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12 Attorneys for Plaintiff EVAN REED,
13 as an individual on behalf of himself and on behalf of all others similarly
14 situated

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF SAN FRANCISCO**

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
02/14/2022
Clerk of the Court
BY: KAREN VALDES
Deputy Clerk

CGC-22-598118

17 EVAN REED, as an individual on behalf
18 of himself and on behalf of all others
19 similarly situated,

20 Plaintiff,

21 v.

22 WILLIAMS-SONOMA STORES, INC., a
23 California Corporation; WILLIAMS-
24 SONOMA, INC., a Delaware Corporation
25 and DOES 1-100, inclusive,

26 Defendants.

Case No.:

CLASS ACTION COMPLAINT FOR:

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
3. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
4. **Failure to Furnish Accurate Itemized Wage Statements**
5. **Failure to Reimburse Business Expenses and**
6. **Failure to Timely Pay All Wages Due Upon Separation of Employment**
7. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, EVAN REED (“PLAINTIFF REED” or “PLAINTIFF”), as an individual on behalf
2 of himself and on behalf of all others similarly situated, hereby files this Complaint against
3 Defendant WILLIAMS-SONOMA STORES, INC., a California Corporation; WILLIAMS-
4 SONOMA, INC., a Delaware Corporation; and DOES 1-100, inclusive (collectively referred to as
5 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of San Francisco, California, pursuant to California Code of Civil Procedure
9 section 395.5 because DEFENDANTS maintain a principal office in San Francisco, California, and
10 DEFENDANTS transact business within this judicial district.

11 **THE PARTIES**

12 2. Defendant WILLIAMS-SONOMA STORES, INC., is a California Corporation that,
13 at all relevant times, was authorized to do business within the State of California and is doing
14 business in the State of California.

15 3. Defendant WILLIAMS-SONOMA, INC., is a Delaware Corporation that, at all
16 relevant times, was authorized to do business within the State of California and is doing business in
17 the State of California.

18 4. DEFENDANTS are a retail company headquartered in San Francisco that sell
19 kitchen and home furnishings through retail stores located throughout the United States and other
20 countries.

21 5. PLAINTIFF REED is, and at all relevant times, was an individual domiciled in the
22 State of California and a citizen of the State of California who worked as a non-exempt employee
23 for DEFENDANTS in the State of California.

24 6. PLAINTIFF REED was employed by DEFENDANTS and worked as a stock
25 associate at one of DEFENDANTS’ retail locations in San Luis Obispo from in or around December
26 2020 through in or around May 2021.

27 7. The true names and capacities of the DOE Defendants sued herein as DOES 1
28 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such

1 Defendant by said fictitious names. Each of the DEFENDANTS designated herein as a DOE is
2 legally responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to
3 amend this Complaint to reflect the true names and capacities of the Doe Defendants when such
4 identities become known.

5 8. PLAINTIFF is further informed and believes that, at all relevant times, each
6 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
7 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
8 predecessor in interest of some or all of the other DEFENDANTS, and was engaged with some or
9 all of the other defendants in a joint enterprise for profit, and bore such other relationships to some
10 or all of the other DEFENDANTS so as to be liable for their conduct with respect to the matters
11 alleged in this complaint. PLAINTIFF is further informed and believes and thereon alleges that each
12 Defendant acted pursuant to and within the scope of the relationships alleged above, and that at all
13 relevant times, each Defendant knew or should have known about, authorized, ratified, adopted,
14 approved, controlled, aided and abetted the conduct of all other DEFENDANTS.

15 **JOINT LIABILITY**

16 9. Under California law, the definition of the term “to employ” is broadly construed
17 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
18 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
19 to engage, thereby creating a common law employment relationship. See *Martinez v. Combs*, 49
20 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
21 was to reach situations in which multiple entities control different aspects of the employment
22 relationship. Supervision of the work, in the specific sense of exercising control over how services
23 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
24 wage order. *Id.* at 76. A joint employer relationship exists when one entity (such as a temporary
25 employment agency) hires and pays a worker, and the other entity supervises the work. *Id.*

26 10. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
27 Members were jointly employed by DEFENDANTS for purposes of the Wage Orders, under the
28 alternative definitions of “to employ” adopted by the California Supreme Court in *Martinez*, *supra*.

1 As discussed below, these DEFENDANTS (1) exercised control over wages, hours and working
2 conditions of PLAINTIFF and the Class Members; (2) suffered or permitted PLAINTIFF and the
3 Class Members to work for them; and, (3) engaged PLAINTIFF and the Class Members to work for
4 them.

5 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
6 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
7 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices and
8 subjected all of the Class Members to these same policies and practices.

