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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

MICHAEL YAW, DAVID SCOTT, JR., and SCOTT N.
COSENTINO individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

SUNPOWER CORPORATION, SYSTEMS, a Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV402494

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

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197, 1197.1 & IWC Order No. 4-2001, § 4;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7, 512, 516, 1198, AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7, 512, 516, 1198, AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202, and 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
10. FAILURE TO PROVIDE RECOVERY PERIODS IN VIOLATION OF CAL. LAB. CODE § 226.7, CAL. CODE OF REGULATIONS, TITLE 8 SECTION 3395;
11. FAILURE TO PAY ALL WAGES IN VIOLATION OF LABOR CODE SECTIONS 221, 223, 1194, 1197, and 1198;
12. FAILURE TO MAINTAIN REQUIRED RECORDS;
13. FAILURE TO PAY TIMELY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 204, 210;
- and
14. CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699, *et. seq.*, FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 204 *et. seq.*, 210, 218, 221, 226(a), 226.7, 27.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11040, AND THE APPLICABLE WAGE ORDER(S).

DEMAND FOR A JURY TRIAL

1 Plaintiffs Michael Yaw, David Scott, Jr., and Scott N. Cosentino, (collectively “PLAINTIFFS”),
2 individuals, on behalf of themselves and all other similarly situated current and former employees allege
3 on information and belief, except for their own acts and knowledge which are based on personal
4 knowledge, the following:

5 **THE PARTIES**

6 1. Defendant Sunpower Corporation, Systems (“DEFENDANT”) is a Corporation at all
7 relevant times mentioned herein conducted and continues to conduct substantial business in the state
8 of California.

9 2. DEFENDANT specializes in designing, manufacturing and delivering solar equipment.

10 3. Plaintiff, Michael Yaw, was employed by DEFENDANT in California from January of
11 2020 to February of 2022 and was at all times classified by DEFENDANT as a non-exempt employee,
12 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
13 minimum and overtime wages due for all time worked. Plaintiff Scott N. Cosentino was by
14 DEFENDANT from October 3, 2022 to June 1, 2023, as a solar panel installer in Richmond, California,
15 and was at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly basis,
16 and entitled to the legally required meal and rest periods and payment of minimum and overtime wages
17 due for all time worked. Plaintiff, David Scott, Jr., was employed by DEFENDANT from April 11,
18 2022 to August 8, 2022, as an installer in Los Angeles California, and was at all times classified by
19 DEFENDANT as a non-exempt employee, earning approximately \$24 per hour, on an hourly basis, and
20 entitled to the legally required meal and rest periods and payment of minimum and overtime wages due
21 for all time worked.

22 4. PLAINTIFFS bring this Class Action on behalf of themselves and a CALIFORNIA
23 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the
24 CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which failed to
25 lawfully compensate these employees. DEFENDANT’s policy and practice alleged herein was an
26 unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to
27 retain wages due PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS
28 and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by

1 DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the
2 CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current
3 unlawful conduct, and all other appropriate legal and equitable relief.

4 5. The true names and capacities, whether individual, corporate, subsidiary, partnership,
5 associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to
6 PLAINTIFFS who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc.
7 Code § 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true names and
8 capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFFS are informed and
9 believes, and based upon that information and belief allege, that the Defendants named in this
10 Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more
11 of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

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

19 20 **THE CONDUCT**

21 7. During the CALIFORNIA CLASS PERIOD, during their employment with
22 DEFENDANT, PLAINTIFFS and CALIFORNIA CLASS Members have been required to supply their
23 own hand tools and equipment to service and repair solar equipment for DEFENDANT's customers.
24 Despite requiring PLAINTIFFS and CALIFORNIA CLASS Members to supply their own tools and
25 equipment to perform the job, DEFENDANT fails to pay at least two times the minimum wage to
26 PLAINTIFFS and CALIFORNIA CLASS Members as mandated by the Industrial Welfare Commission
27 Wage Orders .
28

