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ELECTRONICALLY FILED
 Superior Court of California
 County of Alameda
 09/13/2022

Chad Finke, Executive Officer / Clerk of the Court
 By: X. Bowie Deputy

**SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ALAMEDA**

KHAYO SISHI, SANDEEP PUREWAL,
 VANESSA BARBER, and CHERRA REDD on
 behalf of the Putative Class, the State of California
 And Aggrieved Employees;

Plaintiffs,

v.

ESKATON PROPERTIES INCORPORATED,
 CALIFORNIA HEALTHCARE
 CONSULTANTS, INC., and DOES 1-100,
 inclusive;

Defendants.

Case No.: RG21100764

**SECOND AMENDED CLASS ACTION
 COMPLAINT FOR VIOLATIONS OF:**

- (1) Failure to Pay for All Hours Worked (Labor Code §§ 204, 210, 216, 218, 218.5, 256, 558, 1194, 1198, 1199);
- (2) Failure to Pay Minimum Wages (Labor Code §§ 558.1, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198);
- (3) Failure to Pay Overtime Wages (Labor Code § 510, 558, 1198);
- (4) Failure to Authorize and Permit and/or Make Available Meal Periods (Labor Code §§ 226.7, 512, 516, 1198);
- (5) Failure to Authorize and Permit and/or Make Available Rest Periods (Labor Code §§ 226.7, 516, 1198);
- (6) Failure to Pay Costs for Medical Examinations (Labor Code § 222.5);
- (7) Failure to Properly Calculate Sick Time (Labor Code §§ 246, 248.5);
- (8) Failure to Reimburse for Necessary Business Expenses (Labor Code §§ 2800, 2802);
- (9) Failure to Provide Written Notice of Material Terms of Employment (Labor Code § 2810.5)
- (10) Failure to Provide and Maintain Timely and Accurate Itemized Wage

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**Statements (Labor Code § 226, 226.3,
1174, 1174.5, 1198.5) and
(11) Waiting Time Penalties (Labor Code
§§ 201-203)
(12) Unlawful Business Practices (Cal.
Bus. & Prof. Code §§ 17200, *et seq.*)
(13) - (23) Penalties Pursuant To Sections
2699(a) and (f) Of The California Labor
Code Private Attorneys General Act**

DEMAND FOR JURY TRIAL

1 Plaintiffs Khayo Sishi, Sandeep Purewal, Vanessa Barber, and Cherra Redd (“Plaintiffs”), on
2 behalf of the putative Class, the State of California, and the Aggrieved Employees, complain and
3 allege as follows:

4 **INTRODUCTION**

5 1. Plaintiffs bring this class action and PAGA enforcement action on behalf of the State
6 of California, themselves, and other similarly situated individuals who have worked for Defendants
7 Eskaton Properties Incorporated and California Healthcare Consultants, Inc. (“Defendants”),
8 including Eskaton, Inc., Eskaton Village-Grass Valley, Inc., Eskaton Village-Placerville, Inc.,
9 Eskaton Village-Roseville, Inc., Eskaton Lodge Granite Bay, Inc., Eskaton Fountainwood Lodge,
10 Inc., The Reutlinger Community, Inc., and O’Connor Woods Housing Corporation, Inc., as non-
11 exempt, hourly workers employed in California, to challenge Defendants’ violations of California
12 wage and hour laws.

13 2. Defendants maintain a longstanding policy and/or practice of failing to properly
14 compensate Plaintiffs, Class members, and Aggrieved Employees for work related tasks performed
15 while “off-the-clock,” including, but not limited to, attending a mandatory monthly training and/or
16 meetings lasting several hours.

17 3. Defendants also regularly fail to provide Plaintiffs, Class members, and Aggrieved
18 Employees with timely, legally compliant meal and rest breaks, yet Defendants do not provide
19 Plaintiffs, Class members, and Aggrieved Employees with premium pay for missed, late and/or
20 interrupted meal and rest breaks.

21 4. Further, Defendants maintain a policy and/or practice of failing to include incentive pay,
22 nondiscretionary bonuses, and other compensation into the calculation of the regular rate of pay,
23 resulting in Defendants’ failure to pay all sick leave benefits by paying these at a lower rate than
24 required, based on the hourly rate rather than the regular rate.

25 5. Defendants also require their employees to undergo mandatory physical examinations,
26 TB testing, and/or drug testing and fail pay for such costs, instead of requiring the employees to incur
27 such costs. Defendants also do not reimburse employees for such costs, nor the time and expenses of
28 traveling for these tests and/or examinations. They also do not reimburse employees for other

1 necessary business expenses, such as costs of using their personal cellular telephone for work-related
2 purposes.

3 6. As a result, Plaintiffs, Class members, and Aggrieved Employees bring this action to
4 challenge Defendants' policies and practices of: (1) failing to compensate for all hours worked; (2)
5 failing to compensate for all minimum wages; (3) failing to compensate for all overtime wages; (4)
6 failing to make available, authorize and/or permit timely and compliant meal periods and failing to
7 make premium payments for those non-compliant meal periods; (5) failing to make available,
8 authorize and/or permit timely and compliant rest periods and failing to make premium payments for
9 those non-compliant rest periods; (6) failing to compensate for mandatory medical expenses; (7)
10 failing to properly calculate employees' sick time; (8) failing to reimburse for necessary business
11 expenses; (9) failing to maintain and provide written notice of material terms of employment; and
12 (10) failing to provide accurate, itemized wage statements; and (11) failing to timely pay full wages
13 following separation from employment.

14 7. Plaintiffs file this action to recover all unpaid compensation, penalties, and other
15 damages on behalf of themselves and Class members as a class action under California Code of Civil
16 Procedure § 382. Plaintiffs also file this action under PAGA, California Labor Code § 2699 to recover
17 civil penalties on behalf of the State of California and Aggrieved Employees. Plaintiffs seek to remedy
18 the sweeping practices Defendants integrated into their time keeping and payroll policies, that have
19 deprived Plaintiffs, Class members, and Aggrieved Employees of their lawfully earned wages.

20 8. Defendants are also liable for violation the Unfair Competition Law, Business and
21 Professions Code §§ 17200 *et seq.* ("UCL").

22 9. Plaintiffs also seek declaratory and equitable relief.

23 10. Finally, Plaintiffs seek reasonable attorneys' fees and costs under the Labor Code, and
24 California Code of Civil Procedure § 1021.5.

25 **PARTIES**

26 11. Plaintiffs, Class members, and Aggrieved Employees are current and former non-
27 exempt, hourly workers employed by Defendants or Eskaton, Inc., Eskaton Village-Grass Valley,
28 Inc., Eskaton Village-Placerville, Inc., Eskaton Village-Roseville, Inc., Eskaton Lodge Granite Bay,

1 Inc., Eskaton Fountainwood Lodge, Inc., The Reutlinger Community, Inc., and O'Connor Woods
2 Housing Corporation, Inc. throughout California.

3 12. Plaintiffs are individuals over the age of eighteen, and at all times relevant to this
4 Complaint was a resident of the State of California.

5 13. Plaintiff Sishi was employed as a non-exempt residential care assistant by Defendants
6 from approximately March 2019 to June 2022. Plaintiff Sishi worked at Defendants' location in
7 Burlingame, California.

8 14. Plaintiff Purewal was employed as a non-exempt employee of Defendants from
9 approximately June 2017 to January 2018. Plaintiff Purewal worked for Defendants in Sacramento
10 County, in California.

11 15. Plaintiff Barber was employed as a non-exempt employee of Defendants from
12 approximately August 2019 to February 2021. Plaintiff Barber worked for Defendants in Sacramento
13 County, in California.

14 16. Plaintiff Redd was employed as a non-exempt employee of Defendants from
15 approximately April 2014 to April 2019. Plaintiff Redd worked for Defendants in Sacramento County,
16 in California.

17 17. Defendant Eskaton Properties Incorporated is a domestic corporation with its principal
18 place of business located in Carmichael, California. Eskaton does business in the State of California
19 and employs workers, including Plaintiffs and Aggrieved Employees, in California. Eskaton may be
20 served with process by serving its registered agent, Todd Stanley Murch, 5105 Manzanita Avenue,
21 Carmichael, California 95608.

22 18. Defendant California Healthcare Consultants, Inc. is a California corporation with its
23 principal place of business located in Carmichael, California. California Healthcare Consultants, Inc.
24 does business in the State of California and employs workers, including Plaintiffs and Aggrieved
25 Employees, in California. California Healthcare Consultants, Inc may be served with process by
26 serving its registered agent, Todd Stanley Murch, 5105 Manzanita Avenue, Carmichael, California
27 95608.

28 19. Upon information and belief, Defendants jointly own, operate, and/or manage the

1 facilities at issue, and exercise control over Plaintiffs, Class members, and Aggrieved Employees with
2 respect to their employment. Defendants employ Plaintiffs, Class members, and Aggrieved
3 Employees, among other hourly employees, throughout their facilities.

4 20. Plaintiffs are informed and believe that each and every one of the acts and omissions
5 alleged herein were performed by, and/or attributable to, Defendants, each acting as agents and/or
6 employees, and/or under the direction and control of each of the other, and that said acts and failures
7 to act were within the course and scope of said agency, employment and/or direction and control.

8 21. As employers of Plaintiffs, Class members, and Aggrieved Employees throughout the
9 relevant time periods, Defendants, each of them, are solely, jointly, and severally liable for penalties
10 for violating the Labor Code with respect to the employment of Plaintiffs, Class members, and
11 Aggrieved Employees.

12 22. Throughout this Complaint, any reference to “Defendant” or “Defendants” is intended
13 to refer to Defendants Eskaton Properties Incorporated and California Healthcare Consultants, Inc.
14 jointly.

15 23. Plaintiffs are informed, believe, and thereon allege that Defendants operate facility
16 locations throughout California, including in Alameda County. Plaintiffs are informed, believe, and
17 thereon allege that Defendants employ Class members and Aggrieved Employees, throughout
18 California, including in Alameda County.

19 24. The true names and capacities, whether individual, corporate, associate, or otherwise,
20 of Does 1-100, inclusive, are unknown to Plaintiffs, who therefore sues the Doe Defendants by
21 fictitious names. Plaintiffs are informed, believe, and thereon allege that each of these fictitiously
22 named Defendants is responsible in some manner for the occurrences and violations as herein alleged.
23 Plaintiffs will amend this Complaint to show their true names and capacities when they have been
24 ascertained. Defendants are jointly and severally liable for the civil penalties asserted.

25 25. At all relevant times, Defendants have done business under the laws of California, have
26 had places of business in California, including in this judicial district, and have employed Class
27 members and Aggrieved Employees in this judicial district. Defendants are “person[s]” as defined in
28 Labor Code § 18 and Business and Professions Code § 17201. Defendants are also “employer[s]” as

1 that term is used in the Labor Code and IWC Wage Orders.

2 **JURISDICTION AND VENUE**

3 26. This Court has jurisdiction over Plaintiffs' claims pursuant to the California Labor Code
4 and California Business and Professions Code. The Court has jurisdiction over Defendants because
5 they are California corporations, do business and employ workers in California, and because they are
6 registered with the California Secretary of State.

