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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

OSCAR RIVERA, on behalf of himself
 and the Class members,

Plaintiff,

vs.

RYDER INTEGRATED LOGISTICS,
 INC., a Delaware Corporation; and
 RYDER SYSTEM, INC., a Florida
 Corporation,

Defendants.

OSCAR RIVERA, on behalf of the
 State of California and Aggrieved
 Employees,

Plaintiff,

vs.

RYDER INTEGRATED LOGISTICS,
 INC., a Delaware Corporation; and
 RYDER SYSTEM, INC., a Florida
 Corporation,

Defendants.

Case No. 2:22-cv-00267-GW-Ex

**SECOND AMENDED CLASS ACTION
 AND PAGA COMPLAINT FOR
 VIOLATIONS OF:**

- (1) Failure to Authorize and Permit
 and/or Make Available Meal
 Periods (Cal. Lab. Code §§ 226.7
 and 512);**
- (2) Failure to Authorize and Permit
 and/or Make Available Rest
 Breaks (Cal. Lab. Code § 226.7);**
- (3) Failure to Pay for All Hours
 Worked (Cal. Lab. Code § 204);**
- (4) Failure to Pay Minimum Wages
 (Cal. Lab. Code §§ 558, 1182.12,
 1194, 1197, and 1197);**
- (5) Failure to Pay Overtime Wages
 (Cal. Lab. Code § 510, 1198);**
- (6) Failure to Provide Timely and
 Accurate Itemized Wage
 Statements (Cal. Lab. Code § 226);**
- (7) Waiting Time Penalties (Cal. Lab.
 Code §§ 201-203);**

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- (8) **Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*);**
(9) **Penalties Pursuant to Cal. Lab. Code § 2699(a); and**
(10) **Penalties Pursuant to Cal. Lab. Code § 2699(f).**

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. Plaintiff Oscar Rivera brings this class action on behalf of himself and
3 other similarly situated individuals who have worked for Ryder Integrated Logistics,
4 Inc. (“Ryder Integrated”), Ryder System, Inc. (“Ryder System”) (collectively
5 “Employer(s)” and “Defendant(s)”) as non-exempt, hourly employees, including but
6 not limited to laborers, material, cargo and warehouse handlers, forklift operators,
7 shipping and receiving clerks, clamp operators, quality auditors, storeroom
8 attendants, trailer inspectors, warehouse coordinators, wave and inventory clerks,
9 warehouse sanitation associates, and other employees with similar job duties (“Class
10 Members” or “Aggrieved Employees”) to challenge Defendants’ violations of
11 California wage and hour laws.

12 2. This class action against Defendants challenges their policies and
13 practices of: (1) failing to authorize and permit Plaintiff, Aggrieved Employees and
14 the Class Members to take meal breaks to which they are entitled by law and failing
15 to pay premium compensation for missed meal breaks; (2) failing to authorize and
16 permit Plaintiff, Aggrieved Employees and the Class Members to take rest breaks to
17 which they are entitled by law and failing to pay premium compensation for missed
18 rest breaks (3) failing to compensate Plaintiff, Aggrieved Employees, and Class
19 Members for all hours worked; (4) failing to pay Plaintiff, Aggrieved Employees, and
20 Class Members minimum wage for all hours worked; (5) failing to pay Plaintiff,
21 Aggrieved Employees, and Class Members overtime wages; (6) failing to provide
22 Plaintiff, Aggrieved Employees and Class Members true and accurate itemized wage
23 statements; (7) failing to pay Plaintiff, Aggrieved Employees and Class Members all
24 wages owed during employment and following separation from employment; and (8)
25 unfair business practices.

26 3. Defendants deny Plaintiff, Aggrieved Employees and Class Members a
27 compliant 30-minute uninterrupted meal periods, in that they are routinely interrupted
28 during their meal periods, and/or receive meal periods that are less than 30 minutes.

1 Plaintiff, Aggrieved Employees and Class Members are also not provided with
2 compliant second meal period when working over ten hours per day. Plaintiff,
3 Aggrieved Employees and Class Members do not receive premium pay for these non-
4 compliant meal periods.

5 4. Similarly, Defendants regularly fail to make legally compliant rest
6 periods available to Plaintiff, Aggrieved Employees, and Class Members in that when
7 Plaintiff, Aggrieved Employees, and Class Members do take a rest break, such are
8 often untimely and/or interrupted, *i.e.*, Defendants do not provide Plaintiff,
9 Aggrieved Employees and Class Members with duty-free, uninterrupted, and timely
10 paid ten-minute rest periods by the end of the fourth hour of work, and again by the
11 end of the eighth hour of work. Further, Defendants fail to provide a third rest break
12 when working more than ten hours per day.

13 5. As a result of these policies and/or practices of interrupting and not
14 providing meal and rest periods, Plaintiff, Aggrieved Employees and Class Members
15 are denied compensation for all hours worked, including minimum wages, and
16 overtime, which they are lawfully owed resulting from the additional off-the-clock
17 work in excess of eight (8) hours per day and forty (40) hours per week.

18 6. Plaintiff, Aggrieved Employees and Class Members do not receive true
19 and accurate, itemized wage statements reflecting premium payments for
20 noncompliant meal violations, to which they are entitled and for which they should
21 be compensated.

22 7. Consequently, Plaintiff, Aggrieved Employees and Class Members do
23 not receive all wages owed during employment and following separation from
24 employment.

25 8. As a result of these violations, Plaintiff seeks full compensation on behalf
26 of himself and all others similarly situated for all damages, penalties, and interest to
27 the full extent permitted by the California Labor Code and Industrial Welfare
28 Commission (“IWC”) Wage Orders.

1 district, and have employed Plaintiff, Aggrieved Employees and Class Members in
2 this judicial district. At all relevant times, Defendants are “persons” as defined in Cal.
3 Lab. Code § 18 and Cal. Bus. & Prof. Code § 17201. Defendants are also “employers”
4 within the meaning of the Labor Code and IWC Wage Orders.

5 **JURISDICTION AND VENUE**

6 18. This Court has original federal jurisdiction under 28 U.S.C. § 1332.
7 Plaintiff seeks damages in an amount that exceeds \$75,000.00, and the matter in
8 controversy is between citizens of different States. This court has supplemental
9 jurisdiction over Plaintiff’s California state law claims under 28 U.S.C. § 1367(a)
10 because they are so related to this action that they form part of the same case or
11 controversy.

12 19. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).
13 Plaintiff was employed in this District and the claims arose in this District. At all
14 material times Defendants have been actively conducting business in the State of
15 California and within the geographic area encompassing the Central District of the
16 State of California.

