

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

2 Norman B. Blumenthal (State Bar #068687)

3 Kyle R. Nordrehaug (State Bar #205975)

4 Aparajit Bhowmik (State Bar #248066)

5 Nicholas J. De Blouw (State Bar #280922)

6 2255 Calle Clara

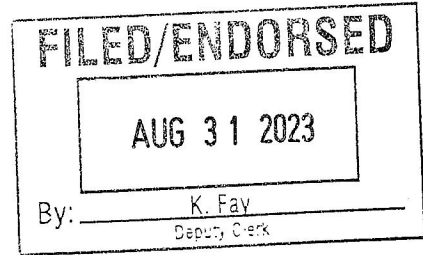
7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Website: www.bamlawca.com

11 Attorneys for Plaintiffs



12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SACRAMENTO**

14 EDWARD VIRGEN III, HOLLY ASLOP,
15 and CHRISTOPHER SHEA O'DONNELL,
16 on behalf of the State of California, as a
17 private attorney general, and as an individual,
18 on behalf of themselves and on behalf of all
19 persons similarly situated,

20 Plaintiffs,

21 vs.

22 CURALEAF CA, INC., a California
23 Corporation; CURA CA LLC, a California
24 Limited Liability Company; CURA CS INC.,
25 a Corporation; and DOES 1 through 50,
26 inclusive,

27 Defendants.

Lead Case No: 34-2022-00314655

[Related Case No.: 34-2022-00314716]

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

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
 2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
 3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
 4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
 5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
 6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
 7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
 8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and
 9. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, *et seq.*]
- DEMAND FOR A JURY TRIAL**

BY FAX

1 Plaintiffs Edward Virgen III, Holly Alsop and Christopher Shea O'Donnell (collectively
2 "PLAINTIFFS"), an individual, on behalf of himself and all other similarly situated current and
3 former employees alleges on information and belief, except for his own acts and knowledge
4 which are based on personal knowledge, the following:

5
6 **THE PARTIES**

7 1. Defendant Curaleaf CA, Inc. is a corporation that at all relevant times mentioned
8 herein conducted and continues to conduct substantial business in the state of California.

9 2. Defendant Cura CA LLC is a limited liability corporation that at all relevant times
10 mentioned herein conducted and continues to conduct substantial business in the state of
11 California.

12 3. Defendant Cura CS Inc. is a corporation that at all relevant times mentioned
13 herein conducted and continues to conduct substantial business in the state of California.

14 4. Curaleaf CA, Inc., Cura CA LLC, and Cura CS Inc. were the joint employers of
15 PLAINTIFFS as evidenced by paycheck and by the company PLAINTIFFS performed work for
16 respectively, and are therefore jointly responsible as employers for the conduct alleged herein,
17 and are therefore collectively referred to herein as "DEFENDANT."

18 5. DEFENDANT produces and provides cannabis for health and wellness.

19 6. PLAINTIFF Edward Virgen III was employed by DEFENDANT in California
20 from May of 2018 to March of 2021 and was at all times classified by DEFENDANT as a non-
21 exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest
22 periods and payment of minimum and overtime wages due for all time worked.

23 7. PLAINTIFF Christopher Shea O'Donnell was employed by DEFENDANT in
24 California from September 2019 to March of 2021 and was at all times classified by
25 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally
26 required meal and payment of minimum and overtime wages due for all time worked.

27 8. PLAINTIFF Holly Alsop was employed by DEFENDANT in California from
28 November of 2019 to August of 2020 and was at all times classified by DEFENDANT as a

1 non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest
2 periods and payment of minimum and overtime wages due for all time worked.

3 9. PLAINTIFF brings this Class Action on behalf of himself and a California class,
4 defined as all individuals who are or previously were employed by Curaleaf CA, Inc. and/or
5 Cura CA LLC and/or Cura CS Inc. in California and classified as non-exempt employees (the
6 “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the
7 filing of this Complaint and ending on the date as determined by the Court (the “CALIFORNIA
8 CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA
9 CLASS Members is under five million dollars (\$5,000,000.00).

10 10. PLAINTIFFS bring this Class Action on behalf of himself and a CALIFORNIA
11 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
12 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which
13 failed to lawfully compensate these employees. DEFENDANT’s policy and practice alleged
14 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained
15 and continues to retain wages due PLAINTIFFS and the other members of the CALIFORNIA
16 CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction
17 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and
18 the other members of the CALIFORNIA CLASS who have been economically injured by
19 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and
20 equitable relief.

