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ELECTRONICALLY

FILED

Superior Court of California,
County of San Francisco

06/16/2022

Clerk of the Court

BY: BOWMAN LIU

Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

AL-JERONE GREEN, TIFFANY
MANJARES, and DOANYA PUCCINI,
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

FIVE KEYS SCHOOLS AND PROGRAMS,
a California Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. CGC-21-596165

CONSOLIDATED CLASS ACTION

COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
10. VIOLATION OF GOVT. CODE § 12940-RACIAL HARASSMENT; and,
11. VIOLATION OF GOVT. CODE § 12940-RACIAL DISCRIMINATION;
12. VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT CAL. LAB. CODE § 2698, *et seq.*

DEMAND FOR A JURY TRIAL

1 Plaintiffs Al-Jerone Green, Tiffany Manjares, and Doanya Puccini (“PLAINTIFFS”),
2 individuals, on behalf of themselves and all other similarly situated current and former
3 employees allege on information and belief, except for their own acts and knowledge which are
4 based on personal knowledge, the following:

5
6 **THE PARTIES**

7 1. Defendant Five Keys Schools and Programs (“DEFENDANT”) is a California
8 Corporation that at all relevant times mentioned herein conducted and continues to conduct
9 substantial business in the state of California.

10 2. DEFENDANT provides adult education.

11 3. Plaintiff Green was employed by DEFENDANT in California from June of 2020
12 until February of 2021 and was at all times classified by DEFENDANT as a non-exempt
13 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
14 payment of minimum and overtime wages due for all time worked.

15 4. Plaintiff Manjares was employed by DEFENDANT in California from September
16 of 2020 until February of 2021 and was at all times classified by DEFENDANT as a non-
17 exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest
18 periods and payment of minimum and overtime wages due for all time worked.

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

23 6. PLAINTIFFS bring this Class Action on behalf of themselves and a California
24 class, defined as all individuals who are or previously were employed by DEFENDANT in
25 California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time
26 during the period beginning four (4) years prior to the filing of this Complaint and ending on
27 the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in
28 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million

1 dollars (\$5,000,000.00).

2 7. PLAINTIFFS bring this Class Action on behalf of themselves and a
3 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
4 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and
5 practice which failed to lawfully compensate these employees. DEFENDANT's policy and
6 practice alleged herein was an unlawful, unfair and deceptive business practice whereby
7 DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members
8 of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA
9 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the
10 named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been
11 economically injured by DEFENDANT's past and current unlawful conduct, and all other
12 appropriate legal and equitable relief.

13 8. The true names and capacities, whether individual, corporate, subsidiary,
14 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
15 unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names
16 pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint
17 to allege the true names and capacities of Does 1 through 50, inclusive, when they are
18 ascertained. PLAINTIFFS are informed and believe, and based upon that information and
19 belief allege, that the Defendants named in this Complaint, including DOES 1 through 50,
20 inclusive, are responsible in some manner for one or more of the events and happenings that
21 proximately caused the injuries and damages hereinafter alleged.

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

1 Defendants' agents, servants and/or employees.

2
3 **THE CONDUCT**

4 10. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
5 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
6 meaning the time during which an employee is subject to the control of an employer, including
7 all the time the employee is suffered or permitted to work. DEFENDANT required
8 PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all the
9 time they were under DEFENDANT's control. Specifically, DEFENDANT required
10 PLAINTIFFS to work while clocked out during what was supposed to be PLAINTIFFS' off-
11 duty meal break. PLAINTIFFS were from time to time interrupted by work assignments while
12 clocked out for what should have been PLAINTIFFS' off-duty meal break. Additionally, before
13 clocking in, PLAINTIFFS and CALIFORNIA CLASS Members, were required to wait in-line
14 for a COVID-19 screening, one which included an on-line questionnaire about their current set
15 of symptoms before being each employee was scanned and screened for a fever. PLAINTIFFS
16 were not allowed to clock in until this process was completed. Also, DEFENDANT, as a matter
17 of established company policy and procedure, administered a uniform practice of rounding the
18 actual time worked and recorded by PLAINTIFFS and CALIFORNIA CLASS Members,
19 always to the benefit of DEFENDANT, so that during the course of their employment,
20 PLAINTIFFS and CALIFORNIA CLASS Members were paid less than they would have been
21 paid had they been paid for actual recorded time rather than "rounded" time. DEFENDANT's
22 policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all
23 time worked, is evidenced by DEFENDANT's business records. As a result, DEFENDANT
24 failed to pay PLAINTIFFS and other CALIFORNIA CLASS Members the proper minimum and
25 overtime wages.

26 11. In addition, State and federal law provides that employees must be paid overtime
27 and meal and rest break premiums at one-and-one-half times their "regular rate of pay."
28 PLAINTIFFS and other CALIFORNIA CLASS Members were compensated at an hourly rate

1 plus incentive pay that is tied to specific elements of an employee's performance.