9 12. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
10 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
11 upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
12 DEFENDANTS, exercised sufficient control over PLAINTIFF's and the Class Members' wages,
13 hours and working conditions, and/or suffered or permitted PLAINTIFF and the Class Members to
14 work so as to be considered the joint employers of PLAINTIFF and the Class Members.
15 Specifically, upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
16 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
17 time-keeping practices, meal and rest periods, and other working conditions that were distributed
18 to, and/or applied to PLAINTIFF and the Class Members, and further that DEFENDANTS
19 uniformly compensated and controlled the wages of PLAINTIFF and the Class Members in a
20 uniform manner. Based on information and belief, DEFENDANTS collectively represented to
21 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
22 that DEFENDANTS collectively retained the right to terminate PLAINTIFF and the Class
23 Members' employment with or without cause. Upon information and belief, DEFENDANTS further
24 collectively represented to PLAINTIFF and the Class Members in writing the details of their
25 compensation, and the manner in which they were to take meal and rest periods, the procedures
26 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable
27 to PLAINTIFF and the Class Members by which DEFENDANTS collectively would evaluate the
28 wage rates of PLAINTIFF and the Class Members.

13. Thus, DEFENDANTS collectively exercised the right to control the wages, hours and working conditions of PLAINTIFF and the Class Members. As such, DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and the Class Members' employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same control over, applied the same policies and practices, and engaged in the same acts and omissions with regard to the other Class Members.

CLASS ALLEGATIONS

15. PLAINTIFF brings this action on behalf of himself, and all others similarly situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF seeks to represent is defined as follows and referred to collectively as the “Class” or “Class Members”: “All current and former non-exempt employees that worked directly or via a staffing agency for DEFENDANTS in California at any time within the four years prior to the filing of the initial Complaint.”

- a. **Numerosity.** While the exact number of Class Members is unknown to PLAINTIFF at this time, the Class is so numerous that the individual joinder of all members is impractical under the circumstances of this case.
- b. **Common Questions of Law and Fact.** This lawsuit is suitable for class treatment because common questions of law and fact predominate over individual issues. Common questions include, but are not limited to, the following: (1) whether DEFENDANTS understated hours worked and failed to pay all amounts due to PLAINTIFF and the Class Members for wages earned, including minimum wages, under California law, as a result of DEFENDANTS' automatic deduction policy, mandated off-the-clock, payment of wages based on scheduled hours instead of actual hours worked, and unlawful meal period policies and practices; (2) whether DEFENDANTS provided PLAINTIFF and the Class Members with all meal periods or premium payments in lieu thereof

1 in compliance with California law; (3) whether DEFENDANTS provided
2 PLAINTIFF and the Class Members with all rest periods or premium payments
3 in lieu thereof, in compliance with California law; (4) whether DEFENDANTS
4 provided PLAINTIFF and the Class Members with accurate, itemized wage
5 statements in compliance with California law, displaying, including but not
6 limited to, all hours worked and the correct name and address of the legal entity
7 that is the employer; (5) whether DEFENDANTS failed to reimburse
8 PLAINTIFF and the Class Members for all business expenses; (6) whether
9 DEFENDANTS failed to timely pay all wages owed upon separation of
10 employment; and (7) whether DEFENDANTS violated California Business and
11 Professions Code sections 17200, *et seq.*

12 c. **Ascertainable Class.** The proposed Class is ascertainable as its members can
13 be identified and located using information in DEFENDANTS' business,
14 payroll and personnel records.

15 d. **Numerosity.** The Class is so numerous that the individual joinder of all Class
16 Members is impractical under the circumstances of this case. While the exact
17 number of Class Members is unknown to PLAINTIFF, PLAINTIFF is informed
18 and believes the Class consists of at least 100 individuals.

19 e. **Typicality.** PLAINTIFF's claims are typical of the claims of the Class
20 Members. PLAINTIFF suffered a similar injury as the other Class Members as
21 a result of DEFENDANTS' common practices regarding, *inter-alia*, failure to
22 calculate and pay all owed minimum wages, failure to provide proper meal and
23 rest periods or premium compensation in lieu thereof, failure to provide accurate
24 wage statements, failure to reimburse business expenses and failure to timely
25 pay wages upon separation of employment.

26 f. **Adequacy.** PLAINTIFF will fairly and adequately protect the interests of the
27 Class Members. PLAINTIFF has no interests adverse to the interests of the other
28 Class Members. Counsel who represent PLAINTIFF are competent and

1 experienced in litigating similar class action cases and are California lawyers in
2 good standing. Counsel for PLAINTIFF have the experience and resources to
3 vigorously prosecute this case.

