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ELECTRONICALLY

**FILED**

Superior Court of California,  
County of San Francisco

**03/28/2024**

**Clerk of the Court**

BY: WILLIAM TRUPEK

Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN FRANCISCO**

MIGUEL ATENCIO, FRANCISCO  
NOGUERA, NICOLE LABEUCHERIE,  
AND EMIR LOUDHABACHI on behalf of  
themselves and on behalf of all persons  
similarly situated,

Plaintiffs,

vs.

STACHS LLC, a Limited Liability Company;  
EAZE TECHNOLOGIES, INC., a  
Corporation; and DOES 1 through 50,  
inclusive,

Defendants.

Case No. **CGC-21-594434**

**FIRST AMENDED 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;
4. FAILURE TO PROVIDE REQUIRED MEAL  
PERIODS IN VIOLATION OF CAL. LAB.  
CODE §§ 226.7 & 512 AND THE APPLICABLE  
IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST  
PERIODS IN VIOLATION OF CAL. LAB.  
CODE §§ 226.7 & 512 AND THE APPLICABLE  
IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE  
ITEMIZED STATEMENTS IN VIOLATION OF  
CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES  
FOR REQUIRED EXPENSES IN VIOLATION  
OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB. CODE §§  
201, 202 AND 203; and
9. VIOLATION OF THE PRIVATE  
ATTORNEYS GENERAL ACT [ LABOR  
CODE §§ 2698, *et seq.*].

**DEMAND FOR A JURY TRIAL**

1 Plaintiffs Miguel Atencio, Francisco Noguera, Nicole LaBeucherie, and Emir  
2 Loudhabachi (“PLAINTIFFS”), individuals, on behalf of themselves and all other similarly  
3 situated current and former employees allege on information and belief, except for their own  
4 acts and knowledge which are based on personal knowledge, the following:

5  
6 **THE PARTIES**

7 1. Defendant Stachs LLC is a limited liability company that at all relevant times  
8 mentioned herein conducted and continues to conduct substantial business in the state of  
9 California.

10 2. Defendant Eaze Technologies, Inc. is a corporation that at all relevant times  
11 mentioned herein conducted and continues to conduct substantial business in the state of  
12 California.

13 3. Stachs, LLC and Eaze Technologies, Inc. were the joint employers of  
14 PLAINTIFFS as evidenced by company documents and pay stubs and are, therefore, jointly  
15 responsible as employers for the conduct alleged herein, and are collectively referred to herein  
16 as “DEFENDANT.”

17 4. DEFENDANT is a cannabis marketplace and company that provides safe, legal  
18 access via delivery to adults across California.

19 5. Plaintiff Atencio was employed by DEFENDANT from October of 2020 to  
20 January 29, 2021 and was at all times classified by DEFENDANT as a non-exempt employee,  
21 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment  
22 of minimum and overtime wages due for all time worked.

23 6. Plaintiff Noguera was employed by DEFENDANT from June of 2019 to April  
24 of 2021 and was at all times classified by DEFENDANT as a non-exempt employee, paid on  
25 an hourly basis, and entitled to the legally required meal and rest periods and payment of  
26 minimum and overtime wages due for all time worked.

27 7. Plaintiff LaBeucherie has been employed by DEFENDANT since April of 2020  
28 and at all times has been classified by DEFENDANT as a non-exempt employee, paid on an

1 hourly basis, and entitled to the legally required meal and rest periods and payment of minimum  
2 and overtime wages due for all time worked.

3 8. Plaintiff Loudhbachhi has been employed by DEFENDANT since December of  
4 2019 to the present and at all times has been classified by DEFENDANT as a non-exempt  
5 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and  
6 payment of minimum and overtime wages due for all time worked.

7 9. PLAINTIFFS bring this Class Action on behalf of themselves and a California  
8 class, defined as all individuals who are or previously were employed by Stachs, LLC and/or  
9 Eaze Technologies, Inc. and classified as non-exempt employees (the "CALIFORNIA CLASS")  
10 at any time during the period beginning four (4) years prior to the filing of this Complaint and  
11 ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The  
12 amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five  
13 million dollars (\$5,000,000.00).

14 10. PLAINTIFFS bring this Class Action on behalf of themselves and a  
15 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
16 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and  
17 practice which failed to lawfully compensate these employees. DEFENDANT's policy and  
18 practice alleged herein is an unlawful, unfair and deceptive business practice whereby  
19 DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members  
20 of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA  
21 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the  
22 named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been  
23 economically injured by DEFENDANT's past and current unlawful conduct, and all other  
24 appropriate legal and equitable relief.

25 11. The true names and capacities, whether individual, corporate, subsidiary,  
26 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
27 unknown to PLAINTIFFS who therefore sues these Defendants by such fictitious names  
28 pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint

1 to allege the true names and capacities of Does 1 through 50, inclusive, when they are  
2 ascertained. PLAINTIFFS is informed and believes, and based upon that information and belief  
3 alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive,  
4 are responsible in some manner for one or more of the events and happenings that proximately  
5 caused the injuries and damages hereinafter alleged.