7 27. Venue is proper in this County pursuant to Code of Civil Procedure §§ 393(a) and/or
8 395.5. Defendants conduct business and employ Class members and Aggrieved Employees in this
9 County, and therefore the liability and the cause or some part of the cause arose in this County.

10 **FACTUAL ALLEGATIONS**

11 28. Defendants are part of the nursing homes & long-term care facilities industry.
12 Defendants provide memory care, assisted living, and skill nursing services. Defendants have over
13 1,400 employees and operates twelve facilities across California. Defendants conduct extensive
14 operations and employ a substantial number of workers in California.

15 29. Plaintiffs are former non-exempt employees of Defendants who worked at Defendants'
16 facilities located in Burlingame, California and Sacramento County, in California.

17 30. While Plaintiffs' shifts may vary in length, Plaintiffs were scheduled to work at least
18 eight hours per shift, approximately five shifts per week. Plaintiffs were scheduled to work
19 approximately 40 hours or more per week.

20 31. Plaintiffs are informed, believe, and thereon allege that Class members and Aggrieved
21 Employees were and are employed by Defendants throughout California, including in this county,
22 and perform work materially similar to Plaintiffs. Defendants pay and/or paid Class members and
23 Aggrieved Employees, including Plaintiffs, on an hourly rate basis.

24 32. Plaintiffs are informed, believe, and thereon allege that the policies and practices of
25 Defendants have at all relevant times been similar for Plaintiffs, Class members, and Aggrieved
26 Employees, regardless of the facilities' location in California.

27 33. Class members and Aggrieved Employees are required to follow and abide by common
28 work, time, and pay policies and procedures in the performance of their jobs and duties.

1 34. At the end of each pay period, Class members and Aggrieved Employees receive wages
2 from Defendants that are determined by common systems and methods that Defendants select and
3 control.

4 35. As a matter of policy and/or practice, Defendants routinely fail to compensate Plaintiffs,
5 Class members, and Aggrieved Employees for all hours worked, including at a minimum wage and
6 overtime wage rate. Plaintiffs, Class members, and Aggrieved Employees are not permitted to log the
7 actual number of hours they work each week and therefore are not compensated for all time worked
8 and spent under the control and supervision of Defendants, *i.e.*, time spent for the benefit of
9 Defendants.

10 36. For instance, Defendants requires Plaintiffs, Class members, and Aggrieved Employees
11 to attend a mandatory monthly training and/or meetings lasting several hours for which Plaintiffs,
12 Class members, and Aggrieved Employees do not receive compensation. As a matter of policy,
13 Defendants systematically fail to record such trainings and/or meetings as hours worked. This time
14 goes unrecorded and uncompensated, even though it should be compensated at a minimum wage or
15 overtime wage rate.

16 37. Defendants also fail to pay reporting time pay when Plaintiffs, Class members, and
17 Aggrieved Employees are not scheduled to work on the scheduled training and/or meeting days but
18 report to work regardless, as instructed.

19 38. Plaintiffs, Class members, and Aggrieved Employees are also often not provided with
20 timely, compliant meal breaks. Plaintiffs, Class members, and Aggrieved Employees are often too
21 busy with work during the day to take a bona fide uninterrupted meal break of at least 30 minutes by
22 the end of the fifth hour of work. Plaintiffs, Class members, and Aggrieved Employees are therefore
23 not provided compliant meal breaks and do not regularly receive premium payments for those non-
24 compliant meal breaks.

25 39. Additionally, when Plaintiffs, Class members, and Aggrieved Employees are required
26 to work longer shifts lasting ten hours or more, Plaintiffs, Class members, and Aggrieved Employees
27 are systematically denied a second meal break to which they are entitled without receiving premium
28 payments.

1 40. Defendants also regularly require Plaintiffs, Class members, and Aggrieved Employees
2 to remain on duty during rest periods. Plaintiffs, Class members, and Aggrieved Employees are not
3 provided with rest breaks during which they are relieved of all work-related duties. Plaintiffs, Class
4 members, and Aggrieved Employees are often too busy with work during the day to have time to take
5 bona fide rest breaks. In the rare instance when Plaintiffs, Class members, and Aggrieved Employees
6 attempt a rest break, such is routinely untimely and/or interrupted.

7 41. Despite these recurring violations, Defendants do not pay premiums to Plaintiffs, Class
8 members, and Aggrieved Employees for missed, interrupted and/or untimely, *i.e.*, non-compliant, rest
9 and meal periods.

10 42. As a result of these practices, Defendants deny Plaintiffs, Class members, and
11 Aggrieved Employees compensation for all hours worked, including at the minimum wage and
12 overtime wage rate for off-the-clock work, and premium payments resulting from missed, untimely
13 and/or interrupted meal and rest periods.

14 43. Defendants also fail to properly calculate and pay sick pay. In addition to the hourly
15 wages, Defendants pay Plaintiffs, Class members, and Aggrieved Employees incentive pay,
16 nondiscretionary bonuses, and other forms of compensation. However, Defendants fail to incorporate
17 all relevant forms of compensation into the regular rate calculation. As such, Defendants fail to pay
18 all sick leave benefits by paying these at a lower rate than required, based on the hourly rate rather
19 than the regular rate.

20 44. Defendants also have a policy and/or practice whereby Class members and Aggrieved
21 Employees are required to undergo mandatory health screenings and temperature checks before their
22 scheduled shifts. These employees follow Defendants' instructions and complete the health
23 screenings but are not permitted to be clocked in for this time, and therefore are not compensated at
24 the required minimum wage or overtime rate.

25 45. Further, Defendants have a policy and/or practice that requires Class Members and
26 Aggrieved Employees to undergo mandatory physical examinations, TB testing, and/or drug testing.
27 Defendants determined where and when such testing and/or examination must take place but do not
28 compensate Class members and Aggrieved Employees for the same, nor the time and expenses of

1 traveling for the tests and/or examinations.

2 46. In addition to pay for those expenses, Defendants also fail to properly compensate Class
3 members and Aggrieved Employees for other necessary business expenses, for example, costs related
4 to these employees' use of their personal cellular phones for work-related reasons.

5 47. Defendants also have a policy and/or practice of requiring Class members and
6 Aggrieved Employees to report for their shifts in clean uniforms. Such uniform includes a shirt with
7 an Eskaton logo. Defendants only provide Plaintiffs, Class members, and Aggrieved Employees three
8 uniform shirts but require them to work approximately five shifts per week. Class members and
9 Aggrieved Employees are therefore required to launder or replace their uniforms often, and incur the
10 costs of doing so without reimbursement.

11 48. Defendants' common course of wage-and-hour abuse includes routinely failing to
12 maintain true and accurate records of the hours worked by Class members and Aggrieved Employees.
13 Defendants have failed to record hours that Plaintiffs, Class members, and Aggrieved Employees
14 worked during hours worked off-the-clock.

15 49. Defendants' failure to record all hours worked results in a failure to provide Class
16 members and Aggrieved Employees, including Plaintiffs, accurate itemized wage statements as
17 required by California law. The wage statements do not contain all of the off-the-clock work or time
18 that should be compensable during interruptible meal breaks. Further, the wage statements are
19 inaccurate because they do not include premium pay for missed breaks and overtime.

20 50. Further, Defendants also do not provide Class members and Aggrieved Employees with
21 full payment of all wages owed at the end of employment. As these workers are owed for off-the-
22 clock work, unpaid minimum wage and overtime, and premium pay when their employment ends,
23 and these amounts remain unpaid under Defendants' policies and practices, Defendants fail to pay all
24 wages due upon separation of employment. As a consequence, Defendants are subject to waiting time
25 penalties.

26 51. Defendants further fail to provide Class members and Aggrieved Employees with
27 written notice at the time of hire listing all the required information set forth in Labor Code §
28 2810.5(a)(1)(A)-(I) & (b).

1 52. Plaintiffs are informed, believe, and thereon allege that Defendants' same compensation
2 protocol and meal and rest period practices are used across all Defendants' facilities throughout
3 California.

4 53. Plaintiffs are informed, believe, and thereon allege that Defendants are well aware that
5 their policies and practices deprive Plaintiffs, Class members, and Aggrieved Employees of
6 substantial pay for all time worked and that Plaintiffs, Class members, and Aggrieved Employees do
7 not receive legally compliant meal and rest periods. Thus, Defendants' denial of proper wages and
8 compliant meal and rest periods to Plaintiffs, Class members, and Aggrieved Employees is and/or
9 was deliberate and willful.

10 54. Plaintiffs are informed, believe, and thereon allege that Defendants' unlawful conduct
11 has been widespread, repeated, and consistent as to Class members and Aggrieved Employees and
12 throughout Defendants' operations in California.

13 55. Defendants' conduct is and/or was willful, carried out in bad faith, and triggers
14 significant civil penalties in an amount to be determined at trial.

15 **CCP § 382 CLASS ACTION ALLEGATIONS**

16 56. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
17 herein.

18 57. Plaintiffs brings causes of action as a class action on behalf of themselves and all others
19 similarly situated pursuant to Civil Code of Procedure § 382. The Class that Plaintiffs seek to
20 represent is defined as follows:

21 **All current and former hourly, non-exempt workers, including but**
22 **not limited to residential care associates & assistants, residential**
23 **medication associates & assistants, home health aides, housekeepers,**
24 **any other workers involved with patient care, and other non-**
 managerial positions, employed by Defendants throughout
 California any time starting four years prior to the filing of the
 Complaint until resolution of this action.

25 58. This action has been brought and may properly be maintained as a class action under
26 Civil Code of Procedure § 382 there is a well-defined community of interest in the litigation and the
27 proposed putative class is easily ascertainable.
28

1 59. Numerosity: The potential members of the Class are so numerous that joinder of all
2 the members of the class is impracticable. Plaintiffs are informed and believe that the number of
3 Class members exceeds 100. This volume makes bringing the claims of each individual member of
4 the Class before this Court impracticable. Likewise, joining each individual member of the Class as
5 a plaintiff in this action is impracticable. Furthermore, the identities of the Class will be determined
6 from Defendants' records, as will the compensation paid to each of them. As such, a class action is
7 a reasonable and practical means of resolving these claims. To require individual actions would
8 prejudice the Class and Defendants.

