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Case #21CV386574
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

NICOLAS SERAFICA, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

HGST, INC., a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 21CV386574

*Assigned to the Honorable Sunil r. Kulkarni in
Department 1*

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

- (1) FAILURE TO PAY WAGES;**
- (2) VIOLATION OF LABOR CODE §§ 226.7
AND 512;**
- (3) VIOLATION OF LABOR CODE § 226(a);**
- (4) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, ET SEQ.;**
- (5) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND OVER \$25,000.00

Complaint Filed: September 9, 2021
Trial Date: Not Set

1 Plaintiff Nicolas Serafica (“Plaintiff”) hereby submits this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendant HGST, Inc. (“Defendant”)
3 and Does 1 through 50 (collectively, “Defendants”), on behalf of himself and all other similarly
4 situated current and former employees of Defendants for penalties and/or damages under the
5 California Labor Code and the California Business & Professions Code, resulting from
6 Defendant’s failure to pay minimum, regular, and overtime wages for all hours worked, failure to
7 provide off-duty meal breaks, failure to timely pay wages upon separation of employment, and
8 failure to provide accurate itemized wage statements, as follows:

9 **INTRODUCTION**

10 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
11 201-204, 226(a), 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, California
12 Business and Professions Code § 17200, *et seq.* (the “UCL”), and the applicable Wage Orders of
13 the California Industrial Welfare Commission (“IWC”).

14 2. This Complaint challenges systemic illegal employment practices resulting in
15 violations of the California Labor Code and the UCL against individuals who worked for
16 Defendants.

17 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
18 jointly and severally, have acted intentionally and with deliberate indifference and conscious
19 disregard to the rights of all employees by failing to pay minimum, regular, and overtime wages
20 for all hours worked, failing to provide off-duty meal breaks, failing to timely pay wages upon
21 separation of employment, and failing to provide accurate itemized wage statements to its
22 employees in the State of California.

23 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 have engaged in, among other things a system of willful violations of the California Labor Code,
25 the UCL, and the applicable IWC Wage Orders, by creating and maintaining policies, practices,
26 and customs that knowingly deny employees the above stated rights and benefits.

27 5. The policies, practices and customs of Defendants described above and below
28 have resulted in unjust enrichment of Defendants and an unfair business advantage over

1 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

2 **JURISDICTION AND VENUE**

3 6. The Court has jurisdiction over the violations of the California Labor Code §§
4 201-204, 226(a), 226.7, 510, 512, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, the UCL, and the
5 applicable IWC Wage Orders.

6 7. Venue is proper in Santa Clara County, because Defendants are located in Santa
7 Clara County and Plaintiff worked for Defendants in Santa Clara County.

8 **PARTIES**

9 8. Plaintiff was employed by Defendants as an operator from about September 2017,
10 to about January 2021. During his employment with Defendants, Plaintiff worked as a non-
11 exempt employee.

12 9. Plaintiff was and is the victim of the policies, practices, and customs of
13 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
14 by California Labor Code §§ 201-204, 226(a), 226.7, 510, 512, 558, 1194, 1197, 1197.1, and
15 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

16 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant
17 HGST, Inc. was and is a Delaware corporation that maintains operations and does business in the
18 State of California, including in Santa Clara County, California. Plaintiff is informed and
19 believes, and based thereon alleges, that Defendant manufactures, distributes, and sells hard disk
20 drives, external storage drives, and other computer storage devices.

21 11. Plaintiff is informed and believes, and based thereon alleges, that at all times
22 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
23 and partnerships, licensed to do business and actually doing business in the State of California.
24 As such and based upon all the facts and circumstances incident to Defendants' business,
25 Defendants are subject to the California Labor Code, the IWC Wage Orders, and the UCL.

26 12. Plaintiff does not know the true names or capacities, whether individual, partner
27 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
28 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this

1 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
2 based thereon alleges that each of said fictitious defendants was responsible in some way for the
3 matters alleged herein and proximately caused Plaintiff and members of the general public and
4 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

5 13. At all times herein mentioned, each of said Defendant participated in the doing of
6 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
7 Defendants, and each of them, were the agents, servants, and employees of each of the other
8 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
9 acting within the course and scope of said agency and employment.

10 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
11 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
12 joint venturer of, or working in concert with each of the other co-Defendants and was acting
13 within the course and scope of such agency, employment, joint venture, or concerted activity. To
14 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
15 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
16 Defendants.

