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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ROBERTO CARDOZA, an individual on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

REPUBLIC ELECTRIC WEST, INC., a
Nevada corporation doing business as
NEVADA REPUBLIC ELECTRIC WEST,
INC.; and DOES 1 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 203;
7. Violation of Labor Code § 204;
8. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
9. Failure to Reimburse Necessary Business Expenses § 2802;
10. Violation of Labor Code § 2810.5;
11. Failure to Pay Reporting Time Pay; and
12. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

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1 **INTRODUCTION**

2 1. Plaintiff ROBERTO CARDOZA (“Plaintiff”) brings this action on behalf of
3 himself and the Class Members who are defined as “all current and former employees within the
4 State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or
5 were employed as non-exempt hourly employees by Defendants REPUBLIC ELECTRIC WEST,
6 INC., a Nevada corporation doing business as NEVADA REPUBLIC ELECTRIC WEST, INC.,
7 and DOES 1 through 50” (all defendants being collectively referred to herein as “Defendants”).

8 2. Plaintiff alleges that Defendants, and each of them, violated various provisions of
9 the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the
10 California Business & Professions Code, and seeks redress for these violations.

11 3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared
12 similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3)
13 endured similar violations at the hands of Defendants as the other Class Members who served in
14 similar and related positions.

15 **THE PARTIES**

16 **A. The Plaintiff**

17 4. Plaintiff ROBERTO CARDOZA resides in California, during the time period
18 relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within
19 the State of California.

20 **B. The Defendants**

21 5. Defendant REPUBLIC ELECTRIC WEST, INC., is a Nevada corporation doing
22 business as NEVADA REPUBLIC ELECTRIC WEST, INC. Defendant REPUBLIC ELECTRIC
23 WEST, INC. doing business as NEVADA REPUBLIC ELECTRIC WEST, INC. has been the
24 employer listed on the wage statements and employment records issued to Plaintiff during the
25 relevant time period that Plaintiff was employed with Defendants.

26 6. The true names and capacities, whether individual, corporate, associate, or
27 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
28 unknown to Plaintiff, who therefore sue these Defendants by such fictitious names under Code of

1 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
2 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
3 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
4 this Complaint to reflect the true names and capacities of the Defendants designated herein as
5 Does 1 through 50 when their identities become known.

6 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
7 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
8 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
9 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
10 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
11 exercised control over the wages, hours or working conditions of Class Members, or suffered or
12 permitted Class Members to work, or engaged, thereby creating a common law employment
13 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
14 employed Class Members.

15 8. Whenever and wherever reference is made in this Complaint to any act by a
16 defendant or defendants, such allegations and references shall also be deemed to mean the acts and
17 failures to act of each defendant acting individually, jointly, and severally.

18 9. Whenever and wherever reference is made to individuals who are not named as a
19 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
20 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
21 of their employment.

22 **JURISDICTION AND VENUE**

23 10. This Court has jurisdiction over this Action pursuant to California Code of Civil
24 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
25 as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to
26 California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial
27 district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief,
28 the obligations and liabilities giving rise to this lawsuit occurred in part in Sacramento County.

Defendants maintain and operate facilities in Sacramento County, and employs Plaintiff and other Class Members in Sacramento County, while doing business throughout California.

FACTUAL BACKGROUND

11. Class Members consistently worked at Defendants behest without being paid all wages due. Class Members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Class Members all wages due and owing, including by requiring off the clock work, failing to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest break premiums, unlawfully rounding to their detriment, failing to provide meal and rest breaks, failing to furnish accurate wage statements, failing to timely pay wages including final wages, failing to maintain accurate records, failing to reimburse necessary business expenses, and failing to pay for reporting time pay all in violation of various provisions of the California Labor Code and applicable Wage Orders.

12. During the course of Class Members' employment with Defendants, they were not paid all wages they were owed, including for all work performed resulting in off the clock work. Defendants required Class Members to perform pre-shift and post-shift off the clock work. For instance, at the beginning of Class Members' shift, they were required to pick up materials from the storage yard before getting to their assigned work area. Additionally, Class Members worked through their meal periods and were not compensated for this time, thereby resulting in off the clock work.

13. Defendants also failed to pay Class Members all wages due and owing because Defendants failed to incorporate non-discretionary, performance-based bonuses and/or commissions into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC Wage Orders under California law, Defendants did not incorporate these non-discretionary bonuses and/or commissions paid to the Class Members into the regular rate of pay Defendants used to calculate and pay for overtime, sick pay, and meal and rest break premiums.