9 60. Commonality: There are questions of law and fact common to Plaintiffs and the Class
10 that predominate over any questions affecting only individual members of the Class. These common
11 questions of law and fact include, but are not limited to:

- 12 a. Whether Defendants have a policy and/or practice of requiring Class members to
13 be in the control of, spend time primarily for the benefit of, and work for Defendants
14 without compensation;
- 15 b. Whether Defendants fail to compensate Class members for all hours worked,
16 including as minimum wages and/or regular rate wage compensation, in violation
17 of the Labor Code and Wage Orders;
- 18 c. Whether Defendants fail to properly pay overtime compensation to Class members
19 in violation of the Labor Code and Wage Orders;
- 20 d. Whether Defendants fail to authorize and permit, make available, and/or provide
21 Class members with compliant meal periods to which they are entitled in violation
22 of the Labor Code and Wage Orders;
- 23 e. Whether Defendants fail to authorize and permit, make available, and/or provide
24 Class members with compliant rest periods to which they are entitled in violation
25 of the Labor Code and Wage Orders;
- 26 f. Whether Defendants fail to provide Class members with timely, accurate itemized
27 wage statements in violation of the Labor Code and Wage Orders;
- 28 g. Whether Defendants fail to pay all wages owed upon Class members' separation of

employment;

h. Whether Defendants violate Business and Professions Code §§ 17200 *et seq.*, by:

(a) failing to pay Class members minimum wage for all hours worked.

(b) failing to compensate Class members for all hours worked, including at minimum wage and/or at regular rate;

(c) failing to properly pay overtime compensation to Class members;

(d) failing to authorize and permit, make available, and/or provide Class members with compliant meal periods to which they are entitled;

(e) failing to authorize and permit, make available, and/or provide Class members with compliant rest periods to which they are entitled;

(f) failing to provide putative Class members with timely, accurate itemized wage.

(g) failing to pay Class members for all wages owed upon separation of employment.

i. The proper formula for calculating restitution, damages and penalties owed to Plaintiffs and the Class as alleged herein.

61. Typicality: Plaintiffs' claims are typical of the claims of the Class. Defendants' common course of conduct in violation of law as alleged herein caused Plaintiffs and Class members to sustain the same or similar injuries and damages. Plaintiffs' claims are thereby representative of and co-extensive with the claims of the Class.

62. Adequacy of Representation: Plaintiffs seek relief for state law violations perpetrated by Defendants. In that sense, Plaintiffs do not have any conflicts of interest with other Class members and will prosecute the case vigorously on behalf of the Class. Counsel representing Plaintiffs is competent and experienced in litigating complex cases and large class actions, including wage and hour cases. Plaintiffs will fairly and adequately represent and protect the interests of Class members.

63. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed Class members is not practicable, and questions of law and fact common to the Class predominate over any questions

1 affecting only individual members of the Class. Each proposed Class member has been damaged and
2 is entitled to recovery by reason of Defendants' illegal policies and/or practices. Class action treatment
3 will allow those similarly situated persons to litigate their claims in the manner that is most efficient
4 and economical for the parties and the judicial system.

5 64. In the alternative, the Class may be certified because the prosecution of separate actions
6 by the individual members of the Class would create a risk of inconsistent or varying adjudication
7 with respect to individual members of the Class which would establish incompatible standards of
8 conduct for Defendants.

9 65. If each individual Class member was required to file an individual lawsuit, Defendants
10 would necessarily gain an unconscionable advantage because Defendants would be able to exploit
11 and overwhelm the limited resources of each member of the Class with Defendants' vastly superior
12 financial and legal resources.

13 66. Requiring each individual Class member to pursue an individual remedy would also
14 discourage the assertion of lawful claims by the Class members who would be disinclined to pursue
15 these claims against Defendants because of an appreciable and justifiable fear of retaliation and
16 permanent damage to their lives, careers and well-being.

17 **FIRST CAUSE OF ACTION**

18 **Failure to Pay for All Hours Worked**
19 **Pursuant to Labor Code §§ 204, 218, 558 1194, 1198, 1199**
20 **(On Behalf of the Class)**

21 67. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
22 herein.

23 68. Plaintiffs allege that Defendants willfully engaged and continue to engage in a policy
24 and practice of not compensating Class members for all hours worked or spent in Defendants'
25 control. Defendants regularly require Class members to perform uncompensated off-the-clock work,
26 including monthly mandatory trainings and/or meetings, and also fails to pay reporting time for such
27 hours worked.
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1 69. Labor Code § 200(a) defines wages as “all amounts for labor performed by employees
2 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
3 commission basis or other method of calculation.”

4 70. Labor Code § 204 provides that “all wages” are due and payable twice during each
5 calendar month.

6 71. Labor Code § 1194(a) provides as follows:

7 Notwithstanding any agreement to work for a lesser wage, any employee
8 receiving less than the legal minimum wage or the legal overtime
9 compensation applicable to the employee is entitled to recover in a civil
10 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys’
fees, and costs of suit.

11 72. Labor Code § 1198 makes it unlawful for employers to employ employees under
12 conditions that violate the Wage Orders.

13 73. IWC Wage Order 4-2001(2)(K) and 5-2001(2)(K) defines hours worked as “the time
14 during which an employee is subject to the control of an employer, and includes all the time the
15 employee is suffered or permitted to work, whether or not required to do so.”

16 74. In violation of California law, Defendants knowingly and willfully refuse to provide
17 Class members with compensation for all time worked. Defendants require Plaintiffs and Class
18 members to work off-the clock. For example, Defendants require Plaintiffs and Class members attend
19 a mandatory monthly training and/or meetings lasting several hours. As a matter of policy,
20 Defendants do not record such trainings and/or meetings as hours worked. Defendants do not account
21 for this off-the-clock work when compensating Plaintiffs and Class members, resulting in widespread
22 under-compensation.

23 75. Defendants intentionally and willfully refuse to compensate Plaintiffs and putative
24 Class members for all the hours they work, including all those hours in excess of eight hours per day
25 and/or forty hours per week.

26 76. Therefore, Defendants committed, and continue to commit, the acts alleged herein
27 knowingly and willfully, and in conscious disregard of the Plaintiffs and putative Class members’
28

1 rights. Plaintiffs and putative Class members are thus entitled to recover nominal, actual, and
2 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit.

3 77. As a proximate result of the aforementioned violations, Plaintiffs and putative Class
4 members have been damaged in an amount according to proof at time of trial.

5 78. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.
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9 **SECOND CAUSE OF ACTION**

10 **Failure to Pay Minimum Wages**
11 **Pursuant to California Labor Code §§ 558.1, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, and**
12 **1198**
13 **(On Behalf of the Class)**

14 79. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
15 herein.

16 80. Defendants fail to compensate Plaintiffs and Class members with at least the minimum
17 wage for all hours worked or spent in Defendants' control because they failed to pay minimum wages
18 for all hours worked, including the off-the-clock work described above.

19 81. Labor Code § 1198 makes it unlawful for employers to employ employees under
20 conditions that violate the Wage Order.

21 82. During the applicable statutory period, California Labor Code §§, 1182.12 and 1197,
22 and the Minimum Wage Order were in full force and effect and required that Defendants' hourly
23 employees receive the minimum wage for all hours worked irrespective of whether nominally paid
24 on a piece rate, or any other bases, at the rate of ten dollars and fifty cents (\$10.50) per hour
25 commencing January 1, 2017, at the rate of eleven dollars (\$11.00) per hour commencing January 1,
26 2018, at the rate of twelve dollars (\$12.00) per hour commencing January 1, 2019, at the rate of
27 thirteen dollars (\$13.00) per hour commencing January 1, 2020, at the rate of fourteen dollars
28 (\$14.00) commencing January 1, 2021, and at the rate of fifteen dollars (\$15.00) commencing
January 1, 2022.

83. California Labor Code §1194 states:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

84. IWC Wage Order 4-2001(2)(K) 5-2001(2)(k) defines hours worked as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

85. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages because of the payment of a wage less than minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. Defendants have maintained procedures and practices which create a working environment where hourly employees are routinely compensated at a rate that is less than the statutory minimum wage.

86. As a direct and proximate result of the unlawful acts and/or omissions of Defendants, Plaintiffs and putative Class members have been deprived of minimum wages in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and 1197.1.

87. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

THIRD CAUSE OF ACTION
Failure to Pay Overtime Wages
Pursuant to Labor Code §§ 510, 558, and 1198
(On Behalf of the Class)

88. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth herein.

89. Defendants do not properly compensate Class members with appropriate overtime premiums, including time and a half premiums based on their regular rate of pay, as required by California law.

1 90. Labor Code § 510 provides as follows:

2 Eight hours of labor constitutes a day's work. Any work in excess of
3 eight hours in one workday and any work in excess of 40 hours in any
4 one workweek and the first eight hours worked on the seventh day of
5 work in any one workweek shall be compensated at the rate of no less
6 than one and one-half times the regular rate of pay for an employee. Any
7 work in excess of 12 hours in one day shall be compensated at the rate
8 of no less than twice the regular rate of pay for an employee. In addition,
9 any work in excess of eight hours on any seventh day of a workweek
10 shall be compensated at the rate of no less than twice the regular rate of
11 pay of an employee.

12 91. The IWC Wage Order 4-2001(3)(A)(1) and 5-2001(3)(A)(1) states:

13 The following overtime provisions are applicable ... employees shall not
14 be employed more than eight (8) hours in any workday or more than 40
15 hours in any workweek unless the employee receives one and one-half
16 (1 ½) times such employee's regular rate of pay for all hours worked over
17 40 hours in the workweek. Eight (8) hours of labor constitutes a day's
18 work. Employment beyond eight (8) hours in any workday or more than
19 six (6) days in any workweek is permissible provided the employee is
20 compensated for such overtime at not less than: (a) One and one-half (1
21 ½) times the employee's regular rate of pay for all hours worked in
22 excess of eight (8) hours up to and including twelve (12) hours in any
23 workday, and for the first eight (8) hours worked on the seventh (7th)
24 consecutive day of work in a workweek; and (b) [d]ouble the employee's
25 regular rate of pay for all hours worked in excess of 12 hours in any
26 workday and for all hours worked in excess of eight (8) hours on the
27 seventh (7th) consecutive day of work in a workweek.

28 92. Labor Code § 1194(a) provides as follows:

 Notwithstanding any agreement to work for a lesser wage, any employee
receiving less than the legal minimum wage or the legal overtime
compensation applicable to the employee is entitled to recover in a civil
action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys'
fees, and costs of suit.

 93. Labor Code § 1198 makes it unlawful for employers to employ employees under
conditions that violate the Wage Order.

 94. Labor Code § 200 defines wages as "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." All such wages are subject to California's
overtime requirements, including those set forth above.

1 95. Defendants' policies and practices of requiring Class members to perform work off-
2 the-clock are unlawful and because the Class members work more than eight hours per day, this
3 results in overtime violations. As a result of these unlawful policies and practices, Class members
4 have worked overtime hours for Defendants without being paid overtime premiums in violation of
5 the Labor Code, the applicable IWC Wage Orders, and other applicable law.

6 96. Defendants have knowingly and willfully refused to perform their obligation to provide
7 Plaintiffs and putative Class members with premium wages for all overtime work. As a proximate
8 result of the aforementioned violations, Defendants have damaged Plaintiffs and putative Class
9 members in amounts to be determined according to proof at time of trial.

10 97. Defendants are liable to Plaintiffs and putative Class members alleged herein for the
11 unpaid overtime and civil penalties, with interest thereon. Furthermore, Plaintiffs are entitled to an
12 award of attorneys' fees and costs as set forth below.