2 12. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
3 Members' compensation was DEFENDANT's non-discretionary incentive program that paid
4 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their
5 performance for DEFENDANT. The non-discretionary incentive program provided all
6 employees paid on an hourly basis with incentive compensation when the employees met the
7 various performance goals set by DEFENDANT. However, when calculating the regular rate
8 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFFS and other
9 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation
10 as part of the employees' "regular rate of pay" for purposes of calculating overtime and meal
11 and rest break premium pay. As a matter of law, the incentive compensation received by
12 PLAINTIFFS and other CALIFORNIA CLASS Members must be included in the "regular rate
13 of pay." The failure to do so has resulted in an underpayment of overtime compensation and
14 meal and rest break premium pay to PLAINTIFFS and other CALIFORNIA CLASS Members
15 by DEFENDANT.

16 13. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other
17 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in
18 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFFS and other non-exempt
19 employees regularly earn non-discretionary remuneration, including but not limited to,
20 incentives, shift differential pay, and bonuses. Rather than pay sick pay at the regular rate of
21 pay, DEFENDANT underpaid sick pay to PLAINTIFFS and other CALIFORNIA CLASS
22 Members at their base rates of pay.

23 14. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for non-exempt
24 employees be calculated by dividing the employee's total wages, not including overtime
25 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
26 of employment.

27 15. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
28 the regular rate of pay. PLAINTIFFS and other CALIFORNIA CLASS Members routinely

1 earned non-discretionary incentive wages, including but not limited to, incentives, shift
2 differential pay, and bonuses, which increased their regular rate of pay. However, when sick pay
3 was paid, it was paid at the base rate of pay for PLAINTIFFS and other CALIFORNIA CLASS
4 Members, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code
5 Section 246.

6 16. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
7 other CALIFORNIA CLASS Members their correct wages and accordingly owe waiting time
8 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and
9 believe and based thereon allege that such failure to pay sick pay at regular rate was willful,
10 such that PLAINTIFFS and other CALIFORNIA CLASS Members whose employment has
11 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

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

23 18. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other
24 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
25 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
26 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
27 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
28 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,

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

17 19. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
18 record and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount
19 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
20 DEFENDANT is required to pay PLAINTIFFS and other CALIFORNIA CLASS Members for
21 all time worked, meaning the time during which an employee was subject to the control of an
22 employer, including all the time the employee was permitted or suffered to permit this work.
23 DEFENDANT required these employees to work off the clock without paying them for all the
24 time they were under DEFENDANT's control. Specifically, PLAINTIFFS worked through their
25 various meal and rest breaks as they were often interrupted by clients and their immediate needs.
26 This work also was done off-the-clock. As such, DEFENDANT knew or should have known
27 that PLAINTIFFS and the other members of the CALIFORNIA CLASS were under
28 compensated for all time worked. PLAINTIFFS and CALIFORNIA CLASS Members also

1 worked off the clock with respect to time spent undergoing mandatory drug testing or any other
2 testing and/or examination required as a condition of employment. As a result, PLAINTIFFS
3 and other CALIFORNIA CLASS Members forfeited time worked by working without their time
4 being accurately recorded and without compensation at the applicable minimum wage and
5 overtime wage rates. To the extent that the time worked off the clock did not qualify for
6 overtime premium payment, DEFENDANT failed to pay minimum wages for the time worked
7 off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

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

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

28 22. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the

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

20 23. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer
21 to collect or receive from an employee any part of wages theretofore paid by said employer
22 to said employee.” DEFENDANT fails to pay all compensation due to PLAINTIFFS and
23 other CALIFORNIA LABOR SUB-CLASS Members, makes unlawful deductions from
24 compensation payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
25 Members, fails to disclose all aspects of the deductions from compensation payable to
26 PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, and thereby fails to pay
27 these employees all wages due at each applicable pay period and upon
28 termination. PLAINTIFFS and members of the CALIFORNIA LABOR SUB-CLASS seek

1 recovery of all illegal deductions from wages according to proof, related penalties, interest,
2 attorney fees and costs.

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

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

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

1 alleged.

2 27. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the
3 legally required off-duty meal and rest breaks to them as required by the applicable Wage
4 Order and Labor Code and failed to pay them all minimum and overtime wages due to them.
5 DEFENDANT did not have a policy or practice which provided timely off-duty meal and
6 rest breaks to PLAINTIFFS and also failed to compensate PLAINTIFFS for their missed
7 meal and rest breaks. The nature of the work performed by the PLAINTIFFS did not prevent
8 them from being relieved of all of their duties for the legally required off-duty meal periods.
9 As a result, DEFENDANT's failure to provide PLAINTIFFS with the legally required meal
10 periods is evidenced by DEFENDANT's business records. To date, DEFENDANT has not
11 fully paid PLAINTIFFS the wages still owed to them or any penalty wages owed to them
12 under Cal. Lab. Code § 203.

13 28. Subsequent to Plaintiff Green's participation in protective activity by
14 complaining to DEFENDANT of DEFENDANT's unlawful employment practices,
15 DEFENDANT subjected Plaintiff Green to adverse employment actions by retaliating
16 against Plaintiff Green. Specifically, after Plaintiff Green complained to the human
17 resources department about DEFENDANT's unlawful employment practices in June of
18 2020 and throughout the rest of his employment, including, but not limited to, the fact that
19 one of his superiors had purposefully created a hostile working environment by abusing,
20 harassing, discriminating and undermining him, DEFENDANT responded with full-force.
21 Ultimately, DEFENDANT terminated Plaintiff Green's employment with DEFENDANT in
22 February of 2021. As a result, there is a causal link between the protected activity and
23 DEFENDANT's decision to terminate his employment, which is against public policy.

24 29. Plaintiff Green raised complaints of illegality while he worked for
25 DEFENDANT and was believed to be willing to raise complaints, and DEFENDANT
26 retaliated against him by taking adverse employment actions, including employment
27 termination, against him. Prior to filing this action, Plaintiff Green exhausted his
28 administrative remedies by filing a timely administrative complaint with the Department of

1 Fair Employment and Housing (“DFEH”) and received a DFEH right-to-sue letter on June
2 22, 2021.

3
4 **JURISDICTION AND VENUE**

5 30. This Court has jurisdiction over this Action pursuant to California Code of
6 Civil Procedure, Section 410.10 and California Business & Professions Code, Section
7 17203. This action is brought as a Class Action on behalf of PLAINTIFFS and similarly
8 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

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

15
16 **THE CALIFORNIA CLASS**

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

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

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

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

16 36. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
17 CLASS Members is impracticable.

18 37. DEFENDANT violated the rights of the CALIFORNIA CLASS under
19 California law by:

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

1 CALIFORNIA CLASS with the legally required meal and rest periods;
2 and,

- 3 (c) Committing an act of unfair competition in violation of the California
4 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by
5 violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS
6 and the CALIFORNIA CLASS members with necessary expenses
7 incurred in the discharge of their job duties.

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

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

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

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

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

15 1) Inconsistent or varying adjudications with respect to individual
16 members of the CALIFORNIA CLASS which would establish
17 incompatible standards of conduct for the parties opposing the
18 CALIFORNIA CLASS; and/or,

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

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

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

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

- 1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
- 2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the

CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT's employment practices are applied with respect to the CALIFORNIA CLASS;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or

adverse impact on their employment;

- (c) The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA CLASS;
- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA CLASS as a whole;
- (h) The members of the CALIFORNIA CLASS are readily ascertainable from the business records of DEFENDANT; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

41. DEFENDANT maintains records from which the Court can ascertain and identify by job title each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's company policy, practices and procedures as herein alleged.

1 PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles of
2 similarly situated employees when they have been identified.

3
4 **THE CALIFORNIA LABOR SUB-CLASS**

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

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

26 44. DEFENDANT maintains records from which the Court can ascertain and
27 identify by name and job title, each of DEFENDANT’s employees who have been
28 intentionally subjected to DEFENDANT’s company policy, practices and procedures as

1 herein alleged. PLAINTIFFS will seek leave to amend the complaint to include any
2 additional job titles of similarly situated employees when they have been identified.

3 45. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
4 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

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

20 47. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
21 CLASS under California law by:

- 22 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
23 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
24 CLASS all wages due for overtime worked, for which DEFENDANT is
25 liable pursuant to Cal. Lab. Code § 1194;
- 26 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
27 accurately pay PLAINTIFFS and the members of the CALIFORNIA
28 LABOR SUB-CLASS the correct minimum wage pay for which

1 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

2 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and
3 the members of the CALIFORNIA LABOR SUB-CLASS with an
4 accurate itemized statement in writing showing the corresponding
5 correct amount of wages earned by the employee;

6 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
7 PLAINTIFFS and the other members of the CALIFORNIA LABOR
8 SUB-CLASS with all legally required off-duty, uninterrupted thirty
9 (30) minute meal breaks and the legally required off-duty rest breaks;

10 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS
11 and the CALIFORNIA LABOR SUB-CLASS members with necessary
12 expenses incurred in the discharge of their job duties; and,

13 (g) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
14 when an employee is discharged or quits from employment, the
15 employer must pay the employee all wages due without abatement, by
16 failing to tender full payment and/or restitution of wages owed or in the
17 manner required by California law to the members of the
18 CALIFORNIA LABOR SUB-CLASS who have terminated their
19 employment.

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

22 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS
23 are so numerous that the joinder of all CALIFORNIA LABOR SUB-
24 CLASS Members is impracticable and the disposition of their claims as
25 a class will benefit the parties and the Court;

26 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
27 issues that are raised in this Complaint are common to the
28 CALIFORNIA LABOR SUB-CLASS and will apply to every member

of the CALIFORNIA LABOR SUB-CLASS;

(c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS.

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

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

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

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

- 1) Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or,
- 2) Adjudication with respect to individual members of the CALIFORNIA LABOR SUB-CLASS which would as a practical matter be dispositive of interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.

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

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

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

1 CALIFORNIA LABOR SUB-CLASS Members when compared
2 to the substantial expense and burden of individual prosecution
3 of this litigation;

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

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

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

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

22 4) A class action is superior to other available methods for the fair
23 and efficient adjudication of this litigation because class
24 treatment will obviate the need for unduly and unnecessary
25 duplicative litigation that is likely to result in the absence of
26 certification of this action pursuant to Cal. Code of Civ. Proc. §
27 382.
28

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

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

1 making final class-wide relief appropriate with respect to the
2 CALIFORNIA LABOR SUB-CLASS as a whole;

- 3 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
4 ascertainable from the business records of DEFENDANT. The
5 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
6 CLASS Members who worked for DEFENDANT in California at any
7 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
8 (i) Class treatment provides manageable judicial treatment calculated to
9 bring a efficient and rapid conclusion to all litigation of all wage and
10 hour related claims arising out of the conduct of DEFENDANT as to
11 the members of the CALIFORNIA LABOR SUB-CLASS.

12
13 **FIRST CAUSE OF ACTION**

14 **For Unlawful Business Practices**

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

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

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

20 52. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
21 Code § 17021.

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

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

1 may be necessary to restore to any person in interest any money or property,
2 real or personal, which may have been acquired by means of such unfair
competition.

3 Cal. Bus. & Prof. Code § 17203.

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

12 55. By the conduct alleged herein, DEFENDANT's practices were unlawful and
13 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
14 unscrupulous or substantially injurious to employees, and were without valid justification or
15 utility for which this Court should issue equitable and injunctive relief pursuant to Section
16 17203 of the California Business & Professions Code, including restitution of wages
17 wrongfully withheld.

18 56. By the conduct alleged herein, DEFENDANT's practices were deceptive and
19 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated
20 meal and rest periods, the required amount of compensation for missed meal and rest
21 periods and overtime and minimum wages owed, failed to timely pay wages, failed to
22 reimburse all necessary business expenses incurred, and failed to provide Fair Labor
23 Standards Act overtime wages due for overtime worked as a result of failing to include non-
24 discretionary incentive compensation into their regular rates of pay for purposes of
25 computing the proper overtime pay, due to a business practice that cannot be justified,
26 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
27 in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue
28 injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including

1 restitution of wages wrongfully withheld.

2 57. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
3 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFFS
4 and the other members of the CALIFORNIA CLASS to be underpaid during their
5 employment with DEFENDANT.

6 58. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
7 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to
8 provide all legally required meal breaks to PLAINTIFFS and the other members of the
9 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

24 62. All the acts described herein as violations of, among other things, the
25 Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the
26 California Labor Code, were unlawful and in violation of public policy, were immoral,
27 unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful,
28 unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et*

1 *seq.*

2 63. PLAINTIFFS and the other members of the CALIFORNIA CLASS are
3 entitled to, and do, seek such relief as may be necessary to restore to them the money and
4 property which DEFENDANT has acquired, or of which PLAINTIFFS and the other
5 members of the CALIFORNIA CLASS have been deprived, by means of the above
6 described unlawful and unfair business practices, including earned but unpaid wages for all
7 time worked.

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

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

19
20 **SECOND CAUSE OF ACTION**

21 **For Failure To Pay Minimum Wages**

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

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

24 **and Against All Defendants)**

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

28 ///

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

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

8 69. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by
9 the commission is the minimum wage to be paid to employees, and the payment of a less
10 wage than the minimum so fixed is unlawful.

11 70. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid
12 wages, including minimum wage compensation and interest thereon, together with the costs
13 of suit.

14 71. DEFENDANT maintained a wage practice of paying PLAINTIFFS and the
15 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
16 amount of time they work. As set forth herein, DEFENDANT's policy and practice was to
17 unlawfully and intentionally deny timely payment of wages due to PLAINTIFFS and the
18 other members of the CALIFORNIA LABOR SUB-CLASS.

19 72. DEFENDANT's unlawful wage and hour practices manifested, without
20 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
21 implementing a policy and practice that denies accurate compensation to PLAINTIFFS and
22 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
23 wage pay.

24 73. In committing these violations of the California Labor Code, DEFENDANT
25 inaccurately calculated the correct time worked and consequently underpaid the actual time
26 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.
27 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and
28 other benefits in violation of the California Labor Code, the Industrial Welfare Commission

1 requirements and other applicable laws and regulations.

2 74. As a direct result of DEFENDANT's unlawful wage practices as alleged
3 herein, PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
4 did not receive the correct minimum wage compensation for their time worked for
5 DEFENDANT.

6 75. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
7 required, permitted or suffered PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
8 Members to work without paying them for all the time they were under DEFENDANT's
9 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the
10 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
11 that they were entitled to, constituting a failure to pay all earned wages.

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

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

25 78. In performing the acts and practices herein alleged in violation of California
26 labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-
27 CLASS for all time worked and provide them with the requisite compensation,
28 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously

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

5 79. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
6 CLASS therefore request recovery of all unpaid wages, including overtime wages,
7 according to proof, interest, statutory costs, as well as the assessment of any statutory
8 penalties against DEFENDANT, in a sum as provided by the California Labor Code and/or
9 other applicable statutes. To the extent overtime compensation is determined to be owed to
10 the CALIFORNIA LABOR SUB-CLASS Members who have terminated their employment,
11 DEFENDANT’S conduct also violates Labor Code §§ 201 and/or 202, and therefore these
12 individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
13 penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS
14 Members. DEFENDANT’s conduct as alleged herein was willful, intentional and not in
15 good faith. Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
16 Members are entitled to seek and recover statutory costs.

17
18 **THIRD CAUSE OF ACTION**

19 **For Failure To Pay Overtime Compensation**

20 **[Cal. Lab. Code § 510]**

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

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

26 81. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
27 CLASS bring a claim for DEFENDANT’s willful and intentional violations of the
28 California Labor Code and the Industrial Welfare Commission requirements for

1 DEFENDANT's failure to pay these employees for all overtime worked, including, work
2 performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,
3 and/or forty (40) hours in any workweek.

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

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

10 84. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid
11 wages, including minimum wage and overtime compensation and interest thereon, together
12 with the costs of suit. Cal. Lab. Code § 1198 further states that the employment of an
13 employee for longer hours than those fixed by the Industrial Welfare Commission is
14 unlawful.

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

19 86. DEFENDANT's unlawful wage and hour practices manifested, without
20 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
21 implementing a policy and practice that failed to accurately record overtime worked by
22 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members and denied
23 accurate compensation to PLAINTIFFS and the other members of the CALIFORNIA
24 LABOR SUB-CLASS for overtime worked, including, the overtime work performed in
25 excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty
26 (40) hours in any workweek.

27 87. In committing these violations of the California Labor Code, DEFENDANT
28 inaccurately recorded overtime worked and consequently underpaid the overtime worked by

1 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT
2 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
3 violation of the California Labor Code, the Industrial Welfare Commission requirements
4 and other applicable laws and regulations.

5 88. As a direct result of DEFENDANT's unlawful wage practices as alleged
6 herein, the PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
7 CLASS did not receive full compensation for overtime worked.

8 89. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
9 from the overtime requirements of the law. None of these exemptions are applicable to the
10 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
11 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were not
12 subject to a valid collective bargaining agreement that would preclude the causes of action
13 contained herein this Complaint. Rather, PLAINTIFFS bring this Action on behalf of
14 themselves and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's
15 violations of non-negotiable, non-waiveable rights provided by the State of California.

16 90. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS
17 and the other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for
18 overtime worked that they are entitled to, constituting a failure to pay all earned wages.

19 91. DEFENDANT failed to accurately pay the PLAINTIFFS and the other
20 members of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they
21 worked which was in excess of the maximum hours permissible by law as required by Cal.
22 Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFFS and the other members of the
23 CALIFORNIA LABOR SUB-CLASS were required to work, and did in fact work, overtime
24 as to which DEFENDANT failed to accurately record and pay as evidenced by
25 DEFENDANT's business records and witnessed by employees.

26 92. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
27 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
28 CLASS for the true amount of time they worked, PLAINTIFFS and the other members of

1 the CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an
2 economic injury in amounts which are presently unknown to them and which will be
3 ascertained according to proof at trial.

4 93. DEFENDANT knew or should have known that PLAINTIFFS and the other
5 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all
6 overtime worked. DEFENDANT elected, either through intentional malfeasance or gross
7 nonfeasance, to not pay employees for their labor as a matter of company policy, practice
8 and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS
9 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

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

19 95. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
20 CLASS therefore request recovery of all unpaid wages, according to proof, interest,
21 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT,
22 in a sum as provided by the California Labor Code and/or other applicable statutes. To the
23 extent minimum wage compensation is determined to be owed to the CALIFORNIA
24 LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's
25 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also
26 be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought
27 herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's
28 conduct as alleged herein was willful, intentional and not in good faith. Further,

1 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek
2 and recover statutory costs.

3
4 **FOURTH CAUSE OF ACTION**

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

6 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

12 97. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
13 failed to provide all the legally required off-duty meal breaks to PLAINTIFFS and the other
14 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
15 and Labor Code. The nature of the work performed by PLAINTIFFS and CALIFORNIA
16 LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of
17 all of their duties for the legally required off-duty meal periods. As a result of their rigorous
18 work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members
19 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
20 Additionally, DEFENDANT's failure to provide PLAINTIFFS and the CALIFORNIA
21 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)
22 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
23 DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a
24 second off-duty meal period in some workdays in which these employees were required by
25 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFFS
26 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
27 breaks without additional compensation and in accordance with DEFENDANT's corporate
28 policy and practice.

1 98. DEFENDANT further violates California Labor Code §§ 226.7 and the
2 applicable IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA
3 LABOR SUB-CLASS Members who were not provided a meal period, in accordance with
4 the applicable Wage Order, one additional hour of compensation at each employee's regular
5 rate of pay for each workday that a meal period was not provided.

6 99. As a proximate result of the aforementioned violations, PLAINTIFFS and
7 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
8 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
9 suit.

10 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

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

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

SIXTH CAUSE OF ACTION

For Failure to Reimburse Employees for Required Expenses

[Cal. Lab. Code § 2802]

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

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

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

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.

106. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones all on behalf of and for the

benefit of DEFENDANT. Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members were required by DEFENDANT to use their home offices to the benefit of DEFENDANT. DEFENDANT's policy, practice and procedure was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones and their home offices for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do under the laws and regulations of California.

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

SEVENTH CAUSE OF ACTION

For Failure to Provide Accurate Itemized Statements

[Cal. Lab. Code § 226]

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

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

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

- (1) gross wages earned,
- (2) total hours worked by the employee, except for any employee whose

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

10 110. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the
11 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate
12 wage statements which failed to show, among other things, the correct gross and net wages
13 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
14 employees with an accurate itemized wage statement in writing showing, among other
15 things, gross wages earned and all applicable hourly rates in effect during the pay period and
16 the corresponding amount of time worked at each hourly rate. PLAINTIFFS and
17 CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As such, the
18 wage statements should reflect all applicable hourly rates during the pay period and the total
19 hours worked, and the applicable pay period in which the wages were earned pursuant to
20 California Labor Code Section 226(a). The wage statements DEFENDANT provided to
21 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members failed to identify
22 such information in violation of Cal. Lab. Code Section 226(a)(2). More specifically, the
23 wage statements failed to identify the accurate total hours worked each pay period. When
24 the hours shown on the wage statements were added up, they did not equal the actual total
25 hours worked during the pay period. Aside, from the violations listed above in this
26 paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that
27 lists all the requirements under California Labor Code 226 *et seq.* As a result,
28 DEFENDANT from time to time provided PLAINTIFFS and the other members of the

1 CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code
2 § 226.

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

15 **EIGHTH CAUSE OF ACTION**

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

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

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

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

23 113. Cal. Lab. Code § 200 states that:

24 As used in this article:

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

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

1 114. Cal. Lab. Code § 201 states, in relevant part, that “If an employer discharges
2 an employee, the wages earned and unpaid at the time of discharge are due and payable
3 immediately.”

4 115. Cal. Lab. Code § 202 states, in relevant part, that:

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

15 116. There was no definite term in PLAINTIFFS’ or any other CALIFORNIA
16 LABOR SUB-CLASS Members’ employment contract.

17 117. Cal. Lab. Code § 203 states:

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

24 118. When PLAINTIFFS left employment with DEFENDANT, DEFENDANT
25 still owed PLAINTIFFS wages for work performed because PLAINTIFFS were not
26 compensated correctly for their overtime worked and meal and rest breaks missed. To
27 date, DEFENDANT has not paid PLAINTIFFS these wages still owed to them. As
28 such, DEFENDANT has not fully paid PLAINTIFFS all wages still owed to them or
any penalty wages that are now owed to them under California Labor Code § 203.

1 119. The employment of PLAINTIFFS and many other CALIFORNIA LABOR
2 SUB-CLASS Members has terminated, yet as to those individuals whose employment
3 terminated, DEFENDANT did not timely tender payment of all wages owed as required by
4 law.

5 120. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and
6 the members of the CALIFORNIA LABOR SUB-CLASS whose employment terminated,

1 PLAINTIFFS demand thirty days of pay as penalty for not paying all wages due at time of
2 termination for all individuals in the CALIFORNIA LABOR SUB-CLASS who terminated
3 employment during the CALIFORNIA LABOR SUB-CLASS PERIOD plus interest and
4 statutory costs as allowed.

5 **NINTH CAUSE OF ACTION**

6 **Wrongful Termination In Violation of Public Policy**

7 **(By Plaintiff Green Against All Defendants)**

8 121. Plaintiff Green realleges and incorporates by reference, as though fully set
9 forth herein, the prior paragraphs of this Complaint.

10 122. Subsequent to Plaintiff Green's participation in protective activity by
11 complaining to DEFENDANT of DEFENDANT's unlawful employment practices,
12 DEFENDANT subjected Plaintiff Green to adverse employment actions by retaliating
13 against Plaintiff Green. Specifically, after Plaintiff Green complained to the human
14 resources department about DEFENDANT's unlawful employment practices in June of
15 2020 and throughout the rest of his employment, including, but not limited to, the fact that
16 one of his superiors had purposefully created a hostile working environment by abusing,
17 harassing, discriminating and undermining him, DEFENDANT responded with full-force.
18 Ultimately, DEFENDANT terminated Plaintiff Green's employment with DEFENDANT in
19 February of 2021. As a result, there is a causal link between the protected activity and
20 DEFENDANT's decision to terminate his employment, which is against public policy.

21 123. Plaintiff Green raised complaints of illegality while he worked for
22 DEFENDANT and was believed to be willing to raise complaints, and DEFENDANT
23 retaliated against him by taking adverse employment actions, including employment
24 termination, against him.

25 124. As a proximate result of DEFENDANT'S willful, knowing, and intentional,
26 Plaintiff Green has suffered and continues to suffer humiliation, emotional distress, and
27 mental and physical pain and anguish, all to her damage in a sum according to proof.

28 125. As a result of DEFENDANT'S adverse employment actions against Plaintiff

Green, Plaintiff Green has suffered general and special damages in sums according to proof.

126. DEFENDANT’S misconduct was committed intentionally, in a malicious, oppressive manner, and fraudulent manner entitling Plaintiff Green to punitive damages against DEFENDANT.

TENTH CAUSE OF ACTION

For Violation of Government Code §12940 et seq. - Racial

Harassment/Discrimination

(By Plaintiff Green Against All Defendants)

127. Plaintiff Green realleges and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

128. Plaintiff Green, at all relevant times, had the right to work in an environment free of religious creed and/or national origin harassment/discrimination.

129. In the State of California, the legislature has enacted Government Code §12940(j)(1) which forbids religious creed and/or national origin harassment, and imposes several affirmative duties upon the employer to ensure employees are not subjected to unlawful religious creed and/or national origin harassment at work. DEFENDANT directed its offensive, unwelcome, religious creed and/or national origin misconduct toward Plaintiff Green because of Plaintiff Green’s affiliation as a homosexual African American.

130. Plaintiff Green was subjected to unwelcome sexual discrimination based on his sexual preference and racial harassment based on the color of his skin.

131. The harassing conduct was severe or pervasive.

132. A reasonable homosexual African American in Plaintiff Green’s circumstances would have considered the work environment to be hostile or abusive.

133. Plaintiff Green considered his work environment to be racially hostile and sexually abusive.

1 134. DEFENDANT's managers and/or supervisors engaged in the wrongful
2 conduct.

3 135. The foregoing conduct by DEFENDANT constitutes unlawful religious creed
4 and/or national origin harassment, and created a hostile, abusive and discriminatory work
5 environment and disrupted Plaintiff Green's emotional tranquility in the workplace and
6 altered the terms or conditions of his employment.

7 136. DEFENDANT's conduct, as set forth and alleged herein, constitutes a
8 violation of Government Code §12940 *et seq.* which prohibits racial harassment by an
9 employer, manager, supervisor, co-worker or vendor, et al.

10 137. As a result of DEFENDANT's actions and the substantial motivating reason
11 for said actions was religious creed and/or national origin harassment/discrimination,
12 Plaintiff Green has suffered, substantial losses in earnings upon her wrongful termination
13 and employment benefits and emotional distress in an amount to be determined according
14 to proof at trial. Plaintiff Green is further entitled to attorney's fees and costs of suit
15 pursuant to Government Code §12900 *et seq.*

16 138. In doing the acts herein alleged, DEFENDANT acted with malice and
17 oppression, and with a conscious disregard of Plaintiff Green's rights, and Plaintiff Green
18 is entitled to exemplary and punitive damages from DEFENDANT in an amount to be
19 determined to punish DEFENDANT and to deter such wrongful conduct in the future.
20

21 **ELEVENTH CAUSE OF ACTION**
22 **For Violation of Government Code §12940(a) - Racial Discrimination**
23 **(By Plaintiff Green Against All Defendants)**

24 139. Plaintiff Green realleges and incorporate by this reference, as though fully set
25 forth herein, the prior paragraphs of this Complaint.

26 140. Plaintiff Green was employed by DEFENDANT.

27 141. DEFENDANT is an employer covered by Government Code §12940 *et seq.*
28

1 142. Plaintiff Green was terminated from his employment and/or suffered other
2 adverse employment actions.

3 143. Plaintiff Green's religious creed and/or National Origin was a substantial
4 motivating reason(s) for his termination and other adverse employment actions.

5 144. As a result of DEFENDANT's conduct, Plaintiff Green has suffered
6 substantial losses in earnings and employment benefits and emotional distress in an amount
7 to be determined according to proof at trial.

8 145. In doing the acts herein alleged, DEFENDANT acted with malice and
9 oppression, and with a conscious disregard of Plaintiff Green's rights, and Plaintiff Green
10 is entitled to exemplary and punitive damages from DEFENDANT in an amount to be
11 punish DEFENDANT and to deter such wrongful conduct in the future.

12
13 **TWELFTH CASUE OF ACTION**

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

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

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

17 146. PLAINTIFFS reallege and incorporate by this reference, as though fully set
18 forth herein, the prior paragraphs of this Complaint.

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

1 general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1.
2 Accordingly, PAGA claims cannot be subject to arbitration.

3 148. PLAINTIFFS, and such persons that may be added from time to time who
4 satisfy the requirements and exhaust the administrative procedures under the Private
5 Attorney General Act, bring this Representative Action on behalf of the State of California
6 with respect to themselves and all individuals who are or previously were employed by
7 DEFENDANT in California and who were classified as non-exempt employees
8 ("AGGRIEVED EMPLOYEES") during the time period of June 25, 2020 until a date as
9 determined by the Court (the "PAGA PERIOD").

10 149. On June 25, 2021, PLAINTIFFS gave written notice by electronic mail to the
11 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
12 employer of the specific provisions of this code alleged to have been violated as required
13 by Labor Code § 2699.3, a copy of which is attached hereto as Exhibit 1. The statutory
14 waiting period for PLAINTIFFS to add these allegations to the Complaint has expired. As
15 a result, pursuant to Section 2699.3, PLAINTIFFS may now commence a representative
16 civil action under PAGA pursuant to Section 2699 as the proxies of the State of California
17 with respect to all AGGRIEVED EMPLOYEES as herein defined.

18 150. The policies, acts and practices heretofore described were and are an
19 unlawful business act or practice because DEFENDANT (a) failed to provide
20 PLAINTIFFS and the other AGGRIEVED EMPLOYEES accurate itemized wage
21 statements, (b) failed to properly record and provide legally required meal and rest periods,
22 (c) failed to pay minimum wages, (d) failed to pay overtime and sick pay wages, (e) failed
23 to reimburse employees for required expenses, and (f) failed to provide wages when due,
24 all in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202,
25 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 351, 510, 512, 558(a)(1)(2), 1194, 1197,
26 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision
27 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a
28

1 result of such conduct.¹ PLAINTIFFS hereby seek recovery of only civil penalties as
2 prescribed by the Labor Code Private Attorney General Act of 2004 as the representatives
3 of the State of California for the illegal conduct perpetrated on PLAINTIFFS and the other
4 AGGRIEVED EMPLOYEES.

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
8 severally, as follows:

9 1. On behalf of the CALIFORNIA CLASS:

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

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

- 21 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and
22 Eighth Causes Action asserted by the CALIFORNIA LABOR SUB-CLASS as
23 a class action pursuant to Cal. Code of Civ. Proc. § 382;
24 B) Compensatory damages, according to proof at trial, including compensatory
25 damages for minimum and overtime compensation due PLAINTIFFS and the
26

27 ¹Plaintiffs specifically exclude and/or do not allege any claims under California Labor
28 Code §558(a)(3).

1 other members of the CALIFORNIA LABOR SUB-CLASS, during the
2 applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon
3 at the statutory rate;

- 4 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
5 in which a violation occurs and one hundred dollars (\$100) per each member of
6 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
7 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000),
8 and an award of costs for violation of Cal. Lab. Code § 226;
9 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512
10 and the applicable IWC Wage Order;
11 E) The amount of the expenses PLAINTIFFS and each member of the
12 CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties,
13 plus interest, and costs of suit; and,
14 F) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
15 1197.

16 3. On behalf of Plaintiff Green for the Ninth, Tenth, and Eleventh Causes of Action:

- 17 A) For all special damages which were sustained as a result of DEFENDANT's
18 conduct, including, but not limited to, back pay, front pay, lost compensation and
19 job benefits that PLAINTIFF would have received but for the retaliatory
20 practices of DEFENDANT; and,
21 B) For all exemplary damages, according to proof, which were sustained as a result
22 of DEFENDANT's conduct.

23 4. On the First, Second, Third, Fourth Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and
24 Eleventh Causes of Action:

- 25 A) An award of interest, including prejudgment interest at the legal rate;
26 B) Such other and further relief as the Court deems just and equitable; and,
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28

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

4 5. On behalf of the State of California and with Respect to all AGGRIEVED
5 EMPLOYEES:

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

8 B) An award of attorneys' fees and costs of suit, as allowable under the law,
9 including, but not limited to, pursuant to Labor Code §2699.
10

11 Dated: June 16, 2022

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

13 By: /s/ Nicholas J. De Blouw
14 Norman B. Blumenthal
15 Nicholas J. De Blouw
16 Attorneys for Plaintiffs
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DEMAND FOR A JURY TRIAL

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

Dated: June 16, 2022

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: /s/ Nicholas J. De Blouw
Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiffs

EXHIBIT: 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS E-MAIL:

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WRITERS EXT:

1004

June 25, 2021

CA2357

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Five Keys Schools and Programs
Certified Mail #70203160000075432725
Stephen Good
70 Oak Grove Street
San Francisco, CA 94107

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Five Keys Schools and Programs in California and classified as non-exempt employees during the time period of June 23, 2020 until a date as determined by the Court. Our offices represent Plaintiffs Al-Jerone Green and Tiffany Manjares (“Plaintiffs”) and other Aggrieved Employees in a lawsuit against Five Keys Schools and Programs (“Defendant”). Plaintiff Green was employed by Defendant in California as a non-exempt employee in the position of an Ambassador from June of 2020 to February of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Plaintiff Manjares was employed by Defendant in California as a non-exempt employee in the position of an Ambassador from September of 2020 to February of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiffs and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiffs and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiffs and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiffs and Aggrieved Employees to respond to and engage in

additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiffs and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiffs and other Aggrieved Employees with their wages. Plaintiffs further contend that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Defendant violated Section 226 by failing to identify the correct rates of pay and number of hours worked, including for the “Admin Pay” item of pay, which was a wage payment. Specifically, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiffs and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. Additionally, Plaintiffs contend that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiffs began and ended each shift and meal period. Plaintiffs and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiffs and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 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), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.