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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF RIVERSIDE

OKEEM SMITH, on behalf of the State of
California, as a private attorney general,

Plaintiff,

vs.

UNITED NATURAL FOODS WEST, INC.,
a Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. **CVRI 21 03046**

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
221, 226(a), 226.7, 233, 246, 351, 510,
512, 558(a)(1)(2), 1194, 1197, 1197.1,
1198, 2802, California Code of
Regulations, Title 8, Section 11040,
Subdivision 5(A)-(B), California Code of
Regulations, Title 8, Section 11070(14)
(Failure to Provide Seating)

1 Plaintiff Okeem Smith (“PLAINTIFF”), on behalf of the people of the State of California
2 and as an “aggrieved employee” acting as a private attorney general under the Labor Code
3 Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on information
4 and belief, except for his own acts and knowledge which are based on personal knowledge, the
5 following:

6 INTRODUCTION

7 1. PLAINTIFF brings this action against Defendant United Natural Foods West,
8 Inc. (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties for
9 himself, and on behalf of all current and former aggrieved employees that worked for
10 DEFENDANT. PLAINTIFF does **not seek to recover anything other than penalties as**
11 **permitted by California Labor Code § 2699**. To the extent that statutory violations are
12 mentioned for wage violations, PLAINTIFF does not seek underlying general and/or special
13 damages for those violations, but simply the civil penalties permitted by California Labor
14 Code § 2699.

15 2. California has enacted the PAGA to permit an individual to bring an action on
16 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and
17 sole nature of this action.

18 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
19 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA –
20 that is, penalties and any other relief the Court deems proper pursuant to the PAGA.
21 Nothing in this complaint should be construed as attempting to obtain any relief that would
22 not be available in a PAGA-only action.

23 THE PARTIES

24 4. Defendant United Natural Foods West, Inc. (“DEFENDANT”) is a
25 Corporation that at all relevant times mentioned herein conducted and continues to conduct
26 substantial business in the state of California.

27 5. DEFENDANT provides wholesale food services.
28

1 6. PLAINTIFF has been employed by DEFENDANT in California from June of
2 2008 and has been at all times classified by DEFENDANT as a non-exempt employee, paid
3 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
4 minimum and overtime wages due for all time worked.

5 7. PLAINTIFF, and such persons that may be added from time to time who
6 satisfy the requirements and exhaust the administrative procedures under the Private
7 Attorney General Act, brings this Representative Action on behalf of the State of California
8 with respect to himself and all individuals who are or previously were employed by
9 DEFENDANT in California and who were classified as non exempt employees
10 (“AGGRIEVED EMPLOYEES”) during the time period of March 11, 2020 until a date as
11 determined by the Court (the "PAGA PERIOD").

12 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES
13 presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this
14 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
15 DEFENDANT’s violation of California Labor Code §§201, 202, 203, 204 *et seq.*, 210, 221,
16 226(a), 226.7, 233, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,
17 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California
18 Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and the
19 applicable Wage Order(s). Based upon the foregoing, PLAINTIFF and all AGGRIEVED
20 EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et seq.*

21 9. The true names and capacities, whether individual, corporate, subsidiary,
22 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
23 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
24 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
25 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
26 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
27 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
28 50, inclusive, are responsible in some manner for one or more of the events and happenings

1 that proximately caused the injuries and damages hereinafter alleged.

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

11 **THE CONDUCT**

12 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
13 was required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time
14 worked, meaning the time during which an employee is subject to the control of an
15 employer, including all the time the employee is suffered or permitted to work.
16 DEFENDANT required PLAINTIFF and other AGGRIEVED EMPLOYEES to work
17 without paying them for all the time they were under DEFENDANT's control. Specifically,
18 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed
19 to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
20 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
21 break. Additionally, PLAINTIFF and the other AGGRIEVED EMPLOYEES would clock
22 out of DEFENDANT's timekeeping system, in order to perform additional work for
23 DEFENDANT as required to meet DEFENDANT's job requirements. Also,
24 DEFENDANT, as a matter of established company policy and procedure, administered a
25 uniform practice of rounding the actual time worked and recorded by PLAINTIFF and the
26 AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT, so that during the
27 course of their employment, PLAINTIFF and the other AGGRIEVED EMPLOYEES were
28 paid less than they would have been paid had they been paid for actual recorded time rather

1 than “rounded” time. DEFENDANT’s policy and practice not to pay PLAINTIFF and other
2 AGGRIEVED EMPLOYEES for all time worked, is evidenced by DEFENDANT’s business
3 records. As a result, DEFENDANT failed to pay PLAINTIFF and other AGGRIEVED
4 EMPLOYEES the proper minimum and overtime wages.