14. Moreover, Defendants had a consistent policy and practice of unlawfully rounding

1 hours worked to the detriment of the Class Members. Rather than paying Class Members for all
2 hours and minutes they actually worked, Defendants followed a uniform policy and practice of
3 rounding all time entries to the nearest quarter-hour or half-hour (i.e. to the nearest 15-minute or
4 30-minute time increment), and generally did so to the detriment of the Class Members, and
5 Plaintiff contend this policy is not neutral and resulted, over time, to the detriment of the Class
6 Members by systematically under-compensating them. Rather than reflecting the actual hours
7 worked by Class Members, the time entries were rounded and reduced to reflect the scheduled
8 work time rather than the actual hours worked. These unlawfully rounded time entries were
9 inputted into Defendants' payroll system from which wage statements and payroll checks were
10 created.

11 15. Additionally, Defendants required Plaintiff and the Class Members to, on occasion,
12 report for a scheduled work day to be told whether work was available for them or not, and when
13 there was no work, Plaintiff and the Class members would be sent home after waiting for as many
14 as several hours. On such days when Defendants required Plaintiff and the Class Members to
15 report to work only to be sent home because work was not available, they were not paid required
16 reporting time wages for the hours they waited without receiving their regular hourly rate of pay
17 for them.

18 16. By implementing policies, programs, practices, procedures and protocols which
19 resulted in off the clock work and also rounded the hours worked by Class Members down to their
20 detriment and systematically failed to pay for all hours worked, Defendants' willful actions
21 resulted in the systematic underpayment of wages to Class Members, including underpayment of
22 overtime pay to Class Members over the relevant time period. For example, the above described
23 off the clock work addressed above caused Plaintiff to begin receiving overtime pay later than
24 they should have.

25 17. As a result of the above described requirements to work off the clock, unlawful
26 rounding by Defendants, the failure to incorporate non-discretionary bonuses and/or commissions
27 into the regular rate of pay used to calculate and pay overtime, sick pay, and meal and rest break
28 premiums and the other wage violations they endured at Defendants' hands, Class Members were

1 not properly paid all wages earned and all wages owed to them by Defendants, including when
2 working more than eight (8) hours in any given day and/or more than forty (40) hours in any given
3 week.

4 18. As a result of Defendants' unlawful policies and practices, Class Members incurred
5 overtime hours worked for which they were not adequately and completely compensated, in
6 addition to the hours they were required to work off the clock. To the extent applicable,
7 Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for
8 the first eight hours of the seventh consecutive work day in a week and overtime payments at the
9 rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work
10 day, as required under the Labor Code and applicable IWC Wage Orders.

11 19. Therefore, from at least four (4) years prior to the filing of this lawsuit and
12 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
13 Members for all hours worked, and failing to pay minimum wages for all time worked, as required
14 by California law. Defendants thus failed to pay Class Members at least minimum wages for all
15 the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage
16 Orders as the actual times when Class Members were under the control and direction of
17 Defendants was under reported in the hours reflected on the timekeeping records. Furthermore,
18 Defendants' willful actions resulted in the systematic underpayment of wages to Class Members,
19 including underpayment of overtime pay to Class Members over a period of time.

20 20. Therefore, from at least four (4) years prior to the filing of this lawsuit and
21 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
22 Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit
23 and continuing to the present, Defendants also had a consistent policy or practice of failing to pay
24 Class Members their true and correct overtime compensation at premium overtime rates for all
25 hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time
26 rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510
27 and the corresponding sections of IWC Wage Orders.

28 21. Additionally, Defendants failed to provide all the legally required unpaid, off-duty

1 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
2 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
3 ordered by Defendants for more than five (5) hours during a shift, but were often required to do so
4 without receiving a lawful and timely meal break. In addition to untimely meal periods,
5 Defendants also required Class Members to respond to work demands. Defendants placed their
6 needs over Class Members lawful meal and rest breaks and this resulted in Class Members often
7 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
8 ones, because the demands of the job would not avail them the opportunity to take a lawfully
9 uninterrupted and off duty meal and/or rest break.

10 22. On the occasions when Class Members worked over 10 hours in a shift, Defendants
11 also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a
12 result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid
13 meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by
14 Defendants' business records, or lack thereof. Defendants also failed to pay Class Members
15 "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for
16 each meal period or rest break that Defendants failed to provide or deficiently provided.

17 23. Therefore, for at least four years prior to the filing of this action and through to the
18 present, Defendants have regularly required Class Members to work shifts in excess of five (5)
19 hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes,
20 and shifts in excess of (10) hours without providing them with second meal periods of not less
21 than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of
22 wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants
23 failed to provide or deficiently provided.

24 24. Meal period violations thus occurred in one or more of the following manners:

- 25 (a) Class Members were not provided full thirty-minute duty free meal periods
26 for work days in excess of five (5) hours and were not compensated one (1)
27 hour's wages in lieu thereof, all in violation of, among others, Labor Code
28 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage

Order(s);

- (b) Class Members were not provided second full thirty-minute duty free meal periods for work days in excess of ten (10) hours;
- (c) Class Members were required to work through at least part of their daily meal period(s);
- (d) Meal periods were provided after five (5) hours of continuous work during a shift; and
- (e) Class Members were restricted in their ability to take a full thirty-minute meal period.