4 g. **Superiority.** A class action is superior to other available means for the fair and
5 efficient adjudication of this controversy since individual joinder of all members
6 of the Class is impractical. Class action treatment will permit a large number of
7 similarly situated persons to prosecute their common claims in a single forum
8 simultaneously, efficiently, and without the unnecessary duplication of effort
9 and expense that numerous individual actions would engender. Furthermore, as
10 the damages suffered by each individual Class Member may be relatively small,
11 the expenses and burden of individual litigation would make it difficult or
12 impossible for individual members of the Class to redress the wrongs done to
13 them, while an important public interest will be served by addressing the matter
14 as a class action. The cost to the court system of adjudication of such
15 individualized litigation would be substantial. Individualized litigation would
16 also present the potential for inconsistent or contradictory judgments. Finally,
17 the alternative of filing a claim with the California Labor Commissioner is not
18 superior, given the lack of discovery in such proceedings, the fact that there are
19 fewer available remedies, and the losing party has the right to a trial de novo in
20 the Superior Court.

21 **FACTUAL ALLEGATIONS**

22 16. During the four-year period preceding filing of this complaint, PLAINTIFF, and
23 each of the Class Members, were employed by DEFENDANTS in the State of California as non-
24 exempt employees. At all times referenced herein, DEFENDANTS exercised control over
25 PLAINTIFF and each of the Class Members and suffered and/or permitted them to work.

26 17. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee during
27 the relevant time period. PLAINTIFF worked as a stock associate at DEFENDANTS' retail location
28 in San Luis Obispo from in or around December 2020 through in or around May 2021.

1 18. PLAINTIFF was typically scheduled to work shifts that lasted over five (5) hours per
2 day, five (5) days per week.

3 19. **Meal Periods.** PLAINTIFF and the Class Members regularly worked shifts of five
4 and one half (5 ½) hours or more and were entitled to at least one thirty-minute uninterrupted meal
5 break. However, PLAINTIFF and the Class Members did not receive a timely thirty-minute meal
6 break or were required to work through purported meal breaks. PLAINTIFF and other Class
7 Members were not adequately informed, authorized, instructed about, nor permitted an opportunity
8 to take lawful meal breaks per California law. PLAINTIFF and other Class Members were
9 consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being
10 forced to take late meal periods (i.e. after the fifth hour of work) and/or work through part or all
11 their meal periods due to the nature and constraints of their job duties and/or commentary from
12 supervisors pressuring them to take non-compliant breaks or skip breaks completely. For example,
13 PLAINTIFF's scheduled shift regularly started at 10:00 am, but at times was unable to take a timely
14 meal break due to his assigned workload or due to his need to assist customers. Moreover, during
15 the holiday season, PLAINTIFF was rarely afforded a timely meal period. Based on information
16 and belief, other Class Members were also regularly unable to take timely, duty-free meal periods,
17 and/or were interrupted during their meal periods.

18 20. PLAINTIFF and Class Members were deprived of a full thirty-minute meal period
19 due to DEFENDANTS' faulty time-keeping system. When clocking out for a meal period,
20 PLAINTIFF and the Class Members were required to clock out using DEFEDANTS' computerized
21 time-keeping system which often was slow and/or inaccurate. For example, at times PLAINTIFF
22 attempted to clock out for a meal period but had to wait at least five (5) to ten (10) minutes for the
23 system to load or record the clock out time. At other times, the system inaccurately recorded the
24 clock out time under a different employee's time records. PLAINTIFF and the Class Members
25 experienced the same issues when clocking back in for a meal period. Because PLAINTIFF and
26 Class Members were required to wait for the time-keeping system to load, PLAINTIFF and the
27 Class Members were denied a full thirty (30) minute meal period that was uninterrupted and free of
28 DEFENDANTS' control.

1 21. Based on information and belief, DEFENDANTS also implemented a policy and/or
2 practice of automatically deducting at least thirty minutes per shift for these short, interrupted and/or
3 otherwise unlawful meal periods, despite having actual and/or constructive knowledge that
4 PLAINTIFF and other Class Members did not receive compliant meal periods.

5 22. Based on further information and belief, DEFENDANTS rounded the start and end
6 times of PLAINTIFF and Class Members' meal periods resulting in PLAINTIFF and other Class
7 Members not being paid for all time worked as well as late or shortened meal periods. Based on
8 further information and belief, DEFENDANTS' time keeping system inaccurately recorded the true
9 start and end times of PLAINTIFF's and the Class Members' meal periods, yet DEFENDANTS
10 systematically deducted thirty (30) minutes per shift irrespective of whether a full thirty (30) minute
11 meal period was provided.

12 23. PLAINTIFF is further informed and believes and thereon alleges that
13 DEFENDANTS had actual and/or constructive knowledge that its time-rounding and auto-
14 deduction policies and practices resulted in the denial of lawful meal periods owed to PLAINTIFF
15 and other Class Members, in violation of California's meal period laws.