17 15. At all times herein mentioned, Defendants, and each of them, were members of,
18 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
19 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

20 16. At all times herein mentioned, the acts and omissions of various Defendants, and
21 each of them, concurred and contributed to the various acts and omissions of each and all of the
22 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
23 herein mentioned, Defendants, and each of them, ratified each and every act or omission
24 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
25 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
26 damages as herein alleged.

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CLASS ACTION ALLEGATIONS

17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure § 382, of the following class and sub-classes:

a. All current and former non-exempt employees who were employed by Defendants in the State of California at any time from September 9, 2017, through the present (the “Class”);

b. All current and former non-exempt employees of Defendants in the State of California who worked more than five (5) hours in any shift, at any time from September 9, 2017, through the present (the “Meal Period Sub-Class”); and

c. All current and former non-exempt employees of Defendants in the State of California, who were paid shift differential wages at any time from September 9, 2020, through the present (the “Wage Statement Sub-Class”).

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records.

19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

20. Defendants uniformly administered a corporate policy and practice of: (a) failing to pay all minimum, regular, and overtime wages for time spent undergoing security check-in/check-out procedures and temperature checks while off-the-clock, in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to provide off-duty meal breaks as a result of having employees undergo security check-in/check-out procedures and temperature checks during their meal breaks, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203, 226.7 and 512; (c) failing to provide accurate itemized

1 wage statements, in violation of Labor Code § 226(a); and (d) engaging in unfair business
2 practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the
3 UCL.

4 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
5 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
6 Labor Code §§ 201-204, 226(a), 226.7, 510, 512, 558, 1194, 1197, and 1197.1, the applicable
7 IWC Wage Orders, and the UCL.

8 22. **Common Question of Law and Fact:** There are predominant common questions
9 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
10 concerning Defendants' policy and practice of: (a) failing to pay all minimum, regular, and
11 overtime wages for time spent undergoing security checks and temperature checks while off-the-
12 clock, in violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; (b) failing to
13 provide off-duty meal breaks as a result of having employees undergo security checks and
14 temperature checks during their meal breaks, or pay meal period premium compensation in lieu
15 thereof, in violation of Labor Code §§ 201-203, 226.7 and 512; (c) failing to provide accurate
16 itemized wage statements, in violation of Labor Code § 226(a); and (d) engaging in unfair
17 business practices in violation of the California Labor Code, the applicable IWC Wage Orders,
18 and the UCL.

19 23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
20 Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical
21 manner as the Class Members. As with other non-exempt employees of Defendants, Plaintiff was
22 required to undergo daily security check-in/check-out procedures and temperature checks while
23 off-the-clock, both of which were conducted before he clocked into his work shifts, and after he
24 clocked out of his work shifts. As a result, Plaintiff was not paid any applicable minimum,
25 regular, or overtime wages for undergoing said security and temperature checks off-the-clock.
26 Moreover, Plaintiff was subjected to such security and temperature checks during his purported
27 meal breaks. In light of said practice, Plaintiff was not provided with 30-minute, off-duty meal
28 periods as required under California law. Plaintiff was also not paid the meal period premium

1 compensation in lieu of the non-compliant, on-duty meal periods. To date, Plaintiff has yet to
2 receive the unpaid minimum, regular, overtime wages, and meal period premium compensation
3 owed to him. Thus, Defendants owe waiting time penalties under Labor Code § 203.
4 Furthermore, as a result of the off-the-clock and meal period violations alleged above, Plaintiff
5 also received inaccurate wage statements that identified incorrect gross wages earned, net wages
6 earned, and hours worked, in violation of Labor Code § 226(a). In addition, as with other non-
7 exempt employees, Plaintiff was regularly paid shift differential wages. However, whenever said
8 shift differential wages were paid to him, the corresponding wage statements issued to Plaintiff
9 failed to identify the number of hours worked for such wages, in violation of Labor Code §
10 226(a)(9). Therefore, Plaintiff is a member of the Class and has suffered the alleged violations of
11 Labor Code §§ 201-204, 226(a), 226.7, 510, 512, 558, 1194, 1197, and 1197.1, the applicable
12 Wage Orders, and the UCL.

13 24. The California Labor Code upon which Plaintiff bases these claims are broadly
14 remedial in nature. These laws and labor standards serve an important public interest in
15 establishing minimum working conditions and standards in California. These laws and labor
16 standards protect the average working employee from exploitation by employers who may seek
17 to take advantage of superior economic and bargaining power in setting onerous terms and
18 conditions of employment.