1 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
2 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked, meaning
3 the time during which an employee is subject to the control of an employer, including all the time the
4 employee is suffered or permitted to work. DEFENDANT requires PLAINTIFFS and CALIFORNIA
5 CLASS Members to work without paying them for all the time they are under DEFENDANT's control.
6 Among other things, DEFENDANT requires PLAINTIFFS to work while clocked out during what is
7 supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS is from time to time interrupted by
8 work assignments while clocked out for what should be PLAINTIFFS' off-duty meal break.
9 PLAINTIFFS and CALIFORNIA CLASS Members also worked off the clock with respect to time spent
10 undergoing mandatory drug testing or any other testing and/or examination required as a condition of
11 employment. DEFENDANT, as a matter of established company policy and procedure, administers a
12 uniform practice of rounding the actual time worked and recorded by PLAINTIFFS and CALIFORNIA
13 CLASS Members, always to the benefit of DEFENDANT, so that during the course of their
14 employment, PLAINTIFFS and CALIFORNIA CLASS Members are paid less than they would have
15 been paid had they been paid for actual recorded time rather than "rounded" time. Additionally,
16 DEFENDANT engages in the practice of requiring PLAINTIFFS and CALIFORNIA CLASS Members
17 to perform work off the clocking that DEFENDANT, as a condition of employment, required these
18 employees to submit to mandatory temperature checks and symptom questionnaires for COVID-19
19 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a result,
20 PLAINTIFFS and other CALIFORNIA CLASS Members forfeit minimum wage, overtime wage
21 compensation, and off-duty meal breaks by working without their time being correctly recorded and
22 without compensation at the applicable rates. DEFENDANT's policy and practice not to pay
23 PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked, is evidenced by
24 DEFENDANT's business records.

25 9. State and federal law provides that employees must be paid overtime and meal and rest
26 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFFS and other
27 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to
28 specific elements of an employee's performance.

1 10. The second component of PLAINTIFFS' and other CALIFORNIA CLASS Members'
2 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFFS and
3 other CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANT.
4 The non-discretionary incentive program provided all employees paid on an hourly basis with incentive
5 compensation when the employees met the various performance goals set by DEFENDANT. However,
6 when calculating the regular rate of pay in order to pay overtime and meal and rest break premiums to
7 PLAINTIFFS and other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
8 compensation as part of the employees' "regular rate of pay" for purposes of calculating overtime pay
9 and meal and rest break premium pay. Management and supervisors described the incentive program
10 to potential and new employees as part of the compensation package. As a matter of law, the incentive
11 compensation received by PLAINTIFFS and other CALIFORNIA CLASS Members must be included
12 in the "regular rate of pay." The failure to do so has resulted in a underpayment of overtime
13 compensation and meal and rest break premiums to PLAINTIFFS and other CALIFORNIA CLASS
14 Members by DEFENDANT.

15 11. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA
16 CLASS Members were from time to time unable to take thirty (30) minute off duty meal breaks and
17 were not fully relieved of duty for their meal periods. PLAINTIFFS and other CALIFORNIA CLASS
18 Members were required from time to time to perform work as ordered by DEFENDANT for more than
19 five (5) hours during some shifts without receiving a meal break. Further, DEFENDANT from time
20 to time failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty
21 meal period for some workdays in which these employees were required by DEFENDANT to work ten
22 (10) hours of work. DEFENDANT also engaged in the practice of rounding the meal period times to
23 avoid paying penalties to PLAINTIFFS and other CALIFORNIA CLASS Members. PLAINTIFFS and
24 other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
25 compensation and in accordance with DEFENDANT's corporate policy and practice.

26 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA
27 CLASS Members were also required from time to time to work in excess of four (4) hours without
28 being provided ten (10) minute rest periods. Further, these employees were denied their first rest

1 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time
2 to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six
3 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10)
4 minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other
5 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
6 Additionally, the applicable California Wage Order requires employers to provide employees with off-
7 duty rest periods, which the California Supreme Court defined as time during which an employee is
8 relieved from all work related duties and free from employer control. In so doing, the Court held that
9 the requirement under California law that employers authorize and permit all employees to take rest
10 period means that employers must relieve employees of all duties and relinquish control over how
11 employees spend their time which includes control over the locations where employees may take their
12 rest period. Employers cannot impose controls that prohibit an employee from taking a brief walk - five
13 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFFS and other
14 CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's
15 rule which states PLAINTIFFS and other CALIFORNIA CLASS Members cannot leave the work
16 premises during their rest period.