16 24. Based on information and belief, DEFENDANTS did not have a lawful written meal
17 break policy, nor did DEFENDANTS have a compliant policy in practice.

18 25. Moreover, DEFENDANTS failed to pay PLAINTIFF and other Class Members an
19 additional hour of wages at their respective regular rates of pay for each workday a proper meal
20 period was not provided, as required by California law. *Brinker, supra*, 53 Cal.4th 1004. As such,
21 DEFENDANTS failed to pay a meal period premium at all for each workday a lawful meal period
22 was not provided, and even if and when a meal premium was paid, DEFENDANTS failed to pay
23 the proper meal period premium for failure to incorporate all non-discretionary remuneration,
24 including but not limited to, non-discretionary bonus pay, shift differential pay, and/or other non-
25 discretionary compensation into the regular rate for purposes of calculating the owed meal period
26 premium at the correct regular rate of compensation.

27 26. For example, during the pay period of 05/03/21 – 05/16/21, PLAINTIFF received a
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1 meal period premium at his base hourly rate of \$14 per hour. In the same pay period, PLAINTIFF
2 also earned a non-discretionary “Wellness Vaccine Incentive” of \$100. This non-discretionary
3 compensation was not factored into the regular rate of pay for purposes of calculating the owed meal
4 period premium. Based on information and belief, DEFENDANTS failed to incorporate all non-
5 discretionary compensation into the regular rate of pay for purposes of paying the owed meal period
6 premiums to Class Members.

7 27. **Rest periods.** DEFENDANTS did not properly authorize and provide PLAINTIFF
8 and other Class Members with lawful rest periods at a rate of every four (4) hours worked or major
9 fraction thereof.

10 28. PLAINTIFF and other Class Members were not adequately informed, authorized,
11 instructed about, nor permitted an opportunity to take proper rest periods per California law.

12 29. Based on information and belief, any purported rest periods were interrupted, cut
13 short, and/or late due to the nature and constraints of PLAINTIFF’s and other Class Members’ job
14 duties and/or commentary from supervisors pressuring them to skip rest periods completely or
15 otherwise take non-compliant rest periods. For example, on days when PLAINTIFF’s assigned store
16 was busy, PLAINTIFF was not afforded a full ten-minute uninterrupted rest period. Instead,
17 PLAINTIFF was allowed to take a rest period of five minutes or less and was later provided a
18 separate rest period of five minutes or less a few hours later. Based on information and belief,
19 DEFENDANTS failed to provide other Class Members with ten-minute uninterrupted rest periods
20 in compliance with California law.

21 30. Based on information and belief, PLAINTIFF and other Class Members were
22 pressured to complete their work duties according to a designated schedule such that rest breaks
23 were only taken once jobs were completed/if time permitted.

24 31. Based on information and belief, DEFENDANTS did not have a lawful policy,
25 instruction, or practice as to the taking, timing, or duty-free nature of rest periods.

26 32. Despite not providing lawful rest periods, DEFENDANTS failed to pay PLAINTIFF
27 and other Class Members with an additional hour of pay at PLAINTIFF’s and other Class Members’
28 regular rates of compensation for each missed, or otherwise unlawful rest period.

1 33. **Unpaid Minimum Wages.** DEFENDANTS failed to compensate all hours worked,
2 including all owed minimum and overtime wages. As explained above, PLAINTIFF and the Class
3 Members were regularly required to perform off-the-clock work by virtue of DEFENDANTS'
4 automatic-deduction policy for meal periods. On information and belief, the work time reported by
5 PLAINTIFF and the Class Members was rounded and automatically deducted for at least 30 minutes
6 of wages every day they worked for DEFENDANTS for meal periods that were short, not taken,
7 interrupted, or not relieved of all duties and employer control.

8 34. Based on information and belief, DEFENDANTS had and continue to have a
9 continuous policy of paying PLAINTIFF and Class Members for scheduled hours, rather than actual
10 hours worked due to DEFENDANTS' mandated off-the-clock work. For example, prior to clocking
11 in to work, PLAINTIFF and other Class Members were required to undergo pre-shift temperature
12 screenings. PLAINTIFF and other Class Members were also required to answer COVID-related
13 screening questions prior to clocking in to work. The temperature screenings and questionnaire took
14 at least a few minutes to complete. This work time was not recorded and was not compensated,
15 depriving PLAINTIFF and the Class Members of minimum wages for all hours worked.

16 35. Additionally, when PLAINTIFF was scheduled to work the closing shift,
17 PLAINTIFF and Class Members were required to remain on DEFENDANTS' premises for at least
18 5-10 minutes after clocking out of work due to DEFENDANTS' policy that all closing shift
19 employees leave the store at the same time. For example, once PLAINTIFF completed his duties at
20 the end of a shift, PLAINTIFF was required to clock out of work, but was not allowed to leave the
21 premises until all other employees completed their duties and clocked out of work to ensure that all
22 employees left DEFENDANTS' store at the same time, depriving PLAINTIFF and other Class
23 Members of minimum wages owed for time spent subjected to DEFENDANTS' control and
24 restricted to DEFENDANTS premises.