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

1 proximately caused the injuries and damages hereinafter alleged.

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

10 **THE CONDUCT**

11 13. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
12 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
13 meaning the time during which an employee is subject to the control of an employer, including
14 all the time the employee is suffered or permitted to work. DEFENDANT required
15 PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all the
16 time they were under DEFENDANT's control. Among other things, DEFENDANT required
17 PLAINTIFFS to work while clocked out during what was supposed to be PLAINTIFFS' off-
18 duty meal break. PLAINTIFFS was from time to time interrupted by work assignments while
19 clocked out for what should have been PLAINTIFFS' off-duty meal break. PLAINTIFFS and
20 CALIFORNIA CLASS Members also worked off the clock with respect to time spent
21 undergoing mandatory drug testing or any other testing and/or examination required as a
22 condition of employment. DEFENDANT, as a matter of established company policy and
23 procedure, administered a uniform practice of rounding the actual time worked and recorded
24 by PLAINTIFFS and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT,
25 so that during the course of their employment, PLAINTIFFS and CALIFORNIA CLASS
26 Members were paid less than they would have been paid had they been paid for actual recorded
27 time rather than "rounded" time. Additionally, DEFENDANT engaged in the practice of
28 requiring PLAINTIFFS and CALIFORNIA CLASS Members to perform work off the clock

1 in that DEFENDANT, as a condition of employment, required these employees to submit to
2 mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to
3 clocking into DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFFS
4 and other CALIFORNIA CLASS Members forfeited minimum wage, overtime wage
5 compensation, and off-duty meal breaks by working without their time being correctly recorded
6 and without compensation at the applicable rates. DEFENDANT's policy and practice not to
7 pay PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked, is evidenced
8 by DEFENDANT's business records.

9 14. State and federal law provides that employees must be paid overtime and meal and
10 rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFFS and
11 other CALIFORNIA CLASS Members were compensated at an hourly rate plus incentive pay
12 that was tied to specific elements of an employee's performance.

13 15. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
14 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
15 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their
16 performance for DEFENDANT. The non-discretionary incentive program provided all
17 employees paid on an hourly basis with incentive compensation when the employees met the
18 various performance goals set by DEFENDANT. However, when calculating the regular rate
19 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFFS and other
20 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation
21 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and
22 meal and rest break premium pay. Management and supervisors described the incentive
23 program to potential and new employees as part of the compensation package. As a matter of
24 law, the incentive compensation received by PLAINTIFFS and other CALIFORNIA CLASS
25 Members must be included in the "regular rate of pay." The failure to do so has resulted in a
26 underpayment of overtime compensation and meal and rest break premiums to PLAINTIFFS
27 and other CALIFORNIA CLASS Members by DEFENDANT.

28 16. As a result of their rigorous work schedules, PLAINTIFFS and other

1 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off
2 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFFS and
3 other CALIFORNIA CLASS Members were required from time to time to perform work as
4 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
5 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFFS and
6 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in
7 which these employees were required by DEFENDANT to work ten (10) hours of work.
8 DEFENDANT also engaged in the practice of rounding the meal period times to avoid paying
9 penalties to PLAINTIFFS and other CALIFORNIA CLASS Members. PLAINTIFFS and other
10 members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
11 compensation and in accordance with DEFENDANT's corporate policy and practice.

12 17. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other
13 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
14 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
15 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
16 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
17 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
18 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
19 or more from time to time. PLAINTIFFS and other CALIFORNIA CLASS Members were also
20 not provided with one hour wages in lieu thereof. Additionally, the applicable California Wage
21 Order requires employers to provide employees with off-duty rest periods, which the California
22 Supreme Court defined as time during which an employee is relieved from all work related
23 duties and free from employer control. In so doing, the Court held that the requirement under
24 California law that employers authorize and permit all employees to take rest period means that
25 employers must relieve employees of all duties and relinquish control over how employees
26 spend their time which includes control over the locations where employees may take their rest
27 period. Employers cannot impose controls that prohibit an employee from taking a 0 walk - five
28 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFFS and

1 other CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on
2 DEFENDANT's rule which states PLAINTIFFS and other CALIFORNIA CLASS Members
3 cannot leave the work premises during their rest period.