17 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately record
18 and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount of time these
19 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
20 required to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked, meaning
21 the time during which an employee was subject to the control of an employer, including all the time the
22 employee was permitted or suffered to permit this work. DEFENDANT required these employees to
23 work off the clock without paying them for all the time they were under DEFENDANT's control. As
24 such, DEFENDANT knew or should have known that PLAINTIFFS and the other members of the
25 CALIFORNIA CLASS were under compensated for all time worked. As a result, PLAINTIFFS and
26 other CALIFORNIA CLASS Members forfeited time worked by working without their time being
27 accurately recorded and without compensation at the applicable minimum wage and overtime wage
28 rates. To the extent that the time worked off the clock does not qualify for overtime premium payment,

1 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab.
2 Code §§ 1194, 1197, and 1197.1.

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

22 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be deemed
23 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid
24 not more than seven (7) calendar days following the close of the payroll period. Cal. Lab. Code § 210
25 provides:

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

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

4 17. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other CALIFORNIA
5 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code
6 Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary
7 remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay
8 to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of pay.

9 18. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
10 employees be calculated by dividing the employee's total wages, not including overtime premium pay,
11 by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

12 19. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
13 regular rate of pay. PLAINTIFFS and CALIFORNIA CLASS Members routinely earned non-
14 discretionary incentive wages which increased their regular rate of pay. However, when sick pay was
15 paid, it was paid at the base rate of pay for PLAINTIFFS and members of the CALIFORNIA CLASS,
16 as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code Section 246.

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

23 21. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to collect
24 or receive from an employee any part of wages theretofore paid by said employer to said employee."
25 DEFENDANT failed to pay all compensation due to PLAINTIFFS and other CALIFORNIA LABOR
26 SUB-CLASS Members, made unlawful deductions from compensation payable to PLAINTIFFS and
27 CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all aspects of the deductions from
28 compensation payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, and

1 thereby failed to pay these employees all wages due at each applicable pay period and upon termination.
2 PLAINTIFFS and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
3 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

4 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
5 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business expenses incurred
6 by the PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence of discharging
7 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are
8 required to indemnify employees for all expenses incurred in the course and scope of their employment.
9 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
10 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
11 or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless
12 the employee, at the time of obeying the directions, believed them to be unlawful."

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

23 24. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the legally required
24 off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage Order and Labor
25 Code and failed to pay PLAINTIFFS all minimum and overtime wages due to PLAINTIFFS.
26 DEFENDANT did not have a policy or practice which provided timely off-duty meal and rest breaks
27 to PLAINTIFFS and also failed to compensate PLAINTIFFS for PLAINTIFFS's missed meal and rest
28 breaks. The nature of the work performed by the PLAINTIFFS did not prevent PLAINTIFFS from being

1 relieved of all of PLAINTIFFS's duties for the legally required off-duty meal periods. DEFENDANT
2 also failed to pay PLAINTIFFS all of her earned commissions due to her when she left employment
3 with DEFENDANT in October of 2021. As a result, DEFENDANT's failure to provide PLAINTIFFS
4 with the legally required meal periods is evidenced by DEFENDANT's business records. The amount
5 in controversy for PLAINTIFFS individually does not exceed the sum or value of \$75,000.

6 **JURISDICTION AND VENUE**

7 25. This Court has jurisdiction over this Action pursuant to California Code of Civil
8 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action
9 is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees of
10 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

11 26. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
12 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT and DEFENDANT
13 (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or
14 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged
15 in this County against members of the CALIFORNIA CLASS.

16 **THE CALIFORNIA CLASS**

17 27. PLAINTIFFS brings the First Cause of Action for Unfair, Unlawful and Deceptive
18 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action,
19 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who
20 are or previously were employed by DEFENDANT, Sunpower Corporation, Systems, directly or
21 through a staffing agency or other third party, in the State in California, who were classified as non-
22 exempt (the "CALIFORNIA CLASS") from August 26, 2018 through the earlier of the date of
23 Preliminary Approval or March 4, 2024 (the "CALIFORNIA CLASS PERIOD"). The amount in
24 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
25 (\$5,000,000.00).