19 25. The nature of this action and the format of laws available to Plaintiff and
20 members of the Class identified herein make the class action format a particularly efficient and
21 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
22 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
23 advantage since it would be able to exploit and overwhelm the limited resources of each
24 individual plaintiff with their vastly superior financial and legal resources. Requiring each class
25 member to pursue an individual remedy would also discourage the assertion of lawful claims by
26 employees who would be disinclined to file an action against their former and/or current
27 employer for real and justifiable fear of retaliation and permanent damage to their careers at
28 subsequent employment.

1 26. The prosecution of separate actions by the individual class members, even if
2 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
3 to individual class members against the Defendants and which would establish potentially
4 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
5 individual class members which would, as a practical matter, be dispositive of the interest of the
6 other class members not parties to the adjudications or which would substantially impair or
7 impede the ability of the class members to protect their interests. Further, the claims of the
8 individual members of the class are not sufficiently large to warrant vigorous individual
9 prosecution considering all of the concomitant costs and expenses.

10 27. Such a pattern, practice, and uniform administration of corporate policy regarding
11 illegal employee compensation described herein is unlawful and creates an entitlement to
12 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
13 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
14 according to the mandate of California Labor Code §§ 218.5, 226, 558, 1194, and Code of Civil
15 Procedure § 1021.5.

16 28. Proof of a common business practice or factual pattern, which the named Plaintiff
17 experienced and is representative of, will establish the right of each of the members of the Class
18 to recovery on the causes of action alleged herein.

19 29. The Class is commonly entitled to a specific fund with respect to the
20 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
21 restitution of those funds being improperly withheld by Defendants. This action is brought for
22 the benefit of the entire Class and will result in the creation of a common fund.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO PAY WAGES**

25 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

26 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
27 though fully set forth herein.

28 31. This cause of action is brought pursuant to California Labor Code §§ 201-204,

1 510, 558, 1194, 1197, and 1197.1. The California Labor Code requires an employer to pay
2 employees minimum and regular wages for all hours worked fewer than eight hours in a day
3 and/or fewer than 40 hours in a workweek. The California Labor Code also requires an employer
4 to pay employees overtime wages for all hours worked greater than eight hours in a day and/or
5 greater than 40 hours in a workweek.

6 32. As a pattern and practice, Defendants suffered and permitted Plaintiff and Class
7 Members to work without payment of minimum and regular wages for all hours worked in a
8 workday and workweek, and without payment of overtime wages for all hours worked greater
9 than eight hours in a day and/or greater than 40 hours in a workweek.

10 33. Specifically, Defendants required Plaintiff and Class Members to undergo
11 security check and temperature check procedures prior to the start of the work shift and at the
12 end of the shift. Said security and temperature check procedures were conducted off-the-clock –
13 before Plaintiff and Class Members clocked in for their shifts and/or after they had already
14 clocked out of the shifts at the end of the day. Defendants failed to pay Plaintiff and Class
15 Members for any time spent undergoing said security and temperature check procedures, and
16 thus Plaintiff and Class Members were not paid minimum, regular, and overtime wages for all
17 hours worked.

18 34. Defendants had a uniform corporate pattern, practice, and procedure regarding the
19 above practices in violation of the California Labor Code.

20 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
21 willful failure to pay all wages due and owing to Plaintiff and Class Members upon separation of
22 employment results in a continued payment of wages up to thirty (30) days from the time the
23 wages were due. Therefore, Plaintiff and Class Members who have separated from employment
24 are entitled to compensation pursuant to Labor Code § 203.

25 36. Such a pattern, practice and uniform administration of corporate policy regarding
26 illegal employee compensation as described herein is unlawful and creates an entitlement to
27 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
28 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according

1 to the mandate of California Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

4 **(BY PLAINTIFF AND THE MEAL PERIOD SUB- CLASS AGAINST ALL**
5 **DEFENDANTS)**

6 37. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
7 though fully set forth herein.

8 38. This cause of action is brought pursuant to Labor Code §§ 226.7 and 512, which
9 require an employer to provide a duty-free, 30-minute meal period within the first five (5) hours
10 for shifts in excess of five (5) hours per day. An employer has the obligation to provide a second
11 duty-free, 30-minute meal period for shifts in excess of ten (10) hours per day.

12 39. Plaintiff and Class Members regularly worked in excess of five (5) hours per day
13 and accordingly had a right to take a 30-minute meal period each day worked in excess of five
14 (5) hours. Furthermore, Plaintiff and Class Members who worked in excess of ten (10) hours per
15 day had a right to take a second 30-minute meal period each day worked in excess of ten (10)
16 hours.