25 36. Moreover, PLAINTIFF and other Class Members were not compensated for time
26 spent waiting for DEFENDANTS' time keeping system to load and/or accurately record punch
27 times. At times, PLAINTIFF was required to wait at least 10-15 minutes for DEFENDANTS' time
28 keeping system to load prior to clocking in at the beginning of a shift and/or upon clocking back in

1 to work after a meal period. During this time, PLAINTIFF was subjected to DEFENDANTS'
2 control, but such time was not recorded and was not compensated. PLAINTIFF and the Class
3 Members had the same issue upon clocking out of work to take a meal period and at the end of a
4 shift.

5 37. DEFENDANTS' automatic deduction policies and practices as well as mandated off-
6 the-clock work described herein resulted in a failure to account for all hours worked and deprived
7 PLAINTIFF and Class Members of all owed minimum wages.

8 38. Based on information and belief, DEFENDANTS had actual and/or constructive
9 knowledge that its auto-deduction policies, failure to provide full 30-minute off-duty meal periods,
10 and other off-the-clock work policies and practices described herein resulted in violations of
11 California's minimum wage laws and other violations described below.

12 39. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
13 provide PLAINTIFF and the Class Members with accurate wage statements that complied with
14 Labor Code section 226. DEFENDANTS provided wage statements that failed to indicate the total
15 wages earned (including meal and rest period premiums), and total hours worked by PLAINTIFF
16 and other Class Members (by virtue of the automatic deduction for meal periods and other off-the-
17 clock work described herein). Accordingly, DEFENDANTS violated Labor Code § 226 by
18 providing wage statements that were inaccurate and failed to include all of the statutorily required
19 information.

20 40. Separately, DEFENDNATS violated Labor Code section 226 because the wage
21 statements issued by DEFENDANTS failed to list the correct name and address of the legal entity
22 that is the employer. For example, PLAINTIFF's wage statement dated 06/04/21 lists "Williams-
23 Sonoma Stores, Inc." as the legal entity that is the employer. However, documents in PLAINTIFF's
24 personnel file indicate that "Williams-Sonoma, Inc." is the employer. Based on information and
25 belief, DEFENDANTS issued wage statements to Class Members that also failed to list the correct
26 name and address of the legal entity that is the employer.

27 41. As a result, PLAINTIFF and the Class Members have suffered injury as they could
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1 not easily determine whether they received all wages owed to them and whether they were paid for
2 all hours worked. Moreover, as a result of DEFENDNATS' failure to list the correct legal entity
3 that is the employer, PLAINTIFF and the Class Members have suffered injury as there was
4 confusion as to which entity to contact regarding any question(s) they had about wages paid and
5 unpaid.

6 42. **Failure to reimburse Business Expenses.** DEFENDANTS also failed to
7 compensate PLAINTIFF and the Class Members for business-related expenses incurred in direct
8 consequence of the discharge of their duties or of their obedience to the directions of the employer.
9 PLAINTIFF and the Class Members were improperly required to provide and maintain work tools
10 that are supposed to be the responsibility of the employer. Based on information and belief,
11 DEFENDANTS shifted its costs of doing business onto PLAINTIFF and other Class Members by
12 requiring them to pay for its business expenses, including but not limited to, use of PLAINTIFF's
13 and Class Members' personal mobile phone, data plan usage and charges. For example, PLAINTIFF
14 received calls and messages to his personal phone from managers and/or supervisors for work
15 related purposes, including but not limited to, messages related to scheduling and assigned shifts.
16 Moreover, PLAINTIFF and Class Members were required to use their phone during work hours in
17 order to look up merchandise for customers and/or check stock levels on particular products.
18 PLAINTIFF and Class Members used their personal phone for work-related purposes on a daily
19 basis.

20 43. DEFENDANTS' failure to provide PLAINTIFF and other Class Members with full
21 reimbursement for all reasonable expenses associated with carrying out their duties required that
22 PLAINTIFF and other Class Members subsidize and/or carry the burden of business expenses in
23 violation of Labor Code section 2802.

24 44. **Untimely Payment of Final Wages.** DEFENDANTS failed to timely pay
25 PLAINTIFF and other Class Members all wages that were due and owing upon termination or
26 resignation. Labor Code sections 201 and 202, together require employers to pay all wages
27 immediately upon discharge and/or within 72 hours of an employees' resignation. Upon separation
28 of employment, PLAINTIFF's and other Class Members' final paychecks were not timely provided.