26 28. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
27 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.
28

1 29. DEFENDANT, as a matter of company policy, practice and procedure, and in violation
2 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements, and
3 the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice
4 whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFFS and other
5 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work,
6 required employees to perform this work and permits or suffers to permit this work.

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

15 31. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS
16 Members is impracticable.

17 32. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
18 by:

- 19 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
20 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having
21 in place company policies, practices and procedures that failed to record and pay
22 PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time
23 worked, including minimum wages owed and overtime wages owed for work
24 performed by these employees; and,
25 (b) Committing an act of unfair competition in violation of the UCL, by failing to
26 provide the PLAINTIFFS and the other members of the CALIFORNIA CLASS
27 with the legally required meal and rest periods.
28

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

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

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

- 1 (a) Without class certification and determination of declaratory, injunctive, statutory
2 and other legal questions within the class format, prosecution of separate actions
3 by individual members of the CALIFORNIA CLASS will create the risk of:
- 4 1) Inconsistent or varying adjudications with respect to individual members
5 of the CALIFORNIA CLASS which would establish incompatible
6 standards of conduct for the parties opposing the CALIFORNIA
7 CLASS; and/or,
- 8 2) Adjudication with respect to individual members of the CALIFORNIA
9 CLASS which would as a practical matter be dispositive of interests of
10 the other members not party to the adjudication or substantially impair
11 or impede their ability to protect their interests.
- 12 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on
13 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
14 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
15 DEFENDANT failed to pay all wages due to members of the CALIFORNIA
16 CLASS as required by law;
- 17 1) With respect to the First Cause of Action, the final relief on behalf of the
18 CALIFORNIA CLASS sought does not relate exclusively to restitution
19 because through this claim PLAINTIFFS seeks declaratory relief holding
20 that the DEFENDANT's policy and practices constitute unfair
21 competition, along with declaratory relief, injunctive relief, and
22 incidental equitable relief as may be necessary to prevent and remedy the
23 conduct declared to constitute unfair competition;
- 24 (c) Common questions of law and fact exist as to the members of the
25 CALIFORNIA CLASS, with respect to the practices and violations of California
26 law as listed above, and predominate over any question affecting only individual
27 CALIFORNIA CLASS Members, and a Class Action is superior to other
28

1 available methods for the fair and efficient adjudication of the controversy,
2 including consideration of:

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

1 obviate the need for unduly and unnecessary duplicative litigation that
2 is likely to result in the absence of certification of this action pursuant
3 to Cal. Code of Civ. Proc. § 382.

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

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

- 1 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
2 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
3 respect to the CALIFORNIA CLASS as a whole;
- 4 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the
5 business records of DEFENDANT; and,
- 6 (i) Class treatment provides manageable judicial treatment calculated to bring a
7 efficient and rapid conclusion to all litigation of all wage and hour related claims
8 arising out of the conduct of DEFENDANT as to the members of the
9 CALIFORNIA CLASS.

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

15
16 **THE CALIFORNIA LABOR SUB-CLASS**

17 37. PLAINTIFFS further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
18 Ninth, Tenth, Eleventh, Twelfth, and Thirteenth Causes of Action on behalf of a California sub-class,
19 defined as all members of the CALIFORNIA CLASS who are or previously were employed by
20 DEFENDANT in California, including any employees staffed with DEFENDANT by a third party, and
21 classified as non exempt employees (the "CALIFORNIA LABOR SUB-CLASS") at any time during
22 the period of August 26, 2019 through the earlier of March 4, 2024 or preliminary approval (the
23 "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382.

24 38. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-
25 CLASS Members is under five million dollars (\$5,000,000.00).

26 39. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
27 Commission ("IWC") Wage Order requirements, and the applicable provisions of California law,
28 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to correctly

1 calculate compensation for the time worked by PLAINTIFFS and the other members of the
2 CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though
3 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted
4 or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS
5 Members wages to which these employees are entitled in order to unfairly cheat the competition and
6 unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
7 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be
8 adjusted accordingly.