13 98. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

14 **FOURTH CAUSE OF ACTION**

15 **Failure to Authorize and Permit and/or Make Available Meal Periods**
16 **Pursuant to Labor Code §§ 226.7, 512, 516, and 1198**
 (On Behalf of the Class)

17 99. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
18 herein.

19 100. Plaintiffs and the Class members are routinely denied timely, full, off-duty meal
20 periods. Plaintiffs and Class members are often too busy with work during the day to take a bona
21 fide meal break by the end of the fifth hour of work. Plaintiffs and Class members are also not
22 provided timely, 30 minute, uninterrupted meal breaks.

23 101. Additionally, when Plaintiffs and Class members are required to work longer shifts
24 lasting ten hours or more, Plaintiffs and Class members are systematically denied a second meal
25 break to which they are entitled.

26 102. Plaintiffs and putative Class members are not provided with one hour of premium pay
27 for each instance they do not receive a complaint meal break.
28

103. Labor Code §§ 226.7 and 512 and the applicable Wage Orders require Defendants to authorize and permit meal periods to their employees. In particular, Labor Code §§ 226.7 and 512 and the Wage Orders prohibit employers from employing an employee more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes.

104. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails to authorize, permit, and/or make available a required meal period must, as compensation, pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period was not authorized and permitted.

105. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Order.

106. Despite these requirements, Defendants knowingly and willfully refuse to perform their obligations to authorize and permit and/or make available to Plaintiffs and putative Class members the ability to take the off-duty meal periods to which they are entitled.

107. Defendants have also failed to pay Plaintiffs and putative Class members one hour of pay for each day an off-duty meal period was denied. Defendants' conduct described herein violates Labor Code §§ 226.7 and 512.

108. Therefore, pursuant to Labor Code § 226.7(b), 512, 516, and 1198, Plaintiffs and putative Class members are entitled to compensation for the failure to authorize and permit and/or make available meal periods, plus interest, attorneys' fees, expenses and costs of suit.

109. As a proximate result of the aforementioned violations, Plaintiffs and putative Class members have been damaged in an amount according to proof at time of trial.

110. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

FIFTH CAUSE OF ACTION

**Failure to Authorize and Permit and/or Make Available Rest Periods
Pursuant to Labor Code §§ 226.7, 516, and 1198
(On Behalf of the Class)**

111. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

1 112. Defendants regularly require Plaintiffs and Class members to remain on duty during
2 rest periods. Plaintiffs and Class members are not provided with rest breaks during which they are
3 relieved of all work-related duties. Plaintiffs and Class members are often too busy with work during
4 the day to have time to take bona fide rest breaks. In the rare instance when Plaintiffs and Class
5 members attempt a rest break, such is routinely untimely and/or interrupted.

6 113. Defendants do not pay Plaintiffs and the Aggrieved Employees one hour of premium
7 pay for the missed or noncompliant rest breaks.

8 114. Labor Code § 226.7 and the applicable Wage Orders require employers to authorize
9 and permit employees to take ten minutes of net rest time per four hours or major fraction thereof of
10 work, and to pay employees their full wages during those rest periods. Unless the employee is
11 relieved of all duty during the ten-minute rest period, the employee is considered “on duty” and the
12 rest period is counted as time worked under the applicable Wage Orders.

13 115. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails
14 to authorize, permit, and/or make available a required rest period must, as compensation, pay the
15 employee one hour of pay at the employee’s regular rate of compensation for each workday that the
16 rest period was not authorized and permitted and/or not made available.

17 116. Labor Code § 1198 makes it unlawful for employers to employ employees under
18 conditions that violate the Wage Order.

19 117. Despite these requirements, Defendants knowingly and willfully refuse to perform their
20 obligations to authorize and permit and/or make available to Plaintiffs and Class members the ability
21 to take the off-duty rest breaks to which they are entitled. Defendants also fail to pay Plaintiffs and
22 Class members one hour of pay for each off-duty rest periods that they are denied.

23 118. Defendants’ conduct described herein violates Labor Code §§ 226.7. Therefore,
24 pursuant to Labor Code § 226.7(b), 516, and 1198, Plaintiffs and the Class are entitled to
25 compensation for the failure to authorize and permit and/or make available rest periods, plus interest,
26 attorneys’ fees, expenses and costs of suit.

27 119. As a proximate result of the aforementioned violations, Plaintiffs and the Class have
28 been damaged in an amount according to proof at time of trial.

120. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

SIXTH CAUSE OF ACTION
Failure to Pay Costs for Medical Examinations
Pursuant to Labor Code § 222.5
(On Behalf of the Class)

121. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

122. Defendants fail to pay all costs an employee incurs for obtaining required medical or physical examinations.

123. Labor Code § 222.5 provide:

No person shall withhold or deduct from the compensation of any employee, or require any prospective employee or applicant for employment to pay, any fee for, or cost of, any pre-employment medical or physical examination taken as a condition of employment, nor shall any person withhold or deduct from the compensation of any employee, or require any employee to pay any fee for, or costs of, medical or physical examinations required by any law or regulation of federal, state or local governments or agencies thereof.

124. Defendants fail to pay for putative Class members' costs incurs for obtaining required medical or physical examinations. Plaintiffs and putative Class members are required to undergo mandatory health screenings and temperature checks before their scheduled shifts. These employees follow Defendants' instructions and complete the health screenings but are not permitted to be clocked in for this time, and therefore Defendants do not compensate them for this time.

125. Further, Defendants have a policy and/or practice that requires putative Class members to undergo mandatory physical examinations, TB testing, and/or drug testing. Defendants determined where and when such testing and/or examination must take place but do not compensate putative Class members for the costs of these examinations, nor the time and expenses of traveling for the tests and/or examinations.

126. Defendants' failure to pay for all costs associated with these mandatory tests and examinations is a violation of Labor Code § 222.5.

127. As a proximate result of the aforementioned violations, Plaintiffs and the Class have been damaged in an amount according to proof at time of trial.

1 128. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

2 **SEVENTH CAUSE OF ACTION**
3 **Failure to Properly Compensate Sick Time**
4 **Pursuant to Labor Code §§ 246, 248.5**
5 **(On Behalf of the Class)**

6 129. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
7 herein.

8 130. Defendants fail to properly compensate Plaintiffs and Class members for their accrued
9 sick time.

10 131. Labor Code § 246 provide employee who has worked in California for 30 or more days
11 with paid sick days, to be accrued once every 30 hours worked.

12 132. Labor Code § 246(l) provides that an employer shall calculate paid sick leave for non-
13 exempt employees by using one of two calculations: “(1) Paid sick time for nonexempt employees
14 shall be calculated in the same manner as the regular rate of pay for the workweek in which the
15 employee uses paid sick time, whether or not the employee actually works overtime in that
16 workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the
17 employee’s total wages, not including overtime premium pay, by the employee’s total hours worked
18 in the full pay periods of the prior 90 days of employment.”

19 133. In addition to the hourly wages, Defendants pay putative Class members incentive pay,
20 nondiscretionary bonuses, and other forms of compensation. However, Defendants fail to incorporate
21 all relevant forms of compensation into the regular rate calculation, which in turn affects the
22 calculation of the sick leave rate. As such, Defendants fail to pay all sick leave benefits by paying
23 these at a lower rate than required, based on the hourly rate rather than the regular rate.

24 134. Defendants’ failure to properly calculate the sick time rate of pay is a violation of Labor
25 Code § 246.

26 135. As a proximate result of the aforementioned violations, Plaintiffs and the Class have
27 been damaged in an amount according to proof at time of trial.

28 136. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
 Failure to Reimburse for Necessary Business Expenses

**Pursuant to Labor Code §§ 2800, 2802
(On Behalf of the Class)**

137. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

138. Defendants fail to reimburse Plaintiffs and Class members for necessary business expenses.

139. Labor Code § 2802 provides, in relevant part:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the 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. ... For the purposes of this section, the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.

140. Defendants regularly require Plaintiffs and Class members to pay out of pocket for necessary business expenses, such as costs incurred to travel to medical facilities to complete Defendants’ mandatory physical examinations, TB testing, and/or drug testing, as referenced above. Defendants determined where and when such testing and/or examination must take place but do not compensate Class members for the same, nor the time and expenses of traveling for the tests and/or examinations.

141. Defendants also fail to reimburse Plaintiffs and Class members for costs of using their personal cellular telephones for work-related purposes. Plaintiffs and Class members are required to communicate with Defendants with relation to their employment using their personal cellular phones; however, Defendants fail to reimburse Plaintiffs and Class members for these costs.

142. Further, Defendants have a policy and/or practice of requiring Class members to report for their shifts in clean uniforms. Such uniform includes a shirt with an Eskaton logo. Defendants only provide Plaintiffs and Class members three uniform shirts but require them to work approximately five shifts per week. Class members are therefore required to launder or replace their uniforms often, and incur the costs of doing so without reimbursement.

1 143. Defendants are liable to Plaintiffs and Class members for the unreimbursed expenses
2 and civil penalties, with interest thereon. Furthermore, Plaintiffs are entitled to an award of attorneys'
3 fees and costs as set forth below.

4 144. As a proximate result of the aforementioned violations, Plaintiffs and the Class have
5 been damaged in an amount according to proof at time of trial.

6 145. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

7 **NINTH CAUSE OF ACTION**
8 **Failure to Provide Written Notice of Material Terms of Employment**
9 **Pursuant to Labor Code § 2810.5**
10 **(On Behalf of the Class)**

11 146. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
12 herein.

13 147. Defendants fail to provide the requisite written notice of material terms of employment.

14 148. Labor Code § 2810.5(a)(1)(A)-(C) provides:

15 At the time of hiring, an employer shall provide to each employee a
16 written notice, in the language the employer normally uses to
17 communicate employment-related information to the employee,
18 containing the following information: (A) The rate or rates of pay
19 and basis thereof, whether paid by the hour, shift, day, week, salary,
20 piece, commission, or otherwise, including any rates for overtime,
21 as applicable. (B) Allowances, if any, claimed as part of the
22 minimum wage, including meal or lodging allowances. (C) The
23 regular payday designated by the employer in accordance with the
24 requirements of this code.

25 149. Throughout the relevant time period, Defendants failed to provide putative Class
26 members with this written notice, resulting in a violation of the statute.

27 150. As a proximate result of the aforementioned violations, Plaintiffs and the Class have
28 been damaged in an amount according to proof at time of trial.

151. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

TENTH CAUSE OF ACTION
Failure to Provide and Maintain Accurate Itemized Wage Statements
Pursuant to Labor Code §§ 226, 1174, and 1198.5
(On Behalf of the Class)

1 152. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
2 herein.

3 153. Defendants do not provide Plaintiffs and putative Class members with accurate
4 itemized wage statements as required by California law, as a result of the meal and rest break, off-
5 the-clock work, minimum wage, and overtime violations set forth above, and Defendants' failure to
6 provide premium pay for the missed breaks.