17 **FACTUAL ALLEGATIONS**

18 20. Ryder Integrated offers logistics, warehousing, shipping, distribution,
19 freight forwarding, brokerage, storage, cargo, supply chain management services,
20 and transportation services. Ryder Integrated is a subsidiary of Ryder System.

21 21. Ryder System is a major transportation and logistics company that
22 specializes in fleet management, supply chain management, and dedicated
23 transportation management.

24 22. Plaintiff, Aggrieved Employees and Class Members are current and
25 former non-exempt hourly employees who worked for Defendants in California.
26 These employees provide support and assistance for Defendants’ warehousing and
27 logistics operations. Among other tasks, Plaintiff, Aggrieved Employees and Class
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1 Members are responsible for stocking, labeling, and sorting inventory, cleaning
2 warehouses, operating forklifts, and inspecting deliveries at Defendants' facilities.

3 23. Plaintiff worked for Defendants as a Laborer in Chino, California, from
4 approximately March 2020 through July 2021. Plaintiff's primary duties include, but
5 are not limited to, affixing labels to boxes, and sweeping the warehouse.

6 24. Plaintiff was classified as an hourly non-exempt employee and was paid
7 an hourly rate of \$15.00.

8 25. Plaintiff usually worked eight hours per shift, five shifts per week, and
9 regularly worked an additional seventh shift of at least eight hours. Plaintiff worked
10 approximately 40 hours or more per week. On many occasions, notably during peak
11 season, *i.e.*, from July 2020 through December 2020, Plaintiff worked approximately
12 twelve hours or more per shift, five shifts per week for a total of sixty hours or more
13 per week.

14 26. Defendants regularly fail to provide Plaintiff, Aggrieved Employees and
15 Class Members compliant meal periods. Defendants' policies, practices, and
16 procedures cause Plaintiff, Aggrieved Employees and Class Members to routinely
17 receive shortened and/or interrupted meal periods, yet do not provide them with
18 premium payments for such non-compliant meal periods.

19 27. Plaintiff, Aggrieved Employees and Class Members are frequently
20 denied legally compliant meal breaks for several reasons, including that: (i)
21 Defendants do not authorize, permit, and/or make available compliant meal breaks to
22 Plaintiff, Aggrieved Employees and Class Members; (ii) Plaintiff, Aggrieved
23 Employees and Class Members are often too busy with work during the day to have
24 time to take a bona fide meal break; and (iii) Plaintiff, Aggrieved Employees and
25 Class Members were often interrupted by their managers and/or supervisors during
26 their meal breaks to receive work directives and instructions pertaining to tasks and
27 location for their afternoon shift.

1 28. As a result, Plaintiff, Aggrieved Employees and Class Members are
2 denied compensation for all hours worked, including minimum wages and overtime,
3 which they are lawfully owed resulting from the additional off-the-clock work in
4 excess of eight (8) hours per day and forty (40) hours per week.

5 29. Further, Defendants fail to provide Plaintiff, Aggrieved Employees and
6 Class Members compliant second meal periods when they work shifts lasting at least
7 ten hours or longer. Defendants' policies, practices, and procedures require Plaintiff,
8 Aggrieved Employees and Class Members to systematically skip their second meal
9 periods yet, do not provide them with premium payments for such missed second
10 meal periods.

11 30. Plaintiff, Aggrieved Employees and Class Members are routinely denied
12 second meal periods for several reasons, including: (i) Defendants do not authorize,
13 permit, and/or make available timely second meal periods to Plaintiff, Aggrieved
14 Employees and Class Members; and (ii) Plaintiff, Aggrieved Employees and Class
15 Members are routinely too busy with work during the day to have time to take bona
16 fide second meal period.

17 31. Plaintiff is informed, believes, and thereon alleges that Defendants' same
18 second meal period policies and practices are the same or substantially similar across
19 all Defendants' facilities throughout California.

20 32. In addition to the above, Plaintiff, Aggrieved Employees and Class
21 Members' wage statements are untrue and inaccurate as they fail to include payment
22 for time spent working during the off-duty meal periods, as well as the premium
23 payments for noncompliant meal breaks and missed second meal breaks.

24 33. Consequently, Plaintiff, Aggrieved Employees and Class Members did
25 not receive all wages during employment and following separation from
26 employment, including payment for time spent working during meal periods, as well
27 as premium payments for noncompliant meal breaks and missed second meal breaks.

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1 45. Plaintiff brings this case as a class action on behalf of himself and all
 2 others similarly situated pursuant to Fed. R. Civ. Proc. 23. The Class that Plaintiff
 3 seeks to represent is defined as follows:

4 **All current and former hourly, non-exempt workers employed by**
 5 **Ryder Integrated Logistics, Inc. and/or Ryder System, Inc.**
 6 **throughout California any time starting four years prior to the filing**
 7 **of this Complaint until resolution of this action. (“the Class”).**

8 46. The relief requested by Plaintiff excludes any claims or class members
 9 for rest break violations, as well as for any claims for failure to pay for all hours
 10 worked, failure to pay minimum wage, failure to pay overtime wages, failure to
 11 provide timely and accurate itemized wage statements, and waiting time penalties
 12 released by prior settlements with Defendants, including but not limited to, those
 13 claims released in *Lacy v. Harman International Industries, Inc.*, Santa Clara County
 Superior Court Case No. 17CV310734 (“Lacy”) through May 27, 2021.

14 47. This action has been brought and may properly be maintained as a class
 15 action under Rule 23 because there is a well-defined community of interest in the
 16 litigation and the proposed putative class is easily ascertainable.

17 48. **Numerosity**: The potential members of the Class are so numerous that
 18 joinder of all the members of the class is impracticable. Plaintiff is informed and
 19 believes that the number of Class members exceeds 100. This volume makes bringing
 20 the claims of each individual member of the Class before this Court impracticable.
 21 Likewise, joining each individual member of the Class as a plaintiff in this action is
 22 impracticable. Furthermore, the identities of the Class will be determined from
 23 Defendants’ records, as will the compensation paid to each of them. As such, a class
 24 action is a reasonable and practical means of resolving these claims. To require
 25 individual actions would prejudice the Class and Defendants.