25. Class Members were also not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one (1) hour's wages in lieu thereof. Class Members were restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants have consistently failed to provide Class Members with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest breaks were not provided or were deficiently provided.

26. Rest period violations therefore arose in one or more of the following manners:

- (a) Class Members were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;
- (b) Class Members were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and
- (c) Class Members were required to remain on-duty during rest periods or otherwise had their rest periods interrupted by work demands.

1 27. Defendants also consistently failed to issue accurate itemized wage statements as
2 required by Labor Code § 226(a). Specifically, the wage statements failed to provide the address
3 of the employing entity. Labor Code § 226(a)(8) requires that an employer shall provide wage
4 statements with the name and address of the legal entity that is the employer. However,
5 Defendants failed to provide its address on the wage statements. Thus, the wage statements do not
6 comply with Labor Code § 226(a)(8). Additionally, the wage statements given to Class Members
7 failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay
8 used to calculate and pay overtime compensation, sick pay, and meal and rest break premiums.
9 Thus, the wage statements do not provide accurate hourly rates for overtime and the statements do
10 not comply with Labor Code § 226(a)(9). Moreover, the wage statements given to Class Members
11 failed to accurately account for unpaid wages and overtime because Defendants had unlawfully
12 rounded time entries to the detriment of the Class Members and their actual hours worked were
13 under-reported due to off the clock work. Additionally, the wage statements given to Class
14 Members failed to accurately account for premium pay for deficiently provided meal periods and
15 rest breaks.

16 28. From at least four (4) years prior to filing this lawsuit and continuing to the present,
17 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class
18 Members at the time of their termination of within seventy-two (72) hours of their resignation, as
19 required by California wage-and-hour laws. Specifically, Class Members were not paid all regular
20 and overtime wages because Defendants failed to pay for all hours worked, required off the clock
21 work, and unlawfully rounded time entries to the detriment of Class Members, and failed to
22 incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to
23 calculate and pay for overtime, sick pay, and meal and rest break premiums. Additionally,
24 Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as
25 further detailed in this Complaint. Defendants' failure to pay said wages within the required time
26 was willful within the meaning of Labor Code § 203.

27 29. Additionally, from at least four (4) years prior to the filing of this lawsuit and
28 continuing to the present, Defendants have regularly required Class Members to incur business

1 expenses in the course of performing their required job duties for Defendants including but not
2 limited to the following: phone usage, mileage, purchasing tools such as drills, saws, sockets,
3 extensions, drill bits, ladders, electric switches, and boxes, and purchasing personal protective
4 equipment such as hats, safety glasses, masks, sanitizer, gloves, and safety boots. These expenses
5 incurred by Class Members were necessary and required of them in performing their assigned job
6 duties, but Defendants failed to reimburse Class Members for all such necessary expenditures,
7 thus entitling them to reimbursement according to proof as required under Labor Code § 2802 and
8 the applicable provisions of the IWC Wage Orders.

9 30. Defendants also violated California Labor Code § 246 by not providing all required
10 paid sick days to Plaintiffs and the aggrieved employees. Labor Code § 246 provides that an
11 Employee who “works in California for the same employer for 30 or more days within a year from
12 the commencement of employment is entitled to paid sick days as specified in this section.”
13 Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their
14 required and earned sick days, in violation of Labor Code § 246. Additionally and upon
15 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
16 the Class members during the relevant time period, including by failing to provide two work
17 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
18 248.2 and including damages and penalties as these sections are enforced through Labor Code §
19 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid
20 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
21 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
22 (\$4,000), shall be included in the administrative penalty.” Plaintiffs accordingly seek this relief
23 available for Defendants’ failure to provide Employees with all their required and earned sick days
24 and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2,
25 and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1,
26 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and
27 costs pursuant to Labor Code § 2699(g)(1).

28 31. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,

1 *inter alia*, Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 246, 248.1, 248.5, 510, 512, 558,
2 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1199, 2802 and California Code of Regulations, Title 8,
3 section 11000 *et seq.*

4 32. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
5 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
6 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
7 fraudulent practices alleged in this Complaint.

8 **CLASS ALLEGATIONS**

9 33. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

10 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
11 compensated for all hours worked for Defendants at the applicable minimum wage.

12 b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not
13 compensated for all hours worked for Defendants at the required rates of pay, including for all
14 hours worked in excess of eight in a day and/or forty in a week.

15 c. Subclass 3. Meal Period Subclass. All Class Members who were subject to
16 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
17 free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

18 d. Subclass 4. Rest Break Subclass. All Class Members who were subject to
19 Defendants' policy and/or practice of failing to authorize and permit Class Members to take
20 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
21 thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu
22 thereof.