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

14 41. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
15 CALIFORNIA LABOR SUB-CLASS Members is impracticable. Common questions of law and fact
16 exist as to members of the CALIFORNIA LABOR SUB-CLASS, including, but not limited, to the
17 following:

- 18 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
19 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for
20 missed meal and rest breaks in violation of the California Labor Code and
21 California regulations and the applicable California Wage Order;
- 22 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other
23 members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized
24 wage statements;
- 25 (c) Whether DEFENDANT has engaged in unfair competition by the above-listed
26 conduct;
- 27 (d) The proper measure of damages and penalties owed to the members of the
28 CALIFORNIA LABOR SUB-CLASS; and,

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

2 42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under
3 California law by:

4 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFFS and
5 the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
6 overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code
7 § 1194;

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

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

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

20 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
21 employee is discharged or quits from employment, the employer must pay the
22 employee all wages due without abatement, by failing to tender full payment
23 and/or restitution of wages owed or in the manner required by California law to
24 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
25 their employment; and,

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

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

3 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
4 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
5 is impracticable and the disposition of their claims as a class will benefit the
6 parties and the Court;

7 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
8 are raised in this Complaint are common to the CALIFORNIA LABOR SUB-
9 CLASS and will apply to every member of the CALIFORNIA LABOR SUB-
10 CLASS;

11 (c) The claims of the representative PLAINTIFFS are typical of the claims of each
12 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the
13 other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt
14 employee paid on an hourly basis who was subjected to the DEFENDANT's
15 practice and policy which failed to pay the correct amount of wages due to the
16 CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury
17 as a result of DEFENDANT's employment practices. PLAINTIFFS and the
18 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
19 identically harmed by the same unlawful, deceptive, and unfair misconduct
20 engaged in by DEFENDANT; and,

21 (d) The representative PLAINTIFFS will fairly and adequately represent and protect
22 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained
23 counsel who are competent and experienced in Class Action litigation. There
24 are no material conflicts between the claims of the representative PLAINTIFFS
25 and the members of the CALIFORNIA LABOR SUB-CLASS that would make
26 class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-
27 CLASS will vigorously assert the claims of all CALIFORNIA LABOR SUB-
28 CLASS Members.

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

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

7 1) Inconsistent or varying adjudications with respect to individual members
8 of the CALIFORNIA LABOR SUB-CLASS which would establish
9 incompatible standards of conduct for the parties opposing the
10 CALIFORNIA LABOR SUB-CLASS; or,

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

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

21 (c) Common questions of law and fact predominate as to the members of the
22 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
23 violations of California Law as listed above, and predominate over any question
24 affecting only individual CALIFORNIA LABOR SUB-CLASS Members, and
25 a Class Action is superior to other available methods for the fair and efficient
26 adjudication of the controversy, including consideration of:

27 1) The interests of the members of the CALIFORNIA LABOR SUB-
28 CLASS in individually controlling the prosecution or defense of separate

1 actions in that the substantial expense of individual actions will be
2 avoided to recover the relatively small amount of economic losses
3 sustained by the individual CALIFORNIA LABOR SUB-CLASS
4 Members when compared to the substantial expense and burden of
5 individual prosecution of this litigation;

6 2) Class certification will obviate the need for unduly duplicative litigation
7 that would create the risk of:

8 A. Inconsistent or varying adjudications with respect to individual
9 members of the CALIFORNIA LABOR SUB-CLASS, which
10 would establish incompatible standards of conduct for the
11 DEFENDANT; and/or,

12 B. Adjudications with respect to individual members of the
13 CALIFORNIA LABOR SUB-CLASS would as a practical
14 matter be dispositive of the interests of the other members not
15 parties to the adjudication or substantially impair or impede their
16 ability to protect their interests;

17 3) In the context of wage litigation because a substantial number of
18 individual CALIFORNIA LABOR SUB-CLASS Members will avoid
19 asserting their legal rights out of fear of retaliation by DEFENDANT,
20 which may adversely affect an individual's job with DEFENDANT or
21 with a subsequent employer, the Class Action is the only means to assert
22 their claims through a representative; and,

23 4) A class action is superior to other available methods for the fair and
24 efficient adjudication of this litigation because class treatment will
25 obviate the need for unduly and unnecessary duplicative litigation that
26 is likely to result in the absence of certification of this action pursuant
27 to Cal. Code of Civ. Proc. § 382.
28

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

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

- 1 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
2 ascertainable from the business records of DEFENDANT. The CALIFORNIA
3 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who
4 worked for DEFENDANT in California at any time during the CALIFORNIA
5 LABOR SUB-CLASS PERIOD; and,
6 (i) Class treatment provides manageable judicial treatment calculated to bring a
7 efficient and rapid conclusion to all litigation of all wage and hour related claims
8 arising out of the conduct of DEFENDANT as to the members of the
9 CALIFORNIA LABOR SUB-CLASS.

