of a less
2 wage than the minimum so fixed in unlawful.

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

6 63. DEFENDANT maintained a wage practice of paying PLAINTIFF and the
7 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
8 amount of time they work. As set forth herein, DEFENDANT's policy and practice was to
9 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the
10 other members of the CALIFORNIA LABOR SUB-CLASS.

11 64. DEFENDANT's unlawful wage and hour practices manifested, without
12 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
13 implementing a policy and practice that denies accurate compensation to PLAINTIFF and
14 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
15 wage pay.

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

22 66. As a direct result of DEFENDANT's unlawful wage practices as alleged
23 herein, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did
24 not receive the correct minimum wage compensation for their time worked for
25 DEFENDANT.

26 67. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
27 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
28 Members to work without paying them for all the time they were under DEFENDANT's

1 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
2 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
3 that they were entitled to, constituting a failure to pay all earned wages.

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

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

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

25
26 71. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
27 CLASS therefore request recovery of all unpaid wages, according to proof, interest,
28 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT,

1 in a sum as provided by the California Labor Code and/or other applicable statutes.
2 DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
3 Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled
4 to seek and recover statutory costs.

5
6 **THIRD CAUSE OF ACTION**

7 **For Failure To Pay Overtime Compensation**

8 **[Cal. Lab. Code §§ 510, *et seq.*]**

9 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
10 **Defendants)**

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

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

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

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

26 76. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid
27 wages, including minimum wage and overtime compensation and interest thereon, together
28 with the costs of suit. Cal. Lab. Code § 1198 further states that the employment of an

1 employee for longer hours than those fixed by the Industrial Welfare Commission is
2 unlawful.

3 77. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
4 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
5 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,
6 including overtime work.

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

15 79. In committing these violations of the California Labor Code, DEFENDANT
16 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
17 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT
18 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
19 violation of the California Labor Code, the Industrial Welfare Commission requirements
20 and other applicable laws and regulations.

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

24 81. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
25 from the overtime requirements of the law. None of these exemptions are applicable to the
26 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
27 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not
28 subject to a valid collective bargaining agreement that would preclude the causes of action

1 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of
2 himself and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
3 of non-negotiable, non-waiveable rights provided by the State of California.

4 82. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
5 the other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for
6 overtime worked that they are entitled to, constituting a failure to pay all earned wages..

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

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

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

26 86. In performing the acts and practices herein alleged in violation of California
27 labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-
28 CLASS for all overtime worked and provide them with the requisite overtime compensation,

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

7 87. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
8 CLASS therefore request recovery of all unpaid wages, including overtime wages,
9 according to proof, interest, statutory costs, as well as the assessment of any statutory
10 penalties against DEFENDANTS, in a sum as provided by the California Labor Code and/or
11 other applicable statutes. DEFENDANT'S conduct as alleged herein was willful,
12 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR
13 SUB-CLASS Members are entitled to seek and recover statutory costs.

14
15 **FOURTH CAUSE OF ACTION**

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

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

18 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
19 **Defendants)**

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

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

1 work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
2 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
3 Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
4 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)
5 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
6 DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
7 second off-duty meal period in some workdays in which these employees were required by
8 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFF
9 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
10 breaks without additional compensation and in accordance with DEFENDANT's corporate
11 policy and practice.

12 90. DEFENDANT further violates California Labor Code §§ 226.7 and the
13 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
14 LABOR SUB-CLASS Members who were not provided a meal period, in accordance with
15 the applicable Wage Order, one additional hour of compensation at each employee's regular
16 rate of pay for each workday that a meal period was not provided.

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

21 22 **FIFTH CAUSE OF ACTION**

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

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

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
26 **Defendants)**

27 92. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
28 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior

1 paragraphs of this Complaint.

2 93. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
3 from time to time required to work in excess of four (4) hours without being provided ten
4 (10) minute rest periods. Further, these employees from time to time were denied their first
5 rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
6 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
7 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten
8 (10) minutes for some shifts worked of ten (10) hours or more from time to time.