23 e. Subclass 5. Wage Statement Subclass. All Class Members who, within the
24 applicable limitations period, were not provided with accurate itemized wage statements.

25 f. Subclass 6. Termination Pay Subclass. All Class Members who, within the
26 applicable limitations period, either voluntarily or involuntarily separated from their employment
27 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
28 termination.

g. Subclass 7: Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

i. Subclass 9. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

j. Subclass 10. Required Disclosure Subclass. All Class Members who were not provided written notice of their rates of pay, designated pay day, the employer's intent to claim allowances as part of the minimum wage, and the basis of wage payment, including any applicable rates for overtime

k. Subclass 11. Reporting Time Pay Subclass. All Class Members who, within the applicable limitations period, were not paid reporting time pay

l. Subclass 12. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

34. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class against Defendants, the Class Period should be adjusted accordingly.

35. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby Defendants failed to correctly calculate compensation for the time worked by Class Members, even though Defendants enjoyed the benefit of this work, required Class Members to perform this work and permitted or suffered to permit this work. Defendants have

1 uniformly denied these Class Members wages to which these employees are entitled, and failed to
2 provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
3 competition and unlawfully profit.

4 36. This action has been brought and may properly be maintained as a class action
5 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
6 of interest in litigation and proposed class is easily ascertainable.

7 **A. Numerosity**

8 37. The potential members of the class as defined are so numerous that joinder of all
9 the member of the class is impracticable. While the precise number of class member has not been
10 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
11 time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within
12 the State of California.

13 38. Accounting for employee turnover during the relevant time period increases this
14 number substantially. Plaintiff alleges that Defendants' employment records will provide
15 information as to the number and location of all Class Members.

16 **B. Commonality**

17 39. There are questions of law and fact common to the Class that predominates over
18 any questions affecting only individual Class Members. These common questions of law and fact
19 include:

- 20 a. Whether Defendants failed to pay Class Members minimum wages;
- 21 b. Whether Defendants failed to pay Class Members wages for all hours worked;
- 22 c. Whether Defendants failed to pay Class Members overtime as required under Labor
23 Code § 510;
- 24 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
25 IWC Wage Orders, by failing to provide Class Members with requisite meal
26 periods or premium pay in lieu thereof;
- 27 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
28 Orders, by failing to authorize and permit Class Members to take requisite rest

breaks or provide premium pay in lieu thereof;

- f. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;
- g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- h. Whether Defendants' conduct was willful;
- i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;
- j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;
- k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- l. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;
- m. Whether Defendants violated Labor Code § 2810.5;
- n. Whether Defendants failed to pay reporting time pay;
- o. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;
- p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- q. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

40. The claims of the named plaintiff is typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of

1 law, as alleged herein.

2 **D. Adequacy of Representation**

3 41. Plaintiff will fairly and adequately represent and protect the interest of the Class
4 Members. Counsel who represents Class Members are experienced and competent in litigating
5 employment class actions.

6 **E. Superiority of Class Action**

7 42. A class action is superior to other available means for the fair and efficient
8 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
9 questions of law and fact common to all Class Members predominate over any questions affecting
10 only individual Class Members. Each Class Member has been damaged and is entitled to recovery
11 by reason of Defendants' illegal policies or practices of failing to compensate Class Members
12 properly.

13 43. As to the issues raised in this case, a class action is superior to all other methods for
14 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
15 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
16 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
17 be relatively small, the expense and burden of individual actions makes it difficult for the Class
18 Members to individually redress the wrongs they have suffered. Moreover, in the event
19 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
20 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
21 managing this case as a class action, and proceeding on a class-wide basis will permit Class
22 Members to vindicate their rights for violations they endured which they would otherwise be
23 foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to
24 them.

25 44. Class action treatment will allow those persons similarly situated to litigate their
26 claims in the manner that is most efficient and economical for the parties and the judicial system.
27 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
28 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would

1 set forth the subject and nature of the instant action. The Defendants' own business records can be
2 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
3 that any further notice is required additional media and/or mailings can be used.

4 45. Defendants, as prospective and actual employers of the Class Members, had a
5 special fiduciary duty to disclose to prospective Class Members the true facts surrounding
6 Defendants' pay practices, policies and working conditions imposed upon Class Members as well
7 as the effect of any alleged arbitration agreements that may have been forced upon them. In
8 addition, Defendants knew they possessed special knowledge about pay practices and policies,
9 most notably intentionally refusing to pay for all hours actually worked which should have been
10 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
11 and policies and practices on Class Members.

12 46. Class Members did not discover the fact that they were entitled to all pay under the
13 Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about
14 Plaintiff's and the Class' waiver of their Constitutional rights of trial by jury, right to collectively
15 organize and oppose unlawful pay practices under California law as well as obtain injunctive relief
16 preventing such practices from continuing. As a result, the applicable statutes of limitation were
17 tolled until such time as Plaintiff and the Class Members discovered their claims.