26 49. **Commonality**: There are questions of law and fact common to Plaintiff
 27 and the Class that predominate over any questions affecting only individual members
 28 of the Class. These common questions of law and fact include, but are not limited to:

- a. Whether Defendants fail to authorize and permit, make available, and/or provide Class Members with compliant meal periods to which they are entitled in violation of the Labor Code and Wage Orders;
- b. Whether Defendants fail to authorize and permit, make available, and/or provide Class members with compliant second meal periods to which they are entitled in violation of the Labor Code and Wage Orders;
- c. Whether Defendants fail to authorize and permit, make available, and/or provide Class members with compliant rest breaks, including third rest breaks, to which they are entitled in violation of the Labor Code and Wage Orders;
- d. Whether Defendant fails to compensate Class Members for all hours worked, including at minimum wage and as overtime compensation, in violation of the Labor Code and Wage Orders;
- e. Whether Defendants fail to provide Class members with timely, accurate itemized wage statements in violation of the Labor Code and Wage Orders;
- f. Whether Defendants fail to pay all wages owed upon Class members' separation of employment;
- g. Whether Defendants violate Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by:
 - (a) failing to authorize and permit, make available, and/or provide Class Members with compliant meal periods to which they are entitled;
 - (b) failing to authorize and permit, make available, and/or provide Class members with compliant second meal periods to which they are entitled;
 - (c) failing to authorize and permit, make available, and/or provide

Class members with compliant rest periods to which they are entitled;

(d) failing to compensate Class Members for all hours worked, including at minimum wage and at overtime rate wage compensation;

(e) failing to provide Class Members with timely, accurate itemized wage statements; and

(f) failing to pay Class members for all wages owed upon separation of employment.

h. The proper formula for calculating restitution, damages and penalties owed to Plaintiff and the Class as alleged herein.

50. **Typicality:** Plaintiff's claims are typical of the claims of the Class. Defendants' common course of conduct in violation of law as alleged herein caused Plaintiff, and Class Members to sustain the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the Class.

51. **Adequacy of Representation:** Plaintiff seeks relief for state law violations perpetrated by Defendants. In that sense, Plaintiff does not have any conflicts of interest with other Class members and will prosecute the case vigorously on behalf of the Class. Counsel representing Plaintiff is competent and experienced in litigating complex cases and large class actions, including wage and hour cases. Plaintiff will fairly and adequately represent and protect the interests of the Class members.

52. **Superiority of Class Action:** A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed Class members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each proposed Class member has been damaged and is entitled to recovery

1 by reason of Defendants' illegal policies and/or practices. Class action treatment will
 2 allow those similarly situated persons to litigate their claims in the manner that is
 3 most efficient and economical for the parties and the judicial system.

4 53. In the alternative, the Class may be certified because the prosecution of
 5 separate actions by the individual members of the Class would create a risk of
 6 inconsistent or varying adjudication with respect to individual members of the Class
 7 which would establish incompatible standards of conduct for Defendants.

8 54. If each individual Class member was required to file an individual
 9 lawsuit, Defendants would necessarily gain an unconscionable advantage because
 10 Defendants would be able to exploit and overwhelm the limited resources of each
 11 member of the Class with Defendants' vastly superior financial and legal resources.

12 55. Requiring each individual Class member to pursue an individual remedy
 13 would also discourage the assertion of lawful claims by the Class members who
 14 would be disinclined to pursue these claims against Defendants because of an
 15 appreciable and justifiable fear of retaliation and permanent damage to their lives,
 16 careers and well-being.

17 56. Plaintiff also seeks certification of the class to the extent applicable under
 18 Fed. R. Civ. Proc. 23(b)(2) on the grounds that the party opposing the class has acted
 19 or refused to act on grounds that apply generally to the class, so that final injunctive
 20 relief or corresponding declaratory relief is appropriate respecting the class as a
 21 whole.

22 **FIRST CAUSE OF ACTION**

23 **Failure to Authorize and Permit and/or Make Available Meal Periods**

24 **Pursuant to Cal. Lab. Code §§ 226.7 and 512**

25 **(On Behalf of the Class)**

26 57. Plaintiff realleges and incorporates the foregoing paragraphs as though
 27 fully set forth herein.

28 58. Defendants do not provide Plaintiff and Class Members with duty-free,

1 uninterrupted, and timely thirty-minute meal periods during which Plaintiff and Class
2 Members should be completely relieved of any duty.

3 59. Defendants systematically fail to authorize, permit and/or make available
4 compliant meal periods to Plaintiff and Class Members. Plaintiff and Class Members
5 are frequently denied legally compliant meal breaks for several reasons, including
6 that: (i) Defendants do not authorize, permit, and/or make available compliant meal
7 breaks to Plaintiff and Class Members; (ii) Plaintiff, and Class Members are often too
8 busy with work during the day to have time to take a bona fide meal break; and (iii)
9 Plaintiff and Class Members are often interrupted by their managers and/or
10 supervisors during their meal breaks to receive work directives and instructions
11 pertaining to tasks and location for their afternoon shift.

12 60. Defendants systematically fail to authorize, permit and/or make available
13 compliant second meal periods to Plaintiff and Class Members during shifts of longer
14 than 10 hours. Despite long workdays often lasting over at least ten hours, Plaintiff
15 and Class Members are routinely denied second meal breaks for several reasons,
16 including: (i) Defendants do not authorize, permit, and/or make available timely
17 second meal breaks to Plaintiff and Class Members; and (ii) Plaintiff and Class
18 Members are routinely too busy with work during the day to have time to take bona
19 fide second meal breaks.

20 61. Plaintiff and Class Members are not provided with one hour of premium
21 pay for each instance they do not receive a compliant meal break or second meal
22 break.

23 62. Cal. Lab. Code §§ 226.7 and 512 and the applicable Wage Orders require
24 Defendants to authorize and permit meal periods to its employees. In particular, Cal.
25 Lab. Code §§ 226.7 and 512 and the Wage Orders prohibit employers from
26 interrupting or cutting short an employees' meal period or rest break. Further, Cal.
27 Lab. Code §§ 226.7 and 512 and the Wage Orders prohibit employers from
28 employing an employee more than ten hours per day without providing the employee

1 with a second meal period of not less than thirty minutes.

2 63. Under Cal. Lab. Code § 226.7(b) and the applicable Wage Orders, an
3 employer who fails to authorize, permit, and/or make available a required meal period
4 must, as compensation, pay the employee one hour of pay at the employee's regular
5 rate of compensation for each workday that the meal period was not authorized and
6 permitted.

7
8 64. Despite these requirements, Defendants have knowingly and willfully
9 refused to perform their obligations to provide uninterrupted meal and rest periods
10 and authorize and permit and/or make available to Plaintiff and Class Members the
11 ability to take the off-duty second meal periods and third rest breaks to which they
12 are entitled.

13 65. Defendants have also failed to pay Plaintiff and Class Members one hour
14 of pay for each day a meal period is interrupted and/or an off-duty second meal period
15 is denied. Defendants' conduct described herein violates Cal. Lab. Code §§ 226.7
16 and 512. Therefore, pursuant to Cal. Lab. Code § 226.7(b), Plaintiff and Class
17 Members are entitled to compensation for the failure to authorize and permit and/or
18 make available uninterrupted meal periods and second meal periods, plus interest,
19 attorneys' fees, expenses and costs of suit.