4 18. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
5 record and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount
6 of time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
7 DEFENDANT was required to pay PLAINTIFFS and other CALIFORNIA CLASS Members
8 for all time worked, meaning the time during which an employee was subject to the control of
9 an employer, including all the time the employee was permitted or suffered to permit this work.
10 DEFENDANT required these employees to work off the clock without paying them for all the
11 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have
12 known that PLAINTIFFS and the other members of the CALIFORNIA CLASS were under
13 compensated for all time worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS
14 Members forfeited time worked by working without their time being accurately recorded and
15 without compensation at the applicable minimum wage and overtime wage rates. To the extent
16 that the time worked off the clock does not qualify for overtime premium payment,
17 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of
18 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

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

1 wage statements Defendant provided to PLAINTIFFS and the CALIFORNIA CLASS Members
2 failed to identify such information. More specifically, the wage statements failed to identify the
3 accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2).
4 When the hours shown on the wage statements were added up, they did not equal the actual total
5 hours worked during the pay period. Aside, from the violations listed above in this paragraph,
6 DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the
7 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to
8 time provided PLAINTIFFS and the other members of the CALIFORNIA CLASS with wage
9 statements which violated Cal. Lab. Code § 226.

10 20. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
11 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the
12 wages are paid not more than seven calendar days following the close of the payroll period.
13 Cal. Lab. Code § 210 provides:

14 [I]n addition to, and entirely independent and apart from, any other penalty provided in
15 this article, every person who fails to pay the wages of each employee as provided in
16 Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial
17 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
18 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)
19 for each failure to pay each employee, plus 25 percent of the amount unlawfully
20 withheld.

21 21. DEFENDANT from time to time failed to pay PLAINTIFFS and members of the
22 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll
23 period in accordance with Cal. Lab. Code § 204(d).

24 22. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other
25 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in
26 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFFS and other non-exempt
27 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate of
28 pay, DEFENDANT underpaid sick pay to PLAINTIFFS and other CALIFORNIA CLASS
Members at their base rates of pay.

23. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
employees be calculated by dividing the employee's total wages, not including overtime

1 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
2 of employment.

3 24. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
4 the regular rate of pay. PLAINTIFFS and CALIFORNIA CLASS Members routinely earned
5 non-discretionary incentive wages which increased their regular rate of pay. However, when
6 sick pay was paid, it was paid at the base rate of pay for PLAINTIFFS and members of the
7 CALIFORNIA CLASS, as opposed to the correct, higher regular rate of pay, as required under
8 Cal. Lab. Code Section 246.

9 25. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
10 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting
11 time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS is informed and
12 believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,
13 such that PLAINTIFFS and members of the CALIFORNIA CLASS whose employment has
14 separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

15 26. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
16 to collect or receive from an employee any part of wages theretofore paid by said employer to
17 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFFS and other
18 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
19 payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose
20 all aspects of the deductions from compensation payable to PLAINTIFFS and CALIFORNIA
21 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at
22 each applicable pay period and upon termination. PLAINTIFFS and members of the
23 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages
24 according to proof, related penalties, interest, attorney fees and costs.

25 27. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
26 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business expenses
27 incurred by the PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence
28 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section

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

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

17 29. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the legally
18 required off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage
19 Order and Labor Code and failed to pay PLAINTIFFS all minimum and overtime wages due
20 to PLAINTIFFS. DEFENDANT did not have a policy or practice which provided timely off-
21 duty meal and rest breaks to PLAINTIFFS and also failed to compensate PLAINTIFFS for
22 PLAINTIFFS' missed meal and rest breaks. The nature of the work performed by the
23 PLAINTIFFS did not prevent PLAINTIFFS from being relieved of all of PLAINTIFFS' duties
24 for the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide
25 PLAINTIFFS with the legally required meal periods is evidenced by DEFENDANT's business
26 records. The amount in controversy for PLAINTIFFS individually does not exceed the sum
27 or value of \$75,000.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5

6
7
8
9
0

2

3
4
5
6
7
8
9
10
11

22
23
24

25
26
27
28

1 missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though
2 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
3 permits or suffers to permit this work.

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

13 36. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
14 CLASS Members is impracticable.

15 37. DEFENDANT violated the rights of the CALIFORNIA CLASS under California
16 law by:

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

24 (b) Committing an act of unfair competition in violation of the UCL, by
25 failing to provide the PLAINTIFFS and the other members of the
26 CALIFORNIA CLASS with the legally required meal and rest periods.