9 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
10 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
11 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically
12 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

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

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

22 **SIXTH CAUSE OF ACTION**

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

24 **[Cal. Lab. Code § 2802]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
26 **Defendants)**

27 96. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members
28 reallege and incorporate by this reference, as though fully set forth herein, the prior

1 paragraphs of this Complaint.

2 97. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

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

24 99. PLAINTIFF therefore demands reimbursement for expenditures or losses
25 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of
26 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,
27 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

1 **SEVENTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 226]**

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

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

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

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

102. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate
wage statements which failed to show, among other things, the correct gross and net wages
earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
employees with an accurate itemized wage statement in writing showing, among other
things, gross wages earned and all applicable hourly rates in effect during the pay period and
the corresponding amount of time worked at each hourly rate. PLAINTIFF and
CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As such, the

1 wage statements should reflect all applicable hourly rates during the pay period and the total
2 hours worked, and the applicable pay period in which the wages were earned pursuant to
3 California Labor Code Section 226(a). More specifically, the wage statements failed to
4 identify the accurate total hours worked each pay period. Additionally, DEFENDANT
5 violated Cal. Lab. Code Section 226(a)(8) as DEFENDANT failed to list the correct name
6 of the legal entity that employed PLAINTIFF and other CALIFORNIA CLASS Members.
7 Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue to
8 PLAINTIFF an itemized wage statement that lists all the requirements under California
9 Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFF
10 and the other members of the CALIFORNIA LABOR SUB-CLASS with wage statements
11 which violated Cal. Lab. Code § 226.

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

24
25 **PRAYER FOR RELIEF**

26 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
27 severally, as follows:

28 1. On behalf of the CALIFORNIA CLASS:

- 1 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
2 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
3 B) An order temporarily, preliminarily and permanently enjoining and restraining
4 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
5 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
6 withheld from compensation due to PLAINTIFF and the other members of the
7 CALIFORNIA CLASS; and,
8 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
9 for restitution of the sums incidental to DEFENDANT's violations due to
10 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

- 12 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes
13 Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
14 pursuant to Cal. Code of Civ. Proc. § 382;
15 B) Compensatory damages, according to proof at trial, including compensatory
16 damages for minimum and overtime compensation due PLAINTIFF and the other
17 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
18 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
19 statutory rate;
20 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
21 in which a violation occurs and one hundred dollars (\$100) per each member of
22 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
23 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
24 an award of costs for violation of Cal. Lab. Code § 226;
25 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
26 the applicable IWC Wage Order;
27 E) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
28 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and

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costs of suit; and,

F) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197.

3. On all claims:

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

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

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

Dated: February 11, 2021

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: _____
Norman B. Blumenthal
Attorneys for Plaintiff

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DEMAND FOR A JURY TRIAL

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

Dated: February 11, 2021 BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: _____
Norman B. Blumenthal
Attorneys for Plaintiff

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CA 2321

Corp. Creations Network
4600 Admiralty Way Ste 5
Marina Del Rey, CA 90292



9590 9402 3744 7335 2182 29

2. Article Number (Transfer from service label)

7020 3160 0000 6826 2926

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Signature]

☒ Agent

☐ Addressee

B. Received by (Printed Name)

Tiffany Phillips

C. Date of Delivery

2/16/07

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

Mail
Restricted Delivery
(00)

☐ Priority Mail Express®

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☒ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