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY MINIMUM WAGES**

20 **(Against All Defendants)**

21 47. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
22 full herein.

23 48. Defendants failed to pay Class Members minimum wages for all hours worked.
24 Defendants had a consistent policy of misstating Class Members' time records and failing to pay
25 Class Members for all hours worked. Class Members would work hours and not receive wages,
26 including as alleged above in connection with off the clock work and unlawful rounding of hours.
27 Additionally, Defendants failed to incorporate non-discretionary bonuses and/or commissions into
28 the regular rate of pay used to calculate and pay overtime. Defendants, and each of them, have

1 intentionally and improperly changed, adjusted and/or modified the hours of Class Members,
2 which resulted in off the clock work and underpayment of all wages owed to Class Members over
3 a period of time, while benefiting Defendants. During the relevant time period, Defendants thus
4 regularly failed to pay minimum wages to Class Members, to their detriment. Additionally,
5 Defendants had a consistent policy of failing to pay Class Members for hours worked during
6 alleged meal and rest periods for which Class Members were consistently denied, as also
7 addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested,
8 without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy
9 and practice that denied accurate compensation to Class Members as to minimum wage pay.

10 49. In California, employees must be paid at least the then applicable state minimum
11 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
12 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
13 timely pay its employees for all hours worked. Defendants failed to do so.

14 50. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
15 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to
16 employees, and the payment of a less wage than the minimum so fixed is unlawful."

17 51. The applicable minimum wages fixed by the commission for work during the
18 relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

19 52. The minimum wage provisions of California Labor Code are enforceable by private
20 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
21 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
22 overtime compensation applicable to the employee is entitled to recover in a civil action the
23 unpaid balance of the full amount of this minimum wage or overtime compensation, including
24 interest thereon, reasonable attorney's fees and costs of suit."

25 53. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
26 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
27 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
28 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for

all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

54. In committing these violations of the California Labor Code, Defendants inaccurately recorded, or required Class Members to input times that did not reflect their actual hours worked, or calculated the correct time worked and consequently underpaid the actual time worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations. As a result of these violations, Defendant also failed to timely pay all wages earned in accordance with California Labor Code § 1194.

55. California Labor Code § 1194.2 also provides for the following remedies: “In any action under Section 1194 . . . to recover wages because of the payment of a wage less than the minimum wages fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

56. In addition to restitution for all unpaid wages, pursuant to California Labor Code § 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

57. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

58. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

59. Wherefore, Class Members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the

assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code, including § 558, and/or other applicable statutes.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

60. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

61. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a claim with the Division of Labor Standards and Enforcement.

62. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

63. Defendants had a consistent policy of not paying Class Members wages for all hours worked, including by requiring off the clock work and by unlawfully rounding down actual hours worked as addressed above. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees’ hours, including Plaintiff’s, in order to avoid paying Class Members all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Class

1 Members to work through portions of their meal period. Therefore, Class Members were not
2 properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours
3 in a given day, and/or forty hours in a given week. Based on information and belief, Defendants
4 did not make available to Class Members a reasonable protocol for correcting time records when
5 Class Members worked overtime hours or to fix incorrect time entries or those that Defendants
6 unlawfully rounded to the Class Members' detriment.

7 64. Defendants' failure to pay Class Members the unpaid balance of regular wages
8 owed and overtime compensation, as required by California law, violates the provisions of Labor
9 Code §§ 510 and 1198, and is therefore unlawful.

10 65. Additionally, Labor Code § 558(a) provides "any employer or other person acting
11 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
12 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
13 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
14 pay period for which the employee was underpaid in addition to an amount sufficient to recover
15 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
16 underpaid employee for each pay period for which the employee was underpaid in addition to an
17 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
18 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
19 this section are in addition to any other civil or criminal penalty provided by law." Defendants
20 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
21 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
22 Code § 558.

23 66. Defendants' failure to pay compensation in a timely fashion also constituted a
24 violation of California Labor Code § 204, which requires that all wages shall be paid
25 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
26 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
27 and overtime compensation earned by Class Members. Each such failure to make a timely
28 payment of compensation to Class Members constitutes a separate violation of California Labor

1 Code § 204.

2 67. Class Members have been damaged by these violations of California Labor Code
3 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

4 68. Consequently, pursuant to the California Labor Code, including Labor Code §§
5 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
6 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
7 compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the
8 assessment of any statutory penalties against Defendants, and each of them, and any additional
9 sums as provided by the Labor Code and/or other statutes.

10 **THIRD CAUSE OF ACTION**

11 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

12 **(Against All Defendants)**

13 69. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
14 full herein.

15 70. Class Members regularly worked shifts greater than five (5) hours and in some
16 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
17 someone for a shift of more than five (5) hours without providing him or her with a meal period of
18 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
19 her with a second meal period of not less than thirty (30) minutes.