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

- 1 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
2 that the joinder of all such persons is impracticable and the disposition of
3 their claims as a class will benefit the parties and the Court;
- 4 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
5 that are raised in this Complaint are common to the CALIFORNIA
6 CLASS will apply to every member of the CALIFORNIA CLASS;
- 7 (c) The claims of the representative PLAINTIFFS are typical of the claims of
8 each member of the CALIFORNIA CLASS. PLAINTIFFS, like all the
9 other members of the CALIFORNIA CLASS, was classified as a non-
10 exempt employee paid on an hourly basis who was subjected to the
11 DEFENDANT's deceptive practice and policy which failed to provide the
12 legally required meal and rest periods to the CALIFORNIA CLASS and
13 thereby underpaid compensation to PLAINTIFFS and CALIFORNIA
14 CLASS. PLAINTIFFS sustained economic injury as a result of
15 DEFENDANT's employment practices. PLAINTIFFS and the members
16 of the CALIFORNIA CLASS were and are similarly or identically harmed
17 by the same unlawful, deceptive and unfair misconduct engaged in by
18 DEFENDANT; and,
- 19 (d) The representative PLAINTIFFS will fairly and adequately represent and
20 protect the interest of the CALIFORNIA CLASS, and has retained
21 counsel who are competent and experienced in Class Action litigation.
22 There are no material conflicts between the claims of the representative
23 PLAINTIFFS and the members of the CALIFORNIA CLASS that would
24 make class certification inappropriate. Counsel for the CALIFORNIA
25 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
26 Members.

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

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

5 1) Inconsistent or varying adjudications with respect to individual
6 members of the CALIFORNIA CLASS which would establish
7 incompatible standards of conduct for the parties opposing the
8 CALIFORNIA CLASS; and/or,

9 2) Adjudication with respect to individual members of the
10 CALIFORNIA CLASS which would as a practical matter be
11 dispositive of interests of the other members not party to the
12 adjudication or substantially impair or impede their ability to
13 protect their interests.

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

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

27 (c) Common questions of law and fact exist as to the members of the
28 CALIFORNIA CLASS, with respect to the practices and violations of

1 California law as listed above, and predominate over any question
2 affecting only individual CALIFORNIA CLASS Members, and a Class
3 Action is superior to other available methods for the fair and efficient
4 adjudication of the controversy, including consideration of:

- 5 1) The interests of the members of the CALIFORNIA CLASS in
6 individually controlling the prosecution or defense of separate
7 actions in that the substantial expense of individual actions will be
8 avoided to recover the relatively small amount of economic losses
9 sustained by the individual CALIFORNIA CLASS Members when
10 compared to the substantial expense and burden of individual
11 prosecution of this litigation;
- 12 2) Class certification will obviate the need for unduly duplicative
13 litigation that would create the risk of:
 - 14 A. Inconsistent or varying adjudications with respect to
15 individual members of the CALIFORNIA CLASS, which
16 would establish incompatible standards of conduct for the
17 DEFENDANT; and/or,
 - 18 B. Adjudications with respect to individual members of the
19 CALIFORNIA CLASS would as a practical matter be
20 dispositive of the interests of the other members not parties
21 to the adjudication or substantially impair or impede their
22 ability to protect their interests;
- 23 3) In the context of wage litigation because a substantial number of
24 individual CALIFORNIA CLASS Members will avoid asserting
25 their legal rights out of fear of retaliation by DEFENDANT, which
26 may adversely affect an individual's job with DEFENDANT or
27 with a subsequent employer, the Class Action is the only means to
28 assert their claims through a representative; and,

1 4) A class action is superior to other available methods for the fair
2 and efficient adjudication of this litigation because class treatment
3 will obviate the need for unduly and unnecessary duplicative
4 litigation that is likely to result in the absence of certification of
5 this action pursuant to Cal. Code of Civ. Proc. § 382.

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

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

- 1 (f) There is a community of interest in ensuring that the combined assets of
2 DEFENDANT are sufficient to adequately compensate the members of
3 the CALIFORNIA CLASS for the injuries sustained;
- 4 (g) DEFENDANT has acted or refused to act on grounds generally applicable
5 to the CALIFORNIA CLASS, thereby making final class-wide relief
6 appropriate with respect to the CALIFORNIA CLASS as a whole;
- 7 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
8 the business records of DEFENDANT; and,
- 9 (i) Class treatment provides manageable judicial treatment calculated to bring
10 a efficient and rapid conclusion to all litigation of all wage and hour
11 related claims arising out of the conduct of DEFENDANT as to the
12 members of the CALIFORNIA CLASS.

13 41. DEFENDANT maintains records from which the Court can ascertain and identify
14 by job title each of DEFENDANT's employees who have been intentionally subjected to
15 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFFS
16 will seek leave to amend the Complaint to include any additional job titles of similarly situated
17 employees when they have been identified.