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

### 14 THE CONDUCT

15  
16 13. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is  
17 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,  
18 meaning the time during which an employee is subject to the control of an employer, including  
19 all the time the employee is suffered or permitted to work. DEFENDANT required  
20 PLAINTIFFS and CALIFORNIA CLASS Members to work from time to time while they were  
21 clocked out for what was supposed to be their off duty meal break. DEFENDANT required  
22 PLAINTIFFS and the CALIFORNIA CLASS Members to work off the clock without paying  
23 them for all the time they performed duties while on their meal break, specifically by failing to  
24 provide enough labor hours to accomplish all the job tasks that DEFENDANT expected  
25 PLAINTIFFS and CALIFORNIA CLASS Members to complete on a daily and/or weekly basis.  
26 PLAINTIFFS and the CALIFORNIA CLASS also worked off the clock with respect to time  
27 spent undergoing mandatory drug testing or any other testing and/or examination required as  
28 a condition of employment. Further, PLAINTIFFS and other members of the CALIFORNIA

1 CLASS from time to time were not paid wages for all time worked, including overtime wages,  
2 such that in the aggregate employees were underpaid wages as a result of DEFENDANT's  
3 pattern and practice of unevenly rounding time worked by its employees. As a result,  
4 PLAINTIFFS and other CALIFORNIA CLASS Members forfeited minimum wage and  
5 overtime compensation by from time to time working without their time being accurately  
6 recorded and without compensation at the applicable minimum wage and overtime rates.  
7 DEFENDANT's policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS  
8 Members for all time worked is evidenced by DEFENDANT's business records.

9 14. As a result of their rigorous work schedules, PLAINTIFFS and other  
10 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal  
11 breaks and were not fully relieved of duty for meal periods. PLAINTIFFS and other  
12 CALIFORNIA CLASS Members were from time to time required to perform work as ordered  
13 by DEFENDANT for more than five (5) hours during a shift without receiving an off-duty meal  
14 break. Further, DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS  
15 Members with a second off-duty meal period from time to time in which these employees were  
16 required by DEFENDANT to work ten (10) hours of work from time to time. PLAINTIFFS and  
17 the other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional  
18 compensation and in accordance with DEFENDANT's corporate policy and practice.

19 15. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other  
20 CALIFORNIA CLASS Members were also required from time to time to work in excess of four  
21 (4) hours without being provided ten (10) minute rest periods. Further, these employees were  
22 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two  
23 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
24 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
25 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
26 or more from time to time. PLAINTIFFS and other CALIFORNIA CLASS Members were also  
27 not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,  
28 PLAINTIFFS and other CALIFORNIA CLASS Members were from time to time denied their

1 proper rest periods by DEFENDANT and DEFENDANT's managers. Additionally, the  
2 applicable California Wage Order requires employers to provide employees with off-duty rest  
3 periods, which the California Supreme Court defined as time during which an employee is  
4 relieved from all work related duties and free from employer control. In so doing, the Court  
5 held that the requirement under California law that employers authorize and permit all  
6 employees to take rest period means that employers must relieve employees of all duties and  
7 relinquish control over how employees spend their time which includes control over the  
8 locations where employees may take their rest period. Employers cannot impose controls that  
9 prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,  
10 DEFENDANT's policy restricted PLAINTIFFS and other CALIFORNIA CLASS Members  
11 from unconstrained walks and was unlawful based on DEFENDANT's rule which stated  
12 PLAINTIFFS and other CALIFORNIA CLASS Members could not leave the work premises  
13 during their rest period. As a result of PLAINTIFFS being required to be present on the  
14 premises they were from time to time required by DEFENDANT to work during what should  
15 of been their off duty rest period.

16 16. State law provides that employees must be paid overtime and meal and rest break  
17 premium pay at one-and-one-half times their "regular rate of pay." PLAINTIFFS and other  
18 CALIFORNIA CLASS Members were compensated at an hourly rate plus incentive pay that  
19 was tied to specific elements of an employee's performance.

20 17. The second component of PLAINTIFFS' and other CALIFORNIA CLASS  
21 Members' compensation was DEFENDANT's non-discretionary incentive program that paid  
22 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their  
23 performance for DEFENDANT. The non-discretionary incentive program provided all  
24 employees paid on an hourly basis with incentive compensation when the employees met the  
25 various performance goals set by DEFENDANT. However, when calculating the regular rate  
26 of pay in order to pay overtime and premiums for meal and rest break violations to  
27 PLAINTIFFS and other CALIFORNIA CLASS Members, DEFENDANT failed to include the  
28 incentive compensation as part of the employees' "regular rate of pay" for purposes of

1 calculating overtime pay and premium pay for meal and rest break violations. Management and  
2 supervisors described the incentive program to potential and new employees as part of the  
3 compensation package. As a matter of law, the incentive compensation received by  
4 PLAINTIFFS and other CALIFORNIA CLASS Members must be included in the “regular rate  
5 of pay.” The failure to do so has resulted in an underpayment of overtime compensation and  
6 meal and rest break premium pay to PLAINTIFFS and other CALIFORNIA CLASS Members  
7 by DEFENDANT.