20 71. Defendants failed to provide Class Members with meal periods as required under
21 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
22 resulted in Class Members consistently having to work through their scheduled meal breaks
23 because the demands of the job would not avail them the opportunity to take a lawfully
24 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
25 when Class Members worked more than ten (10) hours in a given shift, they did so without
26 receiving a second uninterrupted thirty (30) minute meal period as required by law.

27 72. Defendants thus failed to provide Class Members with meal periods as required by
28 the Labor Code, including by not providing them with the opportunity to take meal breaks, by

1 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
2 during breaks.

3 73. Moreover, Defendants failed to compensate Class Members for each meal period
4 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
5 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
6 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
7 pay at the employee's regular rate of compensation for each workday that the meal period is not
8 provided. Defendants failed to compensate Class Members for each meal period not provided or
9 inadequately provided, as required under Labor Code § 226.7.

10 74. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
11 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
12 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a
13 sum to be proven at trial, as well as the assessment of any statutory penalties against the
14 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

15 **FOURTH CAUSE OF ACTION**

16 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

17 **(Against All Defendants)**

18 75. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 76. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
21 provide that employers must authorize and permit all employees to take rest periods at the rate of
22 ten (10) minutes net rest time per four (4) work hours.

23 77. Class Members consistently worked consecutive four (4) hour shifts and were
24 generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to
25 authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC
26 Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for
27 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely
28 rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants

1 placed their needs over Class Members lawful rest breaks and this resulted in Class Members
2 consistently having to work through their scheduled rest breaks because the demands of the job
3 would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break.
4 Thus, Class Members were consistently denied of their rest breaks.

5 78. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
6 provide that if an employer fails to provide an employee rest period in accordance with this
7 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
8 compensation for each workday that the rest period is not provided.

9 79. Defendants, and each of them, have therefore intentionally and improperly denied
10 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
11 the applicable IWC Wage Orders.

12 80. Defendants failed to authorize and permit Class Members to take rest periods, as
13 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
14 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
15 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

16 81. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
17 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
18 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
19 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
20 of them, in a sum as provided by the Labor Code and/or other statutes.

21 **FIFTH CAUSE OF ACTION**

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

23 **(Against All Defendants)**

24 82. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
25 full herein.

26 83. California Labor Code § 226(a) requires an employer to furnish each of his or her
27 employees with an accurate, itemized statement in writing showing the gross and net earnings,
28 total hours worked, and the corresponding number of hours worked at each hourly rate; these

1 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
2 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
3 statements may be given to the employee separately from the payment of wages; in either case the
4 employer must give the employee these statements twice a month or each time wages are paid.

5 84. Defendants failed to provide Class Members with accurate itemized wage
6 statements in writing, as required by the Labor Code. Specifically, the wage statements failed to
7 provide the address of the employing entity. Labor Code § 226(a)(8) requires that an employer
8 shall provide wage statements with the name and address of the legal entity that is the employer.
9 However, Defendants failed to provide its address on the wage statements. Thus, the wage
10 statements do not comply with Labor Code § 226(a)(8). Additionally, the wage statements given
11 to Class Members failed to incorporate non-discretionary bonuses and/or commissions into the
12 regular rate of pay used to calculate and pay overtime compensation, sick pay, and meal and rest
13 break premiums. Thus, the wage statements do not provide accurate hourly rates for overtime and
14 the statements do not comply with Labor Code § 226(a)(9). Moreover, the wage statements given
15 to Class Members failed to accurately account for unpaid wages and overtime because Defendants
16 had unlawfully rounded time entries to the detriment of the Class Members and their actual hours
17 worked were under-reported due to off the clock work. Additionally, the wage statements given to
18 Class Members failed to accurately account for premium pay for deficiently provided meal periods
19 and rest breaks.

20 85. Throughout the liability period, Defendants intentionally failed to furnish to Class
21 Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages
22 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
23 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
24 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
25 only the last four digits of his or her social security number or an employee identification number
26 other than a social security number, (8) the name and address of the legal entity that is the
27 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
28 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,

1 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
2 Class Members with such timely and accurate wage and hour statements.

3 86. Class Members suffered injury as a result of Defendants' knowing and intentional
4 failure to provide them with the accurate wage and hour statements as required by law and are
5 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
6 Defendants have failed to provide wage statements with accurate and complete information as
7 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class
8 Members cannot promptly and easily determine from the wage statement alone one or more of the
9 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
10 period or any of the other information required to be provided on the itemized wage statement
11 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the
12 employer made from gross wages to determine the net wages paid to the employee during the pay
13 period, (iii) The name and address of the employer and, (iv) The name of the employee and only
14 the last four digits of his or her social security number or an employee identification number other
15 than a social security number. For purposes of Labor Code § 226(e) "promptly and easily
16 determine" means a reasonable person [i.e. an objective standard] would be able to readily
17 ascertain the information without reference to other documents or information.