20 66. As a proximate result of the aforementioned violations, Plaintiff and
21 Class Members have been damaged in an amount according to proof at time of trial.

22 67. Wherefore, Plaintiff and the putative Class request relief as hereinafter
23 provided.

24 **SECOND CAUSE OF ACTION**

25 **Failure to Authorize and Permit and/or Make Available Meal Periods**

26 **Pursuant to Cal. Lab. Code §226.7**

27 68. Plaintiff realleges and incorporates the foregoing paragraphs as though
28 fully set forth herein.

69. Defendants regularly fail to make rest periods available to Plaintiff and putative Class Members. Plaintiff and putative Class Members' schedules regularly prevent them from taking bona fide rest breaks throughout the day. When available, if ever, such are often untimely and/or interrupted, i.e., Defendants do not provide Plaintiff and putative Class Members with duty-free, uninterrupted, and timely ten-minute rest periods during which Plaintiff and putative Class Members should be completely relieved of any duty, by the end of the fourth hour of work, again by the end of the eighth hour of work, nor after the 10th hour of work for a third rest break.

70. Plaintiff and putative Class Members are not provided with one (1) hour of premium pay for each day they do not receive a complaint rest break.

71. Labor Code § 226.7 and the applicable Wage Orders require Defendants to authorize and permit rest periods to its employees. Labor Code § 226.7 and the applicable Wage Orders require employers to authorize and permit employees to take ten (10) minutes of net rest time per (4) four hours or major fraction thereof of work, and to pay employees their full wages during those rest periods. Unless the employee is relieved of all duty during the rest period, the employee is considered "on duty" and the meal period is counted as time worked under the applicable Wage Orders.

72. Under Labor Code § 226.7(b) an employer must pay an employee denied a required rest period one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period was not authorized and permitted and/or not made available.

73. Despite these requirements, Defendants have often knowingly and willfully refused to perform their obligations to authorize and permit and/or make available to Plaintiff and putative Class Members the ability to take rest periods to which they are entitled.

74. Defendants have also failed to pay Plaintiff and putative Class one hour of pay for each day a rest period was denied. Defendants' conduct described herein violates Labor Code § 226.7. Therefore, pursuant to Labor Code § 226.7(b), Plaintiff

1 and putative Class Members are entitled to compensation for the failure to authorize
 2 and permit and/or make available meal and rest periods, plus interest, attorneys' fees,
 3 expenses, and costs of suit.

4 75. As a proximate result of the aforementioned violations, Plaintiff and the
 5 putative Class have been damaged in an amount according to proof at time of trial.

6 76. Wherefore, Plaintiff and the putative Class request relief as hereinafter
 7 provided.

8 **THIRD CAUSE OF ACTION**

9 **Failure to Pay for All Hours Worked**

10 **Pursuant to Cal. Lab. Code §§ 204, 1198**

11 **(On Behalf of the Class)**

12 77. Plaintiff realleges and incorporates the foregoing paragraphs as though
 13 filly set forth herein.

14 78. Cal. Lab. Code § 200(a) defines wages as "all amounts for labor
 15 performed by employees of every description, whether the amount is fixed or
 16 ascertained by the standard of time, task, piece, commission basis or other method of
 17 calculation."

18 79. Cal. Lab. Code § 204 provides that employers must compensate
 19 employees for all hours worked "twice during each calendar month, on days
 20 designated in advance by the employer as the regular paydays."

21 80. IWC Wage Order 9-2001(2)(G) defines hours worked as "the time during
 22 which an employee is subject to the control of an employer and includes all the time
 23 the employee is suffered or permitted to work, whether or not required to do so."

24 81. Cal. Lab. Code § 1198 makes it unlawful for employers to employ
 25 employees under conditions that violate the Wage Orders.

26 82. Defendants willfully engaged in and continues to engage in a policy and
 27 practice of not compensating Plaintiff and Class Members for all hours worked or
 28 spent in Defendants' control.

1 83. Defendants regularly require Plaintiff and the Class Members to
2 complete additional work off-the-clock, without compensation. For instance, and as
3 mentioned above, Defendants interrupt and cut short Plaintiff and Class Members'
4 lunch breaks by instructing Plaintiff and Class Members about new assignments and
5 locations to work while Plaintiff and Class Members are off-the-clock attempting to
6 take an undisturbed meal break. Defendants do not compensate Plaintiff and Class
7 Members for their time spent receiving instruction and working during this time.

8 84. As a result, Defendants fail to track Plaintiff and Class Members' actual
9 hours worked, and consequently fail to pay Plaintiff and Class Members for all hours
10 worked.

11 85. Defendants require Plaintiff and Class Members to work off-the-clock
12 without compensation. In other words, Plaintiff and Class Members are forced to
13 perform work for the benefit of Defendants without pay.

14 86. In violation of California law, Defendants knowingly and willfully refuse
15 to perform their obligations to provide Plaintiff and Class Members with
16 compensation for all time worked. Defendants regularly fail to track the time Plaintiff
17 and Class Members actually work and fail to compensate them for all hours worked.

18 87. Therefore, Defendants committed, and continue to commit, the acts
19 alleged herein knowingly and willfully, and in conscious disregard of the Plaintiff
20 and Class Members' rights. Plaintiff and Class Members are thus entitled to recover
21 nominal, actual, and compensatory damages, plus interest, attorneys' fees, expenses,
22 and costs of suit.

23 88. As a proximate result of the aforementioned violations, Plaintiff and
24 Class Members have been damaged in an amount according to proof at time of trial.

25 89. Wherefore, Plaintiff and the putative Class request relief as hereinafter
26 provided.

27 **FOURTH CAUSE OF ACTION**

28 **Failure to Pay Minimum Wages**

**Pursuant to Cal. Lab. Code §§ 558, 1182.12, 1194, 1197, 1197.1, and 1198
(On Behalf of the Class)**

90. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

91. During the applicable statutory period, Cal. Lab. Code §§ 1182.12 and 1197, and the Minimum Wage Order were in full force and effect, and required that Defendants' hourly employees receive the minimum wage for all hours worked irrespective of whether nominally paid on a piece rate, or any other basis, at the rate of ten dollars and fifty cents (\$10.50) per hour commencing January 1, 2017; at the rate of eleven dollars (\$11.00) per hour commencing January 1, 2018; at the rate of twelve dollars (\$12.00) per hour commencing January 1, 2019; at the rate of thirteen dollars (\$13.00) per hour commencing January 1, 2020; and at the rate of fourteen dollars (\$14.00) commencing January 1, 2021.