8 18. DEFENDANT also failed to provide PLAINTIFFS and the other members of the  
9 CALIFORNIA CLASS with complete and accurate wage statements which failed to show,  
10 among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that  
11 every employer shall furnish each of his or her employees with an accurate itemized wage  
12 statement in writing showing, among other things, gross wages earned and all applicable hourly  
13 rates in effect during the pay period and the corresponding amount of time worked at each  
14 hourly rate. Specifically, DEFENDANT violated Cal. Lab. Code Section 226(a)(8) by failing  
15 to correctly list the legal entity that was the employer of PLAINTIFFS and other CALIFORNIA  
16 LABOR SUB-CLASS Members. Aside, from the violations listed above, DEFENDANT failed  
17 to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under  
18 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided  
19 PLAINTIFFS and the other members of the CALIFORNIA CLASS with wage statements  
20 which violated Cal. Lab. Code § 226.

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

28 20. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer

1 to collect or receive from an employee any part of wages theretofore paid by said employer to  
2 said employee.” DEFENDANT failed to pay all compensation due to PLAINTIFFS and other  
3 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation  
4 payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose  
5 all aspects of the deductions from compensation payable to PLAINTIFFS and CALIFORNIA  
6 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at  
7 each applicable pay period and upon termination. PLAINTIFFS and members of the  
8 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages  
9 according to proof, related penalties, interest, attorney fees and costs.

10 21. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other  
11 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay.  
12 Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary  
13 remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick  
14 pay to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of pay.

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

25 23. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS  
26 Members as a business expense, were required by DEFENDANT to use their own personal  
27 cellular phones and personal vehicles as a result of and in furtherance of their job duties as  
28 employees for DEFENDANT but were not reimbursed or indemnified by DEFENDANT for

1 the cost associated with the use of their personal cellular phones and personal vehicles for  
2 DEFENDANT's benefit. Specifically, PLAINTIFFS and other CALIFORNIA CLASS  
3 Members were required by DEFENDANT to use their personal cellular phones to respond to  
4 managers while off the clock (which also results in minimum wage and overtime violations).  
5 As a result, in the course of their employment with DEFENDANT, PLAINTIFFS and other  
6 members of the CALIFORNIA CLASS incurred unreimbursed business expenses which  
7 included, but were not limited to, costs related to the use of their personal cellular phones and  
8 personal vehicles all on behalf of and for the benefit of DEFENDANT.

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

19 25. By reason of this conduct applicable to PLAINTIFFS and all CALIFORNIA  
20 CLASS Members, DEFENDANT committed acts of unfair competition in violation of the  
21 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL"), by  
22 engaging in a company-wide policy and procedure which fails to accurately calculate and record  
23 all missed meal and rest periods and failed to pay all minimum and overtime wages due to  
24 PLAINTIFFS and other CALIFORNIA CLASS Members. The proper recording of these  
25 employees' missed meal and rest breaks is the DEFENDANT's burden. As a result of  
26 DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT fails  
27 to properly calculate and/or pay all required compensation for work performed by the members  
28 of the CALIFORNIA CLASS and violated the California Labor Code and regulations

1 promulgated thereunder as herein alleged.

2        26. During the CALIFORNIA CLASS PERIOD, pursuant to DEFENDANT's  
3 company policies and practices, PLAINTIFFS and the CALIFORNIA CLASS Members were  
4 forced to share gratuities left for them by customers to DEFENDANT's agents who provided  
5 no service to the customers that resulted in the gratuity. Here, PLAINTIFFS and the  
6 CALIFORNIA CLASS Members earned gratuities based on sales of products while under the  
7 employ of DEFENDANT, pursuant to company policy. DEFENDANT maintained a policy and  
8 practice of sharing these gratuities with employees who "have the authority to hire or discharge  
9 any employee" or otherwise "supervise, direct, or control the acts of employees." Additionally,  
10 DEFENDANT maintained a policy and practice of sharing such gratuities with those outside  
11 the chain of service, including administrative, warehouse, dispatch, online, security, inventory,  
12 stockers and office employees. DEFENDANT's customers have paid these tips reasonably  
13 believing they were remitted to the service staff. However, DEFENDANT has not remitted the  
14 total proceeds of these gratuities to the non-managerial employees who served the customers.  
15 Instead, DEFENDANT had a policy and practice of retaining for itself a portion of these  
16 gratuities and/or using a portion of these gratuities to pay managers or other non-service  
17 employees. As a result, PLAINTIFFS and the CALIFORNIA CLASS Members have not  
18 received the total proceeds of the gratuities, to which they are entitled to under California law.

19        27. PLAINTIFFS and the CALIFORNIA CLASS Members were forced to forfeit  
20 portions of their gratuities, which said gratuities were kept by DEFENDANT and their agents  
21 who were not in the chain of service from which the gratuity resulted. PLAINTIFFS and the  
22 CALIFORNIA CLASS Members contend that any gratuities kept by DEFENDANT were  
23 illegal and in violation of California law because PLAINTIFFS and the CALIFORNIA CLASS  
24 Members, not DEFENDANT, provided the service for to whom the gratuity should have been  
25 paid.

26        28. California Labor Code § 351 establishes the requirements for an employer  
27 regarding the payment of gratuities. Specifically, gratuities are the sole property of the  
28 employees. California Labor Code § 351 expressly prohibits employers and their agents from

1 collecting, taking, or receiving any portion of a gratuity. California Labor Code § 350(e) defines  
2 the term "gratuity" as including any money that has been paid or given or left for an employee  
3 by a patron of a business over and above the actual amount due the business for services  
4 rendered or for goods, food, drink or articles sold or served to such patron. Labor Code § 353  
5 requires employers to keep accurate records of all gratuities they receive, directly or indirectly.