18 87. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
19 § 226(a), Class Members suffered injuries, including among other things confusion over whether
20 they received all wages owed them, the difficulty and expense involved in reconstructing pay
21 records, and forcing them to make mathematical computations to analyze whether the wages paid
22 in fact compensated them correctly for all hours worked.

23 88. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC
24 Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual
25 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
26 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
27 penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and
28 reasonable attorneys' fees.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

89. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

90. Numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

91. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

92. The wages withheld from these Class Members by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

93. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked, required off the clock work, and unlawfully rounded time entries to the detriment of Class Members, and failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay for overtime, sick pay, and meal and rest break premiums. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

94. Defendants' failure to pay wages, as alleged entitles these Class Members to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

95. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

1 96. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
2 employment are due and payable twice during each calendar month, on days designated in
3 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
4 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
5 during which the labor was performed, and labor performed between the 16th and the last day,
6 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
7 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of
8 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
9 calendar days following the close of the payroll period.” As detailed above, Defendants
10 maintained a consistently applied policy and practice of not paying all wages earned between the
11 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
12 between the 16th and the last day of the month between the 1st and 10th day of the following month.
13 Defendants similarly failed to pay all wages earned by not more than seven calendar days
14 following the close of the payroll period. These failures all arose from either Defendants’ failure to
15 pay for all hours worked or failure to pay all earned commission wages.

16 97. All wages due and owing to Plaintiff and the Class Members, including as required
17 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
18 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
19 payable to each Class Member in each pay period that he or she was not provided with a meal
20 period or rest period or paid straight or overtime wages or commissions to which he or she was
21 entitled.

22 98. Defendants thus violated Labor Code § 204 by systematically refusing to pay
23 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
24 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
25 payday for the period involved, not less than the applicable minimum wage for all hours worked in
26 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
27 hours than those fixed by the order or under conditions of labor prohibited by the order is
28 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for

violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders.

99. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to represent they have been deprived of wages in amounts to be determined at trial, and they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

EIGHTH CAUSE OF ACTION

FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174 AND 1174.5

(Against All Defendants)

100. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

101. California Labor Code § 1174 requires that all employers shall keep accurate time and wage records for all employees. California Labor Code § 1174.5 further requires that any employee suffering injury due to a willful violation of the aforementioned obligations may seek damages, including civil penalties, from the employer.

102. During the course of Plaintiff's and Class Members' employment, Defendants consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper wages, overtime, and premium pay as discussed above.

103. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

NINTH CAUSE OF ACTION

REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802 (Against All Defendants)

104. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in full herein.

105. Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

106. Defendants have regularly required Class Members to incur business expenses in the course of performing their required job duties for Defendants including but not limited to the following: phone usage, mileage, purchasing tools such as drills, saws, sockets, extensions, drill bits, ladders, electric switches, and boxes, and purchasing personal protective equipment such as hats, safety glasses, masks, sanitizer, gloves, and safety boots. These expenses incurred by Class Members were necessary and required of them in performing their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary expenditures. Class Members were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

107. As a result of the unlawful acts of Defendants, Class Members have been deprived of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

TENTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2810.5

(Against All Defendants)

108. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

109. Labor Code § 2810.5 requires that employers provide notice to employees of their rate(s) of pay, designated pay day, the employer's intent to claim allowances (meal or lodging allowances) as part of the minimum wage, and the basis of wage payment (whether paying by hour, shift, day, week, piece, etc.), including any applicable rates for overtime. The law requires that the notice contain the employer's “doing business as” names, and that it be provided at the time of hiring and within 7 days of a change if the change is not listed on the employee's pay stub

1 for the following pay period. The notice must be provided in the language the employer normally
2 uses to communicate employment-related information to the employee, through translated notices
3 provided by the Department of Labor.

4 110. Defendants knowingly and intentionally failed to comply with Labor Code §
5 2810.5.

6 111. Pursuant to Labor Code § 2810.5, defendants failed to timely make the required
7 disclosures. Therefore, each pay period that the disclosure is not made creates a continuing
8 liability for defendants. The first pay period missed results in a civil penalty of \$100. The second
9 and any subsequent pay period where the disclosure has not been made results in a civil penalty of
10 \$200

11 **ELEVENTH CAUSE OF ACTION**
12 **FAILURE TO PAY REPORTING TIME PAY**
13 **(Against all Defendants)**

14 112. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 113. Section 5(A) of the applicable Wage Order(s), requires that for “[E]ach workday an
17 employee is required to report for work and does report, but is not put to work or is furnished less
18 than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the
19 usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4)
20 hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.”