7 154. Labor Code § 226(a) provides:

8 Every employer shall, semimonthly or at the time of each payment of
9 wages, furnish each of his or her employees, either as a detachable part
10 of the check, draft, or voucher paying the employee's wages, or
11 separately when wages are paid by personal check or cash, an accurate
12 itemized statement in writing showing (1) gross wages earned, (2) total
13 hours worked by the employee, except for any employee whose
14 compensation is solely based on a salary and who is exempt from
15 payment of overtime under subdivision (a) of Section 515 or any
16 applicable order of the Industrial Welfare Commission, (3) the number
17 of piece-rate units earned and any applicable piece rate if the employee
is paid on a piece-rate basis, (4) all deductions, provided that all
deductions made on written orders of the employee may be aggregated
and shown as one item, (5) net wages earned, (6) the inclusive dates of
the period for which the employee is paid, (7) the name of the employee
and his or her social security number, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in
effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

18 155. Labor Code § 1774(d) provides,

19 Every person employing labor in this state shall... Keep, at a central
20 location in the state or at the plants or establishments at which employees
21 are employed, payroll records showing the hours worked daily by and
22 the wages paid to, and the number of piece-rate units earned by and any
applicable piece rate paid to, employees employed at the respective
plants or establishments.

23 156. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 4-
24 2001(7) and 5-2001(7).)

25 157. Labor Code § 226(e) provides:

26 An employee suffering injury as a result of a knowing and intentional
27 failure by an employer to comply with subdivision (a) is entitled to
28 recover 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 employee for each violation in a subsequent pay period, not
exceeding an aggregate penalty of four thousand dollars (\$4,000) and is
entitled to an award of costs and reasonable attorney's fees.

158. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Order.

159. Due to the failure to pay one hour of premium pay to Plaintiffs and the Class members for each missed or noncompliant meal or rest period, along with the off-the-clock work, minimum wage, and overtime violations, and the failure to properly calculate the rate of pay for sick time, the wage statements Defendants provide their employees, including the Class members, do not accurately reflect all hours actually worked, actual gross wages earned and/or actual net wages earned, including minimum wages and overtime, and premium payments for missed meal and rest periods.

160. Defendants willfully failed to maintain accurate payroll records for the putative Class members showing the daily hours each worked, and wages paid thereto due to their failure to record and pay all hours worked. They also failed to properly record and compensate for meal and rest periods.

161. Defendants are liable to Plaintiffs and the putative Class alleged herein for the amounts described above in addition to the civil penalties set forth below, with interest thereon. Furthermore, Plaintiffs are entitled to an award of attorneys' fees and costs as set forth below, pursuant to Labor Code § 226(e).

162. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

ELEVENTH CAUSE OF ACTION
Waiting Time Penalties
Pursuant to Labor Code §§ 201-203
(On Behalf of the Class)

163. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

164. Defendants do not provide Plaintiffs and Class members with their wages when due under California law after their employment with Defendants ends, as a result of the meal and rest break, off-the-clock work, minimum wage, and overtime violations set forth above and Defendants' failure to provide premium pay for the missed breaks.

165. Labor Code § 201 provides:

1 If an employer discharges an employee, the wages earned and unpaid at
2 the time of discharge are due and payable immediately.

3 166. Labor Code § 202 provides:

4 If an employee not having a written contract for a definite period quits
5 his or her employment, his or her wages shall become due and payable
6 not later than 72 hours thereafter, unless the employee has given 72 hours
7 previous notice of his or her intention to quit, in which case the employee
8 is entitled to his or her wages at the time of quitting.

9 167. Labor Code § 203 provides, in relevant part:

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

16 168. Plaintiffs and some of the putative Class members left their employment with
17 Defendants during the statutory period, at which time Defendants owed them unpaid wages. These
18 earned, but unpaid, wages derive from time spent working for the benefit of Defendants, which went
19 unrecorded and/or uncompensated, and premium payments from missed meal and rest periods.

20 169. Defendants willfully refused and continue to refuse to pay putative Class members all
21 the wages that are due and owing to them, in the form of uncompensated time worked in excess of
22 eight hours per day and/or forty hours per week, including minimum wages and/or overtime
23 premiums, and premium payments for missed meal and rest periods, upon the end of their
24 employment as a result of Defendants' willful failure to provide Plaintiffs and the putative Class
25 members with payment for all hours worked, and failure to provide compliant meal and rest breaks.
26 As a result of Defendants' actions, Plaintiffs and putative Class members have suffered and continue
27 to suffer substantial losses, including lost earnings, and interest.

28 170. Defendants' willful failure to pay Plaintiffs and putative Class members the wages due
and owing them constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are liable
to Plaintiffs and proposed Class members for all penalties owing pursuant to Labor Code §§ 201-
203.

171. In addition, Labor Code § 203 provides that an employee's wages will continue as a penalty up to thirty days from the time the wages were due. Therefore, the Plaintiffs and putative Class members are entitled to penalties pursuant to Labor Code § 203, plus interest.

172. Wherefore, Plaintiffs and the Class request relief as hereinafter provided.

TWELFTH CAUSE OF ACTION
Violation of California Business and Professions Code §§ 17200 *et seq.*
(On Behalf of the Class)

173. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

174. The UCL prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

175. Business and Professions Code § 17204 allows a person injured by the unfair business acts or practices to prosecute a civil action for violation of the UCL.

176. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

177. Beginning at an exact date unknown to Plaintiffs, but at least since the date four years prior to the filing of this lawsuit, Defendants have committed acts of unfair competition as defined by the UCL, by engaging in the unlawful, unfair, and fraudulent business acts and practices described in this Complaint, including, but not limited to:

- a. violations of Labor Code § 1194 and IWC Wage Order 4-2001 and 5-2001 pertaining to payment of wages, including minimum wage, for all hours worked;
- b. violations of Labor Code § 510 and Wage Order 4-2001 and 5-2001 pertaining to payment of overtime premiums;
- c. violations of Labor Code §§ 226.7 and 512 and Wage Order 4-2001 and 5-2001 pertaining to meal and rest breaks;

- d. violations of Labor Code §222.5 for failure to pay costs associated with medical expenses;
- e. violations of Labor Code §246 for failure to properly calculate the rate of pay for sick time;
- f. violations of Labor Code §2802 for failure to reimburse for necessary business expenses;
- g. violations of Labor Code §22810.5 for failure to provide written notice of material terms of employment;
- h. violations of Labor Code § 226 regarding accurate, timely itemized wage statements; and
- i. violations of Labor Code §§ 201-203 pertaining to payment of all wages owed during employment and following separation from employment.

178. The violations of these laws and regulations, as well as of the fundamental California public policies protecting wages, serve as unlawful predicate acts and practices for purposes of Business and Professions Code §§ 17200 *et seq.*

179. The acts and practices described above constitute unfair, unlawful, and fraudulent business practices, and unfair competition, within the meaning of Business and Professions Code §§ 17200 *et seq.* Among other things, the acts and practices have taken from Plaintiffs and the Class wages rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

180. Business and Professions Code § 17203 provides that a court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition.

181. As a direct and proximate result of the aforementioned acts and practices, Plaintiffs and putative Class members have suffered a loss of money and property, in the form of unpaid wages, which are due and payable to them.

182. Business and Professions Code § 17203 provides that the Court may restore to any person in interest any money or property which may have been acquired by means of such unfair

1 competition. Plaintiffs and putative Class members are entitled to restitution pursuant to Business
2 and Professions Code § 17203 for all wages and payments unlawfully withheld from employees
3 during the four-year period prior to the filing of this Complaint. Plaintiffs' success in this action will
4 enforce important rights affecting the public interest and, in that regard, Plaintiffs sue on behalf of
5 themselves as well as others similarly situated. Plaintiffs and putative Class members seek and are
6 entitled to unpaid wage, declaratory relief and all other equitable remedies owing to them.

7 183. Plaintiffs herein takes upon themselves enforcement of these laws and lawful claims.
8 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a public
9 right, and it would be against the interests of justice to penalize Plaintiffs by forcing them to pay
10 attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of
11 Civil Procedure §1021.5 and otherwise.

12 184. Wherefore, Plaintiffs and the putative Class request relief as hereinafter provided.

13 **THIRTEENTH CAUSE OF ACTION**
14 **Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ §§ 204,**
15 **218, 558, 1194, 1198, 1199 (Failure to Pay for all Hours Worked)**
(On Behalf of the Aggrieved Employees)

16 185. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
17 herein.

18 186. Plaintiffs allege that Defendants willfully engaged and continue to engage in a policy
19 and practice of not compensating Aggrieved Employees for all hours worked or spent in Defendants'
20 control. Defendants regularly require Aggrieved Employees to perform uncompensated off-the-clock
21 work, including monthly mandatory trainings and/or meetings, and also fails to pay reporting time for
22 such hours worked..

23 187. Labor Code § 200 defines wages as "all amounts for labor performed by employees of
24 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
25 commission basis or method of calculation."

26 188. Labor Code § 204(a) provides that "[a]ll wages ... earned by any person in any
27 employment are due and payable twice during each calendar month...."

28 189. Labor Code § 1194(a) provides as follows:

1 Notwithstanding any agreement to work for a lesser wage, any employee
2 receiving less than the legal minimum wage or the legal overtime
3 compensation applicable to the employee is entitled to recover in a civil
4 action the unpaid balance of the full amount of this minimum wage or
overtime compensation, including interest thereon, reasonable attorneys'
fees, and costs of suit.

5 190. Labor Code § 1198 makes it unlawful for employers to employ employees under
6 conditions that violate the Wage Order.

7 191. IWC Wage Orders 4-2001 subsection 2(K) and 5-2001 subsection 2(K) define hours
8 worked as “the time during which an employee is subject to the control of an employer, and includes
9 all the time the employee is suffered or permitted to work, whether or not required to do so.”

10 192. In violation of California law, Defendants knowingly and willfully refuse to provide
11 Aggrieved Employees with compensation for all time worked. Defendants require Plaintiffs and
12 Aggrieved Employees to work off-the clock. For example, Defendants require Plaintiffs and
13 Aggrieved Employees attend a mandatory monthly training and/or meetings lasting several hours.
14 As a matter of policy, Defendants do not record such trainings and/or meetings as hours worked.
15 Defendants do not account for this off-the-clock work when compensating Plaintiffs and Aggrieved
16 Employees, resulting in widespread under-compensation of Aggrieved Employees.

17 193. Therefore, Defendants committed, and continue to commit, the acts alleged herein
18 knowingly and willfully, and in conscious disregard of the Aggrieved Employees' rights.

19 194. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
20 aggrieved employee per pay period for the initial violation of a Labor Code provision that does not
21 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
22 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
23 Employee per pay period for each subsequent violation of a Labor Code provision that does not
24 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

25 195. Plaintiffs seek to recover civil penalties from Defendants for their failure to pay for all
26 hours worked in violation of Labor Code §§ 204, 210 1194, and 1198 throughout California on behalf
27 of themselves, the State of California, and other Aggrieved Employees pursuant to Labor Code §
28 2699(f).

196. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the Labor and Workforce Development Agency (“LWDA”) with notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have passed without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

197. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs as set forth below.