18
19 **THE CALIFORNIA LABOR SUB-CLASS**

20 42. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and
21 Eighth causes Action on behalf of a California sub-class, defined as all members of the
22 CALIFORNIA CLASS who are or previously were employed by Curaleaf CA, Inc. and/or Cura
23 CA LLC and/or Cura CS Inc. in California and classified as non exempt employees (the
24 "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior to
25 the filing of the complaint and ending on the date as determined by the Court (the
26 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.
27 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS
28 Members is under five million dollars (\$5,000,000.00).

1 43. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
2 Commission (“IWC”) Wage Order requirements, and the applicable provisions of California
3 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed
4 to correctly calculate compensation for the time worked by PLAINTIFFS and the other
5 members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these
6 employees, even though DEFENDANT enjoyed the benefit of this work, required employees
7 to perform this work and permitted or suffered to permit this work. DEFENDANT has denied
8 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are
9 entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable
10 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against
11 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted
12 accordingly.

13 44. DEFENDANT maintains records from which the Court can ascertain and identify
14 by name and job title, each of DEFENDANT’s employees who have been intentionally
15 subjected to DEFENDANT’s company policy, practices and procedures as herein alleged.
16 PLAINTIFFS will seek leave to amend the complaint to include any additional job titles of
17 similarly situated employees when they have been identified.

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

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

- 22 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
23 compensation due to members of the CALIFORNIA LABOR SUB-
24 CLASS for missed meal and rest breaks in violation of the California
25 Labor Code and California regulations and the applicable California Wage
26 Order;
27 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other
28 members of the CALIFORNIA LABOR SUB-CLASS with accurate

1 itemized wage statements;

2 (c) Whether DEFENDANT has engaged in unfair competition by the
3 above-listed conduct;

4 (d) The proper measure of damages and penalties owed to the members of the
5 CALIFORNIA LABOR SUB-CLASS; and,

6 (e) Whether DEFENDANT's conduct was willful.

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

9 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
10 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
11 CLASS all wages due for overtime worked, for which DEFENDANT is
12 liable pursuant to Cal. Lab. Code § 1194;

13 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
14 accurately pay PLAINTIFFS and the members of the CALIFORNIA
15 LABOR SUB-CLASS the correct minimum wage pay for which
16 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

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

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

25 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
26 when an employee is discharged or quits from employment, the employer
27 must pay the employee all wages due without abatement, by failing to
28 tender full payment and/or restitution of wages owed or in the manner

required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment; and,

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

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

- (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will apply to every member of the CALIFORNIA LABOR SUB-CLASS;
- (c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's practice and policy which failed to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT; and,
- (d) The representative PLAINTIFFS will fairly and adequately represent and protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has

1 retained counsel who are competent and experienced in Class Action
2 litigation. There are no material conflicts between the claims of the
3 representative PLAINTIFFS and the members of the CALIFORNIA
4 LABOR SUB-CLASS that would make class certification inappropriate.
5 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
6 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

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

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

13 1) Inconsistent or varying adjudications with respect to individual
14 members of the CALIFORNIA LABOR SUB-CLASS which
15 would establish incompatible standards of conduct for the parties
16 opposing the CALIFORNIA LABOR SUB-CLASS; or,

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

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

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

- 8 1) The interests of the members of the CALIFORNIA LABOR SUB-
9 CLASS in individually controlling the prosecution or defense of
10 separate actions in that the substantial expense of individual
11 actions will be avoided to recover the relatively small amount of
12 economic losses sustained by the individual CALIFORNIA
13 LABOR SUB-CLASS Members when compared to the substantial
14 expense and burden of individual prosecution of this litigation;
15 2) Class certification will obviate the need for unduly duplicative
16 litigation that would create the risk of:

17 A. Inconsistent or varying adjudications with respect to
18 individual members of the CALIFORNIA LABOR SUB-
19 CLASS, which would establish incompatible standards of
20 conduct for the DEFENDANT; and/or,

21 B. Adjudications with respect to individual members of the
22 CALIFORNIA LABOR SUB-CLASS would as a practical
23 matter be dispositive of the interests of the other members
24 not parties to the adjudication or substantially impair or
25 impede their ability to protect their interests;

- 26 3) In the context of wage litigation because a substantial number of
27 individual CALIFORNIA LABOR SUB-CLASS Members will
28 avoid asserting their legal rights out of fear of retaliation by