21 114. As addressed in detail above, Defendants followed a uniform policy of failing to
22 pay reporting time pay on in accordance with the applicable IWC Wage Order requirements. For
23 example, Defendant required Plaintiff and the Class members to, on occasion, report for a
24 scheduled work day to be told whether work was available for them or not, and when there was no
25 work, Plaintiff and the Class members would be sent home after waiting for as many as several
26 hours. On such days when Defendant required Plaintiff and the Class Members to report to work
27 only to be sent home because work was not available, they were not paid required reporting time
28 wages for the hours they waited without receiving their regular hourly rate of pay for them.

115. Plaintiff brings this claim for failure to pay reporting time pay as required by Section 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which instructs that: “the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

116. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class members, despite the fact that they were required by Defendants to report for work and were under Defendants' control during these times and were unable to use their time for their own purposes. The failure to pay for reporting time pay is a violation of the California wage orders and is a failure to pay all wages owed, which is a violation of Labor Code §1198.

117. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class members are entitled to recover civil penalties, in addition to other penalties, for each underpaid Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50 for the initial violation and \$100 for subsequent violations during each relevant pay period when Defendants failed to pay reporting time pay. These reporting time pay violations also give rise to violations of Labor Code §§ 203, 226, and under the PAGA.

118. Accordingly, Plaintiff seeks to recover unpaid reporting time pay which Defendants failed to pay Plaintiff and the Class members pursuant to Sections 5(A) and 20(A) of the applicable IWC Wage Orders and civil penalties and attorneys' fees and costs as may be authorized

TWELFTH CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*

(Against All Defendants)

119. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

120. Plaintiff, on behalf of himself, Class Members, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as

1 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class
2 Members and the general public. Plaintiff seeks to enforce important rights affecting the public
3 interest within the meaning of Code of Civil Procedure § 1021.5.

4 121. Plaintiff is a “person” within the meaning of Business & Professions Code
5 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
6 relief, restitution, and other appropriate equitable relief.

7 122. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
8 business practices. By the conduct alleged herein, Defendants’ practices were deceptive and
9 fraudulent in that Defendants’ policy and practice failed to provide the required amount of
10 compensation for missed meal and rest breaks, and failed to adequately compensate Class
11 Members for all hours worked, due to systematic business practices as alleged herein that cannot
12 be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission
13 requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for
14 which this Court should issue injunctive and equitable relief, pursuant to California Business &
15 Professions Code § 17203, including restitution of wages wrongfully withheld.

16 123. Wage-and-hour laws express fundamental public policies. Paying employees their
17 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
18 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
19 vigorously to enforce minimum labor standards, to ensure that employees are not required or
20 permitted to work under substandard and unlawful conditions, and to protect law-abiding
21 employers and their employees from competitors who lower costs to themselves by failing to
22 comply with minimum labor standards.

23 124. Defendants have violated statutes and public policies. Through the conduct alleged
24 in this Complaint Defendants have acted contrary to these public policies, have violated specific
25 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
26 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
27 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
28 guaranteed to all employees under the law.

125. Defendants' conduct, as alleged above, constitutes unfair competition in violation of the Business & Professions Code § 17200 *et seq.*

126. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of reasonable care should have known that their conduct was unlawful; therefore their conduct violates the Business & Professions Code § 17200 *et seq.*

127. By the conduct alleged herein, Defendants have engaged and continue to engage in a business practice which violates California and federal law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court should issue declaratory and other equitable relief pursuant to California Business & Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

128. As a proximate result of the above-mentioned acts of Defendants, Class Members have been damaged, in a sum to be proven at trial.

129. Unless restrained by this Court Defendants will continue to engage in such unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the Business & Professions Code, including but not limited to the disgorgement of such profits as may be necessary to restore Class Members to the money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Class Members and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Class Members for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be proven;
8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;
10. For restitution and/or damages for all amounts unlawfully withheld from the wages for all Class Members in violation of Labor Code § 2802, as may be proven;
11. For penalties pursuant to Labor Code § 2810.5, as may be proven;
12. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
13. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
14. For other wages and penalties under the Labor Code as may be proven;
15. For all general, special, and incidental damages as may be proven;
16. For an award of pre-judgment and post-judgment interest;

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- 17. For an award providing for the payment of the costs of this suit;
- 18. For an award of attorneys' fees; and
- 19. For such other and further relief as this Court may deem proper and just.

DATED: April 25, 2022

DAVID YEREMIAN ASSOCIATES, INC.

By: 
David Yeremian
Natalie Haritonian
Attorneys for Plaintiff ROBERTO
CARDOZA, and all others similarly situated

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

3
4 DATED: April 25, 2022

DAVID YEREMIAN & ASSOCIATES, INC.

5
6 By: 
7 David Yeremian
8 Natalie Haritonian
9 Attorneys for Plaintiff ROBERTO
10 CARDOZA, and all others similarly situated
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