198. Wherefore, Plaintiffs request relief as hereinafter provided.

FOURTEENTH CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 558.1, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, and 1198 (Failure to Pay Minimum Wage)

(On Behalf of the Aggrieved Employees)

199. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

200. Defendants fail to compensate Plaintiffs and Aggrieved Employees with at least the minimum wage for all hours worked or spent in Defendants' control because they failed to pay minimum wages for all hours worked, including the off-the-clock work described above.

201. During the applicable statutory period, Labor Code §§ 1182.12, and 1197, and the Minimum Wage Order were in full force and effect. For employers with 26 or more employees, the minimum wage for all hours worked was twelve dollars (\$12.00) per hour from January 1, 2019 to December 31, 2019, inclusive, thirteen dollars (\$13.00) per hour from January 1, 2020 to December 31, 2020, inclusive, fourteen dollars (\$14.00) per hour from January 1, 2021 to December 31, 2021, inclusive, and fifteen dollar (\$15.00) per hour since January 1, 2022.

202. IWC Wage Orders 4-2001 subsection 2(K) and 5-2001 subsection 2(K) define hours worked as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

203. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee

1 receiving less than the legal minimum wage or the legal overtime
2 compensation applicable to the employee is entitled to recover in a civil
3 action the unpaid balance of the full amount of this minimum wage or
4 overtime compensation, including interest thereon, reasonable attorneys'
5 fees, and costs of suit.

6 204. Labor Code § 1198 makes it unlawful for employers to employ employees under
7 conditions that violate the Wage Order.

8 205. Because of Defendants' policies and practices with regard to compensating Plaintiffs
9 and Aggrieved Employees, Defendants have failed to pay minimum wages as required by law.
10 Plaintiffs and the Aggrieved Employees frequently perform work off-the-clock for which they are
11 compensated below the statutory minimum wage, as determined by the IWC.

12 206. California law further requires that employers pay their employees for all hours worked
13 at the statutory or agreed upon rate. No part of the rate may be used as a credit against a minimum
14 wage obligation.

15 207. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
16 Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not
17 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
18 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
19 Employee per pay period for each subsequent violation of a Labor Code provision that does not
20 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

21 208. Plaintiffs seek to recover civil penalties from Defendants for their failure to pay
22 minimum wages in violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198
23 throughout California on behalf of themselves, the State of California, and other Aggrieved
24 Employees pursuant to Labor Code § 2699(f).

25 209. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
26 notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have
27 passed without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to
28 commence this civil action in compliance with § 2699.3(a).

209. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees
for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to

an award of attorneys' fees and costs as set forth below.

211. Wherefore, Plaintiffs request relief as hereinafter provided.

FIFTEENTH CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 510, 558, 1194, and 1198 (Failure to Pay Overtime Wages)

(On Behalf of the Aggrieved Employees)

212. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

213. Defendants do not properly compensate Aggrieved Employees with appropriate overtime premiums, including time and a half premiums based on their regular rate of pay, as required by California law.

214. Labor Code § 510(a) provides as follows:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

215. IWC Wage Order 5-2001(3)(A)(1) states that employees:

...shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than ... [o]ne and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek....

216. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys'

1 fees, and costs of suit.

2 217. Labor Code § 1198 makes it unlawful for employers to employ employees under
3 conditions that violate the Wage Order.

4 218. Labor Code § 200 defines wages as “all amounts of labor performed by employees of
5 every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
6 commission basis or other method of calculation.” All such wages are subject to California’s overtime
7 requirements, including those set forth above.

8 219. Defendants’ policies and practices of requiring Aggrieved Employees to perform work
9 off-the-clock are unlawful and because the Aggrieved Employees work more than eight hours per day
10 results in overtime violations. As a result of these unlawful policies and practices, Aggrieved
11 Employees have worked overtime hours for Defendants without being paid overtime premiums in
12 violation of the Labor Code, the applicable IWC Wage Orders, and other applicable law.

13 220. Defendants knowingly and willfully refused to perform their obligations to compensate
14 Aggrieved Employees for all premium wages for overtime work.

15 221. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
16 Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not
17 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
18 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
19 Employee per pay period for each subsequent violation of a Labor Code provision that does not
20 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

21 222. Plaintiffs seek to recover civil penalties from Defendants for their failure to pay overtime
22 wages in violation of Labor Code §§ 510, 1194, and 1198 and the applicable wage orders throughout
23 California on behalf of themselves, the State of California, and other Aggrieved Employees pursuant
24 to Labor Code § 2699(f).

25 223. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
26 notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have passed
27 without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this
28 civil action in compliance with § 2699.3(a).

224. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs as set forth below.

225. Wherefore, Plaintiffs request relief as hereinafter provided.

SIXTEENTH CAUSE OF ACTION

Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 226.7, 512, 516, 1198 (Meal Periods and Failure to Provide Premium Pay Therefrom)

(On Behalf of the Aggrieved Employees)

226. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

227. Plaintiffs and the Aggrieved Employees are routinely denied timely, full, off-duty meal periods. Plaintiffs and Aggrieved Employees are often too busy with work during the day to take a bona fide meal break by the end of the fifth hour of work. Plaintiffs and Aggrieved Employees are not provided timely, 30 minute, uninterrupted meal breaks. Additionally, when Plaintiffs and Aggrieved Employees are required to work longer shifts lasting ten hours or more, Plaintiffs and Aggrieved Employees are systematically denied a second meal break to which they are entitled. Defendants do not pay Plaintiffs and the Aggrieved Employees one hour of premium pay for the missed or noncompliant meal breaks.

228. Labor Code §§ 226.7 and 512 and the applicable Wage Orders require Defendants to authorize and permit meal periods to their employees. Labor Code §§ 226.7 and 512 and the applicable Wage Orders prohibit employers from employing an employee for more than five hours without a meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the thirty-minute meal period, the employee is considered “on duty” and the meal period is counted as time worked under the applicable Wage Orders.

229. Labor Code § 512(a) provides:

An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee

1 with a second meal period of not less than 30 minutes, except that if the total
2 hours worked is no more than 12 hours, the second meal period may be waived
3 by mutual consent of the employer and the employee only if the first meal
4 period was not waived.

5 230. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails
6 to authorize, permit, and/or make available a required meal period must, as compensation, pay the
7 employee one hour of pay at the employee's regular rate of compensation for each workday that the
8 meal period was not authorized and permitted.

9 231. Labor Code § 1198 makes it unlawful for employers to employ employees under
10 conditions that violate the Wage Order.

11 232. Despite these requirements, Defendants knowingly and willfully refuse to perform their
12 obligation to authorize and permit and/or make available to Plaintiffs and Aggrieved Employees the
13 ability to take the timely off-duty meal periods to which they are entitled. Defendants have also failed
14 to pay Plaintiffs and Aggrieved Employees one hour of pay for each meal period that they were
15 denied. Defendants' conduct described herein violates Labor Code §§ 226.7 and 512.

16 233. On information and belief, Defendants' conduct has been substantially the same at all
17 relevant times throughout the state of California.

18 234. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
19 Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not
20 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
21 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
22 Employee per pay period for each subsequent violation of a Labor Code provision that does not
23 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

24 235. Plaintiffs seek to recover civil penalties from Defendants for their violations of the meal
25 period requirements of Labor Code §§ 226.7, 512, 516, and 1198 throughout California on behalf of
26 themselves, the State of California, and other Aggrieved Employees pursuant to Labor Code §
27 2699(g)(i).

28 236. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have passed

1 without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this
2 civil action in compliance with § 2699.3(a).

3 237. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
4 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
5 award of attorneys' fees and costs as set forth below.

6 238. Wherefore, Plaintiffs request relief as hereinafter provided.

7 **SEVENTEENTH CAUSE OF ACTION**

8 **Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 226.7,
516, 1198 (Rest Breaks and Failure to Pay Premiums Therefrom)**

9 **(On Behalf of the Aggrieved Employees)**

10 239. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 240. Defendants regularly require Plaintiffs and Aggrieved Employees to remain on duty
13 during rest periods. Plaintiffs and Aggrieved Employees are not provided with rest breaks during
14 which they are relieved of all work-related duties. Plaintiffs and Aggrieved Employees are often too
15 busy with work during the day to have time to take bona fide rest breaks. In the rare instance when
16 Plaintiffs and Aggrieved Employees attempt a rest break, such is routinely untimely and/or
17 interrupted. Defendants do not pay Plaintiffs and the Aggrieved Employees one hour of premium pay
18 for the missed or noncompliant rest breaks.

19 241. Labor Code §§ 226.7 and the applicable Wage Orders require Defendants to authorize
20 and permit rest periods to their employees. Labor Code § 226.7 and the applicable Wage Orders
21 require employers to authorize and permit employees to take ten minutes of net rest time per four
22 hours or major fraction thereof of work, and to pay employees their full wages during those rest
23 periods. Unless the employee is relieved of all duty during the thirty-minute meal period and ten-
24 minute rest period, the employee is considered "on duty" and the meal or rest period is counted as
25 time worked under the applicable Wage Orders.

26 242. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer must pay
27 an employee denied a required rest period one hour of pay at the employee's regular rate of
28 compensation for each workday that the rest period was not authorized and permitted and/or not made

1 available.

2 243. Labor Code § 1198 makes it unlawful for employers to employ employees under
3 conditions that violate the Wage Order.

4 244. Despite these requirements, Defendants knowingly and willfully refuse to perform their
5 obligation to authorize and permit and/or make available to Plaintiffs and Aggrieved Employees the
6 ability to take the off-duty rest periods to which they are entitled. Defendants have also failed to pay
7 Plaintiffs and Aggrieved Employees one hour of pay for each off-duty rest period that they were
8 denied. Defendants' conduct described herein violates Labor Code § 226.7.

9 245. On information and belief, Defendants' conduct has been substantially the same at all
10 relevant times throughout the state of California.

11 246. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
12 Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not
13 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
14 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
15 Employee per pay period for each subsequent violation of a Labor Code provision that does not
16 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

17 247. Plaintiffs seek to recover civil penalties from Defendants for their violations of the rest
18 break requirements of Labor Code § 226.7, 516, and 1198 throughout California on behalf of
19 themselves, the State of California, and other Aggrieved Employees pursuant to Labor Code §
20 2699(g)(i).

21 248. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
22 notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have passed
23 without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this
24 civil action in compliance with § 2699.3(a).

25 249. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
26 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
27 award of attorneys' fees and costs as set forth below.

28 250. Wherefore, Plaintiffs request relief as hereinafter provided.

EIGHTEENTH CAUSE OF ACTION

**Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code § 222.5
(Failure to Pay Costs for Medical Examinations)
(On Behalf of the Aggrieved Employees)**

251. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

252. Defendants fail to pay all costs an employee incurs for obtaining required medical or physical examinations.

253. Labor Code § 222.5 provide:

No person shall withhold or deduct from the compensation of any employee, or require any prospective employee or applicant for employment to pay, any fee for, or cost of, any pre-employment medical or physical examination taken as a condition of employment, nor shall any person withhold or deduct from the compensation of any employee, or require any employee to pay any fee for, or costs of, medical or physical examinations required by any law or regulation of federal, state or local governments or agencies thereof.