1 DEFENDANT, which may adversely affect an individual's job
2 with DEFENDANT or with a subsequent employer, the Class
3 Action is the only means to assert their claims through a
4 representative; and,

- 5 4) A class action is superior to other available methods for the fair
6 and efficient adjudication of this litigation because class treatment
7 will obviate the need for unduly and unnecessary duplicative
8 litigation that is likely to result in the absence of certification of
9 this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- 12 (a) The questions of law and fact common to the CALIFORNIA LABOR
13 SUB-CLASS predominate over any question affecting only individual
14 CALIFORNIA LABOR SUB-CLASS Members;
- 15 (b) A Class Action is superior to any other available method for the fair and
16 efficient adjudication of the claims of the members of the CALIFORNIA
17 LABOR SUB-CLASS because in the context of employment litigation a
18 substantial number of individual CALIFORNIA LABOR SUB-CLASS
19 Members will avoid asserting their rights individually out of fear of
20 retaliation or adverse impact on their employment;
- 21 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
22 numerous that it is impractical to bring all members of the CALIFORNIA
23 LABOR SUB-CLASS before the Court;
- 24 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS
25 Members, will not be able to obtain effective and economic legal redress
26 unless the action is maintained as a Class Action;
- 27 (e) There is a community of interest in obtaining appropriate legal and
28 equitable relief for the acts of unfair competition, statutory violations and

1 other improprieties, and in obtaining adequate compensation for the
2 damages and injuries which DEFENDANT's actions have inflicted upon
3 the CALIFORNIA LABOR SUB-CLASS;

4 (f) There is a community of interest in ensuring that the combined assets of
5 DEFENDANT are sufficient to adequately compensate the members of
6 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

7 (g) DEFENDANT has acted or refused to act on grounds generally applicable
8 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-
9 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-
10 CLASS as a whole;

11 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
12 ascertainable from the business records of DEFENDANT. The
13 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
14 CLASS Members who worked for DEFENDANT in California at any
15 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

16 (i) Class treatment provides manageable judicial treatment calculated to bring
17 a efficient and rapid conclusion to all litigation of all wage and hour
18 related claims arising out of the conduct of DEFENDANT as to the
19 members of the CALIFORNIA LABOR SUB-CLASS.

20
21 **FIRST CAUSE OF ACTION**

22 **For Unlawful Business Practices**

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

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

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

28 52. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof.

1 Code § 17021.

2 53. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
3 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
4 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
5 competition as follows:

6 Any person who engages, has engaged, or proposes to engage in unfair
7 competition may be enjoined in any court of competent jurisdiction. The court
8 may make such orders or judgments, including the appointment of a receiver, as
9 may be necessary to prevent the use or employment by any person of any practice
which constitutes unfair competition, as defined in this chapter, or as may be
necessary to restore to any person in interest any money or property, real or
personal, which may have been acquired by means of such unfair competition.

10 Cal. Bus. & Prof. Code § 17203.

11 54. By the conduct alleged herein, DEFENDANT has engaged and continues to
12 engage in a business practice which violates California law, including but not limited to, the
13 applicable Industrial Wage Order(s), the California Code of Regulations and the California
14 Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198,
15 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for
16 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &
17 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
18 unfair competition, including restitution of wages wrongfully withheld.

19 55. By the conduct alleged herein, DEFENDANT’s practices were unlawful and
20 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
21 unscrupulous or substantially injurious to employees, and were without valid justification or
22 utility for which this Court should issue equitable and injunctive relief pursuant to Section
23 17203 of the California Business & Professions Code, including restitution of wages wrongfully
24 withheld.

25 56. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
26 fraudulent in that DEFENDANT’s policy and practice failed to provide the legally mandated
27 meal and rest periods, the required amount of compensation for missed meal and rest periods
28 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse

1 al necessary business expenses incurred, and failed to provide Fair Labor Standards Act
2 overtime wages due for overtime worked as a result of failing to include non-discretionary
3 incentive compensation into their regular rates of pay for purposes of computing the proper
4 overtime pay due to a business practice that cannot be justified, pursuant to the applicable Cal.
5 Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§
6 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant
7 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

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

16 59. Therefore, PLAINTIFFS demands on behalf of himself and on behalf of each
17 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty
18 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
19 for each workday in which a second off-duty meal period was not timely provided for each ten
20 (10) hours of work.

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

24 61. By and through the unlawful and unfair business practices described herein,
25 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the
26 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
27 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
28 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT

1 to unfairly compete against competitors who comply with the law.

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

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

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

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

23
24 **SECOND CAUSE OF ACTION**

25 **For Failure To Pay Minimum Wages**

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

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

28 **and Against All Defendants)**

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

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

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

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

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

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

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

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

1 benefits in violation of the California Labor Code, the Industrial Welfare Commission
2 requirements and other applicable laws and regulations.

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

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

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

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

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

1 their legal rights, or the consequences to them, and with the despicable intent of depriving them
2 of their property and legal rights, and otherwise causing them injury in order to increase
3 company profits at the expense of these employees.

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

15
16 **THIRD CAUSE OF ACTION**

17 **For Failure To Pay Overtime Compensation**

18 **[Cal. Lab. Code § 510.]**

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

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

24 81. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
25 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California
26 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure
27 to pay these employees for all overtime worked, including, work performed in excess of eight
28 (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any

1 workweek.

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

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

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

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

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

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

1 applicable laws and regulations.

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

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

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

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

23 92. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
24 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
25 CLASS for the true amount of time they worked, PLAINTIFFS and the other members of the
26 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
27 injury in amounts which are presently unknown to them and which will be ascertained
28 according to proof at trial.

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

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

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

FOURTH CAUSE OF ACTION

For Failure to Provide Required Meal Periods

[Cal. Lab. Code §§ 226.7 & 512]

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

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

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

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

99. As a proximate result of the aforementioned violations, PLAINTIFFS and

1 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
2 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
3 suit.

4 ///

5 ///

6 ///

7 ///

8 ///

9 ///

10
11 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

1 periods by DEFENDANT and DEFENDANT's managers.

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

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

11 **SIXTH CAUSE OF ACTION**

12 **For Failure to Provide Accurate Itemized Statements**

13 **[Cal. Lab. Code § 226]**

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

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

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

- 21 (1) gross wages earned,
- 22 (2) total hours worked by the employee, except for any employee whose
23 compensation is solely based on a salary and who is exempt from payment of
24 overtime under subdivision (a) of Section 515 or any applicable order of the
25 Industrial Welfare Commission,
- 26 (3) the number of piecerate units earned and any applicable piece rate if the employee
27 is paid on a piece-rate basis,
- 28 (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, except that by
January 1, 2008, only the last four digits of his or her social security number or an
employee identification number other than a social security number may be shown on
the itemized statement,

1 (8) the name and address of the legal entity that is the employer, and
2 (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.

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

24 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.
25 Code § 226, causing injury and damages to PLAINTIFFS and the other members of the
26 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
27 expended calculating the correct wages for all missed meal and rest breaks and the amount
28 of employment taxes which were not properly paid to state and federal tax authorities.

1 These damages are difficult to estimate. Therefore, PLAINTIFFS and the other members of
2 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty
3 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred
4 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §
5 226, in an amount according to proof at the time of trial (but in no event more than four
6 thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member of the
7 CALIFORNIA LABOR SUB-CLASS herein).

8 ///

9 ///

10 ///

11 12 **SEVENTH CAUSE OF ACTION**

13 **For Failure to Reimburse Employees for Required Expenses**

14 **[Cal. Lab. Code § 2802]**

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

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

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

21 An employer shall indemnify his or her employee for all necessary
22 expenditures or losses incurred by the employee in direct consequence of the
23 discharge of his or her duties, or of his or her obedience to the directions of
the employer, even though unlawful, unless the employee, at the time of
obeying the directions, believed them to be unlawful.

24 110. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,
25 by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-
26 CLASS members for required expenses incurred in the discharge of their job duties for
27 DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFFS and the
28

1 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not
2 limited to, costs related to using their personal cellular phones on behalf of and for the
3 benefit of DEFENDANT. Specifically, PLAINTIFFS and other CALIFORNIA LABOR
4 SUB-CLASS Members were required by DEFENDANT to use their personal cellular
5 phones in order to perform work related job tasks. DEFENDANT's policy and practice was
6 to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for
7 expenses resulting from using their personal cellular phones for DEFENDANT within the
8 course and scope of their employment for DEFENDANT. These expenses were necessary
9 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's
10 conduct to assert any waiver of this expectation. Although these expenses were necessary
11 expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members,
12 DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA
13 LABOR SUB-CLASS members for these expenses as an employer is required to do under
14 the laws and regulations of California.

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

19
20 **EIGHTH CAUSE OF ACTION**

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

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

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

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

28 113. Cal. Lab. Code § 200 provides, in relevant part, that:
As used in this article:

1 (a) "Wages" includes all amounts for labor performed by employees of
2 every description, whether the amount is fixed or ascertained by the
3 standard of time, task, piece, Commission basis, or other method of calculation.
4 (b) "Labor" includes labor, work, or service whether rendered or
5 performed under contract, subcontract, partnership, station plan, or other
6 agreement if the labor to be paid for is performed personally by the person
7 demanding payment.