1 Based on information and belief, DEFENDANTS did not pay PLAINTIFF's final wages in
2 accordance with the timing requirements set forth in Labor Code sections 201 and 202. Based on
3 further information and belief, DEFENDANTS have a policy and/or practice of providing final
4 wages to Class Members on the regular pay day without regard to the timing requirements delineated
5 in Labor Code sections 201 and 202.

6 45. Moreover, PLAINTIFF's and Class Members' final paychecks, once provided, did
7 not include all wages owed as they were devoid of, including but not limited to, all owed minimum
8 wages and premium wages for unlawful meal and rest breaks, and/or all owed vacation pay.

9 46. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
10 engaged in these same herein described unlawful practices with regard to all of the Class Members,
11 and that DEFENDANTS applied these same herein described unlawful practices to all of its
12 employees that it applied to PLAINTIFF.

13 **FIRST CAUSE OF ACTION**

14 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
15 **(Against All DEFENDANTS)**

16 47. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

17 48. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
18 Commission ("IWC") Wage Orders, an employer must pay its employees for all hours worked, up
19 to 40 hours per week or 8 hours per day, at a regular time rate no less than the mandated minimum
20 wage. Payment to an employee of less than the applicable minimum wage for all hours worked in a
21 payroll period is unlawful.

22 49. DEFENDANTS violated California's minimum wage laws by failing to compensate
23 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
24 DEFENDANTS' auto-deduction policy and practice for meal periods, paying for scheduled hours
25 instead of actual hours worked, and off the-clock work.

26 50. DEFENDANTS had and continue to have a continuous policy of failing to pay
27 PLAINTIFF and Class Members for all hours worked.

28 51. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class

1 Members are entitled to recover all unpaid minimum time wages and liquidated damages thereon,
2 plus attorney's fees and costs, in an amount to be proved at trial.

3 **SECOND CAUSE OF ACTION**

4 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
5 **(Against All DEFENDANTS)**

6 52. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 53. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
8 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
9 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
10 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
11 waived, but only under the following circumstances: (1) if an employee's total work period in a day
12 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
13 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
14 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
15 waived by mutual consent of the employer and employee, but only if the first meal period was not
16 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
17 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
18 done so. If the employer fails to properly record a valid meal period, it is presumed no meal period
19 was provided.

20 54. PLAINTIFF and the Class Members were regularly unable to take timely, off
21 duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods and/or
22 work through part or all of their meal periods due to the nature and constraints of their job duties
23 (including but not limited to their need to assist customers), and/or commentary from
24 DEFENDANTS pressuring them to take non-compliant breaks or skip breaks completely and/or
25 were otherwise subjected to DEFENDANTS control during part or all of said meal periods,
26 including but not limited to, on days in which PLAINTIFF and Class Members were required to
27 remain on DEFENDANTS' premises during part of their meal period while they waited for
28 DEFENDANTS' faulty time keeping system to record the clock out time for a meal period and the
clock-in time after the purported meal period.

55. Based on information and belief, DEFENDANTS had and continue to have a continuous policy of clocking out PLAINTIFF and Class Members for 30 minutes for meal periods not taken and/or interrupted and/or otherwise not relieved of all duties and employer control during said meal periods, rendering the unpaid time compensable under California law.

56. Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that PLAINTIFF and the Class Members did not receive compliant meal periods. Based on further information and belief, DEFENDANTS rounded the start and end times of employee meal periods resulting in PLAINTIFF and the Class Members receiving late or shortened meal periods. PLAINTIFF is further informed and believes and thereon alleges that DEFENDANTS had actual or constructive knowledge that its time-rounding and auto-deduction policies and practices resulted in the denial of meal periods to PLAINTIFF, in violation of California's meal period laws.

57. Moreover, DEFENDANTS failed to pay PLAINTIFF and the Class Members an additional hour of wages at their regular rate(s) of compensation for each workday a proper meal period was not provided. Additionally, when a meal premium was paid, DEFENDANTS failed to include all non-discretionary compensation into the regular rate of compensation for purposes of determining the owed meal premium.

58. DEFENDANTS failed to provide PLAINTIFF and the Class Members with all required meal periods, or with proper compensation in lieu thereof. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members are entitled to one additional hour's pay at the employee's regular rate of compensation for each day a meal period was missed, late or interrupted, all in an amount to be proved at trial.

THIRD CAUSE OF ACTION

**Failure to Provide Rest Periods or Compensation in Lieu Thereof
(Against All DEFENDANTS)**

59. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

60. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012),

1 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
2 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
3 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
4 1029). The rest period requirement obligates employers to permit and authorize employees to take
5 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
6 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
7 257. If the employer fails to provide any required rest period, the employer must pay the employee
8 one hour of pay at the employee's regular rate of compensation for each workday the employer did
9 not provide at least one legally required rest period, pursuant to Labor Code section 226.7.