6 29. Although tip pooling is not expressly prohibited by the Labor Code, employees  
7 who mandate tip pooling must only distribute pooled tips to employees in the "chain of service."  
8 By distributing tips to DEFENDANT directly and to their agents who were not in the "chain of  
9 service," DEFENDANT has violated and continue to violate the legal requirements for handling  
10 pooled tips.

11 30. In violation of the applicable sections of the California Labor Code and the  
12 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
13 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly  
14 and systematically failed to provide PLAINTIFFS and the CALIFORNIA CLASS Members  
15 suitable seating when the nature of these employees' work reasonably permitted sitting.

16 31. DEFENDANT knew or should have known that PLAINTIFFS and the  
17 CALIFORNIA CLASS Members were entitled to suitable seating and/or were entitled to sit  
18 when it did not interfere with the performance of their duties, and that DEFENDANT did not  
19 provide suitable seating and/or did not allow them to sit when it did not interfere with the  
20 performance of their duties.

21 32. By reason of this conduct applicable to PLAINTIFFS and the CALIFORNIA  
22 CLASS Members, DEFENDANT violated California Labor Code Section 1198 and Wage  
23 Order 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFFS seek penalties on  
24 behalf of themselves and the CALIFORNIA CLASS as provided herein. Providing suitable  
25 seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of  
26 the obligation to meet this burden, DEFENDANT violated the California Labor Code and  
27 regulations promulgated thereunder as herein alleged.

28 33. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the legally

1 required off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage  
2 Order and Labor Code and failed to pay PLAINTIFFS all minimum and overtime wages due  
3 to PLAINTIFFS. DEFENDANT did not have a policy or practice which provided timely off-  
4 duty meal and rest breaks to PLAINTIFFS and also failed to compensate PLAINTIFFS for  
5 PLAINTIFFS' missed meal and rest breaks. The nature of the work performed by the  
6 PLAINTIFFS did not prevent PLAINTIFFS from being relieved of all of PLAINTIFFS' duties  
7 for the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide  
8 PLAINTIFFS with the legally required meal periods is evidenced by DEFENDANT's business  
9 records. DEFENDANT also required PLAINTIFFS to work off the clock without paying  
10 PLAINTIFFS for all the time PLAINTIFFS were working for DEFENDANT, specifically by  
11 failing to provide enough labor hours to accomplish all the job tasks that DEFENDANT  
12 expected PLAINTIFFS to complete on a daily and/or weekly basis. The amount in controversy  
13 for PLAINTIFFS individually does not exceed the sum or value of \$75,000. To date,  
14 DEFENDANT has not fully paid PLAINTIFFS for all PLAINTIFFS' wages still owed to  
15 PLAINTIFFS or any penalties owed to PLAINTIFFS under California Labor Code § 203.

#### 16 17 **JURISDICTION AND VENUE**

18 34. This Court has jurisdiction over this Action pursuant to California Code of Civil  
19 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
20 action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees  
21 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

22 35. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
23 Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT,  
24 resides in this County, and DEFENDANT (i) currently maintains and at all relevant times  
25 maintained offices and facilities in this County and/or conducts substantial business in this  
26 County, and (ii) committed the wrongful conduct herein alleged in this County against members  
27 of the CALIFORNIA CLASS.  
28

## THE CALIFORNIA CLASS

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

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

38. DEFENDANT, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engages in a practice whereby DEFENDANT fails to record all meal and rest breaks missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though DEFENDANT enjoys the benefit of this work, requires employees to perform this work and permits or suffers to permit this work.

39. DEFENDANT has the legal burden to establish that each and every CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This common business practice is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as

1 causation, damages, and reliance are not elements of this claim.

2 40. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
3 CLASS Members is impracticable.

4 41. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
5 law by:

- 6 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.  
7 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or  
8 deceptively having in place company policies, practices and procedures  
9 that failed to record and pay PLAINTIFFS and the other members of the  
10 CALIFORNIA CLASS for all time worked minimum wages owed and  
11 overtime wages owed for work performed by these employees;
- 12 (b) Committing an act of unfair competition in violation of the UCL, by  
13 failing to provide the PLAINTIFFS and the other members of the  
14 CALIFORNIA CLASS with the legally required meal and rest periods;  
15 and,
- 16 (c) Committing an act of unfair competition in violation of the California  
17 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by  
18 violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and  
19 the CALIFORNIA CLASS members with necessary expenses incurred in  
20 the discharge of their job duties.