17 40. At all relevant times, Defendants failed in their affirmative obligation to ensure
18 that Plaintiff and Class Members had the opportunity to take and were provided with off-duty
19 meal periods in accordance with the mandate of the California Labor Code and the applicable
20 IWC Wage Order. At all relevant times, Plaintiff and Class Members were suffered and
21 permitted to work through legally required meal breaks and were denied the opportunity to take
22 their off-duty meal breaks. This included, without limitation, Defendants requiring Plaintiff and
23 Class Members to undergo security check and temperature check procedures during their meal
24 breaks. As a result of the security check and temperature checks, Plaintiff and Class Members
25 were not provided with duty-free, 30-minute meal breaks in compliance with California law.

26 41. As a pattern and practice, Defendants regularly required Plaintiff and Class
27 Members to undergo security check and temperature check procedures after clocking out for
28 their meal breaks and/or before clocking back into their shifts. Plaintiff and Class Members were

1 denied the opportunity to take off-duty meal breaks because they remained under Defendants'
2 control by virtue of having to undergo these security and temperature checks.

3 42. As Plaintiff and Class Members were denied off-duty meal periods, Defendants
4 are responsible for paying premium compensation pursuant to Labor Code §§ 226.7 and 512 and
5 the applicable IWC Wage Order. Defendants, as a matter of corporate policy and procedure,
6 regularly failed to pay such premium compensation for each 30-minute duty-free meal period
7 Plaintiff and Class Members missed.

8 43. Such a pattern, practice and uniform administration of corporate policy as
9 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class in a
10 civil action, for the unpaid balance of the unpaid premium compensation pursuant to California
11 Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order, including interest thereon,
12 penalties, and costs of suit.

13 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants'
14 willful failure to provide all meal period premium wages due and owing to Plaintiff and Class
15 Members upon separation of employment results in a continued payment of wages up to thirty
16 (30) days from the time the wages were due. Therefore, Plaintiff and Class Members who have
17 separated from employment are entitled to compensation pursuant to Labor Code § 203.

18 **THIRD CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE § 226(a)**

20 **(BY PLAINTIFF, THE CLASS, THE MEAL PERIOD SUB-CLASS, AND THE WAGE**
21 **STATEMENT SUB-CLASS AGAINST ALL DEFENDANTS)**

22 45. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
23 though fully set forth herein.

24 46. Labor Code § 226(a) requires employers to provide itemized wage statements to
25 its employees that identify accurate information regarding their compensation, including without
26 limitation, the gross wages earned, total hours worked by the employee, net wages earned, and
27 all applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate by the employee. Defendants, as a matter of policy and practice,

1 failed in its affirmative obligation to provide accurate, itemized wage statements to Plaintiff and
2 Class Members, in violation of Labor Code § 226(a).

3 47. As a result of Defendants' failure to pay wages and the meal period violations as
4 identified above, the wage statements issued to Plaintiff, Class Members, and Meal Period Sub-
5 Class Members failed to identify the correct gross wages earned, net wages earned, hours worked
6 at each hourly rate, and total hours worked in the pay period, in violation of Labor Code §
7 226(a)(1), (2), (5), and (9).

8 48. As a separate, independent violation of Labor Code § 226(a), Defendants also
9 failed to issue accurate itemized wage statements to Plaintiff and Wage Statement Sub-Class
10 Members whenever shift differential wages were paid. In this regard, whenever shift differential
11 wages were paid, the corresponding wage statements issued to Plaintiff and Wage Statement
12 Sub-Class Members failed to identify the number of hours worked for said shift differential
13 wages. This is a direct violation of Labor Code § 226(a)(9).

14 49. The issuance of inaccurate wage statements caused injury to Plaintiff and Class
15 Members under Labor Code § 226(e), as they cannot accurately verify and/or calculate their
16 wages. Without identifying the correct number of hours and total hours worked, net wages
17 earned, or gross wages earned, Plaintiff and Class Members will have no way of verifying the
18 amount of hours they worked each particular pay period or whether they were correctly paid
19 wages for each particular pay period.

20 50. Such a pattern, practice, and uniform administration of corporate policy as
21 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class
22 identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226,
23 including interest thereon, attorneys' fees, and costs of suit according to the mandate of
24 California Labor Code § 226.

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1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

3 **(BY PLAINTIFF, THE CLASS, AND THE MEAL PERIOD SUB-CLASS AGAINST ALL**
4 **DEFENDANTS)**

5 51. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
6 though fully set forth herein.