EXHIBIT 3

EXHIBIT 4

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
Aguilar v. BI Inc. (002-410)							
08/19/2022	No	Jean Claude Lapuyade	Fact Investigation - Fie Review from BNBD	550.00	5:48	3,190.00	3,190.00
09/16/2022	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Data Demand	550.00	0:24	220.00	3,410.00
10/05/2022	No	Jean Claude Lapuyade	Discovery - Emails to/from OC Re Mediation Data	550.00	0:12	110.00	3,520.00
10/10/2022	No	Jean Claude Lapuyade	Legal Research - Off the Clock Issues Related to Covid Screening	550.00	5:54	3,245.00	6,765.00
10/11/2022	No	Jean Claude Lapuyade	Law and Motion - Drafted, Reviewed and Revised Mediation Brief	550.00	3:48	2,090.00	8,855.00
10/12/2022	No	Jean Claude Lapuyade	Law and Motion - Drafted, Revised and Edited Mediation Brief	550.00	3:30	1,925.00	10,780.00
10/19/2022	No	Monnett DeLaTorre	Mediation - Attended Mediation	500.00	9:12	4,600.00	15,380.00
10/19/2022	No	Sydney Castillo-Johnson	Mediation - Attended Mediation	350.00	9:12	3,220.00	18,600.00
10/19/2022	No	Jean Claude Lapuyade	Attended Mediation	550.00	9:12	5,060.00	23,660.00
10/26/2022	No	Jean Claude Lapuyade	Case Management - Drafted Post Mediation Report	550.00	1:24	770.00	24,430.00
11/03/2022	No	Jean Claude Lapuyade	Settlement - Drafted, Edited and Revised MOU	550.00	1:36	880.00	25,310.00
11/23/2022	No	Jean Claude Lapuyade	Case Management - R&R Defendant's CMS	550.00	0:18	165.00	25,475.00
12/07/2022	No	Jean Claude Lapuyade	Case Management - R&R Report from CMC	550.00	0:12	110.00	25,585.00
01/06/2023	No	Sydney Castillo-Johnson	Settlement - request bid from settlement admin	300.00	0:20	100.00	25,685.00
01/07/2023	No	Jean Claude Lapuyade	Settlement - R&R Long Form	550.00	1:48	990.00	26,675.00
01/09/2023	No	Sydney Castillo-Johnson	Case management - review file and MOU draft	300.00	0:30	150.00	26,825.00
01/09/2023	No	Sydney Castillo-Johnson	Settlement - email to settlement admin re: quote	300.00	0:06	30.00	26,855.00
01/10/2023	No	Jean Claude Lapuyade	Settlement - Drafted, Revised and Edited Long Form	550.00	2:06	1,155.00	28,010.00
02/07/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re Long Form	550.00	0:36	330.00	28,340.00
02/10/2023	No	Jean Claude Lapuyade	Settlement - Drafted, Revised and Edited MOU	550.00	1:42	935.00	29,275.00
02/13/2023	No	Jean Claude Lapuyade	Settlement - TCW Mediator Re Terms	550.00	0:30	275.00	29,550.00
02/24/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:18	165.00	29,715.00

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
02/28/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:18	165.00	29,880.00
03/01/2023	No	Jean Claude Lapuyade	Case Management - Drafted, Revised and Edited Joint CMS	550.00	1:00	550.00	30,430.00
03/08/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:24	220.00	30,650.00
03/23/2023	No	Jean Claude Lapuyade	Settlement - R&R MOU w/ Defense Edits	550.00	0:30	275.00	30,925.00
04/03/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:24	220.00	31,145.00
04/06/2023	No	Sydney Castillo-Johnson	Settlement - draft SAR	300.00	4:00	1,200.00	32,345.00
04/06/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:18	165.00	32,510.00
04/07/2023	No	Jean Claude Lapuyade	Settlement - Drafted, Revised and Edited Long Form	550.00	2:06	1,155.00	33,665.00
04/08/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:24	220.00	33,885.00
04/10/2023	No	Jean Claude Lapuyade	Settlement - Drafted, Revised SAR	550.00	1:54	1,045.00	34,930.00
04/11/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re MOU	550.00	0:12	110.00	35,040.00
04/26/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	35,205.00
04/28/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:30	275.00	35,480.00
05/01/2023	No	Jean Claude Lapuyade	Settlement - R&R Defense Edits to Long Form	550.00	1:30	825.00	36,305.00
05/01/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re Long Form	550.00	0:12	110.00	36,415.00
05/03/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	36,580.00
05/11/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC RE SAR	550.00	0:18	165.00	36,745.00
05/17/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re SAR	550.00	0:18	165.00	36,910.00
05/22/2023	No	Sydney Castillo-Johnson	Legal Research - standards for PAGA Settlement Approval	350.00	6:30	2,275.00	39,185.00
05/23/2023	No	Jean Claude Lapuyade	Law and Motion - R&R Court's MO Re CMC	550.00	0:12	110.00	39,295.00
05/25/2023	No	Jean Claude Lapuyade	Settlement - Emails to/from OC Re Approval Motion	550.00	0:36	330.00	39,625.00
05/31/2023	No	Sydney Castillo-Johnson	Law and Motion - draft settlement approval papers	350.00	4:48	1,680.00	41,305.00
06/01/2023	No	Jean Claude	Law and Motion - Revised and Edited	550.00	2:54	1,595.00	42,900.00