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

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

1 (c) The claims of the representative PLAINTIFFS are typical of the claims of  
2 each member of the CALIFORNIA CLASS. PLAINTIFFS, like all the  
3 other members of the CALIFORNIA CLASS, is classified as a non-  
4 exempt employee paid on an hourly basis who has been subjected to the  
5 DEFENDANT's deceptive practice and policy which failed to provide the  
6 legally required meal and rest periods to the CALIFORNIA CLASS and  
7 thereby underpaid compensation to PLAINTIFFS and CALIFORNIA  
8 CLASS. PLAINTIFFS sustained economic injury as a result of  
9 DEFENDANT's employment practices. PLAINTIFFS and the members  
10 of the CALIFORNIA CLASS were and are similarly or identically harmed  
11 by the same unlawful, deceptive, unfair and pervasive pattern of  
12 misconduct engaged in by DEFENDANT; and,

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

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

23 (a) Without class certification and determination of declaratory, injunctive,  
24 statutory and other legal questions within the class format, prosecution of  
25 separate actions by individual members of the CALIFORNIA CLASS will  
26 create the risk of:

27 1) Inconsistent or varying adjudications with respect to individual  
28 members of the CALIFORNIA CLASS which would establish

1 incompatible standards of conduct for the parties opposing the  
2 CALIFORNIA CLASS; and/or,

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

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

13 1) With respect to the First Cause of Action, the final relief on behalf  
14 of the CALIFORNIA CLASS sought does not relate exclusively to  
15 restitution because through this claim PLAINTIFFS seeks  
16 declaratory relief holding that the DEFENDANT's policy and  
17 practices constitute unfair competition, along with declaratory  
18 relief, injunctive relief, and incidental equitable relief as may be  
19 necessary to prevent and remedy the conduct declared to constitute  
20 unfair competition;

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

27 1) The interests of the members of the CALIFORNIA CLASS in  
28 individually controlling the prosecution or defense of separate

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

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

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

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

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

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

28 44. This Court should permit this action to be maintained as a Class Action pursuant

1 to Cal. Code of Civ. Proc. § 382 because:

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

- 1 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
2 the business records of DEFENDANT; and,
- 3 (i) Class treatment provides manageable judicial treatment calculated to bring  
4 a efficient and rapid conclusion to all litigation of all wage and hour  
5 related claims arising out of the conduct of DEFENDANT as to the  
6 members of the CALIFORNIA CLASS.

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

12

13 **THE CALIFORNIA LABOR SUB-CLASS**

14 46. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and  
15 Eighth Causes of Action on behalf of a California sub-class, defined as all members of the  
16 CALIFORNIA CLASS who are or previously were employed by Stachs, LLC and/or Eaze  
17 Technologies, Inc. in California (the "CALIFORNIA LABOR SUB-CLASS") at any time  
18 during the period three (3) years prior to the filing of the complaint and ending on the date as  
19 determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to  
20 Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of  
21 CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

22 47. DEFENDANT, as a matter of company policy, practice and procedure, and in  
23 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
24 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
25 wilfully, engages in a practice whereby DEFENDANT fails to correctly calculate compensation  
26 for the time worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR  
27 SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT  
28 enjoys the benefit of this work, requires employees to perform this work and permits or suffers

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

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

11 49. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
12 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

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

28 51. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS

1 under California law by:

- 2 (a) Violating Cal. Lab. Code §§ 510, by failing to correctly pay the  
3 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-  
4 CLASS all wages due for overtime worked, for which DEFENDANT is  
5 liable pursuant to Cal. Lab. Code § 1194;
- 6 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to  
7 accurately pay PLAINTIFFS and the members of the CALIFORNIA  
8 LABOR SUB-CLASS the correct minimum wage pay for which  
9 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 10 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and  
11 the members of the CALIFORNIA LABOR SUB-CLASS with an  
12 accurate itemized statement in writing showing the corresponding correct  
13 amount of wages earned by the employee; and,
- 14 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide  
15 PLAINTIFFS and the other members of the CALIFORNIA LABOR  
16 SUB-CLASS with all legally required off-duty, uninterrupted thirty (30)  
17 minute meal breaks and the legally required off-duty rest breaks;
- 18 (e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS  
19 and the CALIFORNIA LABOR SUB-CLASS members with necessary  
20 expenses incurred in the discharge of their job duties.

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

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

LABOR SUB-CLASS and will apply to every member of the CALIFORNIA LABOR SUB-CLASS;

(c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the other members of the CALIFORNIA LABOR SUB-CLASS, is a non-exempt employee paid on an hourly basis who has been subjected to the DEFENDANT's practice and policy which fails to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of misconduct engaged in by DEFENDANT; and,

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

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

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

1) Inconsistent or varying adjudications with respect to individual

members of the CALIFORNIA LABOR SUB-CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or,

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

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

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

1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the substantial

1 expense and burden of individual prosecution of this litigation;

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

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

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

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

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

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

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

CALIFORNIA LABOR SUB-CLASS Members;

- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
- (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The 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 bring  
4 a efficient and rapid conclusion to all litigation of all wage and hour  
5 related claims arising out of the conduct of DEFENDANT as to the  
6 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 PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

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

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

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

21 Any person who engages, has engaged, or proposes to engage in unfair  
22 competition may be enjoined in any court of competent jurisdiction. The court  
23 may make such orders or judgments, including the appointment of a receiver, as  
24 may be necessary to prevent the use or employment by any person of any practice  
which constitutes unfair competition, as defined in this chapter, or as 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.

25 Cal. Bus. & Prof. Code § 17203.

26 58. By the conduct alleged herein, DEFENDANT has engaged and continues to  
27 engage in a business practice which violates California law, including but not limited to, the  
28 applicable Industrial Wage Order(s), the California Code of Regulations and the California

1 Labor Code including Sections 204, 210, 226.7, 246, 248.5, 510, 512, 1194, 1197, 1197.1, 1198  
2 & 2802, The Fair Labor Standards Act and federal regulations promulgated thereunder, for  
3 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &  
4 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
5 unfair competition, including restitution of wages wrongfully withheld.