5 12. In addition, State and federal law provides that employees must be paid
6 overtime at one-and-one-half times their “regular rate of pay.” PLAINTIFF and other
7 AGGRIEVED EMPLOYEES were compensated at an hourly rate plus incentive pay that is
8 tied to specific elements of an employee’s performance.

9 13. The second component of PLAINTIFF’s and other AGGRIEVED
10 EMPLOYEES’ compensation was DEFENDANT’s non-discretionary incentive program
11 that paid PLAINTIFF and other AGGRIEVED EMPLOYEES incentive wages based on
12 their performance for DEFENDANT. The non-discretionary incentive program provided all
13 employees paid on an hourly basis with incentive compensation when the employees met the
14 various performance goals set by DEFENDANT. However, when calculating the regular
15 rate of pay in order to pay overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES,
16 DEFENDANT failed to include the incentive compensation as part of the employees’
17 “regular rate of pay” for purposes of calculating overtime pay. As a matter of law, the
18 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES
19 must be included in the “regular rate of pay.” The failure to do so has resulted in an
20 underpayment of overtime compensation to PLAINTIFF and other AGGRIEVED
21 EMPLOYEES by DEFENDANT.

22 14. DEFENDANT underpaid sick pay wages to PLAINTIFF and other
23 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay.
24 Specifically, PLAINTIFF and other non-exempt employees regularly earn non-discretionary
25 remuneration, including but not limited to, incentives, shift differential pay, state of
26 emergency bonuses and bonuses. Rather than pay sick pay at the regular rate of pay,
27 DEFENDANT underpaid sick pay to PLAINTIFF and other AGGRIEVED EMPLOYEES
28 at their base rates of pay.

1 15. As a result of their rigorous work schedules, PLAINTIFF and other
2 AGGRIEVED EMPLOYEES were from time to time unable to take thirty (30) minute off
3 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
4 and other AGGRIEVED EMPLOYEES were required from time to time to perform work as
5 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving
6 a meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
7 AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in
8 which these employees were required by DEFENDANT to work ten (10) hours of work.
9 PLAINTIFF and other AGGRIEVED EMPLOYEES therefore forfeited meal breaks without
10 additional compensation and in accordance with DEFENDANT's corporate policy and
11 practice.

12 16. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED
13 EMPLOYEES were also required from time to time to work in excess of four (4) hours
14 without being provided ten (10) minute rest periods. Further, these employees were denied
15 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)
16 to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
17 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
18 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
19 hours or more from time to time. PLAINTIFF and other AGGRIEVED EMPLOYEES were
20 also not provided with one hour wages in lieu thereof. Additionally, the applicable
21 California Wage Order requires employers to provide employees with off-duty rest periods,
22 which the California Supreme Court defined as time during which an employee is relieved
23 from all work related duties and free from employer control. In so doing, the Court held that
24 the requirement under California law that employers authorize and permit all employees to
25 take rest period means that employers must relieve employees of all duties and relinquish
26 control over how employees spend their time which includes control over the locations
27 where employees may take their rest period. Employers cannot impose controls that prohibit
28 an employee from taking a brief walk - five minutes out, five minutes back. Here,

1 DEFENDANT's policy restricted PLAINTIFF and other AGGRIEVED EMPLOYEES from
2 unconstrained walks and was unlawful based on DEFENDANT's rule which stated
3 PLAINTIFF and other AGGRIEVED EMPLOYEES could not leave the work premises
4 during their rest period. As a result of PLAINTIFF being required to be present on the
5 premises he was from time to time required by DEFENDANT to work during what should
6 of been her off duty rest period.