JCL Law Firm

Unbilled Time

Activity: All Dates

ACTIVITY DATE	POSTING	EMPLOYEE	MEMO/DESCRIPTION	RATE	DURATION	AMOUNT	BALANCE
		Lapuyade	Approval Motion				
06/05/2023	No	Jean Claude Lapuyade	Law and Motion - Emails to/from OC Re Edits to Approval Motion	550.00	0:18	165.00	43,065.00
06/08/2023	No	Jean Claude Lapuyade	Legal Research - Motion for Fees Issues (Loadstar Cases)	550.00	1:54	1,045.00	44,110.00
06/13/2023	No	Sydney Castillo- Johnson	Revise settlement approval motion	350.00	1:00	350.00	44,460.00
06/13/2023	No	Jean Claude Lapuyade	Law and Motion - Reviewed, Revised and Edited Motion for Fees	550.00	2:24	1,320.00	45,780.00
Total for Aguilar v. BI Inc. (002-410)					94:08	\$45,780.00	

EXHIBIT 5

JCL Law Firm

Transaction Report

All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Aguilar v. BI Inc. (002-410)								
09/22/2022	Expense		Fedex Office		Client costs deferred	Chase Card 7349	36.53	36.53
10/27/2022	Expense		One Legal LLC	One Legal Order Number: 19188638 - Filing Fee Re: Case Management Conference Statement Filed, Proof of Service	Client costs deferred	Chase Card 7349	16.57	53.10
10/31/2022	Check	3003	Berger Consulting Group	Inv. 6976	Client costs deferred	US Bank- Checking - 4270	718.25	771.35
10/31/2022	Journal Entry	Oct. 2022 Postage		Postage for October 2022	Client costs deferred	-Split-	1.71	773.06
10/31/2022	Journal Entry	Oct. 2022 Postage		Copies for October 2022	Client costs deferred	-Split-	2.45	775.51
11/30/2022	Journal Entry	Nov. 2022 Postage		Copies for November 2022	Client costs deferred	-Split-	1.60	777.11
11/30/2022	Journal Entry	Nov. 2022 Postage		Postage for November 2022	Client costs deferred	-Split-	1.14	778.25
12/01/2022	Expense		One Legal LLC	One Legal Order Number: 19356575 - Filing Fee Re: Case Management Conference Statement Filed, Proof of Service	Client costs deferred	Chase Card 7349	16.57	794.82
12/31/2022	Journal Entry	Dec 2022 Postage		Copies for December 2022	Client costs deferred	-Split-	0.10	794.92
03/31/2023	Journal Entry	Mar 2023 Postage		Postage for March 2023	Client costs deferred	-Split-	2.40	797.32
03/31/2023	Journal Entry	Mar 2023 Postage		Copies for March 2023	Client costs deferred	-Split-	3.20	800.52
Total for Aguilar v. BI Inc. (002-410)							\$800.52	
TOTAL							\$800.52	