254. Defendants fail to pay for Aggrieved Employees' costs incurs for obtaining required medical or physical examinations. Plaintiffs and Aggrieved Employees are required to undergo mandatory health screenings and temperature checks before their scheduled shifts. These employees follow Defendants' instructions and complete the health screenings but are not permitted to be clocked in for this time, and therefore Defendants do not compensate them for this time.

255. Further, Defendants have a policy and/or practice that requires putative Aggrieved Employees to undergo mandatory physical examinations, TB testing, and/or drug testing. Defendants determined where and when such testing and/or examination must take place but do not compensate Aggrieved Employees for the costs of these examinations, nor the time and expenses of traveling for the tests and/or examinations.

256. Defendants' failure to pay for all costs associated with these mandatory tests and examinations is a violation of Labor Code § 222.5.

257. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

1 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
2 Employee per pay period for each subsequent violation of a Labor Code provision that does not
3 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

4 258. Plaintiffs seek to recover civil penalties from Defendants for their failure pay all costs
5 associated with medical examinations in violation of Labor Code §§ 222.5 and the applicable wage
6 on behalf of themselves, the State of California, and other Aggrieved Employees pursuant to Labor
7 Code § 2699(f).

8 259. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with an
9 amended notice of his intention to file their claims. Plaintiffs satisfied the administrative prerequisites
10 for this civil action in compliance with § 2699.3(a).

11 260. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
12 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
13 award of attorneys' fees and costs as set forth below.

14 261. Wherefore, Plaintiffs request relief as hereinafter provided.

15 **NINETEENTH CAUSE OF ACTION**

16 **Penalties Pursuant to Labor Code § 2699(a) for Violations of California Labor Code §§ 246,
248.5 (Failure to Properly Calculate Sick Time)**

17 **(On Behalf of the Aggrieved Employees)**

18 262. Plaintiffs re-allege and incorporates the foregoing paragraphs as though fully set forth
19 herein.

20 263. Defendants fail to properly compensate Plaintiffs Aggrieved Employees for their
21 accrued sick time.

22 264. Labor Code § 246 provide employee who has worked in California for 30 or more days
23 with paid sick days, to be accrued once every 30 hours worked.

24 265. Labor Code § 246(l) provides that an employer shall calculate paid sick leave for non-
25 exempt employees by using one of two calculations: "(1) Paid sick time for nonexempt employees
26 shall be calculated in the same manner as the regular rate of pay for the workweek in which the
27 employee uses paid sick time, whether or not the employee actually works overtime in that
28 workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the

1 employee's total wages, not including overtime premium pay, by the employee's total hours worked
2 in the full pay periods of the prior 90 days of employment."

3 266. In addition to the hourly wages, Defendants pay Aggrieved Employees incentive pay,
4 nondiscretionary bonuses, and other forms of compensation. However, Defendants fail to incorporate
5 all relevant forms of compensation into the regular rate calculation, which in turn affects the
6 calculation of the sick leave rate. As such, Defendants fail to pay all sick leave benefits by paying
7 these at a lower rate than required, based on the hourly rate rather than the regular rate.

8 267. Defendants' failure to properly calculate the sick time rate of pay is a violation of Labor
9 Code § 246.

10 268. Labor Code § 248.5 provides: "If paid sick days were unlawfully withheld, the dollar
11 amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars
12 (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
13 (\$4,000), shall be included in the administrative penalty."

14 269. Plaintiffs seek to recover civil penalties from Defendants for their failure properly
15 calculate the sick time rate of pay in violation of Labor Code §§ 246 and 248.5 and the applicable
16 wage on behalf of themselves, the State of California, and other Aggrieved Employees pursuant to
17 Labor Code § 2699(f).

18 270. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with an
19 amended notice of their intention to file their claims. Plaintiffs satisfied the administrative
20 prerequisites for this civil action in compliance with § 2699.3(a).

21 271. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
22 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
23 award of attorneys' fees and costs as set forth below.

24 272. Wherefore, Plaintiffs request relief as hereinafter provided.

25 **TWENTIETH CAUSE OF ACTION**

26 **Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code §§ 2800,
27 2802 (Reimbursement for Necessary Business Expenses)**

28 **(On Behalf of the Aggrieved Employees)**

273. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth

1 herein.

2 274. Defendants fail to reimburse Plaintiffs and Aggrieved Employees for necessary
3 business expenses.

4 275. Labor Code § 2802 provides, in relevant part:

5 An employer shall indemnify his or her employee for all necessary
6 expenditures or losses incurred by the employee in direct
7 consequence of the discharge of his or her duties, or of his or her
8 obedience to the directions of the employer, even though unlawful,
9 unless the employee, at the time of obeying the directions, believed
10 them to be unlawful. ... For the purposes of this section, the term
11 “necessary expenditures or losses” shall include all reasonable costs,
12 including, but not limited to, attorney’s fees incurred by the
13 employee enforcing the rights granted by this section.

14 276. Defendants regularly require Plaintiffs and Aggrieved Employees to pay out of pocket
15 for necessary business expenses, such as costs incurred to travel to medical facilities to complete
16 Defendants’ mandatory physical examinations, TB testing, and/or drug testing, as referenced above.
17 Defendants determined where and when such testing and/or examination must take place but do not
18 compensate Aggrieved Employees for the same, nor the time and expenses of traveling for the tests
19 and/or examinations.

20 277. Defendants also fail to reimburse Plaintiffs and Aggrieved Employees for costs of using
21 their personal cellular telephones for work-related purposes. Plaintiffs and Aggrieved Employees are
22 required to communicate with Defendants with relation to their employment using their personal
23 cellular phones; however, Defendants fail to reimburse Plaintiffs and Aggrieved Employees for these
24 costs.

25 278. Further, Defendants have a policy and/or practice of requiring Aggrieved Employees
26 to report for their shifts in clean uniforms. Such uniform includes a shirt with an Eskaton logo.
27 Defendants only provide Plaintiffs and Aggrieved Employees three uniform shirts but require them
28 to work approximately five shifts per week. Aggrieved Employees are therefore required to launder
or replace their uniforms often, and incur the costs of doing so without reimbursement.

27 279. Defendants’ failure to reimburse for necessary business expenses is a violation of Labor
28 Code § 2802.

280. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees. Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

281. Plaintiffs seek to recover civil penalties from Defendants for their failure to reimburse for all necessary business expenses in violation of Labor Code §§ 2802 and the applicable wage on behalf of themselves, the State of California, and other Aggrieved Employees pursuant to Labor Code § 2699(f).

282. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with an amended notice of their intention to file their claims. Plaintiffs satisfied the administrative prerequisites for this civil action in compliance with § 2699.3(a).

283. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs as set forth below.

284. Wherefore, Plaintiffs request relief as hereinafter provided.

TWENTY-FIRST CAUSE OF ACTION

**Penalties Pursuant to Labor Code § 2699(f) for Violations of California Labor Code § 2810.5
(Written Notice of Material Terms of Employment)**

(On Behalf of the Aggrieved Employees)

285. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

286. Defendants fail to provide the requisite written notice of material terms of employment.

287. Labor Code § 2810.5(a)(1)(A)-(C) provides:

At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information: (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if any, claimed as part of the

1 minimum wage, including meal or lodging allowances. (C) The
2 regular payday designated by the employer in accordance with the
requirements of this code.

3 288. Throughout the relevant time period, Defendants failed to provide Aggrieved
4 Employees with this written notice, resulting in a violation of the statute.

5 289. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each
6 Aggrieved Employee per pay period for the initial violation of a Labor Code provision that does not
7 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.
8 Labor Code § 2699(f)(2) provides a civil penalty of two hundred dollars (\$200) for each Aggrieved
9 Employee per pay period for each subsequent violation of a Labor Code provision that does not
10 provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

11 290. Plaintiffs seek to recover civil penalties from Defendants for their provide written notice
12 of all material terms of employment in violation of Labor Code §§ 246 and the applicable wage on
13 behalf of themselves, the State of California, and other Aggrieved Employees pursuant to Labor Code
14 § 2699(f).

15 291. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with an
16 amended notice of their intention to file their claims. Plaintiffs satisfied the administrative
17 prerequisites for this civil action in compliance with § 2699.3(a).

18 292. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
19 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
20 award of attorneys' fees and costs as set forth below.

21 293. Wherefore, Plaintiffs request relief as hereinafter provided

TWENTY-SECOND CAUSE OF ACTION

22 **Penalties Pursuant to Labor Code § 2699(a) for Violations of California Labor Code § 226,**
23 **226.3, 1174, 1174.5, 1198.5 (Provide and Maintain Accurate, Itemized Wage Statements)**

24 **(On Behalf of the Aggrieved Employees)**

25 294. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
26 herein.

27 295. Defendants do not provide Plaintiffs and the Aggrieved Employees with accurate
28 itemized wage statements as required by California law, as a result of the meal and rest break, off-

1 the-clock work, minimum wage ,and overtime violations set forth above, and Defendants' failure to
2 provide premium pay for the missed breaks.

3 296. Labor Code § 226(a) provides:

4 An employer, semimonthly or at the time of each payment of wages, shall
5 furnish to his or her employee, either as a detachable part of the check, draft,
6 or voucher paying the employee's wages, or separately if wages are paid by
7 personal check or cash, an accurate itemized statement in writing showing
8 (1) gross wages earned, (2) total hours worked by the employee, except as
9 provided in subdivision (j), (3) the number of piece-rate units earned and
10 any applicable piece rate if the employee is paid on a piece-rate basis, (4)
11 all deductions, provided that all deductions made on written orders of the
12 employee may be aggregated and shown as one item, (5) net wages earned,
13 (6) the inclusive dates of the period for which the employee is paid, (7) the
14 name of the employee and only the last four digits of his or her social
15 security number or an employee identification number other than a social
16 security number, (8) the name and address of the legal entity that is the
17 employer ... and (9) all applicable hourly rates in effect during the pay
18 period and the corresponding number of hours worked at each hourly rate
19 by the employee ... The deductions made from payment of wages shall be
20 recorded in ink or other indelible form, properly dated, showing the month,
21 day, and year, and a copy of the statement and the record of the deductions
22 shall be kept on file by the employer for at least three years at the place of
23 employment or at a central location within the State of California.

24 297. The IWC Wage Orders also establishes this requirement. (See IWC Wage Orders 5-
25 2001(7) and 4-2001(7)).

26 298. Labor Code § 226(e)(1) provides:

27 An employee suffering injury as a result of a knowing and intentional failure
28 by an employer to comply with subdivision (a) is entitled to recover 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 employee
for each violation in a subsequent pay period, not to exceed an aggregate
penalty of four thousand dollars (\$4,000), and is entitled to an award of
costs and reasonable attorney's fees.

29 299. Labor Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject
to a civil penalty in the amount of two hundred fifty dollars (\$250) per
employee per violation in an initial citation and one thousand dollars
(\$1,000) per employee for each violation in a subsequent citation, for which
the employer fails to provide the employee a wage deduction statement or
fails to keep the records required in subdivision (a) of Section 226. The civil
penalties provided for in this section are in addition to any other penalty

provided by law.