7 52. Defendants, and each of them, have engaged and continue to engage in unfair and
8 unlawful business practices in California by practicing, employing, and utilizing the employment
9 practices outlined above, including by: (a) failing to pay all minimum, regular, and overtime
10 wages for time spent undergoing security and temperature checks while off-the-clock, in
11 violation of Labor Code §§ 201-204, 510, 558, 1194, 1197, and 1197.1; and (b) failing to provide
12 off-duty meal breaks as a result of having employees undergo security and temperature checks
13 during their meal breaks, and failing to pay meal period premium compensation in lieu thereof,
14 in violation of Labor Code §§ 201-203, 226.7 and 512.

15 53. Defendants' utilization of such unfair and unlawful business practices constitutes
16 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors.

17 54. Plaintiff seeks, individually and on behalf of other members of the Class similarly
18 situated, full restitution of monies, as necessary and according to proof, to restore any and all
19 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
20 complained of herein.

21 55. Plaintiff is informed and believes, and based thereon alleges, that at all times
22 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
23 as proscribed by California Business & Professions Code § 17200, *et seq.*, including those set
24 forth herein above thereby depriving Plaintiff and other Class Members the minimum working
25 standards and conditions due to them under the California laws as specifically described therein.

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1 **FIFTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

3 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

4 56. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
5 though fully set forth herein.

6 57. Plaintiff brings this cause of action as a proxy for the State of California and in
7 this capacity, seeks penalties on behalf of all Aggrieved Employees from August 4, 2020,
8 through the present, for Defendants' violations of Labor Code §§ 201-204, 226, 226.7, 510, 512,
9 558, 1194, 1197, and 1197.1, as identified above for: (a) failing to pay all minimum, regular, and
10 overtime wages for time spent undergoing security check-in/check-out procedures and
11 temperature checks while off-the-clock, in violation of Labor Code §§ 201-204, 510, 558, 1194,
12 1197, and 1197.1; (b) failing to provide off-duty meal breaks as a result of having employees
13 undergo security check-in/check-out procedures and temperature checks during their meal
14 breaks, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§
15 201-203, 226.7 and 512; and (c) failing to provide accurate itemized wage statements, in
16 violation of Labor Code § 226(a).

17 58. On or about August 4, 2021, Plaintiff sent written notice to the California Labor
18 & Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code §§ 201-
19 204, 226, 226.7, 510, 512, 558, 1194, 1197, and 1197.1, pursuant to Labor Code § 2698, *et seq.*,
20 the Private Attorneys General Act ("PAGA"). Plaintiff also sent written notice of said Labor
21 Code violations to Defendant via certified mail pursuant to Labor Code § 2699.3. As of the date
22 of the filing of this Complaint, the LWDA has not provided written notice regarding whether it
23 intends to investigate the Labor Code violations set forth in Plaintiff's written notice.

24 59. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and
25 all applicable civil penalties for Defendants' violation of Labor Code §§ 201-204, 226, 226.7,
26 510, 512, 558, 1194, 1197, and 1197.1, for the time period described above, on behalf of himself
27 and other Aggrieved Employees.

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PRAYER FOR RELIEF

1. WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

2. For an order certifying the proposed class and sub-classes;

3. For an order appointing Plaintiff as the class representative as described herein;

4. For an order appointing Counsel for Plaintiff as Class Counsel;

5. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-204, 218.5, 510, 558, 1194, 1197, and 1197.1, and for costs and attorneys' fees;

6. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;

7. Upon the Third Cause of Action, for penalties pursuant to California Labor Code § 226, and for costs and attorneys' fees;

8. Upon the Fourth Cause of Action, for restitution to Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business & Professions Code § 17200, *et seq.*, and for costs and attorneys' fees;

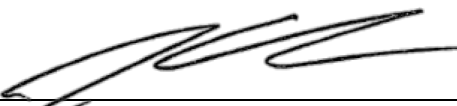
9. Upon the Fifth Cause of Action, for civil penalties pursuant to California Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

10. On all causes of action, for attorneys' fees and costs as provided by California Labor Code §§ 218.5, 226, 1194, and 2698, and Code of Civil Procedure § 1021.5; and

11. For such other and further relief the Court may deem just and proper.

DATED: October 11, 2021

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee

Mai Tulyathan

Attorneys for Plaintiff, the Class, and Aggrieved Employees

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STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On October 14, 2021, I served the following document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE CLASS ACTION COMPLAINT** on the interested parties in this action as follows:

 X BY MAIL: by placing _____ the original or X a true and correct copy thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the attached mailing list. I am readily familiar with the firm's practice for collection and processing of correspondence and other materials for mailing with the United States Postal Service. On this date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for collection and mailing on this date at the address above following our office's ordinary business practices. The envelope(s) will be deposited with the United States Postal Service on this date, in the ordinary course of business.

CHAPTER

PROOF OF SERVICE