EXHIBIT 6

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

FIRM RESUME

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

ATTORNEY BIOGRAPHIES

Jean-Claude Lapuyade, Esq.
California Bar Number 248676
Founding Partner

Biography:

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$200 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California
- U.S. District Court Northern District of California

Professional Associations:

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to 2020
- American Bar Association, Section of Litigation, Member, 2007 to 2020
- American Bar Association, Labor & Employment Section, Member, 2007 to 2020
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to 2020
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

Education:

- **California Western School of Law**
 - J.D. - 2006
 - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
 - B.A. - 2001
 - Major: History

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 - 2006

Sydney Castillo-Johnson, Esq.
California Bar Number 343881
Associate Attorney

Biography:

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego.

Education:

- **California Western School of Law**
 - J.D.- 2022
 - Honors:
 - Dean's Honor List: Spring 2021, Fall 2021
 - Public Service Honor Society Fall 2021
 - 3L Academic Merit Scholarship
 - Dean's Diversity, Service, and Leadership Scholarship
 - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
 - B.A. – 2018
 - Major: Criminal Justice

Monnett De La Torre, Esq.
California Bar Number 272884
Senior Associate

Biography:

Ms. De La Torre is a San Diego and Ventura County based labor and employment attorney representing aggrieved California employees throughout the State of California. Ms. De La Torre's litigation practice focuses on representing California employees in wage and hour class and representative actions for unpaid wages, missed meal and rest breaks, misclassification, penalties, and wrongful termination cases. Ms. De La Torre has extensive experience handling internal workplace investigations. Ms. De La Torre has handled matters before the Department of Fair Employment and Housing, Equal Employment Opportunity Commission and Department of Labor.

Ms. De La Torre is a two-time recipient of the Super Lawyers Rising Star by Thomas Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to five percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California

Professional Associations:

- California Employment Lawyers Association, 2022 to Present
- Consumer Attorneys of San Diego, 2010-2015
- American Bar Association, Labor & Employment Section, Member, 2015 to Present
- California Bar Association, Labor & Employment Section, Member, 2015 to Present
- San Diego La Raza Lawyers Association, 2010-2015
- Ventura County Bar Association, 2015-Present
- Women Lawyers of Ventura County, 2015-Present

Education:

- **New England School of Law**
 - J.D.- 2010

- Honors:
 - Dean's List Consecutive years
- **University of California, San Diego**
 - B.A.- 2006
 - Major: Economics
 - Minor: Latin American Studies

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2021 and 2022
- Pacific Cost Business Times, "Top 40 under 40" Award
- Daily Transcripts "Top Young Attorney: nominee, consecutive years"

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

EXAMPLES OF THE JCL LAW FIRM'S
REPRESENTATIVE CLASS ACTION & REPRESENTATIVE CASES

- *Garces, et al. v. DriverDo, LLC*, Los Angeles Superior Court Case No. 19STCV32773 (January 24, 2023) Hon. Carolyn B. Kuhl approved a \$700,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *De Jesus v. Guardian Angel Home Care, Inc.*, San Diego Superior Court Case No. 37-2020-00021049-CU-OE-CTL (July 29, 2022) Hon. Ronald F. Frazier approved a \$300,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Kaur v. Aces 2020 I, LLC, et al.*, Contra Costa Superior Court Case No. MSC20-02482 (December 22, 2022) Hon. Edward G. Weil approved a \$585,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Molina v. Hawaiian Airlines, Inc.*, Los Angeles Superior Court Case No. 20STCV28079 (November 23, 2022) Hon. Maren Nelson approved a \$250,000 class action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the Plaintiff.
- *Lang Jr. v. Pathways Community Services LLC*, San Diego Superior Court Case No. 37-2019-00049969-CU-OE-CTL (September 9, 2022) Hon. James A. Mangione approved a \$160,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.

- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.
- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)
- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)

- *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);