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

11 60. By the conduct alleged herein, DEFENDANT's practices are deceptive and  
12 fraudulent in that DEFENDANT's policy and practice fails to provide the legally mandated  
13 meal and rest periods, and the required amount of compensation for missed meal and rest  
14 periods, reporting time pay, overtime and minimum wages owed, and failed to pay Fair Labor  
15 Standards Act overtime wages due for overtime worked as a result of failing to include non-  
16 discretionary incentive compensation into their regular rate for purposes of computing the  
17 proper overtime pay, due to a business practice that cannot be justified, pursuant to the  
18 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.  
19 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable  
20 relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully  
21 withheld.

22 61. By the conduct alleged herein, DEFENDANT's practices are also unlawful, unfair  
23 and deceptive in that DEFENDANT's employment practices cause PLAINTIFFS and the other  
24 members of the CALIFORNIA CLASS to be underpaid during their employment with  
25 DEFENDANT.

26 62. By the conduct alleged herein, DEFENDANT's practices are also unlawful, unfair  
27 and deceptive in that DEFENDANT's policies, practices and procedures fail to provide all  
28 legally required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA

1 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

2 63. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each  
3 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
4 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
5 for each workday in which a second off-duty meal period was not timely provided for each ten  
6 (10) hours of work.

7 64. PLAINTIFFS further demand on behalf of themselves and each member of the  
8 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
9 duty paid rest period was not timely provided as required by law.

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

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

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

26 68. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further  
27 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
28 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from

1 engaging in any unlawful and unfair business practices in the future.

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

9  
10 **SECOND CAUSE OF ACTION**

11 **For Failure To Pay Minimum Wages**

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

13 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

14 **and Against All Defendants)**

15 70. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
16 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
17 paragraphs of this Complaint.

18 71. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
19 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California  
20 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure  
21 to accurately calculate and pay reporting time and minimum wages to PLAINTIFFS and  
22 CALIFORNIA CLASS Members.

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

25 73. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
26 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
27 the minimum so fixed is unlawful.

28 74. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,

1 including reporting time pay and minimum wage compensation and interest thereon, together  
2 with the costs of suit.

3 75. DEFENDANT maintains a wage practice of paying PLAINTIFFS and the other  
4 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
5 time they work. As set forth herein, DEFENDANT's policy and practice is to unlawfully and  
6 intentionally deny timely payment of wages due to PLAINTIFFS and the other members of the  
7 CALIFORNIA LABOR SUB-CLASS.

8 76. DEFENDANT's pattern of unlawful wage and hour practices manifested, without  
9 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
10 implementing a policy and practice that denies accurate compensation to PLAINTIFFS and the  
11 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

12 77. In committing these violations of the California Labor Code, DEFENDANT  
13 inaccurately calculates the correct time worked and consequently underpays the actual time  
14 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.  
15 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
16 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
17 requirements and other applicable laws and regulations.

18 78. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
19 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS do not  
20 receive the correct reporting time pay and minimum wage compensation for their time worked  
21 for DEFENDANT.

22 79. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and  
23 the other members of the CALIFORNIA LABOR SUB-CLASS are paid less for time worked  
24 that they are entitled to, constituting a failure to pay all earned wages. DEFENDANT fails to  
25 accurately pay the PLAINTIFFS and members of the CALIFORNIA LABOR SUB-CLASS the  
26 wages for the time they work in accordance with 1197 & 1197.1, even though the PLAINTIFFS  
27 and the other members of the CALIFORNIA LABOR SUB-CLASS are regularly required,  
28 permitted or suffered to work, and do in fact work, off the clock time as to which

1 DEFENDANT fails to accurately record and pay as evidenced by DEFENDANT's business  
2 records and witnessed by employees.

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

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

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

23 83. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
24 CLASS therefore request recovery of all unpaid wages, according to proof, interest, statutory  
25 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as  
26 provided by the California Labor Code and/or other applicable statutes. DEFENDANT's  
27 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFFS  
28 and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover

1 statutory costs.

2  
3 **THIRD CAUSE OF ACTION**

4 **For Failure To Pay Overtime Compensation**

5 **[Cal. Lab. Code §§ 510]**

6 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**  
7 **Defendants)**

8 84. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
9 CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior  
10 paragraphs of this Complaint.

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

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

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

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

28 89. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and

1 CALIFORNIA LABOR SUB-CLASS Members are required, permitted or suffered by  
2 DEFENDANT to work for DEFENDANT and are not paid for all the time they work, including  
3 overtime work.

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

11 91. In committing these violations of the California Labor Code, DEFENDANT  
12 inaccurately records overtime worked and consequently underpays the overtime worked by  
13 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
14 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
15 of the California Labor Code, the Industrial Welfare Commission requirements and other  
16 applicable laws and regulations.

17 92. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and  
18 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
19 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked  
20 including overtime work.

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

24 94. 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 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are not  
28 subject to a valid collective bargaining agreement that would preclude the causes of action

1 contained herein this Complaint. Rather, PLAINTIFFS bring this Action on behalf of  
2 themselves 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 95. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and  
5 the other members of the CALIFORNIA LABOR SUB-CLASS are paid less for overtime  
6 worked that they are entitled to, constituting a failure to pay all earned wages.