7 17. During the PAGA PERIOD, DEFENDANT failed to accurately record and
8 pay PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
9 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
10 DEFENDANT is required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for
11 all time worked, meaning the time during which an employee was subject to the control of
12 an employer, including all the time the employee was permitted or suffered to permit this
13 work. DEFENDANT required these employees to work off the clock without paying them
14 for all the time they were under DEFENDANT's control, including, but not limited to, time
15 spent undergoing mandatory drug testing or any other testing and/or examination required as
16 a condition of employment. Moreover, PLAINTIFF worked through his various meal and
17 rest breaks as he was often interrupted by customers and their various needs. This work also
18 was done off-the-clock. As such, DEFENDANT knew or should have known that
19 PLAINTIFF and the other AGGRIEVED EMPLOYEES were under compensated for all
20 time worked. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited
21 time worked by working without their time being accurately recorded and without
22 compensation at the applicable minimum wage and overtime wage rates. To the extent that
23 the time worked off the clock did not qualify for overtime premium payment, DEFENDANT
24 failed to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab.
25 Code §§ 1194, 1197, and 1197.1.

26 18. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
27 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses
28 incurred by PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of

1 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
2 2802, employers are required to indemnify employees for all expenses incurred in the course
3 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer
4 shall indemnify his or her employee for all necessary expenditures or losses incurred by the
5 employee in direct consequence of the discharge of his or her duties, or of his or her
6 obedience to the directions of the employer, even though unlawful, unless the employee, at
7 the time of obeying the directions, believed them to be unlawful."

8 19. In the course of their employment PLAINTIFF and other AGGRIEVED
9 EMPLOYEES as a business expense, were required by DEFENDANT to use their own
10 personal cellular phones as a result of and in furtherance of their job duties as employees for
11 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
12 associated with the use of their personal cellular phones for DEFENDANT's benefit. As a
13 result, in the course of their employment with DEFENDANT, PLAINTIFF and other
14 AGGRIEVED EMPLOYEES incurred unreimbursed business expenses which included, but
15 were not limited to, costs related to the use of their personal cellular phones all on behalf of
16 and for the benefit of DEFENDANT.

17 20. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
18 other AGGRIEVED EMPLOYEES with complete and accurate wage statements which
19 failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code
20 § 226 provides that every employer shall furnish each of his or her employees with an
21 accurate itemized wage statement in writing showing, among other things, gross wages
22 earned and all applicable hourly rates in effect during the pay period and the corresponding
23 amount of time worked at each hourly rate. PLAINTIFF and AGGRIEVED EMPLOYEES
24 were paid on an hourly basis. As such, the wage statements should reflect all applicable
25 hourly rates during the pay period and the total hours worked, and the applicable pay period
26 in which the wages were earned pursuant to California Labor Code Section 226(a). The
27 wage statements DEFENDANT provided to PLAINTIFF and other AGGRIEVED
28 EMPLOYEES failed to identify such information. Specifically, DEFENDANT violates

1 Section 226 by failing to identify the rates of pay and number of hours worked, including for
2 the “Misc Payment” and “Other” items of pay. Aside, from the violations listed above in this
3 paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that
4 lists all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT
5 from time to time provided PLAINTIFF and the other AGGRIEVED EMPLOYEES with
6 wage statements which violated Cal. Lab. Code § 226.

7 21. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer
8 to collect or receive from an employee any part of wages theretofore paid by said employer
9 to said employee.” DEFENDANT fails to pay all compensation due to PLAINTIFF and
10 other AGGRIEVED EMPLOYEES, makes unlawful deductions from compensation payable
11 to PLAINTIFF and other AGGRIEVED EMPLOYEES, fails to disclose all aspects of the
12 deductions from compensation payable to PLAINTIFF and other AGGRIEVED
13 EMPLOYEES, and thereby fails to pay these employees all wages due at each applicable
14 pay period and upon termination. PLAINTIFF and the AGGRIEVED EMPLOYEES seek
15 recovery of all illegal deductions from wages according to proof, related penalties, interest,
16 attorney fees and costs.

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

24 23. In violation of the applicable sections of the California Labor Code and the
25 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
26 intentionally and knowingly failed to compensate PLAINTIFF and the other AGGRIEVED
27 EMPLOYEES for missed meal and rest periods. This policy and practice of DEFENDANT
28 is intended to purposefully avoid the payment for all time worked as required by California

1 law which allows DEFENDANT to illegally profit and gain an unfair advantage over
2 competitors who complied with the law. To the extent equitable tolling operates to toll
3 claims by the AGGRIEVED EMPLOYEES against DEFENDANT, the PAGA PERIOD
4 should be adjusted accordingly.