92. Cal. Lab. Code § 1197.1 provides, in relevant part:

(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to

1 Section 203, recovered pursuant to this section shall be paid to the affected
2 employee.

3 93. Cal. Lab. Code §1194 states:

4 Notwithstanding any agreement to work for a lesser wage, any employee
5 receiving less than the legal minimum wage or the legal overtime
6 compensation applicable to the employee is entitled to recover in a civil
7 action the unpaid balance of the full amount of this minimum wage or
8 overtime compensation, including interest thereon, reasonable attorney's
fees, and costs of suit.

9 94. IWC Wage Order 9-2001(2)(G) defines hours worked as “the time during
10 which an employee is subject to the control of an employer and includes all the time
11 the employee is suffered or permitted to work, whether or not required to do so.”

12 95. Cal. Lab. Code § 558 provides in relevant part:

13 (a) Any employer or other person acting on behalf of an employer who
14 violates, or causes to be violated, a section of this chapter or any provision
15 regulating hours and days of work in any order of the Industrial Welfare
16 Commission shall be subject to a civil penalty as follows: (1) For any
17 initial violation, fifty dollars (\$50) for each underpaid employee for each
18 pay period for which the employee was underpaid in addition to an
19 amount sufficient to recover underpaid wages. (2) For each subsequent
violation, one hundred dollars (\$100) for each underpaid employee for
each pay period for which the employee was underpaid in addition to an
amount sufficient to recover underpaid wages.

20 96. Cal. Lab. Code § 1198 makes it unlawful for employers to employ
21 employees under conditions that violate the Wage Orders.

22 97. Cal. Lab. Code § 1194.2 provides that, in any action under Section 1194
23 to recover wages because of the payment of a wage less than minimum wage fixed
24 by an order of the commission, an employee shall be entitled to recover liquidated
25 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

26 98. Defendants have maintained policies and procedures which create a
27 working environment where hourly employees are routinely compensated at a rate
28 that is less than the statutory minimum wage. Plaintiff and Class Members routinely

1 work time off-the-clock *i.e.*, while being interrupted to work during meal breaks.

2 99. As a direct and proximate result of the unlawful acts and/or omissions of
3 Defendants, Plaintiff and Class Members have been deprived of minimum wages in
4 an amount to be determined at trial, and are entitled to a recovery of such amount,
5 plus liquidated damages, plus interest thereon, attorneys' fees, and costs of suit
6 pursuant to Cal. Lab. Code §§ 1194, 1194.2 and 1197.1.

7 100. Wherefore, Plaintiff and the putative Class request relief as hereinafter
8 provided.

9 **FIFTH CAUSE OF ACTION**

10 **Failure to Pay Overtime Wages**

11 **Pursuant to Cal. Lab. Code § 510**

12 **(On Behalf of the Class)**

13 101. Plaintiff realleges and incorporates the foregoing paragraphs as though
14 fully set forth herein.

15 102. Defendants do not compensate Plaintiff and Class Members with the
16 appropriate overtime rate, as required by California law.

17 103. Cal. Lab. Code § 510 provides, in pertinent part, that:

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

25 104. The IWC Wage Order 9-2001(3)(A)(1) states:

26 The following overtime provisions are applicable ... employees shall not
27 be employed more than eight (8) hours in any workday or more than 40
28 hours in any workweek unless the employee receives one and one-half (1

1 ½) times such employee's regular rate of pay for all hours worked over
 2 40 hours in the workweek. Eight (8) hours of labor constitutes a day's
 3 work. Employment beyond eight (8) hours in any workday or more than
 4 six (6) days in any workweek is permissible provided the employee is
 5 compensated for such overtime at not less than: . . . One and one-half (1
 6 ½) times the employee's regular rate of pay for all hours worked in excess
 7 of eight (8) hours up to and including 12 hours in any workday, and for
 8 the first eight (8) hours worked on the seventh (7th) consecutive day of
 9 work in a workweek; and ... [d]ouble the employee's regular rate of pay
 10 for all hours worked in excess of 12 hours in any workday and for all
 11 hours worked in excess of eight (8) hours on the seventh (7th) consecutive
 12 day of work in a workweek.

105. Cal. Lab. Code § 1194(a) provides that:

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

106. Cal. Lab. Code § 200 defines wages as "all amounts for labor performed
 15 by employees of every description, whether the amount is fixed or ascertained by the
 16 standard of time, task, piece, commission basis or other method of calculation." All
 17 such wages are subject to California's overtime requirements, including those set
 18 forth above.

107. Defendants regularly do not compensate Plaintiff and Class Members for
 20 their overtime hours. For instance, Plaintiff and Class Members do not receive
 21 overtime compensation for time spent working during their meal breaks while
 22 working and receiving instruction when the hours worked are in excess of eight (8)
 23 hours per day and forty (40) hours per week.

108. Plaintiff and Class Members work overtime hours for Defendants
 25 without being paid overtime premiums in violation of the Labor Code, applicable
 26 IWC Wage Orders, and other applicable law.

109. Defendants knowingly and willfully refuse to perform its obligation to

1 provide Plaintiff and Class Members with premium wages for all overtime work. As
 2 a proximate result of the aforementioned violations, Defendants have damaged
 3 Plaintiff and Class Members in amounts to be determined according to proof at time
 4 of trial.

5 110. Defendants are liable to Plaintiff and Class Members alleged herein for
 6 the unpaid overtime and civil penalties, with interest thereon. Furthermore, Plaintiff
 7 is entitled to an award of attorneys' fees and costs as set forth below.

8 111. Wherefore, Plaintiff and Class Members request relief as hereinafter
 9 provided.

10 **SIXTH CAUSE OF ACTION**

11 **Failure to Provide Accurate Itemized Wage Statements**

12 **Pursuant to Cal. Lab. Code § 226**

13 **(On Behalf of the Class)**

14 112. Plaintiff realleges and incorporates the foregoing paragraphs as though
 15 fully set forth herein.

16 113. Defendants do not provide Plaintiff and Class Members with accurate
 17 itemized wage statements as required by California law.

18 114. Cal. Lab. Code § 226(a) provides:

19 Every employer shall, semimonthly or at the time of each payment of
 20 wages, furnish each of his or her employees, either as a detachable part of
 21 the check, draft, or voucher paying the employee's wages, or separately
 22 when wages are paid by personal check or cash, an accurate itemized
 23 statement in writing showing (1) gross wages earned, (2) total hours
 24 worked by the employee, except for any employee whose compensation
 25 is solely based on a salary and who is exempt from payment of overtime
 26 under subdivision (a) of Section 515 or any applicable order of the
 27 Industrial Welfare Commission, (3) the number of piece-rate units earned
 28 and any applicable piece rate if the employee is paid on a piece-rate basis,
 (4) all deductions, provided that all deductions made on written orders of
 the employee may be aggregated and shown as one item, (5) net wages
 earned, (6) the inclusive dates of the period for which the employee is
 paid, (7) the name of the employee and his or her social security number,

1 (8) the name and address of the legal entity that is the employer, and (9)
 2 all applicable hourly rates in effect during the pay period and the
 3 corresponding number of hours worked at each hourly rate by the
 employee.