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

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

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

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

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

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

#### 13 **FOURTH CAUSE OF ACTION**

##### 14 **For Failure to Provide Required Meal Periods**

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

16 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

17 101. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

20 102. During the CALIFORNIA CLASS PERIOD, DEFENDANT fails to provide all  
21 the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA LABOR  
22 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature  
23 of the work performed by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS MEMBERS  
24 does not prevent these employees from being relieved of all of their duties for the legally  
25 required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFFS and  
26 other CALIFORNIA LABOR SUB-CLASS Members are from time to time not fully relieved  
27 of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to  
28

1 provide PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with legally  
2 required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's  
3 business records. Further, DEFENDANT fails to provide PLAINTIFFS and CALIFORNIA  
4 CLASS Members with a second off-duty meal period in some workdays in which these  
5 employees were required by DEFENDANT to work ten (10) hours of work. As a result,  
6 PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeit  
7 meal breaks without additional compensation and in accordance with DEFENDANT's strict  
8 corporate policy and practice.

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

14 104. As a proximate result of the aforementioned violations, PLAINTIFFS and  
15 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
16 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
17 suit.

18  
19 **FIFTH CAUSE OF ACTION**

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

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

22 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**  
23 **Defendants)**

24 105. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
25 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
26 paragraphs of this Complaint.

27 106. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are  
28 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.

1 Further, these employees were denied their first rest periods of at least ten (10) minutes for  
2 some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least  
3 ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,  
4 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
5 or more. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are also not  
6 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,  
7 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are periodically denied  
8 their proper rest periods by DEFENDANT and DEFENDANT's managers.

9 107. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
10 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-  
11 CLASS Members who are not provided a rest period, in accordance with the applicable Wage  
12 Order, one additional hour of compensation at each employee's regular rate of pay for each  
13 workday that rest period was not provided.

14 108. As a proximate result of the aforementioned violations, PLAINTIFFS and  
15 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
16 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
17 suit.

## 18 **SIXTH CAUSE OF ACTION**

### 19 **For Failure to Provide Accurate Itemized Statements**

20 **[Cal. Lab. Code § 226]**

21 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**  
22 **Defendants)**

23 109. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
24 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
25 paragraphs of this Complaint.

26 110. Cal. Labor Code § 226 provides that an employer must furnish employees with  
27 an "accurate itemized" statement in writing showing:  
28

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

19 111. DEFENDANT also fails to provide PLAINTIFFS and the other members of the  
20 CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed  
21 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226  
22 provides that every employer shall furnish each of his or her employees with an accurate  
23 itemized wage statement in writing showing, among other things, gross wages earned and all  
24 applicable hourly rates in effect during the pay period and the corresponding amount of time  
25 worked at each hourly rate. Specifically, DEFENDANT violated Cal. Lab. Code Section  
26 226(a)(8) by failing to correctly list the legal entity that was the employer of PLAINTIFFS and  
27 other CALIFORNIA LABOR SUB-CLASS Members. Aside, from the violations listed above,  
28 DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the

1 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to  
2 time provided PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
3 CLASS with wage statements which violated Cal. Lab. Code § 226.

4 112. DEFENDANT knowingly and intentionally fails to comply with Cal. Lab. Code  
5 § 226, causing injury and damages to PLAINTIFFS and the other members of the  
6 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
7 expended calculating the correct wages for all missed meal and rest breaks and the amount of  
8 employment taxes which were not properly paid to state and federal tax authorities. These  
9 damages are difficult to estimate. Therefore, PLAINTIFFS and the other members of the  
10 CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars  
11 (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars  
12 (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in  
13 an amount according to proof at the time of trial (but in no event more than four thousand  
14 dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA  
15 LABOR SUB-CLASS herein).

16  
17 **SEVENTH CAUSE OF ACTION**

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

19 **[Cal. Lab. Code § 2802]**

20 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**  
21 **Defendants)**

22 113. PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS members  
23 reallege and incorporate by this reference, as though fully set forth herein, the prior  
24 paragraphs of this Complaint.

25 114. Cal. Lab. Code § 2802 provides, in relevant part, that:

26 An employer shall indemnify his or her employee for all necessary  
27 expenditures or losses incurred by the employee in direct consequence of the  
28 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.

1  
2 115. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,  
3 by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-  
4 CLASS members for required expenses incurred in the discharge of their job duties for  
5 DEFENDANT's benefit. DEFENDANT fails to reimburse PLAINTIFFS and the  
6 CALIFORNIA LABOR SUB-CLASS members for expenses which include, but are not  
7 limited to, costs related to using their personal cellular phones and personal vehicles all on  
8 behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFFS and other  
9 CALIFORNIA LABOR SUB-CLASS Members are required by DEFENDANT to use their  
10 personal cell phones to respond to work related issues. DEFENDANT's policy, practice and  
11 procedure is to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS  
12 members for expenses resulting from using their personal cellular phones for DEFENDANT  
13 within the course and scope of their employment for DEFENDANT. These expenses are  
14 necessary to complete their principal job duties. DEFENDANT is estopped by  
15 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses  
16 are necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-  
17 CLASS members, DEFENDANT fails to indemnify and reimburse PLAINTIFFS and the  
18 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is  
19 required to do under the laws and regulations of California.