5 24. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
6 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which
7 failed to accurately calculate and record all missed meal and rest periods by PLAINTIFF and
8 other AGGRIEVED EMPLOYEES. The proper recording of these employees' missed meal
9 and rest breaks is the DEFENDANT's burden. As a result of DEFENDANT's intentional
10 disregard of the obligation to meet this burden, DEFENDANT failed to properly calculate
11 and/or pay all required compensation for work performed by the AGGRIEVED
12 EMPLOYEES and violated the California Labor Code and regulations promulgated
13 thereunder as herein alleged.

14 25. In violation of the applicable sections of the California Labor Code and the
15 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
16 DEFENDANT as a matter of company policy, practice and procedure, intentionally and
17 knowingly failed to provide PLAINTIFF and the other AGGRIEVED EMPLOYEES
18 suitable seating when the nature of these employees' work reasonably permitted sitting.

19 26. DEFENDANT knew or should have known that PLAINTIFF and other
20 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit
21 when it did not interfere with the performance of their duties, and that DEFENDANT did
22 not provide suitable seating and/or did not allow them to sit when it did not interfere with
23 the performance of their duties.

24 27. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
25 EMPLOYEES, DEFENDANT violated California Labor Code Section 1198 and Wage
26 Order 4-2001, Section 14 by failing to provide suitable seats.

27 28. All of the conduct and violations alleged herein occurred during the PAGA
28 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect

1 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations
2 that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*
3 2018 AJDAR 12157 (Certified for Publication 12/19/18).

4 **JURISDICTION AND VENUE**

5 29. This Court has jurisdiction over this Action pursuant to California Code of
6 Civil Procedure, Section 410.10.

7 30. Venue is proper in this Court pursuant to California Code of Civil Procedure,
8 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
9 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
10 facilities in this County and/or conducts substantial business in this County, and (ii)
11 committed the wrongful conduct herein alleged in this County against PLAINTIFF and the
12 AGGRIEVED EMPLOYEES.

13 **FIRST CAUSE OF ACTION**

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

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

16 **(By PLAINTIFF and Against All Defendants)**

17 31. PLAINTIFF realleges and incorporates by this reference, as though fully set
18 forth herein, the prior paragraphs of this Complaint.

19 32. PAGA is a mechanism by which the State of California itself can enforce state
20 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
21 the state's labor law enforcement agencies. An action to recover civil penalties under
22 PAGA is fundamentally a law enforcement action designed to protect the public and not to
23 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
24 but to create a means of "deputizing" citizens as private attorneys general to enforce the
25 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
26 public interest to allow aggrieved employees, acting as private attorneys general to recover
27 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
28

1 claims cannot be subject to arbitration.

2 33. PLAINTIFF, and such persons that may be added from time to time who
3 satisfy the requirements and exhaust the administrative procedures under the Private
4 Attorney General Act, brings this Representative Action on behalf of the State of California
5 with respect to himself and all individuals who are or previously were employed by
6 DEFENDANT in California and who were classified as non exempt employees
7 ("AGGRIEVED EMPLOYEES") during the time period of March 11, 2020 until a date as
8 determined by the Court (the "PAGA PERIOD").

9 34. On March 11, 2021, PLAINTIFF gave written notice by electronic mail to the
10 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
11 employer of the specific provisions of this code alleged to have been violated as required by
12 Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations
13 to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
14 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
15 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

16 35. The policies, acts and practices heretofore described were and are an unlawful
17 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
18 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
19 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,
20 (d) failed to pay overtime and sick pay wages, and (e) failed to reimburse employees for
21 required expenses, all in violation of the applicable Labor Code sections listed in Labor
22 Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 233, 246, 351, 510, 512,
23 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,
24 Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1
25 1070(14) (Failure to Provide Seating), and the applicable Wage Order(s), and thereby gives
26 rise to civil penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of

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

1 only civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as
2 the representative of the State of California for the illegal conduct perpetrated on
3 PLAINTIFF and the other AGGRIEVED EMPLOYEES.

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
7 severally, as follows:

8 1. On behalf of the State of California and with respect to all AGGRIEVED
9 EMPLOYEES:

10 A) Recovery of civil penalties as prescribed by the Labor Code Private
11 Attorneys General Act of 2004; and,

12 B) An award of attorneys' fees and cost of suit, as allowable under the
13 law, including, but not limited to, pursuant to Labor Code §2699.

14 Dated: July 8, 2021 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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16 By: /s/ Norman Blumenthal
17 Norman B. Blumenthal
18 Attorneys for Plaintiff
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