4 115. The IWC Wage Orders also establishes this requirement. (See IWC
 5 Wage Order 9-2001.)

6 116. Cal. Lab. Code § 226(e) provides:

7 An employee suffering injury as a result of a knowing and intentional
 8 failure by an employer to comply with subdivision (a) is entitled to
 9 recover the greater of all actual damages or fifty dollars (\$50) for the
 10 initial pay period in which a violation occurs and one hundred dollars
 11 (\$100) per employee for each violation in a subsequent pay period, not
 exceeding an aggregate penalty of four thousand dollars (\$4,000) and is
 entitled to an award of costs and reasonable attorney's fees.

12 117. Defendants do not provide timely, accurate itemized wage statements to
 13 Plaintiff and Class Members in accordance with Cal. Lab. Code § 226(a) and the IWC
 14 Wage Orders. The wage statements Defendants provide their employees, including
 15 Plaintiff and Class Members, do not accurately reflect gross wages earned, total hours
 16 worked, overtime hours, or premium payments for uninterrupted meal periods and/or
 17 missed second meal periods and/or third rest breaks.

18 118. Defendants are liable to Plaintiff and the putative Class alleged herein
 19 for the amounts described above in addition to the civil penalties set forth below, with
 20 interest thereon. Furthermore, Plaintiff is entitled to an award of attorneys' fees and
 21 costs as set forth below, pursuant to Cal. Lab. Code § 226(e).

22 119. Wherefore, Plaintiff and the putative Class request relief as hereinafter
 23 provided.

24 **SEVENTH CAUSE OF ACTION**

25 **Waiting Time Penalties**

26 **Pursuant to Cal. Lab. Code §§ 201-203**

27 **(On Behalf of the Class)**

28 120. Plaintiff realleges and incorporates the foregoing paragraphs as though

1 fully set forth herein.

2 121. Defendants do not provide Class Members with their wages when due
3 under California law after their employment with Defendants ends.

4 122. Cal. Lab. Code § 201 provides:

5 If an employer discharges an employee, the wages earned and unpaid at
6 the time of discharge are due and payable immediately.

7 123. Cal. Lab. Code § 202 provides:

8 If an employee not having a written contract for a definite period quits his
9 or her employment, his or her wages shall become due and payable not
10 later than 72 hours thereafter, unless the employee has given 72 hours
11 previous notice of his or her intention to quit, in which case the employee
is entitled to his or her wages at the time of quitting.

12 124. Cal. Lab. Code § 203 provides, in relevant part:

13 If an employer willfully fails to pay, without abatement or reduction, in
14 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
15 employee who is discharged or who quits, the wages of the employee shall
16 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
17 for more than 30 days.

18 125. Some of the Class Members left their employment with Defendants
19 during the statutory period, at which time Defendants owed them unpaid wages.
20 These earned, but unpaid, wages derive from time spent working for the benefit of
21 Defendants during missed or interrupted meal periods and/or missed second meal
22 periods and/or third rest breaks.

23 126. Defendants willfully refuse and continue to refuse to pay Class Members
24 all the wages that are due and owing to them for the work performed and the resulting
25 premium payments for missed or interrupted meal periods and/or missed second meal
26 periods and/or third rest breaks, upon the end of their employment. As a result of
27 Defendants' actions, Plaintiff and Class Members have suffered and continue to suffer
28 substantial losses, including lost earnings, and interest.

127. Defendants' willful failure to pay Plaintiff and Class Members the wages due and owing them constitutes a violation of Cal. Lab. Code §§ 201-202. As a result, Defendants are liable to Plaintiff and proposed Class members for all penalties owing pursuant to Cal. Lab. Code §§ 201-203.

128. In addition, Cal. Lab. Code § 203 provides that an employee's wages will continue as a penalty up to thirty days from the time the wages were due. Therefore, the Plaintiff and Class Members are entitled to penalties pursuant to Cal. Lab. Code § 203, plus interest.

129. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION

Violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.*

(On Behalf of the Class)

130. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

131. The UCL prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

132. Cal. Bus. & Prof. Code § 17204 allows a person injured by the unfair business acts or practices to prosecute a civil action for violation of the UCL.

133. Cal. Lab. Code § 90.5(a) states it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

134. Beginning at an exact date unknown to Plaintiff, but at least since the date four years prior to the filing of this lawsuit, Defendants have committed acts of unfair competition as defined by the UCL, by engaging in the unlawful, unfair, and fraudulent business acts and practices described in this Complaint, including, but not

1 limited to:

- 2 a. violations of Cal. Lab. Code §§ 226.7 and 512 and Wage Order 9-
3 2001 pertaining to meal and rest breaks;
- 4 b. violations of Cal. Lab. Code §§ 204, 225.5, 558, 1182.12, 1194,
5 1997, 1197.1, 1198 and IWC Wage Order 9-2001 pertaining to
6 payment of wages, including minimum wage, for all hours
7 worked;
- 8 c. violations of Cal. Lab. Code § 510 and IWC Wage Order 9-2001
9 pertaining to overtime; and
- 10 d. violations of Cal. Lab. Code § 226 regarding accurate, timely
11 itemized wage statements; and
- 12 e. violations of Cal. Lab. Code §§ 201-203 pertaining to payment of
13 all wages owed during employment and following separation from
14 employment.

15 135. The violations of these laws and regulations, as well as of the
16 fundamental California public policies protecting wages, serve as unlawful predicate
17 acts and practices for purposes of Cal. Bus. & Prof. Code §§ 17200 *et seq.*

18 136. The acts and practices described above constitute unfair, unlawful, and
19 fraudulent business practices, and unfair competition, within the meaning of Business
20 and Professions Code §§ 17200 *et seq.* Among other things, the acts and practices
21 have taken from Plaintiff and the Class wages rightfully earned by them, while
22 enabling Defendants to gain an unfair competitive advantage over law-abiding
23 employers and competitors.

24 137. Cal. Bus. & Prof. Code § 17203 provides that a court may make such
25 orders or judgments as may be necessary to prevent the use or employment by any
26 person of any practice which constitutes unfair competition.

27 138. As a direct and proximate result of the aforementioned acts and practices,
28 Plaintiff and Class Members have suffered a loss of money and property, in the form

1 of unpaid wages, which are due and payable to them.