20 116. PLAINTIFFS therefore demand reimbursement for expenditures or losses  
21 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of  
22 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,  
23 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

24 **EIGHTH CAUSE OF ACTION**

25 **For Failure to Pay Wages When Due**

26 **[ Cal. Lab. Code §§ 201, 202, 203]**

27 **(By Plaintiff Atencio and Plaintiff Noguera and the CALIFORNIA LABOR SUB-**  
28

**CLASS and Against All Defendants)**

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

118. Cal. Lab. Code § 200 provides, in relevant part, that:

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

119. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

120. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

121. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR SUB-CLASS Members' employment contract.

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

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

123. The employment of Plaintiff Atencio and Plaintiff Noguera and many CALIFORNIA LABOR SUB-CLASS Members has terminated and DEFENDANT has not

1 tendered payment of all wages owed as required by law.

2 124. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and  
3 the members of the CALIFORNIA LABOR SUB-CLASS whose employment has  
4 terminated and who have not been fully paid their wages due to them, Plaintiff Atencio and  
5 Plaintiff Noguera demand thirty days of pay as penalty for not paying all wages due at time  
6 of termination for all employees who terminated employment during the CALIFORNIA  
7 LABOR SUB-CLASS PERIOD and demands an accounting and payment of all wages due,  
8 plus interest and statutory costs as allowed by law.

9  
10 **NINTH CAUSE OF ACTION**

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

12 **[Cal. Lab. Code §§ 2698, *et seq.*]**

13 **(By Plaintiff Miguel Atencio and Against All Defendants)**

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

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

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

1 with respect to himself and all individuals who are or previously were employed by Stachs,  
2 LLC and/or Eaze Technologies, Inc. in California and who were classified as non-exempt  
3 employees ("AGGRIEVED EMPLOYEES") during the time period of March 18, 2020  
4 until a date as determined by the Court (the "PAGA PERIOD").

5 128. On March 18, 2021, Plaintiff Atencio gave written notice by electronic mail to  
6 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the  
7 employer of the specific provisions of this code alleged to have been violated as to  
8 Defendant Stachs LLC as required by Labor Code § 2699.3. *See Exhibit #1*, attached hereto  
9 and incorporated by this reference herein (PAGA Notice only without draft complaint). On  
10 June 1, 2023, Plaintiff Atencio gave amended written notice, adding Defendant Eaze  
11 Technologies, Inc., by electronic mail to the Agency and by certified mail to the employer of  
12 the specific provisions of this code alleged to have been violated as required by Labor Code  
13 § 2699.3. *See Exhibit #2*, attached hereto and incorporated by this reference herein. The  
14 statutory waiting period for Plaintiff Atencio to add these allegations to the Complaint has  
15 expired. As a result, pursuant to Section 2699.3, Plaintiff Atencio may pursue a  
16 representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of  
17 California with respect to all AGGRIEVED EMPLOYEES as herein defined.

18 129. The policies, acts and practices heretofore described were and are an unlawful  
19 business act or practice because DEFENDANT (a) failed to provide Plaintiff Atencio and  
20 the other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to  
21 properly record and provide legally required meal and rest periods, (c) failed to pay  
22 minimum wages, (d) failed to pay overtime and sick pay wages, (e) failed to reimburse  
23 employees for required expenses, (f) failed to pay reporting time pay, and (e) failed to  
24 provide wages when due, all in violation of the applicable Labor Code sections listed in  
25 Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 233, 246, 351, 510, 512,  
26 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,  
27 Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives  
28

1 rise to civil penalties as a result of such conduct.<sup>1</sup> Plaintiff Atencio hereby seeks recovery of  
2 civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the  
3 representative of the State of California for the illegal conduct perpetrated on Plaintiff  
4 Atencio and the other AGGRIEVED EMPLOYEES.

5 130. All of the conduct and violations alleged herein occurred during the PAGA  
6 AGGRIEVED EMPLOYEES. To the extent that any of the conduct and violations alleged  
7 herein did not affect Plaintiff Atencio during the PAGA PERIOD, Plaintiff Atencio seeks  
8 penalties for those violations that affected other AGGRIEVED EMPLOYEES pursuant to  
9 *Carrington v. Starbucks Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

10  
11 **PRAYER FOR RELIEF**

12 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and  
13 severally, as follows:

14 1. On behalf of the CALIFORNIA CLASS:

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

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

- 26 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth

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

Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

B) Compensatory damages, according to proof at trial, including compensatory damages for minimum and overtime compensation due PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;

C) Meal and rest period compensation pursuant to California Labor Code Section 226.7 and the applicable IWC Wage Order;

D) Liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;

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

F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit; and,

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

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

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

4. On all claims:

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

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

1 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the  
2 law, including, but not limited to, pursuant to Labor Code §226, §1194 and/or  
3 §2802.  
4

5 Dated: March 28, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP  
6

7  
8 By: /s/Norman B. Blumenthal  
9 Norman B. Blumenthal  
10 Attorneys for PLAINTIFFS  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: March 28, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/Norman B. Blumenthal  
Norman B. Blumenthal  
Attorneys for PLAINTIFFS