10 61. PLAINTIFF and the Class Members did not receive compliant, timely 10-minute rest
11 periods every four (4) hours worked or major fraction thereof. Any purported rest periods would be
12 interrupted, cut short, and/or late due to the nature and constraints of their job duties, and/or
13 commentary from DEFENDANTS pressuring them to skip breaks completely/take short or
14 otherwise non-compliant rest periods. Based on information and belief, PLAINTIFF and the Class
15 Members were pressured to complete their work and/or assist customers such that rest periods were
16 only taken once tasks were completed/as time permitted.

17 62. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
18 period premium to PLAINTIFF and other Class Members for each workday in which there was a
19 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
20 premium was paid, DEFENDANTS failed to include all non-discretionary compensation into the
21 regular rate of compensation for purposes of determining the owed rest premium.

22 63. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
23 hour of additional pay at the regular rate of compensation for each workday that a required rest
24 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
25 Order, plus pre-judgment interest.

26 **FOURTH CAUSE OF ACTION**
27 **Failure to Furnish Accurate Itemized Wage Statements**
28 **(Against All DEFENDANTS)**

1 64. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

2 65. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
3 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
4 wage statement accurately stating the following:

5 (1) gross wages earned, (2) total hours worked by the employee,
6 except for any employee whose compensation is solely based on a
7 salary and who is exempt from payment of overtime under
8 subdivision (a) of Section 515 or any applicable order of the Industrial
9 Welfare Commission, (3) the number of piece-rate units earned and
10 any applicable piece rate if the employee is paid on a piece-rate basis,
11 (4) all deductions, provided that all deductions made on written orders
12 of the employee may be aggregated and shown as one item, (5) net
13 wages earned, (6) the inclusive dates of the period for which the
14 employee is paid, (7) the name of the employee and his or her social
15 security number, except that by January 1, 2008, only the last four
16 digits of his or her social security number or an employee
17 identification number other than a social security number may be
18 shown on the itemized statement, (8) the name and address of the
19 legal entity that is the employer, and (9) all applicable hourly rates in
20 effect during the pay period and the corresponding number of hours
21 worked at each hourly rate by the employee.

22 66. During the relevant time period, DEFENDANTS intentionally failed to provide
23 PLAINTIFF and the Class Members with complete and accurate wage statements in compliance
24 with Labor Code § 226, because they do not accurately reflect the total number of hours worked.

25 67. Notably, due to DEFENDANTS' unlawful policies of automatically deducting meal
26 periods, rounding time entries, and uncompensated off-the-clock work, wage statements provided
27 by DEFENDANTS fail to reflect the true total hours PLAINTIFF and the Class Members worked,
28 a requirement of Labor Code § 226.

 68. Moreover, as DEFENDANTS failed to provide lawful meal and rest periods to
PLAINTIFF and Class Members, the wage statements issued by DEFENDANTS failed to correctly
set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours
worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in
violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the
pay period and the corresponding number of hours worked at each hourly rate by the employee in
violation of Labor Code section 226(a)(9).

1 69. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and the
2 Class Members with proper, itemized wage statements as the wage statements provided by
3 DEFENDANTS did not accurately reflect the total hours worked per pay period due to
4 DEFENDANTS' automatic deduction policy and/or practice for unlawful meal periods and off-the-
5 clock work policies and practices.

6 70. Separately, DEFENDANTS failed to provide Class Members with wage statements
7 that listed the correct name and address of the legal entity that is the employer.

8 71. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
9 Members have suffered injury. The absence of accurate information on their wage statements has
10 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
11 mathematical computations to determine the amount of wages owed, and will cause difficulty and
12 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
13 submission of inaccurate information about wages and amounts deducted from wages to state and
14 federal government agencies. As a result, PLAINTIFF and the Class Members are required to
15 participate in this lawsuit and create more difficulty and expense for PLAINTIFF and the Class
16 Members from having to reconstruct time and pay records than if DEFENDANT had complied with
17 its legal obligations.

18 72. Pursuant to California Labor Code section 226(e), PLAINTIFF and the Class
19 Members are entitled to recover fifty dollars per employee for the initial pay period in which a
20 Section 226 violation occurred and one hundred dollars per employee per violation for each
21 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars per employee.

22 73. Pursuant to California Labor Code § 226(h), PLAINTIFF and the Class Members are
23 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
24 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
25 provide currently employed Class Members with inaccurate wage statements in violation of
26 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
27 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
28

1 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
2 with California Labor Code § 226(a).

3 74. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and the Class
4 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
5 attorneys' fees, and costs of suit.