2 139. Cal. Bus. & Prof. Code § 17203 provides that the Court may restore to
3 any person in interest any money or property which may have been acquired by
4 means of such unfair competition. Plaintiff and Class Members are entitled to
5 restitution pursuant to Cal. Bus. & Prof. Code § 17203 for all wages and payments
6 unlawfully withheld from employees during the four-year period prior to the filing of
7 this Complaint. Plaintiff's success in this action will enforce important rights
8 affecting the public interest and, in that regard, Plaintiff sues on behalf of himself as
9 well as others similarly situated. Plaintiff and Class Members seek and are entitled
10 to unpaid wage, declaratory relief and all other equitable remedies owing to them.

11 140. Plaintiff herein takes upon himself enforcement of these laws and lawful
12 claims. There is a financial burden involved in pursuing this action, the action is
13 seeking to vindicate a public right, and it would be against the interests of justice to
14 penalize Plaintiff by forcing him to pay attorneys' fees from the recovery in this
15 action. Attorneys' fees are appropriate pursuant to Cal. Code Civ. Proc. § 1021.5 and
16 otherwise.

17 141. Wherefore, Plaintiff and the putative Class request relief as hereinafter
18 provided.

19 **NINTH CAUSE OF ACTION**

20 **Penalties Pursuant to Cal. Lab. Code § 2699(a)**

21 **(On Behalf of the State of California and Aggrieved Employees)**

22 142. Plaintiff re-alleges and incorporates the foregoing paragraphs as though
23 fully set forth herein.

24 143. Cal. Lab. Code § 2699(a) provides: Notwithstanding any other provision
25 of law, any provision of this code that provides for a civil penalty to be assessed and
26 collected by the Labor and Workforce Development Agency or any of its
27 departments, divisions, commissions, boards, agencies, or employees, for a violation
28 of this code, may, as an alternative, be recovered through a civil action brought by an

1 aggrieved employee on behalf of himself or herself and other current or former
2 employees.

3 144. Cal. Lab. Code §§ 201 and 202 require employers to immediately pay
4 wages earned and unpaid to an employee that is discharged, and to pay an employee
5 who quits within 72 hours after he or she quits, at the latest.

6 145. Cal. Lab. Code § 203 provides, in relevant part: If an employer willfully
7 fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5,
8 202, and 205.5, any wages of an employee who is discharged or who quits, the wages
9 of the employees shall continue as a penalty from the due date thereof at the same
10 rate paid or until an action therefor is commenced; but the wages shall not continue
11 for more than 30 days.

12 146. Cal. Lab. Code § 256 provides: “The Labor Commissioner shall impose
13 a civil penalty in an amount not exceeding 30 days’ pay as waiting time under the
14 terms of Section 203.”

15 147. Plaintiff seeks civil penalties pursuant to Cal. Lab. Code § 2699(a) for
16 each failure by Defendant, as alleged above, to timely pay all wages owed to Plaintiff
17 and the Aggrieved Employees in compliance with Cal. Lab. Code §§ 201-202 in the
18 amounts established by Cal. Lab. Code § 203.

19 148. Cal. Lab. Code § 226(a) provides: Every employer shall, semimonthly or
20 at the time of each payment of wages, furnish each of his or her employees, either as
21 a detachable part of the check, draft, or voucher paying the employee's wages, or
22 separately when wages are paid by personal check or cash, an accurate itemized
23 statement in writing showing (1) gross wages earned, (2) total hours worked by the
24 employee, except for any employee whose compensation is solely based on a salary
25 and who is exempt from payment of overtime under subdivision (a) of Section 515
26 or any applicable order of the Industrial Welfare Commission, (3) the number of
27 piece-rate units earned and any applicable piece rate if the employee is paid on a
28 piece-rate basis, (4) all deductions, provided that all deductions made on written

1 orders of the employee may be aggregated and shown as one item, (5) net wages
2 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
3 name of the employee and his or her social security number, (8) the name and address
4 of the legal entity that is the employer, and (9) all applicable hourly rates in effect
5 during the pay period and the corresponding number of hours worked at each hourly
6 rate by the employee.

7 149. Cal. Lab. Code § 226(e)(1) provides, in relevant part: An employee
8 suffering injury as a result of a knowing and intentional failure by an employer to
9 comply with subdivision (a) is entitled to recover the greater of all actual damages or
10 fifty dollars (\$50) for the initial pay period in which a violation occurs and one
11 hundred dollars (\$100) per employee for each violation in a subsequent pay period,
12 not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled
13 to an award of costs and reasonable attorney's fees.

14 150. Cal. Lab. Code § 226.3 provides: Any employer who violates subdivision
15 (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred
16 fifty dollars (\$250) per employee per violation in an initial citation and one thousand
17 dollars (\$1,000) per employee for each violation in a subsequent citation, for which
18 the employer fails to provide the employee a wage deduction statement or fails to
19 keep the records required in subdivision (a) of Section 226. The civil penalties
20 provided for in this section are in addition to any other penalty provided by law.

21 151. Plaintiff also seeks civil penalties pursuant to Cal. Lab. Code § 2699(a)
22 for each failure by Defendant, alleged above, to provide Plaintiff and Aggrieved
23 Employees an accurate, itemized wage statement in compliance with Cal. Lab. Code
24 § 226(a) in the amounts established by Cal. Lab. Code § 226.3. In addition, Plaintiff
25 seeks penalties in the amount established by Cal. Lab. Code § 226(e)(1), as prayed
26 for herein.

27 152. Pursuant to Cal. Lab. Code § 2699.3(a)(1) and (2), Plaintiff provided the
28 Labor and Workforce Development Agency ("LWDA") with notice of his intention

1 to file this claim. Sixty-five calendar days have passed without notice from the
 2 LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil
 3 action in compliance with Cal. Lab. Code § 2699.3(a).

4 153. Plaintiff seeks the aforementioned penalties on behalf of the State, other
 5 Aggrieved Employees, and himself as set forth in Cal. Lab. Code § 2699.

6 154. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of
 7 California for the civil penalties set forth in this Complaint, with interest thereon.
 8 Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

9 155. Wherefore, Plaintiff requests relief as hereinafter provided.

10 **TENTH CAUSE OF ACTION**

11 **Penalties Pursuant to Cal. Lab. Code § 2699(f)**

12 **(On Behalf of the State of California and Aggrieved Employees)**

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

15 157. Cal. Lab. Code § 2699(f) provides: For all provisions of this code except
 16 those for which a civil penalty is specifically provided, there is established a civil
 17 penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the
 18 alleged violation, the person employs one or more employees, the civil penalty is one
 19 hundred dollars (\$100) for each aggrieved employee per pay period for the initial
 20 violation and two hundred dollars (\$200) for each aggrieved employee per pay period
 21 for each subsequent violation.

22 158. Cal. Lab. § 200 defines wages as "all amounts for labor performed by
 23 employees of every description, whether the amount is fixed or ascertained by the
 24 standard of time, task, piece, commission basis or method of calculation."

25 159. Cal. Lab. Code § 204(a) provides that "[a]ll wages ... earned by any
 26 person in any employment are due and payable twice during each calendar month...".

27 160. IWC Wage Orders 9-2001(2)(G) defines hours worked as "the time
 28 during which an employee is subject to the control of an employer and includes all

1 the time the employee is suffered or permitted to work, whether or not required to do
2 so.”

3 161. Cal. Lab. Code § 1198 makes it unlawful for employers to employ
4 employees under conditions that violate the Wage Order.

5 162. Cal. Lab. Code § 510 provides, in relevant part: Eight hours of labor
6 constitutes a day’s work. Any work in excess of eight hours in one workday and any
7 work in excess of 40 hours in any one workweek and the first eight hours worked on
8 the seventh day of work in any one workweek shall be compensated at the rate of no
9 less than one and one-half times the regular rate of pay for an employee. Any work
10 in excess of 12 hours in one day shall be compensated at the rate of no less than twice
11 the regular rate of pay for an employee. In addition, any work in excess of eight hours
12 on any seventh day of a workweek shall be compensated at the rate of no less than
13 twice the regular rate of pay of an employee. Nothing in this section requires an
14 employer to combine more than one rate of overtime compensation in order to
15 calculate the amount to be paid to an employee for any hour of overtime work.

16 163. Cal. Lab. Code § 1197 provides: The minimum wage for employees fixed
17 by the commission or by any applicable state or local law, is the minimum wage to
18 be paid to employees, and the payment of a lower wage than the minimum so fixed
19 is unlawful. This section does not change the applicability of local minimum wage
20 laws to any entity.

21 164. Cal. Lab. Code § 1194 provides, in relevant part: Notwithstanding any
22 agreement to work for a lesser wage, any employee receiving less than the legal
23 minimum wage or the legal overtime compensation applicable to the employee is
24 entitled to recover in a civil action the unpaid balance of the full amount of this
25 minimum wage or overtime compensation, including interest thereon, reasonable
26 attorney’s fees, and costs of suit.

27 165. Cal. Lab. Code §§ 226.7 and 512 and IWC Wage Order 1-2001 and 9-
28 2001 require Defendants to authorize, permit, and/or make available timely and

1 compliant meal periods to its employees. Cal. Lab. Code §§ 226.7 and 512 and IWC
2 Wage 1-2001 and Order 9-2001 prohibit employers from employing an employee for
3 more than five hours without a meal period of not less than thirty minutes, and from
4 employing an employee more than ten hours per day without providing the employee
5 with a second meal period of not less than thirty minutes. Unless the employee is
6 relieved of all duty during the thirty-minute meal, the employee is considered “on
7 duty” and the meal period is counted as time worked under the applicable wage
8 orders.

9 166. To the extent than any violation alleged herein does not carry penalties
10 under Cal. Lab. Code § 2699(a), Plaintiff seeks civil penalties pursuant to Cal. Lab.
11 Code § 2699(f) for Plaintiff and Aggrieved Employees each pay period in which he
12 or she was aggrieved, in the amounts established by Cal. Lab. Code § 2699(f).
13 Plaintiff seeks penalties pursuant to Cal. Lab. Code § 2699(f) for Plaintiff and
14 Aggrieved Employees for violations of Labor Code provisions including, but not
15 limited to, Cal. Lab. Code 510, 1194, 201-203, 204, 226, 226.7, 512, IWC Wage
16 Order 1-2001 and IWC Wage Order 9-2001, and any other violation alleged herein
17 does not carry penalties under Cal. Lab. Code § 2699(a).

18 167. Pursuant to Cal. Lab. Code § 2699.3(a)(1) and (2), Plaintiff has provided
19 the LWDA with notice of his intention to file this claim. Sixty-five calendar days
20 have passed without notice from the LWDA. Plaintiff satisfied the administrative
21 prerequisites to commence this civil action in compliance with § 2699.3(a).

22 168. Plaintiff seeks the aforementioned penalties on behalf of the State, other
23 Aggrieved Employees, and himself as set forth in Cal. Lab. Code § 2699(g)(1).

24 169. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of
25 California for the civil penalties set forth in this Complaint, with interest thereon.
26 Plaintiff is also entitled to an award of attorneys’ fees and costs as set forth below.

27 170. Wherefore, Plaintiff requests relief as hereinafter provided.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

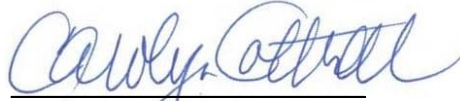
- a. Damages and restitution according to proof at trial for all unpaid wages and other injuries, as provided by the Cal. Lab. Code and Cal. Bus. & Prof. Code;
- b. For a declaratory judgment that Defendants have violated the Cal. Lab. Code and public policy as alleged herein;
- c. For a declaratory judgment that Defendants have violated Cal. Bus. & Prof. Code §§ 17200 *et seq.*, as a result of the aforementioned violations of the California Labor Code and of California public policy protecting wages;
- d. For an equitable accounting to identify, locate, and restore to all current and former employees the wages they are due, with interest thereon;
- e. For an order awarding Plaintiff and Class Members compensatory damages, including lost wages, earnings, liquidated damages, and other employee benefits, restitution, recovery of all money, actual damages, punitive damages, and all other sums of money owed to Plaintiff and Class members, together with interest on these amounts, according to proof;
- f. For an order awarding Plaintiff and the Class members civil penalties pursuant to the Cal. Lab. Code, and provisions cited herein, with interest thereon;
- g. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
- h. For an award of reasonable attorneys' fees as provided by the Cal. Lab. Code, Cal. Code Civ. Proc. § 1021.5 and/or other applicable law;
- i. For all costs of suit;
- j. For interest on any damages and/or penalties awarded, as provided by

1 applicable law; and

2 k. For such other and further relief as this Court deems just and proper.

3
4 Dated: September 28, 2022

Respectfully Submitted,

5 

6 Carolyn H. Cottrell

7 Ori Edelstein

8 Eugene Zinovyev

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

9 *Attorneys for Plaintiff, Aggrieved Employees*
10 *and the Putative Class*

11 **DEMAND FOR JURY TRIAL**

12 Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff
13 is entitled to a jury.

14
15 Dated: September 28, 2022

Respectfully Submitted,

16 

17 Carolyn H. Cottrell

18 Ori Edelstein

19 Eugene Zinovyev

SCHNEIDER WALLACE

COTTRELL KONECKY LLP

20 *Attorneys for Plaintiff, Aggrieved Employees*
21 *and the Putative Class*
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