8 106. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer
9 discharges an employee, the wages earned and unpaid at the time of discharge are due and
10 payable immediately."

11 114. Cal. Lab. Code § 202 provides, in relevant part, that:

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

22 115. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR
23 SUB-CLASS Members' employment contract.

24 116. Cal. Lab. Code § 203 provides, in relevant part, that:

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

117. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-
CLASS Members has terminated and DEFENDANT has not tendered payment of all wages
owed as required by law.

118. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the
members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated
and who have not been fully paid their wages due to them, PLAINTIFFS demand thirty days
of pay as penalty for not paying all wages due at time of termination for all employees who
terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD and

1 demands an accounting and payment of all wages due, plus interest and statutory costs as
2 allowed by law.

3
4 **NINTH CAUSE OF ACTION**

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

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

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

8 119. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth
9 herein, the prior paragraphs of this Complaint.

10 120. PAGA is a mechanism by which the State of California itself can enforce state
11 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
12 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
13 fundamentally a law enforcement action designed to protect the public and not to benefit private
14 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a
15 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In
16 enacting PAGA, the California Legislature specified that "it was ... in the public interest to
17 allow aggrieved employees, acting as private attorneys general to recover civil penalties for
18 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be
19 subject to arbitration.

20 121. PLAINTIFFS, and such persons that may be added from time to time who satisfy
21 the requirements and exhaust the administrative procedures under the Private Attorney General
22 Act, brings this Representative Action on behalf of the State of California with respect to
23 himself and all individuals who are or previously were employed by Curaleaf CA, Inc. and/or
24 Cura CA LLC, and/or Cura CS Inc. in California and classified as non-exempt employees
25 ("AGGRIEVED EMPLOYEES") during the time period of October 29, 2020 until a date as
26 determined by the Court (the "PAGA PERIOD").

27 122. On October 29, 2021, PLAINTIFFS gave written notice by electronic mail to the
28 Labor and Workforce Development Agency (the "Agency") and by certified mail to the

1 employer of the specific provisions of this code alleged to have been violated as required by
2 Labor Code § 2699.3. The statutory waiting period for PLAINTIFFS to add these allegations
3 to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFFS may now
4 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of
5 the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

6 123. The policies, acts and practices heretofore described were and are an unlawful
7 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the other
8 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
9 and provide legally required meal and rest periods, (c) failed to pay overtime wages and sick
10 pay wages, (d) failed to pay minimum wages, (e) failed to reimburse for required expenses, and
11 (f) failed to provide wages when due, all in violation of the applicable Labor Code sections
12 listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512,
13 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
14 11040, Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s), and thereby gives
15 rise to civil penalties as a result of such conduct.¹ PLAINTIFFS hereby seek recovery of civil
16 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
17 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
18 the other AGGRIEVED EMPLOYEES.

19 124. All of the conduct and violations alleged herein occurred during the
20 PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not
21 affect PLAINTIFFS during the PAGA PERIOD, PLAINTIFFS seek penalties for those
22 violations that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks*
23 *Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

24 **PRAYER FOR RELIEF**

25 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
26

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

severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

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

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

- A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- B) Compensatory damages, according to proof at trial, including compensatory damages for minimum and overtime compensation due PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
- D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

- 1 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
2 1197;
- 3 F) The amount of the expenses PLAINTIFFS and each member of the
4 CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties,
5 plus interest, and costs of suit.; and,
- 6 G) The wages of all terminated employees in the CALIFORNIA LABOR
7 SUB-CLASS as a penalty from the due date thereof at the same rate until paid or
8 until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- 9 3. On behalf of the State of California and with respect to all AGGRIEVED
10 EMPLOYEES:
- 11 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
12 General Act of 2004.
- 13 4. On all claims:
- 14 A) An award of interest, including prejudgment interest at the legal rate;
15 B) Such other and further relief as the Court deems just and equitable; and,
16 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
17 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,
18 and/or §2802.

19
20
21 Dated: August 30, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

22
23
24 By: /s/ Norman B. Blumenthal
25 Norman B. Blumenthal
26 Attorneys for PLAINTIFFS
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

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

Dated: August 30, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Norman B. Blumenthal
Norman B. Blumenthal
Attorneys for Plaintiffs