6 **FIFTH CAUSE OF ACTION**
7 **Failure to Reimburse Business Expenses**
8 **(Against All DEFENDANTS)**

9 75. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

10 76. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
11 were entitled to be reimbursed for all reasonable expenses associated with carrying out orders
12 and/or carrying out the duties assigned by DEFENDANTS.

13 77. PLAINTIFF and the Class Members were improperly required to pay for business
14 expenses that are legally the responsibility of the employer, including but not limited to, cell
15 phone/data plan usage and charges.

16 78. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full
17 reimbursement for all reasonable expenses associated with carrying out their duties required that
18 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
19 violation of Labor Code section 2802.

20 79. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
21 Members have suffered injury in that they were not completely reimbursed as mandated by
22 California law.

23 80. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
24 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
25 attorneys' fees, and costs of suit.

26 **SIXTH CAUSE OF ACTION**
27 **Failure to Timely Pay All Wages Due Upon Separation of Employment**
28 **(Against All DEFENDANTS)**

81. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

82. California Labor Code section 201(a) provides, in relevant part, that "[i]f an

1 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
2 payable immediately.”

3 83. California Labor Code section 202(a) provides, in relevant part, that “[i]f an
4 employee not having a written contract for a definite period quits his or her employment, his or her
5 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
6 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
7 to his or her wages at the time of quitting.”

8 84. Based in information and belief, DEFENDANTS failed to timely pay PLAINTIFF
9 and the Class Members all wages that were due and owing upon termination or resignation, as
10 described herein. Upon separation of employment, PLAINTIFF and the Class Members’ final
11 paychecks were not timely provided, and PLAINTIFF and the Class Members’ final paychecks,
12 once provided, did not include all remuneration owed as it was devoid of, including but not limited
13 to, all owed minimum wages, premium wages and vacation pay. Under Labor Code section 203,
14 PLAINTIFF and the Class Members who no longer are employed with DEFENDANTS are entitled
15 to recover waiting time penalties of up to 30 days’ pay, plus attorney’s fees and costs, in an amount
16 to be proved at trial.

17 **SEVENTH CAUSE OF ACTION**

18 **Unfair Competition** 19 **(Against All Defendants)**

20 85. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 86. The unlawful conduct of DEFENDANTS alleged herein constitutes unfair
22 competition within the meaning of California Business and Professions Code section 17200. This
23 unfair conduct includes all unlawful conduct alleged herein, including but not limited to:
24 DEFENDANTS’ failure to pay minimum wages by virtue of its illegal policies and practices;
25 DEFENDANTS’ failure to authorize or permit, or provide, all required meal and rest periods or pay
26 proper premiums in lieu thereof; DEFENDANTS’ failure to furnish complete and accurate itemized
27 wage statements; DEFENDANTS’ failure to reimburse business expenses; and DEFENDANTS’
28 failure to timely pay wages upon separation of employment.

87. Due to DEFENDANTS’ unfair and unlawful business practices in violation of the

1 California Labor Code, DEFENDANTS have gained a competitive advantage over other
2 comparable companies doing business in the State of California that comply with their obligations
3 to authorize or permit rest and meal periods or pay proper meal and rest period premiums in lieu
4 thereof, to provide complete and accurate itemized wage statements, to reimburse employees for all
5 business expenses, to pay all owed minimum wages, and to timely pay all wages due during and
6 upon separation of employment of their employees.

7 88. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
8 and the Class Members have suffered injury in fact and lost money or property, as described in more
9 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
10 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
11 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
12 unlawful and unfair business practices.

13 89. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
14 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
15 engaging in each of the unlawful practices and policies set forth herein.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of himself and the
18 Class Members:

- 19 1. For an order that the action be certified as a class action;
- 20 2. For an order that PLAINTIFF be appointed as class representative;
- 21 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
- 22 4. For compensatory damages according to proof;
- 23 5. For liquidated damages according to proof;
- 24 6. For penalties according to proof;
- 25 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
26 withheld from PLAINTIFF and the Class Members;
- 27 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
28 section 17200, *et seq.*, of the California Business and Professions Code;

- 1 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
2 10. For pre-judgment interest as permitted by law;
3 11. For attorney's fees and costs reasonably incurred; and
4 12. For such other and further relief that the Court deems just and proper.
5

6 Dated: February 11, 2022

CROSNER LEGAL, PC

7
8 By: 

9 Michael R. Crosner, Esq.
10 Zachary M. Crosner, Esq.
11 Blake R. Jones, Esq.
12 Attorneys for Plaintiff,
13 EVAN REED
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1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF demands a trial by jury on all claims so triable.

3
4 Dated: February 11, 2022

CROSNER LEGAL, PC

5
6 By: 

7 Michael R. Crosner, Esq.
8 Zachary M. Crosner, Esq.
9 Blake R. Jones, Esq.
Attorneys for Plaintiff,
EVAN REED