300. Labor Code § 1774(d) provides,
Every person employing labor in this state shall... Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments.

301. Labor Code § 1774.5 provides,
Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

302. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 4-2001(7) and 5-2001(7).)

303. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Order.

304. Due to the failure to pay one hour of premium pay to Plaintiffs and the Aggrieved Employees for each missed or noncompliant meal or rest period, along with the off-the-clock work, minimum wage, and overtime violations, and the failure to properly calculate the rate of pay for sick time, the wage statements Defendants provide their employees, including the Aggrieved Employees, do not reflect the actual gross wages earned, actual net wages earned, or actual hours worked.

305. Defendants willfully failed to maintain accurate payroll records for the putative Class members showing the daily hours each worked, and wages paid thereto due to their failure to record and pay all hours worked. They also failed to properly record and compensate for meal and rest periods.

306. Accordingly, Defendants have knowingly and willfully failed to provide timely, accurate itemized wage statements to Plaintiffs and the Aggrieved Employees in accordance with Labor Code §§ 226, 226.3 and the IWC Wage Order.

307. On information and belief, Defendants' conduct has been substantially the same at all relevant times throughout the state of California.

1 308. Labor Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty to
2 be assessed and collected by the LWDA for a violation of the Labor Code on behalf of himself or
3 herself and other current or former employees pursuant to the procedures set forth in Labor Code §
4 2699.3. Labor Code § 2699(a) provides:

5 Notwithstanding any other provision of law, any provision of this code
6 that provides for a civil penalty to be assessed and collected by the Labor
7 and Workforce Development Agency or any of its departments,
8 divisions, commissions, boards, agencies or employees, for a violation
9 of this code, may, as an alternative, be recovered through a civil action
brought by an aggrieved employee on behalf of himself or herself and
other current or former employees.

10 309. Plaintiffs seek to recover civil penalties from Defendants pursuant to Labor Code §
11 2699(a) for each failure by Defendants, alleged above, to maintain and provide Plaintiffs and
12 Aggrieved Employees an accurate, itemized wage statement in compliance with Labor Code §
13 226(a), 1174, and 1198 in the amounts established by Labor Code § 226(e) and 1174.5. Plaintiffs
14 seek such penalties as an alternative to the penalties available under Labor Code § 226(e), as prayed
for herein.

15 310. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
16 notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have passed
17 without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to commence this
18 civil action in compliance with § 2699.3(a).

19 311. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees for
20 the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an
21 award of attorneys' fees and costs as set forth below.

22 312. Wherefore, Plaintiffs request relief as hereinafter provided.

23 **TWENTY-THIRD CAUSE OF ACTION**

24 **Penalties Pursuant to Labor Code § 2699(a) for Violations of California Labor Code §§ 201-**
25 **203, 256 (Waiting Time Penalties)**

26 **(On Behalf of the Aggrieved Employees)**

27 313. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
28 herein.

1 314. Defendants do not provide Plaintiffs and the Aggrieved Employees with their wages
2 when due under California law after their employment with Defendants ends, as a result of the
3 meal and rest break, off-the-clock work, minimum wage, and overtime violations set forth above
4 and Defendants' failure to provide premium pay for the missed breaks.

5 315. Labor Code § 201 provides:

6 If an employer discharges an employee, the wages earned and unpaid at the
7 time of discharge are due and payable immediately.

8 316. Labor Code § 202 provides:

9 If an employee not having a written contract for a definite period quits his
10 or her employment, his or her wages shall become due and payable not later
11 than 72 hours thereafter, unless the employee has given 72 hours previous
12 notice of his or her intention to quit, in which case the employee is entitled
13 to his or her wages at the time of quitting.

14 317. Labor Code § 203 provides, in relevant part:

15 If an employer willfully fails to pay, without abatement or reduction, in
16 accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any
17 wages of an employee who is discharged or who quits, the wages of the
18 employee shall continue as a penalty from the due date thereof at the same
19 rate until paid or until an action therefor is commenced; but the wages shall
20 not continue for more than 30 days.

21 318. Plaintiffs and the Aggrieved Employees have left their employment with Defendants
22 during the statutory period, at which time Defendants owed them unpaid wages for premium pay for
23 missed or noncompliant meal and rest periods.

24 319. Defendants willfully refused and continue to refuse to pay Plaintiffs and the Aggrieved
25 Employees all the wages that are due and owing them, in the form of meal and rest period premium
26 pay and other wages due and owing, upon the end of their employment. As a result of Defendants'
27 actions, Plaintiffs and the Aggrieved Employees have suffered and continue to suffer substantial
28 losses, including lost earnings, and interest.

 320. Defendants' willful failure to pay Plaintiffs and the Aggrieved Employees the wages
due and owing them constitutes a violation of Labor Code §§ 201-203. In addition, § 203 provides
that an employee's wages will continue as a penalty up to thirty days from the time the wages were
due. Plaintiffs seek to recover PAGA penalties, costs, and attorneys' fees pursuant to this section.

 321. On information and belief, Defendants' conduct has been substantially the same at all

1 relevant times throughout the state of California.

2 322. Labor Code § 2699(a) permits an Aggrieved Employee to recover any civil penalty to
3 be assessed and collected by the LWDA for a violation of the Labor Code on behalf of himself or
4 herself and other current or former employees pursuant to the procedures set forth in Labor Code §
5 2699.3. Labor Code § 2699(a) provides:

6 Notwithstanding any other provision of law, any provision of this code that
7 provides for a civil penalty to be assessed and collected by the Labor and
8 Workforce Development Agency or any of its departments, divisions,
9 commissions, boards, agencies or employees, for a violation of this code,
may, as an alternative, be recovered through a civil action brought by an
aggrieved employee on behalf of himself or herself and other current or
former employees.

10 323. Labor Code § 256 provide: “The Labor Commissioner shall impose a civil penalty in
11 an amount not exceeding 30 days pay as waiting time under the terms of Section 203.”

12 324. Plaintiffs seek civil penalties pursuant to Labor Code § 2699(a) for each failure by
13 Defendants, as alleged above, to timely pay all wages owed to Plaintiffs and Aggrieved Employees
14 in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code § 203 and §
15 256. Plaintiffs seeks such penalties as an alternative to the penalties available under Labor Code §
16 203, as prayed for herein.

17 325. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs provided the LWDA with
18 notice, and amended notice, of their intention to file their claims. Sixty-five calendar days have
19 passed without notice from the LWDA. Plaintiffs satisfied the administrative prerequisites to
20 commence this civil action in compliance with § 2699.3(a).

21 326. Defendants are liable to Plaintiffs, the State of California, and Aggrieved Employees
22 for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to
23 an award of attorneys’ fees and costs as set forth below.

24 327. Wherefore, Plaintiffs request relief as hereinafter provided.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs prays for relief as follows:

27 1. Damages and restitution according to proof at trial for all unpaid wages and other
28

injuries, as provided by the California Labor Code and California Business and Professions Code;

2. For a declaratory judgment that Defendants have violated the California Labor Code and public policy as alleged herein;
3. For a declaratory judgment that Defendants have violated California Business and Professions Code §§ 17200 *et seq.*, as a result of the aforementioned violations of the California Labor Code and of California public policy protecting wages;
4. For an equitable accounting to identify, locate, and restore to all current and former employees the wages they are due, with interest thereon;
5. For an order awarding Plaintiffs and putative Class members compensatory damages, including lost wages, earnings, liquidated damages, and other employee benefits, restitution, recovery of all money, actual damages, punitive damages, and all other sums of money owed to Plaintiffs and Class members, together with interest on these amounts, according to proof;
6. For an order awarding civil penalties to the full extent provided for by the PAGA;
7. For an order awarding Plaintiffs and the Class members civil penalties pursuant to the California Labor Code, and provisions cited herein, with interest thereon;
8. For an award of reasonable attorneys' fees as provided by the California Labor Code, including Labor Code § 2699(g)(1), California Code of Civil Procedure § 1021.5, California Labor Code § 218.5, and/or other applicable law;
9. For all costs of suit;
10. For interest on any damages and/or penalties awarded, as provided by applicable law; and
11. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: September 13, 2022



Carolyn H. Cottrell

Ori Edelstein

Michelle S. Lim

Kristabel Sandoval

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

*Attorneys for Plaintiffs, on behalf of the
Putative Class, the State of California
and Aggrieved Employees*

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Respectfully submitted,

Date: September 13, 2022


Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
Kristabel Sandoval
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

52
SECOND AMENDED CLASS ACTION COMPLAINT
Khayo Sishi v. Eskaton Properties Incorporated

1 **PROOF OF SERVICE**

2
3 I, the undersigned, declare that I am, and was at the time of service of the papers herein
4 referred to, over the age of 18 years and not a party to the within action or proceeding. I am
employed at Schneider Wallace Cottrell Konecky LLP located at 2000 Powell Street, Suite 1400,
Emeryville, California 94608.

5 On September 13, 2022 I served the following document(s):

6 **SECOND AMENDED COMPLAINT**

7 on the following person(s) listed below, as follows:

8
9 Mollie M. Burks (SBN 222112)
10 Linh T. Hua (SBN 247419)
11 Christie E. Yang (SBN 328901)
12 GORDON REES SCULLY
13 MANSUKHANI, LLP
14 633 West Fifth Street, 52nd Floor
Los Angeles CA 90071
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Attorneys for Defendants

**ESKATON PROPERTIES
INCORPORATED and CALIFORNIA
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Email: mburks@grsm.com
Email: lhua@grsm.com
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15
16 ☒ **BY ELECTRONIC SERVICE:** Eugene Huffman, Paralegal, has submitted an
17 electronic version of the above-referenced document to the person(s) whose email
18 address(es) are known to me as listed above.

19 I declare under penalty of perjury under the laws of the State of California and the
United States of America that the foregoing is true and correct.

20 Executed on September 13, 2022, in Los Angeles, California.

21
22 
23 Eugene Huffman

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA Branch Name: Hayward Hall of Justice Mailing Address: 24405 Amador Street City, State and Zip Code: Hayward CA 94544	
SHORT TITLE: Sishi VS Eskaton Properties Incorporated NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: RG21100764

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of ALAMEDA. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: One Legal ALA
 Reference Number: 18913759
 Submission Number: 22AA00115536
 Court Received Date: 09/13/2022
 Court Received Time: 3:29 pm
 Case Number: RG21100764
 Case Title: Sishi VS Eskaton Properties Incorporated
 Location: Hayward Hall of Justice
 Case Type: Civil Unlimited
 Case Category: Other Employment Complaint Case
 Jurisdictional Amount: Over \$25,000
 Notice Generated Date: 09/22/2022
 Notice Generated Time: 12:01 pm

Documents Electronically Filed/Received

Status

Amended Complaint

Accepted

Comments

Submitter's Comments: Second Amended Complaint - Filed per Stip and Order Granting Filed 090822

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: One Legal ALA
 Contact: One Legal
 Phone: