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Attorneys for Plaintiffs, the Putative Class,
the State of California and All Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

LAUREN MACIAS, HARLOWE KILIANI,
and TRAVIS SANCRANT, individually, and
on behalf of others similarly situated;

Plaintiffs,

v.

FIRST TECHNOLOGY FEDERAL CREDIT
UNION d/b/a FIRST TECH FEDERAL
CREDIT UNION, an unknown business
entity; and DOES 1 through 100, inclusive;

Defendants.

Case No.: 21CV375222

**THIRD AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code § 204 (Failure to Pay for All Hours Worked);
- (2) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (3) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal and Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201-203 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Business & Professions Code §§ 17200, *et seq.*
- (9) Penalties Pursuant to California Labor Code § 2699(a) (Labor Code Private Attorneys General Act of 2004)
- (10) Penalties Pursuant to California Labor Code § 2699(f) (Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

Plaintiffs LAUREN MACIAS, HARLOWE KILIANI, and TRAVIS SANCRANT (collectively “Plaintiffs”), on behalf of themselves and all others similarly situated, the State of California, and all Aggrieved Employees, complain and allege as follows:

INTRODUCTION

1. Plaintiffs bring this class action on behalf of themselves and other similarly situated individuals who have worked for Defendants FIRST TECHNOLOGY FEDERAL CREDIT UNION d/b/a FIRST TECH FEDERAL CREDIT UNION (“First Tech”) and DOES 1 through 100 (“Defendants”) as non-exempt, hourly employees at Defendants’ credit union branch locations and customer service call centers throughout California.

2. This class action challenges Defendants' policies and practices of (1) failing to compensate Plaintiffs and putative Class members for all hours worked; (2) failing to pay Plaintiffs and putative Class members overtime wages; (3) failing to provide, authorize, and/or permit Plaintiffs and putative Class members to take meal and rest breaks to which they are entitled by law and failing to pay premium compensation for those missed breaks; (4) failing to pay Plaintiffs and putative Class members at least minimum wage for all hours worked as required by California law; (5) failing to timely pay Plaintiffs and putative Class members wages owed upon the termination of employment; (6) failing to provide Plaintiffs and putative Class members accurate, itemized wage statements; and (7) failing to reimburse Plaintiff Macias and branch employees for all business expenses.

3. Plaintiff Macias seeks to represent current and former non-exempt employees who work or worked at Defendants' credit union branch locations throughout California (collectively the "Branch Class"). Plaintiff Macias and Branch Class members assist in providing personal and business banking products and other financial services to Defendants' clients and customers.

4. Plaintiffs Kiliani and Sancrant seek to represent current and former non-exempt employees who work or worked at Defendants' customer service call center locations throughout California (collectively the "Call Center Class"). Plaintiffs Kiliani and Sancrant and Call Center Class members assist in providing customer service support to Defendants' clients and customers over the phone.

1 5. At all relevant times, Plaintiffs and putative Class members have been subject to
2 Defendants' timekeeping and payroll policies and practices.

3 6. Among other unlawful policies and practices, Defendants pay Plaintiffs and
4 putative Class members based on their scheduled hours, regardless of how long they actually
5 work. As a result, Plaintiffs and putative Class members frequently work before and after shifts
6 without compensation.

7 7. For example, Plaintiff Macias and Branch Class members respond to customer
8 calls and emails at all hours of the day and night from home or on personal time without any
9 additional compensation beyond their scheduled hours. In addition, if Plaintiff Macias and other
10 Branch Class members are scheduled to physically open or close a branch location, they must
11 perform branch opening and closing security procedures. Because Defendants require Plaintiff
12 Macias and Branch Class members to perform these procedures before or after scheduled shifts
13 and/or before or after clocking in or out for the day, the time spent is off-the-clock and
14 uncompensated. Moreover, Plaintiff Macias and Branch Class members travel outside the
15 branch to perform job duties, occasionally spending several days and nights out of state to attend
16 conferences, seminars, and summits. However, Defendants do not pay Plaintiff Macias and
17 Branch Class members for time spent traveling or attending meetings outside of scheduled
18 business hours. As a result, Plaintiff Macias and Branch Class members work numerous hours
19 beyond their scheduled shifts, and yet, Defendants only pay Plaintiff Macias and Branch Class
20 members for their regularly scheduled hours.

21 8. Plaintiff Macias and Branch Class members are routinely denied legally compliant
22 meal and rest periods due to the demands of the job. Even when Plaintiff Macias and Branch
23 Class members can take a meal or rest period, it is either untimely, cut short, or interrupted. To
24 avoid paying meal and rest period penalties and premiums, Defendants instruct employees to
25 log timely meal breaks that they do not actually take, or Defendants manually adjust employees'
26 timecards to reflect timely breaks that were not taken. As a result, despite routinely failing to
27 provide Plaintiff Macias and Branch Class members the opportunity to take meal and rest breaks,
28 Defendants do not compensate Plaintiff Macias and Branch Class members with premium pay

1 in lieu of noncompliant meal and rest periods.

2 9. Likewise, Plaintiffs Kiliani and Sancrant and Call Center Class members are
3 required to arrive at their workstation at least 10 minutes before the beginning of a scheduled
4 shift to initiate the various software programs and systems required to receive incoming
5 customer calls and perform their job duties. Plaintiffs Kiliani and Sancrant and Call Center Class
6 members must log into approximately eight different programs before they are ready and able
7 to take calls. Defendants explicitly instruct Call Center Class members to arrive well before a
8 scheduled shift to perform these activities. However, Defendants discourage and prevent Call
9 Center Class members from recording any time outside of their scheduled shifts on their
10 timesheets. Thus, the time spent getting setup to take customer calls is off-the-clock and
11 uncompensated. In addition, Plaintiffs Kiliani and Sancrant and Call Center Class Members
12 work well beyond their scheduled shifts after taking calls to log out of the various programs,
13 make notes of customer calls, mail items, or lock up confidential documents. Yet, Call Center
14 Class members are only paid until the time their scheduled shifts end.

15 10. In addition, beginning in March 2020, with the issuance of public health orders
16 related to COVID-19, Defendants required Plaintiff Kiliani and other Call Center Class
17 members to check their temperature before reporting to work at a customer service call center.
18 Plaintiff Kiliani and other Call Center Class members are required to perform a temperature
19 check well in advance of arriving for their scheduled shifts and send the results to Defendants
20 by text message. The time spent waiting for and undergoing these health checks is compensable,
21 but nevertheless goes unpaid.

22 11. Plaintiffs Kiliani and Sancrant and Call Center Class members are also routinely
23 denied legally compliant meal and rest breaks due to the demands of the job. If customer calls
24 go beyond the time period in which Defendants are legally required to provide meal or rest
25 breaks, Plaintiffs Kiliani and Sancrant and Call Center Class members are not relieved of their
26 duties. Rather, they must finish the customer call and either take the break late or take it for less
27 time than what is permitted by law. In addition, due to the incessant frequency of customer calls,
28 Defendants require Plaintiffs Kiliani and Sancrant and Call Center Class members to attend

1 meetings and training during meal and rest breaks. As a result, their meal and rest breaks are
2 frequently late, interrupted, or cut short. Despite routinely failing to provide Plaintiffs Kiliani
3 and Sancrant and Call Center Class members the opportunity to take timely, adequate, and
4 “duty-free” meal and rest breaks, Defendants do not compensate them with premium pay in lieu
5 of noncompliant meal and rest periods.

6 12. Defendants’ failure to provide legally compliant meal and rest periods or premium
7 pay in lieu thereof also leads to off-the-clock, minimum wage and overtime violations.

8 13. Because Plaintiffs and putative Class members routinely work outside their
9 scheduled shifts, Plaintiffs and putative Class members regularly work longer than the eight
10 hours for which they are paid. When this uncompensated time is factored in, Plaintiffs and
11 putative Class members are owed overtime compensation for some of the time that they work.

12 14. Plaintiffs and putative Class members do not receive accurate, itemized wage
13 statements. Plaintiffs and putative Class members receive wage statements that do not reflect all
14 hours worked, premium pay for missed meal and rest breaks, and applicable overtime premiums.

15 15. Additionally, Plaintiffs and putative Class members are not paid all amounts owed
16 following voluntary or involuntary termination of employment.

17 16. Furthermore, Defendants fail to reimburse Plaintiff Macias and Branch Class
18 members for business expenses. For example, Defendants encourage and instruct Plaintiff
19 Macias and Branch Class members to give their personal phone numbers to clients and
20 customers. As a result, Plaintiff Macias and Branch Class members regularly use their personal
21 cell phones to communicate with customers at all hours. Defendants do not reimburse Plaintiff
22 Macias or Branch Class members for any of the expenses of using personal phones. In addition,
23 Defendants do not reimburse Plaintiff Macias or Branch Class members for all expenses
24 incurred during business travel.

25 17. As a result of these violations, Plaintiffs seek compensation, damages, penalties,
26 and interest to the full extent permitted by the California Labor Code and the Industrial Welfare
27 Commission (“IWC”) Wage Orders.

28 18. Defendants are also liable for various other penalties under the Labor Code, and

1 for violation of the Unfair Competition Law, Business and Professions Code §§ 17200, *et seq.*
2 (“UCL”).

3 19. As a result of these violations, Plaintiffs Kiliani and Sancrant seek compensation
4 for all unpaid wages, premiums for all denied meal and rest periods, unpaid overtime premium
5 pay, waiting time penalties, penalties for failing to provide legally compliant wage statements,
6 and penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

7 20. Plaintiffs also seek declaratory, equitable, and injunctive relief, including
8 restitution.

9 21. Finally, Plaintiffs seek reasonable attorneys’ fees and costs under the Labor Code
10 and California Code of Civil Procedure § 1021.5, and other laws of the state of California.

11 **PARTIES**

12 22. Plaintiff LAUREN MACIAS is an individual residing in the State of California,
13 County of Santa Clara. During the relevant time period, Plaintiff Macias was employed by
14 Defendants at a branch location in the State of California, County of Santa Clara.

15 23. Plaintiff HARLOWE KILIANI is an individual residing in the State of
16 California, County of Placer. During the relevant time period, Plaintiff Kiliani was employed
17 by Defendants at the Rocklin call center in the State of California, County of Placer.

18 24. Plaintiff TRAVIS SANCRAnt is an individual residing in the State of
19 California, County of Sacramento. During the relevant time period, Plaintiff Sancrant was
20 employed by Defendants at the Rocklin call center in the State of California, County of Placer.

21 25. Branch Class members are currently and/or formerly employed as non-exempt,
22 hourly workers at Defendants’ credit union branch locations in California¹ during the time
23 period spanning four years prior to the filing of the Complaint in this matter to its resolution.

24 26. Call Center Class members are currently and/or formerly employed as non-
25 exempt, hourly workers at Defendants’ customer service call center facilities and locations in
26 California during the time period spanning four years prior to the filing of the Complaint in
27

28 ¹ Defendants may also refer to their branch locations as “Experience Centers” or “retail locations.”

1 this matter to its resolution.

2 27. Branch Class members and Call Center Class members collectively will be
3 referred to herein as “putative Class members.”

4 28. Aggrieved Employees are current or former non-exempt branch and call center
5 employees employed by Defendants in California.

6 29. Defendant FIRST TECHNOLOGY FEDERAL CREDIT UNION d/b/a FIRST
7 TECH FEDERAL CREDIT UNION, at all relevant times, was the “employer” of Plaintiffs
8 within the meaning of all applicable California laws and statutes. At all relevant times, First
9 Tech has done business under the laws of California, has had places of business in California,
10 including in this judicial district, and has employed Class members in this judicial district.
11 First Tech is a “person” as defined in Labor Code § 18 and Business and Professions Code §
12 17201. First Tech is also “employer” as that term is used in the Labor Code and IWC Wage
13 Orders.

14 30. At all relevant times, Defendants FIRST TECHNOLOGY FEDERAL CREDIT
15 UNION d/b/a FIRST TECH FEDERAL CREDIT UNION and DOES 1 through 100, and each
16 of them, were the agents, partners, joint venturers, joint employers, representatives, servants,
17 employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all
18 times relevant hereto were acting within the course and scope of their authority as such agents,
19 partners, joint venturers, joint employers, representatives, servants, employees, successors,
20 co-conspirators and assigns, and all acts or omissions alleged herein were duly committed
21 with the ratification, knowledge, permission, encouragement, authorization, and consent of
22 each defendant designated herein.

23 31. The true names and capacities, whether corporate, associate, individual or
24 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiff, who sues
25 said defendants by such fictitious names. Plaintiffs are informed and believe, and based on
26 that information and belief allege, that each of the Defendants designated as a DOE is legally
27 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
28 the injuries and damages to Plaintiffs and putative class members as alleged in this Complaint.

1 Plaintiffs will seek leave of court to amend this Complaint to show the true names and
2 capacities when the same have been ascertained.

3 32. Defendants FIRST TECHNOLOGY FEDERAL CREDIT UNION d/b/a FIRST
4 TECH FEDERAL CREDIT UNION and DOES 1 through 100 collectively will be referred to
5 herein as “Defendants.”

6 33. Plaintiffs are informed, believe, and thereon allege that Defendants employ non-
7 exempt employees throughout California, including in Santa Clara County.

8 34. Plaintiffs further alleges that Defendants directly or indirectly controlled or
9 affected the working conditions, wages, working hours, and conditions of employment of
10 Plaintiffs and putative Class members so as to make each of said Defendants employers and
11 employers liable under the statutory provisions set forth herein.

12 **JURISDICTION AND VENUE**

13 35. This class action is brought pursuant to the California Code of Civil Procedure
14 section 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal
15 jurisdiction limits of the Superior Court and will be established according to proof at trial.

16 36. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in
18 all other causes” except those given by statute to other courts. The statutes under which this
19 action is brought do not specify any other basis for jurisdiction.

20 37. This Court has jurisdiction over Defendants because, upon information and
21 belief, Defendants are citizens of California, have sufficient minimum contacts in California,
22 or otherwise intentionally avail themselves of the California market so as to render the exercise
23 of jurisdiction over them by the California courts consistent with traditional notions of fair
24 play and substantial justice.

25 38. Venue is proper in this Court because, upon information and belief, Defendants
26 maintain offices, have agents, and/or transact business in the State of California, including the
27 County of Santa Clara. The acts and omissions alleged herein relating to Plaintiffs and putative
28 Class members took place in the State of California. Defendants employed Plaintiff Macias

1 and putative Class members within the State of California, County of Santa Clara.

2 39. Venue is also proper in this County pursuant to Code of Civil Procedure § 393.
3 Defendants conduct business, employ Aggrieved Employees, and/or have jobsites in this
4 County. Plaintiffs are informed, believe, and thereon allege that events giving rise to these
5 causes of action occurred in this County, and some part of these causes of action arose in this
6 County.

7 **FACTUAL ALLEGATIONS**

8 40. Defendants, jointly and severally, employed Plaintiff Macias as an hourly-paid
9 employee from 2014 to 2018. At all times relevant to the allegations herein, Defendants
10 employed Plaintiff Macias at a branch location in the State of California, County of Santa
11 Clara.

12 41. Defendants, jointly and severally, employed Plaintiff Kiliani as an hourly-paid
13 employee from November 2019 to September 2020. At all times relevant to the allegations
14 herein, Defendants employed Plaintiff Kiliani at the Rocklin call center in the State of
15 California, County of Placer.

16 42. Defendants, jointly and severally, employed Plaintiff Sancrant as an hourly-paid
17 employee from February 2019 to June 2020. At all times relevant to the allegations herein,
18 Defendants employed Plaintiff Sancrant at the Rocklin call center in the State of California,
19 County of Placer.

20 43. During the relevant time period set forth herein, Defendants employed Plaintiffs
21 and other persons as hourly-paid and/or non-exempt employees at Defendants' credit union
22 branch and customer service call center locations within the State of California.

23 44. Defendants directly hired Plaintiffs and putative Class members and paid wages
24 and benefits to Plaintiffs and putative Class members.

25 45. Defendants had the authority to hire and terminate Plaintiffs and putative Class
26 members; to set work rules and conditions governing Plaintiffs and other putative Class
27 members' employment; and to supervise their daily employment activities.

28 46. Defendants exercised sufficient authority over the terms and conditions of

1 Plaintiffs and other putative Class members' employment for them to be joint employers of
2 Plaintiffs and putative Class members.

3 47. Defendants continue to employ hourly-paid or non-exempt employees within the
4 State of California.

5 48. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 engaged in uniform policies and practices and a systematic scheme of wage abuse against their
7 hourly-paid or non-exempt employees within the State of California. This scheme involved,
8 *inter alia*, failing to pay them for all hours worked, missed meal periods, missed rest breaks,
9 and business expenses in violation of California law.

10 **Branch Class**

11 49. At all times relevant to the allegations herein, Plaintiff Macias was employed as
12 a branch employee at First Tech's branch location in Palo Alto, California. Plaintiff Macias
13 held the position of Premier Financial Services Representative. In that position, Plaintiff
14 Macias personally served individual and business clients in all aspects of financial
15 management by providing account services, identifying appropriate financial products and
16 services, creating strategic financial plans, and conducting financial analyses to meet the needs
17 of her clients. In addition, Plaintiff Macias was actively engaged in business development to
18 identify new clients and expand Defendants' range of products offered to new and existing
19 clients.

20 50. As a personal banker, Plaintiff Macias was always "on call" for her clients.
21 Plaintiff Macias responded to emails and calls from clients to her personal phone at all hours,
22 regardless of whether she was at home or in the branch. Defendants instruct Plaintiff Macias
23 and Branch Class members to go "above and beyond" for clients and customers around the
24 clock to meet their demands. As a result, Plaintiff Macias regularly spent an hour or more in
25 the mornings before her scheduled shifts responding to work emails and calls. In addition,
26 Plaintiff Macias spent even more time, up to two hours, every evening after business hours
27 doing the same. Because Defendants only pay wages for the hours Plaintiff Macias and Branch
28 Class members are scheduled to work in the branch, none of the hours Plaintiff Macias and

1 Branch Class members spend working outside of the branch are compensable.

2 51. As a branch employee, Plaintiff Macias was also responsible for performing
3 security procedures to physically open and close her branch location. Due to the nature of the
4 business, branch employees, including Plaintiff Macias and Branch Class members, must
5 perform certain security procedures to open the branch in the morning and close the branch in
6 the evening, including but not limited to, inspecting the exterior structure and interior spaces
7 of the branch for security threats, disarming and arming any security alarms, unlocking doors,
8 vaults, and cash drawers, and signaling to other employees when it is safe to enter or exit the
9 branch.

10 52. All branch employees, regardless of title, perform these duties with varying
11 frequency. However, these duties are performed “off-the-clock” because the security
12 procedures are conducted before or after scheduled shifts and/or before or after clocking in/out
13 for the day. For example, Defendants instruct Plaintiff Macias and Branch Class members to
14 arrive *prior to* the beginning of their scheduled shifts to perform opening procedures to ensure
15 that they are at their workstations ready to work when their scheduled shifts start. If Plaintiff
16 Macias is scheduled to start an opening shift at 8:30 AM, Defendants require her to arrive at
17 8:15 AM to perform the opening security procedures and set up her workstation. Plaintiff
18 Macias must complete all of these tasks before her shift starts at 8:30 AM, even though she is
19 not paid for the additional 15 minutes performing opening procedures before her shift.

20 53. Plaintiff Macias and Branch Class members also spend considerable time
21 traveling to and attendings meetings for which they are not compensated. Plaintiff Macias and
22 Branch Class members regularly attend work conferences, seminars, and summits, some out
23 of state, that span multiple days and nights away from home. Even though Plaintiff Macias
24 and Branch Class members attend these meetings at the behest and under the control of
25 Defendants, they are only paid for a typical eight-hour shift for each day away as though they
26 had been working in the branch. Defendants do not compensate Plaintiff Macias and Branch
27 Class members for travel time, overnights, or time spent attending meetings and conferences
28 outside of regularly scheduled hours.

1 54. When Plaintiff Macias complained, in writing, to Human Resources and her
2 supervisors about Defendants' failure to pay for time spent traveling to, and working at,
3 conferences, seminars, and summits, she was silenced. Defendants told her she was being
4 ungrateful and that she should feel satisfied with her compensation. Defendants also
5 discouraged her from raising the issue again and demanded that she not discuss it with other
6 employees.

7 55. When this myriad of uncompensated time is factored in, Plaintiff Macias and
8 Branch Class members frequently, if not always, work over eight hours per day, necessitating
9 the payment of overtime compensation for those excess hours. However, Defendants maintain
10 a policy and practice of not approving or otherwise paying overtime wages, regardless of
11 actual hours worked. Defendants consistently pay for scheduled hours and nothing more.
12 Accordingly, Defendants fail to pay Plaintiff Macias and Branch Class members appropriate
13 overtime premiums for time worked over eight (8) hours in a day, and/or forty (40) hours in a
14 week during their employment with Defendants.

15 56. Plaintiff Macias and Branch Class members earn various incentives and bonuses
16 as part of their compensation. Those wages must be incorporated into the regular rate when
17 calculating the overtime premium rate. Thus, even when Defendants manage to pay overtime
18 premiums, they do so at an unlawful rate because they do not incorporate the incentive and
19 bonus pay for the week in which the overtime premium was earned.

20 57. Plaintiff Macias is informed and believes, and based thereon alleges, that
21 Defendants failed to use the incentive pay to calculate the regular rate of pay, which in turn,
22 is used to calculate the overtime rate for the payment of overtime wages in the event Plaintiff
23 Macias and/or Branch Class members earned incentive pay and overtime wages in the same
24 workweek.

25 58. The same demands and obligations that require Plaintiff Macias and Branch
26 Class members to work copious amounts of overtime hours similarly prevent Plaintiff Macias
27 and Branch Class members from taking complaint meal and rest breaks as required by law. As
28 branch employees, Plaintiff Macias and Branch Class members are constantly responding to

1 client and customer demands and requests for services in person, on the phone, by email, or
2 other means. Customer service and satisfaction is unabashedly Defendants' top priority. As a
3 result, Defendants maintain a policy and practice whereby Plaintiff Macias and Branch Class
4 members must serve clients and customers at all times even if they are due for a meal or rest
5 period. Additionally, even when Plaintiff Macias and Branch Class members are able to start
6 a meal or rest break, they are subject to interrupted, shortened, or otherwise "on-duty" breaks
7 for which they are not relieved of all duties.

8 59. Because meal periods are unpaid and thus must be completely duty-free and off-
9 the-clock, Plaintiff Macias and Branch Class Members are required to "clock out" for meal
10 periods using Defendants' timekeeping system. Defendants are required to provide meal
11 periods within the first five hours of a shift. Because Plaintiff Macias and Branch Class
12 members are often too busy or occupied with a customer or client, they frequently do not
13 receive a meal period within the required time frame. As a result, if Defendants do provide a
14 meal period, Defendants will instruct Plaintiff Macias and Branch Class members to doctor or
15 otherwise falsify their timecard to reflect a full meal period within five hours even if the meal
16 period was in fact provided well after five hours of a shift's beginning or for less than the 30
17 minutes required.

18 60. Plaintiff Macias and Branch Class members are similarly denied the two off-
19 duty rest periods to which they are entitled in an eight-hour shift. Due to the heavy workload
20 and customer service demands of the job, Plaintiff Macias and Branch Class members are
21 regularly unable to take bona fide rest periods for every four hours worked. Even if they are
22 able to start a rest period, it is frequently untimely, interrupted, shortened, or otherwise
23 noncompliant.

24 61. Plaintiff Macias is informed and believes, and based thereon alleges, that
25 Defendants failed to provide Plaintiff Macias and Branch Class members the required rest and
26 meal periods during the relevant time period as required under the Industrial Welfare
27 Commission Wage Orders and thus they are entitled to any and all applicable wage penalties
28 and premiums.

1 62. Plaintiff Macias is informed and believes, and based thereon alleges, that
2 Defendants knew or should have known that Plaintiff Macias and Branch Class members were
3 entitled to receive all timely and complete meal periods or payment of one additional hour of
4 pay at Plaintiff Macias and Branch Class members' regular rate of pay when a meal period
5 was missed, late or interrupted, and that Plaintiff Macias and Branch Class members did not
6 receive all timely and proper meal periods or payment of one additional hour of pay at their
7 regular rate of pay when a meal period was missed.

8 63. Plaintiff Macias is informed and believes, and based thereon alleges, that
9 Defendants knew or should have known that Plaintiff Macias and Branch Class members were
10 entitled to receive all timely rest periods without interruption or payment of one additional
11 hour of pay at Plaintiff Macias and Branch Class members' regular rate of pay when a rest
12 period was missed, late or interrupted, and that Plaintiff Macias and Branch Class members
13 did not receive all rest periods or payment of one additional hour of pay at their regular rate
14 of pay when a rest period was missed.

15 64. Defendants also fail to reimburse Plaintiff Macias and Branch Class members
16 for all business expenses they incur on the job. For example, Plaintiff Macias and Branch
17 Class members are regularly forced to use their personal cell phones to communicate with and
18 serve clients and customers before, during, and after business hours. Defendants do not
19 reimburse Plaintiff Macias and Branch Class members for maintaining the phone lines or the
20 attendant hardware. In addition, Defendants fail to reimburse Plaintiff Macias and Branch
21 Class members for travel expenses incurred attending conferences, seminars, and summits,
22 including but not limited to food, gas, and vehicle mileage.

23 65. Plaintiff Macias is informed and believes, and based thereon alleges, that
24 Defendants knew or should have known that Plaintiff Macias and Branch Class members were
25 entitled to reimbursement for necessary business-related expenses.

26 **Call Center Class**

27 66. At all times relevant to the allegations herein, Plaintiffs Kiliani and Sancrant were
28 employed at First Tech's customer service call center facility in Rocklin, California. Plaintiffs

1 Kiliani and Sancrant held the position of customer service representative. In that position,
2 Plaintiffs Kiliani and Sancrant were responsible for answering incoming calls from customers
3 and assisting in providing banking and customer account support to the extent possible over the
4 phone, during and outside branch business hours.

5 67. To perform these job duties, Plaintiffs Kiliani and Sancrant and Call Center Class
6 members use various computer programs and systems to accept and manage incoming customer
7 calls, notate and document customer requests, and facilitate follow up if further action is
8 required.

9 68. Prior to taking the first call of a shift, Plaintiffs Kiliani and Sancrant and Call
10 Center Class members have to go through a process of initiating the various systems and
11 software programs on their designated computer, which lasts approximately 10 minutes. This
12 time is in addition to getting situated at the desk or physical space at which Plaintiffs Kiliani
13 and Sancrant and Call Center Class members take calls throughout a shift. Defendants expected,
14 and in fact, expressly required Plaintiffs Kiliani and Sancrant and Call Center Class members to
15 be ready to take and accept customer calls at the time their shifts start.

16 69. As a result, Plaintiffs Kiliani and Sancrant and Call Center Class members have
17 to arrive *prior to* their scheduled shift start time to get set up. At training and onboarding,
18 Defendants explicitly instruct Call Center Class members to arrive *at least* 10 minutes prior to
19 the beginning of a shift to allow enough time to get set up at one's workstation and computer.
20 However, this time is not reflected on the timesheets Plaintiffs Kiliani and Sancrant and Call
21 Center Class members maintain and submit each week. In fact, Defendants specifically instruct
22 Call Center Class members not to include such time on their timesheets.

23 70. After completing the initial setup process prior to the beginning of a shift,
24 Plaintiffs Kiliani and Sancrant and Call Center Class members are instructed to change their
25 status to "Available" in the calling software from where the incoming customer calls are directed
26 to them. To be considered on time, Plaintiffs Kiliani and Sancrant and Call Center Class
27 members are expected to reflect a status of "Available" at the time their scheduled shifts start.
28 In fact, the calling software will trigger an alert if an employee logs in late, but not early.

1 Likewise, the calling software will trigger an alert if an employee logs out before a shift ends,
2 but not if that employee remains logged in beyond his or her scheduled shift end time.

3 71. Once Plaintiffs Kiliani and Sancrant and Call Center Class members indicate that
4 they are “Available” in the calling software, they generally receive a call within three minutes.
5 Incoming calls from customers continue throughout the duration of a shift with only 15-30
6 seconds between the conclusion of one call and the beginning of the next.

7 72. Moreover, the nature, length, and subject matter of each call varies. Therefore,
8 Plaintiffs Kiliani and Sancrant and Call Center Class members often spend nearly an entire shift
9 on the phone, and they are unable to determine when they will conclude a call and move on to
10 the next.

11 73. Plaintiffs Kiliani and Sancrant and Call Center Class members are disciplined or
12 subject to negative performance feedback if they fail to accept a call when they are deemed
13 “Available” in the calling software. Therefore, Plaintiffs Kiliani and Sancrant and Call Center
14 Class members have little to no time between calls to finish any notes regarding the previous
15 call, complete additional tasks if necessary, or review, retrieve, or mail documents responsive
16 to customer calls.

17 74. Plaintiffs Kiliani and Sancrant and Call Center Class members must be
18 “Available” to take calls all the way up until their scheduled shift ending time. For example, if
19 a Call Center Class member is scheduled to work until 3:30 PM, he or she must maintain a status
20 of “Available” until that time. If a call is directed to that Call Center Class member at 3:29 PM,
21 he or she must take the call to avoid negative performance feedback or disciplinary action. As a
22 result, Plaintiffs Kiliani and Sancrant and Call Center Class members regularly work past their
23 shift ending time to conclude their last call of the day. Because Defendants instruct Plaintiffs
24 Kiliani and Sancrant and Call Center Class members to limit their reported time to their
25 scheduled shift hours, that additional time to complete the final call is often not reflected on Call
26 Center Class members’ timesheets, and thus uncompensated.

27 75. In addition, even after the final calls conclude, Plaintiffs Kiliani and Sancrant and
28 Call Center Class members are not able to just hang up and leave their workstation for the day.

1 Rather, they spend additional time logging out of the various computer programs and systems
2 which they were logged into throughout the day. They also must complete end-of-shift activities
3 that they are unable to perform in between calls such as responding to emails, notating complete
4 details of calls, locking up confidential documents or information in drawers or filing cabinets,
5 and preparing and mailing items responsive to customer requests or demands. Because these
6 activities are not strictly customer call time and performed outside of scheduled shift hours,
7 Defendants instruct Plaintiffs Kiliani and Sancrant and Call Center Class members not to include
8 such time on their timesheets.

9 76. Defendants require Call Center Class members to seek advance permission to
10 work beyond scheduled shift hours. Accordingly, Defendants discourage Plaintiffs Kiliani and
11 Sancrant and Call Center Class members from requesting or reporting overtime and
12 compensable time outside of scheduled shift hours.

13 77. The same demands that require Plaintiffs Kiliani and Sancrant and Call Center
14 Class members to work copious amounts of off-the-clock time similarly prevent Plaintiffs
15 Kiliani and Sancrant and Call Center Class members from taking complaint meal and rest
16 breaks as required by law. Defendants maintain a policy and practice requiring Call Center
17 Class members to accept and complete a call even if they are scheduled or required by law to
18 take a meal or rest break during that call. Moreover, Defendants do not relieve Call Center Class
19 members of their duties in the middle of a customer call even if they due for a meal or rest break.
20 As a result, Plaintiffs Kiliani and Sancrant and Call Center Class members are often on the phone
21 and unable to take timely meal and rest breaks as required by law.

22 78. Even when Plaintiffs Kiliani and Sancrant and Call Center Class members are able
23 to take a meal or rest break, they are often not taken until after the statutorily permissible time
24 period for mandatory breaks. In addition, because such breaks are frequently taken late, if at all,
25 they are often shortened and thus, Plaintiffs Kiliani and Sancrant and Call Center Class members
26 are permitted less time than the law requires.

27 79. Because meal periods are unpaid and thus must be completely duty-free and off-
28 the-clock, Plaintiffs Kiliani and Sancrant and Call Center Class members are required to “clock

1 out” for meal periods using Defendants’ timekeeping system. Defendants are required to
2 provide meal periods within the first five hours of a shift. Because Plaintiffs Kiliani and
3 Sancrant and Call Center Class members are often occupied and on the phone with a customer,
4 they frequently do not receive a meal period within the required time frame. As a result, if
5 Defendants do provide a meal period, Defendants will instruct Plaintiffs Kiliani and Sancrant
6 and Call Center Class members to doctor or otherwise falsify their timesheet to reflect a full
7 meal period within five hours even if the meal period was in fact provided well after five hours
8 of a shift’s beginning or for less than the 30 minutes required.

9 80. Plaintiffs Kiliani and Sancrant and Call Center Class members are also subject to
10 *interrupted* meal and rest breaks. Because the incoming call frequency is incessant with virtually
11 no time in between calls, Defendants require Plaintiffs Kiliani and Sancrant and Call Center
12 Class members to attend meetings and trainings during meal and rest breaks. That is
13 compensable work that is performed when Plaintiffs Kiliani and Sancrant and Call Center Class
14 members are supposed to be “duty free.” As a result, such meetings and trainings further delay,
15 shorten, or interrupt meal and rest breaks.

16 81. Plaintiffs Kiliani and Sancrant are informed and believe, and based thereon
17 allege, that Defendants failed to provide Plaintiffs Kiliani and Sancrant and Call Center Class
18 members the required rest and meal periods during the relevant time period as required under
19 the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all
20 applicable wage penalties and premiums.

21 82. Plaintiffs Kiliani and Sancrant are informed and believe, and based thereon
22 allege, that Defendants knew or should have known that Plaintiffs Kiliani and Sancrant and
23 Call Center Class members were entitled to receive all timely and complete meal periods or
24 payment of one additional hour of pay at Plaintiffs Kiliani and Sancrant and Call Center Class
25 members’ regular rate of pay when a meal period was missed, late or interrupted, and that
26 Plaintiffs Kiliani and Sancrant and Call Center Class members did not receive all timely and
27 proper meal periods or payment of one additional hour of pay at their regular rate of pay when
28 a meal period was missed.

83. Plaintiffs Kiliani and Sancrant are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs Kiliani and Sancrant and Call Center Class members were were entitled to receive all timely rest periods without interruption or payment of one additional hour of pay at Plaintiffs Kiliani and Sancrant and Call Center Class members' regular rate of pay when a rest period was missed, late or interrupted, and that Plaintiffs Kiliani and Sancrant and Call Center Class members did not receive all rest periods or payment of one additional hour of pay at their regular rate of pay when a rest period was missed.

CLASS ACTION ALLEGATIONS

84. During the relevant time period set forth herein, Defendants failed to pay wages to Plaintiffs and putative Class members for all hours worked. Plaintiffs and putative Class members were required to work more than eight (8) hours per day and/or forty (40) hours per week without overtime compensation.

85. During the relevant time period set forth herein, Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to Plaintiffs and putative Class members.

86. During the relevant time period set forth herein, Defendants failed to pay Plaintiffs and putative Class members at least minimum wages for all hours worked.

87. During the relevant time period set forth herein, Defendants failed to pay Plaintiffs and putative Class members the wages owed to them upon discharge or resignation. Defendants knew or should have known that Plaintiffs and putative Class members were entitled to receive the wages owed to them upon discharge or resignation, including overtime and minimum wages and meal and rest period premiums, and that Plaintiffs and putative Class members did not, in fact, receive such wages owed to them at the time of their discharge or resignation.

88. During the relevant time period set forth herein, Defendants failed to provide complete or accurate wage statements to Plaintiffs and putative Class members. Defendants knew or should have known that Plaintiffs and putative Class members were entitled to receive

1 complete and accurate wage statements in accordance with California law, but, in fact,
2 Plaintiffs and putative Class members did not receive complete and accurate wage statements
3 from Defendants. The deficiencies included, *inter alia*, the failure to include the total number
4 of hours worked by Plaintiffs and putative Class members.

5 89. During the relevant time period set forth herein, Defendants failed to keep
6 complete or accurate payroll records for Plaintiffs and putative Class members. Defendants
7 knew or should have known that Defendants had to keep complete and accurate payroll records
8 for Plaintiffs and putative Class members in accordance with California law, but, in fact, did
9 not keep complete and accurate payroll records for Plaintiffs and putative Class members.

10 90. During the relevant time period set forth herein, Defendants failed to properly
11 compensate Plaintiffs and putative Class members pursuant to California law in order to
12 increase Defendants' profits.

13 91. Plaintiffs are informed and believe, and based thereon allege, that Defendants
14 knew or should have known that they had a duty to compensate Plaintiffs and putative Class
15 members pursuant to California law, and that Defendants had the financial ability to pay such
16 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
17 represented to Plaintiffs and putative Class members that they were properly denied wages,
18 all in order to increase Defendants' profits.

19 92. California Labor Code section 218 states that nothing in Article 1 of the Labor
20 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
21 due to him [or her] under this article."

22 **Branch Class**

23 93. Plaintiff Macias brings this action on her own behalf and on behalf of all others
24 similarly situated, and thus, seeks class certification under Code of Civil Procedure section
25 382.

26 94. The proposed Branch Class is defined as follows:

27 **All current and former hourly-paid or non-exempt employees working at**
28 **Defendants' credit union branch locations within the State of California at**

1 **any time during the period from July 31, 2016² to final judgment.**

2 95. Plaintiff Macias reserves the right to establish subclasses as appropriate.

3 96. The Branch Class is ascertainable and there is a well-defined community of
4 interest in the litigation:

5 a. Numerosity: The Branch Class members are so numerous that joinder of
6 all Branch Class members is impracticable. The membership of the entire
7 Branch Class is unknown to Plaintiff Macias at this time; however, the
8 Branch Class is estimated to be greater than fifty (50) individuals and the
9 identity of such membership is readily ascertainable by inspection of
10 Defendants' employment records.

11 b. Typicality: Plaintiff Macias's claims are typical of all other Branch Class
12 members' claims as demonstrated herein. Plaintiff Macias will fairly and
13 adequately protect the interests of the other Branch Class members with
14 whom she has a well-defined community of interest.

15 c. Adequacy: Plaintiff Macias will fairly and adequately protect the
16 interests of each Branch Class member, with whom she has a well-
17 defined community of interest and typicality of claims, as demonstrated
18 herein. Plaintiff Macias has no interest that is antagonistic to the other
19 Branch Class members. Plaintiff Macias's attorneys, the proposed class
20 counsel, are versed in the rules governing class action discovery,
21 certification, and settlement. Plaintiff Macias has incurred, and during
22 the pendency of this action will continue to incur, costs and attorneys'
23 fees, that have been, are, and will be necessarily expended for the
24 prosecution of this action for the substantial benefit of each Branch Class
25 member.

26
27 ² Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial
28 Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of
action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Accordingly,
Plaintiff Macias's claims were tolled during that time period.

- 1 d. Superiority: A class action is superior to other available methods for the
2 fair and efficient adjudication of this litigation because individual joinder
3 of all Branch Class members is impractical.
- 4 e. Public Policy Considerations: Certification of this lawsuit as a class
5 action will advance public policy objectives. Employers of this great
6 state violate employment and labor laws every day. Current employees
7 are often afraid to assert their rights out of fear of direct or indirect
8 retaliation. However, class actions provide the class members who are
9 not named in the complaint anonymity that allows for the vindication of
10 their rights.

11 97. There are common questions of law and fact as to the Branch Class members
12 that predominate over questions affecting only individual members. The following common
13 questions of law or fact, among others, exist as to the members of the Branch Class:

- 14 a. Whether Defendants' failure to pay wages, without abatement or
15 reduction, in accordance with the California Labor Code, was willful;
- 16 b. Whether Defendants failed to pay their hourly-paid or non-exempt
17 branch employees within the State of California for all hours worked,
18 missed meal periods and rest breaks in violation of California law;
- 19 c. Whether Defendants required Plaintiff Macias and Branch Class
20 members to work over eight (8) hours per day and/or over forty (40)
21 hours per week and failed to pay the legally required overtime
22 compensation to Plaintiff Macias and Branch Class members;
- 23 d. Whether Defendants properly calculated the regular rate for Plaintiff
24 Macias and Branch Class members who worked overtime and earned
25 incentive pay;
- 26 e. Whether Defendants deprived Plaintiff Macias and Branch Class
27 members of meal and/or rest periods or required Plaintiff Macias and
28 Branch Class members to work during meal and/or rest periods without

1 compensation;

2 f. Whether Defendants failed to pay minimum wages to Plaintiff Macias
3 and Branch Class members for all hours worked;

4 g. Whether Defendants failed to pay all wages due to Plaintiff Macias and
5 Branch Class members within the required time upon their discharge or
6 resignation;

7 h. Whether Defendants failed to timely pay all wages due to Plaintiff
8 Macias and Branch Class members during their employment;

9 i. Whether Defendants complied with wage reporting as required by the
10 California Labor Code, including, *inter alia*, section 226;

11 j. Whether Defendants failed to reimburse Branch Class members for
12 necessary business-related expenses and costs;

13 k. Whether Defendants' conduct was willful or reckless;

14 l. Whether Defendants engaged in unfair business practices in violation of
15 California Business & Professions Code section 17200, *et seq.*;

16 m. The appropriate amount of damages, restitution, and/or monetary
17 penalties resulting from Defendants' violation of California law; and

18 n. Whether Plaintiff Macias and Branch Class members are entitled to
19 compensatory damages pursuant to the California Labor Code.

20 **Call Center Class**

21 98. Plaintiffs Kiliani and Sancrant bring this action on their own behalf and on behalf
22 of all others similarly situated, and thus, seek class certification under Code of Civil Procedure
23 section 382.

24 99. The proposed Call Center Class is defined as follows:

25 **All current and former hourly-paid or non-exempt employees working at**
26 **Defendants' customer service call center locations within the State of**

1 **California at any time during the period from July 31, 2016³ to final**
2 **judgment.**

3 100. Plaintiffs Kiliani and Sancrant reserve the right to establish subclasses as
4 appropriate.

5 101. The Call Center Class is ascertainable and there is a well-defined community of
6 interest in the litigation:

7 a. Numerosity: The Call Center Class members are so numerous that
8 joinder of all Call Center Class members is impracticable. The
9 membership of the entire Call Center Class is unknown to Plaintiffs
10 Kiliani and Sancrant at this time; however, the Call Center Class is
11 estimated to be greater than fifty (50) individuals and the identity of such
12 membership is readily ascertainable by inspection of Defendants'
13 employment records.

14 b. Typicality: The claims of Plaintiff Kiliani and Sancrant are typical of all
15 other Call Center Class members' claims as demonstrated herein.
16 Plaintiffs Kiliani and Sancrant will fairly and adequately protect the
17 interests of the other Call Center Class members with whom they have a
18 well-defined community of interest.

19 c. Adequacy: Plaintiffs Kiliani and Sancrant will fairly and adequately
20 protect the interests of each Call Center Class member, with whom she
21 has a well-defined community of interest and typicality of claims, as
22 demonstrated herein. Plaintiffs Kiliani and Sancrant have no interest that
23 is antagonistic to the other Call Center Class members. Plaintiffs'
24 attorneys, the proposed class counsel, are versed in the rules governing
25 class action discovery, certification, and settlement. Plaintiffs Kiliani and
26

27 ³ Per Emergency Rule 9 (Tolling statute of limitations for civil causes of action) of the Judicial
28 Council's Emergency Rules Related to COVID-19, all statute of limitations for civil causes of
action that exceed 180 days are tolled from April 6, 2020 until October 1, 2020. Accordingly,
the claims of Plaintiffs Kiliani and Sancrant were tolled during that time period.

1 Sancrant incurred, and during the pendency of this action will continue
2 to incur, costs and attorneys' fees, that have been, are, and will be
3 necessarily expended for the prosecution of this action for the substantial
4 benefit of each Call Center Class member.

5 d. Superiority: A class action is superior to other available methods for the
6 fair and efficient adjudication of this litigation because individual joinder
7 of all Call Center Class members is impractical.

8 e. Public Policy Considerations: Certification of this lawsuit as a class
9 action will advance public policy objectives. Employers of this great
10 state violate employment and labor laws every day. Current employees
11 are often afraid to assert their rights out of fear of direct or indirect
12 retaliation. However, class actions provide the class members who are
13 not named in the complaint anonymity that allows for the vindication of
14 their rights.

15 102. There are common questions of law and fact as to the Call Center Class members
16 that predominate over questions affecting only individual members. The following common
17 questions of law or fact, among others, exist as to the members of the Call Center Class:

- 18 a. Whether Defendants' failure to pay wages, without abatement or
19 reduction, in accordance with the California Labor Code, was willful;
- 20 b. Whether Defendants failed to pay their hourly-paid or non-exempt call
21 center employees within the State of California for all hours worked,
22 missed meal periods and rest breaks in violation of California law;
- 23 c. Whether Defendants required Plaintiffs Kiliani and Sancrant and Call
24 Center Class members to work over eight (8) hours per day and/or over
25 forty (40) hours per week and failed to pay the legally required overtime
26 compensation to Plaintiffs Kiliani and Sancrant and Call Center Class
27 members;
- 28 d. Whether Defendants properly calculated the regular rate for Plaintiffs

- Kiliani and Sancrant and Call Center Class members who worked overtime and earned any incentive pay;
- e. Whether Defendants deprived Plaintiffs Kiliani and Sancrant and Call Center Class members of meal and/or rest periods or required Plaintiffs Kiliani and Sancrant and Call Center Class members to work during meal and/or rest periods without compensation;
 - f. Whether Defendants failed to pay minimum wages to Plaintiffs Kiliani and Sancrant and Call Center Class members for all hours worked;
 - g. Whether Defendants failed to pay all wages due to Plaintiffs Kiliani and Sancrant and Call Center Class members within the required time upon their discharge or resignation;
 - h. Whether Defendants failed to timely pay all wages due to Plaintiffs Kiliani and Sancrant and Call Center Class members during their employment;
 - i. Whether Defendants complied with wage reporting as required by the California Labor Code, including, *inter alia*, section 226;
 - j. Whether Defendants' conduct was willful or reckless;
 - k. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, *et seq.*;
 - l. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
 - m. Whether Plaintiffs Kiliani and Sancrant and Call Center Class members are entitled to compensatory damages pursuant to the California Labor Code.

FIRST CAUSE OF ACTION

Failure to Pay for All Hours Worked

(Violation of California Labor Code § 204)

(Against All Defendants – on Behalf of All Putative Class Members)

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

3 104. Plaintiffs allege that Defendants willfully engaged and continue to engage in a
4 policy and practice of not compensating Plaintiffs and putative Class members for all hours
5 worked or spent in Defendants' control.

6 105. Defendants regularly require Plaintiffs and putative Class members to perform
7 uncompensated and/or off-the-clock work. As detailed above, Plaintiffs and putative Class
8 regularly work outside of their scheduled shifts to meet the demands of the job. While
9 Plaintiffs and putative Class members regularly perform work well in excess of eight daily
10 hours, Defendants simply ignore this work, failing to provide any compensation for it.

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

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

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

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

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

23 110. IWC Wage Order 7-2001(2)(G) defines hours worked as "the time during
24 which an employee is subject to the control of an employer, and includes all the time the
25 employee is suffered or permitted to work, whether or not required to do so...."

26 111. In violation of California law, Defendants knowingly and willfully refuse to
27 perform their obligation to provide Plaintiffs and putative Class members with compensation
28

1 for all time worked. Therefore, Defendants committed, and continue to commit, the acts
2 alleged herein knowingly and willfully, and in conscious disregard of Plaintiffs and putative
3 Class members' rights. Plaintiffs and putative Class members are thus entitled to recover
4 nominal, actual, and compensatory damages, plus interest, attorneys' fees, expenses and
5 costs of suit.

6 **SECOND CAUSE OF ACTION**

7 **Unpaid Overtime**

8 **(Violation of California Labor Code §§ 510 and 1198)**

9 **(Against All Defendants – on Behalf of All Putative Class Members)**

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

12 113. California Labor Code section 1198 and the applicable Industrial Welfare
13 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
14 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
15 rate of pay, depending on the number of hours worked by the person on a daily or weekly
16 basis.

17 114. Specifically, the applicable IWC Wage Order provides that Defendants are and
18 were required to pay Plaintiffs and putative Class members employed by Defendants, who
19 work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at
20 the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more
21 than forty (40) hours in a workweek.

22 115. The applicable IWC Wage Order further provides that Defendants are and were
23 required to pay Plaintiffs and putative Class members overtime compensation at a rate of two
24 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

25 116. California Labor Code section 510 codifies the right to overtime compensation
26 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
27 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
28 day of work, and overtime compensation at twice the regular hourly rate for hours worked in

1 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
2 of work.

3 117. During the relevant time period set forth herein, Plaintiffs and putative Class
4 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in
5 a week.

6 118. During the relevant time period set forth herein, Defendants intentionally and
7 willfully failed to pay overtime wages owed to Plaintiffs and putative Class members.

8 119. Defendants' failure to pay Plaintiffs and putative Class members the unpaid
9 balance of overtime compensation, as required by California laws, violates the provisions of
10 California Labor Code sections 510 and 1198, and is therefore unlawful.

11 120. Pursuant to California Labor Code section 1194, Plaintiffs and putative Class
12 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
13 attorneys' fees.

14 **THIRD CAUSE OF ACTION**

15 **Unpaid Meal and Rest Period Premiums**

16 **(Violation of California Labor Code §§ 226.7 and 512(a))**

17 **(Against All Defendants – on Behalf of All Putative Class Members)**

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

20 122. During the relevant time period set forth herein, the IWC Order and California
21 Labor Code sections 226.7 and 512(a) were applicable to Plaintiffs and putative Class
22 members employed by Defendants.

23 123. During the relevant time period set forth herein, California Labor Code section
24 226.7 provides that no employer shall require an employee to work during any meal or rest
25 period mandated by an applicable order of the California IWC.

26 124. During the relevant time period set forth herein, the applicable IWC Wage Order
27 and California Labor Code section 512(a) provide that an employer may not require, cause or
28 permit an employee to work for a work period of more than five (5) hours per day without

1 providing the employee with a meal period of not less than thirty (30) minutes, except that if
2 the total work period per day of the employee is no more than six (6) hours, the meal period
3 may be waived by mutual consent of both the employer and employee.

4 125. During the relevant time period set forth herein, the applicable IWC Wage Order
5 and California Labor Code section 512(a) further provide that an employer may not require,
6 cause, or permit an employee to work for a work period of more than ten (10) hours per day
7 without providing the employee with a second uninterrupted meal period of not less than thirty
8 (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the
9 second meal period may be waived by mutual consent of the employer and the employee only
10 if the first meal period was not waived.

11 126. During the relevant time period set forth herein, Plaintiffs and putative Class
12 members who were scheduled to work for a period of time no longer than six (6) hours, and
13 who did not waive their legally-mandated meal periods by mutual consent, were required to
14 work for periods longer than five (5) hours without an uninterrupted meal period of not less
15 than thirty (30) minutes and/or without a rest period.

16 127. During the relevant time period set forth herein, Plaintiffs and putative Class
17 members who were scheduled to work for a period of time no longer than twelve (12) hours,
18 and who did not waive their legally-mandated meal periods by mutual consent, were required
19 to work for periods longer than ten (10) hours without an uninterrupted meal period of not less
20 than thirty (30) minutes and/or without a rest period.

21 128. During the relevant time period set forth herein, Plaintiffs and putative Class
22 members who were scheduled to work for a period of time in excess of six (6) hours were
23 required to work for periods longer than five (5) hours without an uninterrupted meal period
24 of not less than thirty (30) minutes and/or without a rest period.

25 129. During the relevant time period set forth herein, Plaintiffs and putative Class
26 members who were scheduled to work for a period of time in excess of twelve (12) hours were
27 required to work for periods longer than ten (10) hours without an uninterrupted meal period
28 of not less than thirty (30) minutes and/or without a rest period.

1 130. During the relevant time period set forth herein, Defendants intentionally and
2 willfully required Plaintiffs and putative Class members to work during meal periods and
3 failed to compensate Plaintiffs and putative Class members the full meal period premium for
4 work performed during meal periods.

5 131. During the relevant time period set forth herein, Defendants failed to pay
6 Plaintiffs and putative Class members the full meal period premium due pursuant to California
7 Labor Code section 226.7.

8 132. During the relevant time period set forth herein, the applicable IWC Wage Order
9 provides that “[e]very employer shall authorize and permit all employees to take rest periods,
10 which insofar as practicable shall be in the middle of each work period” and that the “rest
11 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net
12 rest time per four (4) hours or major fraction thereof” unless the total daily work time is less
13 than three and one-half (3 ½) hours.

14 133. During the relevant time period set forth herein, Defendants required Plaintiffs
15 and putative Class members to work four (4) or more hours without authorizing or permitting
16 a ten (10) minute rest period per each four (4) hour period worked.

17 134. During the relevant time period set forth herein, Defendants willfully required
18 Plaintiffs and putative Class members to work during rest periods and failed to pay Plaintiffs
19 and putative Class members the full rest period premium for work performed during rest
20 periods.

21 135. During the relevant time period set forth herein, Defendants failed to pay
22 Plaintiffs and putative Class members the full rest period premium due pursuant to California
23 Labor Code section 226.7.

24 136. Defendants’ conduct violates applicable IWC Wage Order and California Labor
25 Code sections 226.7 and 512(a).

26 137. Pursuant to the applicable IWC Wage Order and California Labor Code section
27 226.7(b), Plaintiffs and putative Class members are entitled to recover from Defendants one
28 additional hour of pay at the employee’s regular rate of compensation for each workday that

1 the meal or rest period is not provided.

2 **FOURTH CAUSE OF ACTION**

3 **Unpaid Minimum Wages**

4 **(Violation of California Labor Code §§ 1194 and 1197)**

5 **(Against All Defendants – on Behalf of All Putative Class Members)**

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

8 139. During the relevant time period set forth herein, California Labor Code sections
9 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of
10 a lesser wage than the minimum so fixed, is unlawful.

11 140. During the relevant time period set forth herein, Defendants failed to pay
12 minimum wages to Plaintiffs and putative Class members as required, pursuant to California
13 Labor Code sections 1194 and 1197.

14 141. Defendants' failure to pay Plaintiffs and putative Class members the minimum
15 wage as required violates California Labor Code sections 1194 and 1197. Pursuant to those
16 sections, Plaintiffs and putative Class members are entitled to recover the unpaid balance of
17 their minimum wage compensation as well as interest, costs, and attorney's fees, and
18 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

19 142. Pursuant to California Labor Code section 1194.2, Plaintiffs and putative Class
20 members are entitled to recover liquidated damages in an amount equal to the wages
21 unlawfully unpaid and interest thereon.

22 **FIFTH CAUSE OF ACTION**

23 **Final Wages Not Timely Paid**

24 **(Violation of California Labor Code §§ 201 and 202)**

25 **(Against All Defendants – on Behalf of All Putative Class Members)**

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

28 144. During the relevant time period set forth herein, California Labor Code sections

201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

145. During the relevant time period set forth herein, Defendants intentionally and willfully failed to pay Plaintiffs and putative Class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

146. Defendants' failure to pay Plaintiffs and putative Class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

147. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

148. Plaintiffs and putative Class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as provided by Labor Code section 203.

SIXTH CAUSE OF ACTION

Non-Compliant Wage Statements

(Violation of California Labor Code § 226(a))

(Against All Defendants – on Behalf of All Putative Class Members)

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

150. During the relevant time period set forth herein, California Labor Code section

226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

151. Defendants have intentionally and willfully failed to provide Plaintiffs and putative Class members with complete and accurate wage statements. The deficiencies include but are not limited to: the failure to include the total number of hours worked by Plaintiffs and other putative Class members.

152. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiffs and putative Class members have suffered injury and damage to their statutorily protected rights.

153. More specifically, Plaintiffs and putative Class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

154. Plaintiffs and putative Class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

155. Plaintiffs and putative Class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g).

SEVENTH CAUSE OF ACTION

Unreimbursed Business Expenses

(Violation of California Labor Code §§ 2800 and 2802)

(Against All Defendants – on Behalf of the Branch Class)

156. Plaintiff Macias re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

157. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

158. Defendants have intentionally and willfully failed to reimburse Plaintiff Macias and Branch Class members for all necessary business-related expenses and costs. Plaintiff Macias and Branch Class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

EIGHTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against All Defendants – on Behalf of All Putative Class Members)

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

160. Defendants' conduct, as alleged herein, has been, and continues to be unfair, unlawful and harmful to Plaintiffs, putative Class members, to the general public, and Defendants' competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

161. Defendants' activities as alleged herein are violations of California law, and

1 constitute unlawful business acts and practices in violation of California Business &
2 Professions Code section 17200, *et seq.*

3 162. A violation of California Business & Professions Code section 17200, *et seq.*
4 may be predicated on the violation of any state or federal law. In this instant case, Defendants'
5 policy and practice of requiring Plaintiffs and putative Class members to work overtime hours
6 without paying them proper compensation violate California Labor Code sections 510 and
7 1198. Additionally, Defendants' policy and practice of requiring Plaintiffs and putative Class
8 members, to work through their meal and rest periods without paying them proper
9 compensation violate California Labor Code sections 226.7 and 512(a). Moreover,
10 Defendants' policy and practice of failing to timely pay wages to Plaintiffs and putative Class
11 members violate California Labor Code sections 201 and 202. Defendants also violated
12 California Labor Code sections 226(a), 1194, 1197, 2800 and 2802.

13 163. As a result of the herein described violations of California law, Defendants
14 unlawfully gained an unfair advantage over other businesses.

15 164. Plaintiffs and putative Class members have been personally injured by
16 Defendants' unlawful business acts and practices as alleged herein, including but not
17 necessarily limited to the loss of money and/or property.

18 165. Pursuant to California Business & Professions Code section 17200, *et seq.*,
19 Plaintiffs and putative Class members are entitled to restitution of the wages withheld and
20 retained by Defendants during a period that commences four years prior to the filing of this
21 Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section
22 1021.5 and other applicable laws; and an award of costs.

23 **NINTH CAUSE OF ACTION**

24 **Penalties Pursuant to Labor Code § 2699(a)**

25 **(Private Attorneys General Act of 2004)**

26 **(Against All Defendants – on Behalf of the State of California and all Aggrieved**
27 **Employees)**

1 166. Plaintiffs Kiliani and Sancrant incorporate the foregoing paragraphs as though
2 fully set forth herein.

3 167. Labor Code § 2699(a) provides:

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

10 168. Labor Code § 203 provides, in relevant part:

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

17 169. Labor Code § 226(a) provides:

18 An employer, semimonthly or at the time of each payment of wages, shall
19 furnish to his or her employees, either as a detachable part of the check,
20 draft, or voucher paying the employee's wages, or separately if wages are
21 paid by personal check or cash, an accurate itemized statement in writing
22 showing (1) gross wages earned, (2) total hours worked by the employee,
23 except as provided in subdivision (j), (3) the number of piece-rate units
24 earned and any applicable piece rate if the employee is paid on a piece-rate
25 basis, (4) all deductions, provided that all deductions made on written orders
26 of the employee may be aggregated and shown as one item, (5) net wages
27 earned, (6) the inclusive dates of the period for which the employee is paid,
28 (7) the name of the employee and only the last four digits of his or her social
29 security number or an employee identification number other than a social
30 security number, (8) the name and address of the legal entity that is the
31 employer, and (9) all applicable hourly rates in effect during the pay period
32 and the corresponding number of hours worked at each hourly rate by the
33 employee...

34 170. Plaintiffs Kiliani and Sancrant seek civil penalties pursuant to Labor Code
35 § 2699(a) for each failure by Defendants, as alleged above, to timely pay all wages owed to
36 Plaintiffs Kiliani and Sancrant and other Aggrieved Employees in compliance with Labor
37 Code §§ 201-202 in the amounts established by Labor Code § 203. Plaintiffs Kiliani and
38

1 Sancrant seek such penalties as an alternative to the penalties available under Labor Code §
2 203, as prayed for herein.

3 171. Plaintiffs Kiliani and Sancrant also seek civil penalties pursuant to Labor Code
4 § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiffs Kiliani and
5 Sancrant and other Aggrieved Employees an accurate, itemized wage statement in compliance
6 with Labor Code § 226(a) in the amounts established by Labor Code § 226(e). Plaintiffs
7 Kiliani and Sancrant seek such penalties as an alternative to the penalties available under
8 Labor Code § 226(e), as prayed for herein.

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

12 173. Plaintiffs Kiliani and Sancrant also seek civil penalties pursuant to Sections
13 226.3 and 256 of the California Labor Code.

14 174. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs Kiliani and Sancrant
15 provided the Labor and Workforce Development Agency (“LWDA”) with notice of their
16 intentions to file this claim. Sixty-five calendar days have passed without notice from the
17 LWDA. Plaintiffs Kiliani and Sancrant satisfied the administrative prerequisites to commence
18 this civil action in compliance with § 2699.3(a).

19 175. Plaintiffs Kiliani and Sancrant seek the aforementioned penalties on behalf of
20 the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(i).

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

25 177. Wherefore, Plaintiffs Kiliani and Sancrant request relief as hereinafter provided.

26 **TENTH CAUSE OF ACTION**

27 **Penalties Pursuant to Labor Code § 2699(f)**

28 **(Private Attorneys General Act of 2004)**

(Against All Defendants – on Behalf of the State of California and all Aggrieved Employees)

178. Plaintiffs Kiliani and Sancrant incorporate the foregoing paragraphs as though fully set forth herein.

179. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

180. Labor Code § 510(a) provides:

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

181. Labor Code § 512(a) provides:

An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

182. Plaintiffs Kiliani and Sancrant seek civil penalties pursuant to Labor Code § 2699(f) for each failure by Defendants, alleged above, to provide Plaintiffs Kiliani and Sancrant and other Aggrieved Employees compliant meal and rest periods in compliance with Labor Code § 512.

183. Plaintiffs Kiliani and Sancrant also seek civil penalties pursuant to Labor Code § 2699(f) for each violation of Labor Code § 510, alleged above, as well as any provision

1 regulating hours and days of work in any order of the IWC.

2 184. Plaintiffs Kiliani and Sancrant also seek civil penalties pursuant to Labor Code
3 § 2802 for each failure by Defendants, alleged above, to reimburse and indemnify Plaintiffs
4 Kiliani and Sancrant and Aggrieved Employees for all necessary expenditures and losses by
5 Plaintiffs Kiliani and Sancrant and Aggrieved Employees in direct consequence of the discharge
6 of their duties.

7 185. To the extent than any other violation alleged herein does not carry penalties
8 under Labor Code § 2699(a), Plaintiffs Kiliani and Sancrant seek civil penalties pursuant to
9 Labor Code § 2699(f) for Plaintiffs and other Aggrieved Employees each pay period in which
10 he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

11 186. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiffs Kiliani and Sancrant
12 have provided the LWDA with notice of their intention to file this claim. Sixty-five calendar
13 days have passed without notice from the LWDA. Plaintiffs Kiliani and Sancrant satisfied the
14 administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

15 187. Plaintiffs Kiliani and Sancrant seek the aforementioned penalties on behalf of
16 the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(i).

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

21 189. Wherefore, Plaintiffs Kiliani and Sancrant request relief as hereinafter provided.

22 **DEMAND FOR JURY TRIAL**

23 All Plaintiffs, individually, collectively, and on behalf of all others similarly situated,
24 request a trial by jury on all claims and issue so triable.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs, individually, collectively, and on behalf of all others
27 similarly situated, pray for relief and judgment against Defendants, jointly and severally, as
28 follows:

1 **Class Certification**

- 2 1. That this action be certified as a class action;
- 3 2. That Plaintiffs be appointed as representatives of the respective Classes;
- 4 3. That counsel for Plaintiffs be appointed as Class Counsel; and
- 5 4. That Defendants provide to Class Counsel immediately the names and most
- 6 current contact information (address, e-mail and telephone numbers) of all putative Class
- 7 members.

8 **As to the First Cause of Action**

- 9 5. That the Court declare, adjudge and decree that Defendants violated California
- 10 Labor Code section 210 and applicable IWC Wage Orders by willfully failing to pay all wages
- 11 due to Plaintiffs and putative Class members for all hours worked;
- 12 6. For general unpaid wages, overtime wages, and such general and special
- 13 damages as may be appropriate;
- 14 7. For pre-judgment interest on any unpaid overtime compensation commencing
- 15 from the date such amounts were due;
- 16 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
- 17 California Labor Code section 1194; and
- 18 9. For such other and further relief as the court may deem just and proper.

19 **As to the Second Cause of Action**

- 20 10. That the Court declare, adjudge and decree that Defendants violated California
- 21 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
- 22 pay all overtime wages due to Plaintiffs and putative Class members;
- 23 11. For general unpaid wages at overtime wage rates and such general and special
- 24 damages as may be appropriate;
- 25 12. For pre-judgment interest on any unpaid overtime compensation commencing
- 26 from the date such amounts were due;
- 27 13. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
- 28 California Labor Code section 1194; and

14. For such other and further relief as the court may deem just and proper.

As to the Third Cause of Action

15. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal and rest periods (including second meal periods) to Plaintiffs and putative Class members;

16. That the Court make an award to Plaintiffs and putative Class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided and one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

17. For all actual, consequential, and incidental losses and damages, according to proof;

18. For premium wages pursuant to California Labor Code section 226.7(b);

19. For pre-judgment interest on any unpaid wages from the date such amounts were due;

20. For reasonable attorneys' fees and costs of suit incurred herein; and

21. For such other and further relief as the court may deem just and proper.

As to the Fourth Cause of Action

22. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiffs and putative Class members;

23. For general unpaid wages and such general and special damages as may be appropriate;

24. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

25. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

26. For liquidated damages pursuant to California Labor Code section 1194.2; and

1 27. For such other and further relief as the court may deem just and proper.

2 **As to the Fifth Cause of Action**

3 28. That the Court declare, adjudge and decree that Defendants violated California
4 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at
5 the time of termination of the employment of Plaintiffs and putative Class members no longer
6 employed by Defendants;

7 29. For all actual, consequential, and incidental losses and damages, according to
8 proof;

9 30. For statutory wage penalties pursuant to California Labor Code section 203 for
10 the putative Class members who have left Defendants' employ;

11 31. For pre-judgment interest on any unpaid compensation from the date such
12 amounts were due; and

13 32. For such other and further relief as the court may deem just and proper.

14 **As to the Sixth Cause of Action**

15 33. That the Court declare, adjudge and decree that Defendants violated the record
16 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
17 as to Plaintiffs and putative Class members, and willfully failed to provide accurate itemized
18 wage statements thereto;

19 34. For actual, consequential and incidental losses and damages, according to proof;

20 35. For statutory penalties pursuant to California Labor Code section 226(e);

21 36. For injunctive relief to ensure compliance with this section, pursuant to
22 California Labor Code section 226(g); and

23 37. For such other and further relief as the court may deem just and proper.

24 **As to the Seventh Cause of Action**

25 38. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff Macias and
27 Branch Class members for all necessary business-related expenses as required by California
28 Labor Code sections 2800 and 2802;

- 1 39. For actual, consequential and incidental losses and damages, according to proof;
2 40. For the imposition of civil penalties and/or statutory penalties;
3 41. For punitive damages and/or exemplary damages according to proof at trial;
4 42. For reasonable attorneys' fees and costs of suit incurred herein; and
5 43. For such other and further relief as the court may deem just and proper.

6 **As to the Eighth Cause of Action**

7 44. That the Court declare, adjudge and decree that Defendants violated California
8 Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiffs and
9 putative Class members all overtime compensation due to them, failing to provide all meal
10 and rest periods to Plaintiffs and putative Class members, failing to pay at least minimum
11 wages to Plaintiffs and putative Class members, failing to pay Plaintiffs and putative Class
12 members' wages timely as required by California Labor Code section 201, 202.

13 45. For restitution of unpaid wages to Plaintiffs and putative Class members and all
14 pre-judgment interest from the day such amounts were due and payable;

15 46. For the appointment of a receiver to receive, manage and distribute any and all
16 funds disgorged from Defendants and determined to have been wrongfully acquired by
17 Defendants as a result of violation of California Business and Professions Code sections
18 17200, *et seq.*;

19 47. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
20 California Code of Civil Procedure section 1021.5;

21 48. For injunctive relief to ensure compliance with this section, pursuant to
22 California Businesss and Professions Code sections 17200, *et seq.*; and

23 49. For such other and further relief as the court may deem just and proper.

24 **As to the Ninth and Tenth Causes of Action**

25 50. For an order awarding civil penalties to the full extent provided for by the
26 PAGA;

27 51. For an award of reasonable attorneys' fees as provided by the California Labor
28 Code, including Labor Code § 2699(g)(1); California Code of Civil Procedure § 1021.5;

1 and/or any other applicable law;

2 52. For all costs of suit;

3 53. For interest on any penalties awarded, as provided by applicable law; and

4 54. For such other and further relief as this Court deems just and proper.

5
6 Dated: September 30, 2021

Respectfully submitted,

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8 

9 Carolyn Hunt Cottrell

10 David C. Leimbach

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11 SCHNEIDER WALLACE

COTTRELL KONECKY LLP

12 Attorneys for Plaintiffs, the Putative Class, the
13 State of California, and All Aggrieved Employee
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