10
11 **FIRST CAUSE OF ACTION**

12 **For Unlawful Business Practices**

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

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

15 46. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

17 47. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
18 17021.

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

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

26 Cal. Bus. & Prof. Code § 17203.

27 49. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in
28 a business practice which violates California law, including but not limited to, the applicable Industrial

1 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections
2 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act
3 and federal regulations promulgated thereunder, for which this Court should issue declaratory and other
4 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
5 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

6 50. By the conduct alleged herein, DEFENDANT's practices were unlawful and unfair in
7 that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous or
8 substantially injurious to employees, and were without valid justification or utility for which this Court
9 should issue equitable and injunctive relief pursuant to Section 17203 of the California Business &
10 Professions Code, including restitution of wages wrongfully withheld.

11 51. By the conduct alleged herein, DEFENDANT's practices were deceptive and fraudulent
12 in that DEFENDANT's policy and practice failed to provide the legally mandated meal and rest periods,
13 the required amount of compensation for missed meal and rest periods and overtime and minimum
14 wages owed, failed to timely pay wages, and failed to reimburse all necessary business expenses
15 incurred, and failed to provide Fair Labor Standards Act overtime wages due for overtime worked as
16 a result of failing to include non-discretionary incentive compensation into their regular rates of pay for
17 purposes of computing the proper overtime pay due to a business practice that cannot be justified,
18 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation
19 of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable
20 relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

21 52. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
22 deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and the other members
23 of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

24 53. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
25 deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally
26 required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA CLASS as required
27 by Cal. Lab. Code §§ 226.7 and 512.
28

1 54. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
2 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
3 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
4 workday in which a second off-duty meal period was not timely provided for each ten (10) hours of
5 work.

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

9 56. By and through the unlawful and unfair business practices described herein,
10 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the other
11 members of the CALIFORNIA CLASS, including earned wages for all time worked, and has deprived
12 them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
13 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete
14 against competitors who comply with the law.

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

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

25 59. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further entitled
26 to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive,
27 and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful
28 and unfair business practices in the future.

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

SECOND CAUSE OF ACTION

For Failure To Pay Minimum Wages

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

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

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

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

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

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

1 66. DEFENDANT maintained a wage practice of paying PLAINTIFFS and the other
2 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they
3 work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and intentionally
4 deny timely payment of wages due to PLAINTIFFS and the other members of the CALIFORNIA
5 LABOR SUB-CLASS.

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

10 68. In committing these violations of the California Labor Code, DEFENDANT inaccurately
11 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFFS
12 and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal
13 attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor
14 Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

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

18 70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required,
19 permitted or suffered PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members to work
20 without paying them for all the time they were under DEFENDANT's control. During the
21 CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the other members of the
22 CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were entitled to,
23 constituting a failure to pay all earned wages.

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

1 72. DEFENDANT knew or should have known that PLAINTIFFS and the other
2 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked.
3 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
4 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
5 perpetrated this scheme by refusing to pay PLAINTIFFS and the other members of the CALIFORNIA
6 LABOR SUB-CLASS the correct minimum wages for their time worked.

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

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

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26 ///

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1 **THIRD CAUSE OF ACTION**

2 **For Failure To Pay Overtime Compensation**

3 **[Cal. Lab. Code § 510 & 1198]**

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

5 75. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
6 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this
7 Complaint.

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

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

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

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

22 80. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
23 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by DEFENDANT
24 to work for DEFENDANT and were not paid for all the time they worked, including overtime work.

25 81. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
26 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy
27 and practice that failed to accurately record overtime worked by PLAINTIFFS and other CALIFORNIA
28 LABOR SUB-CLASS Members and denied accurate compensation to PLAINTIFFS and the other

1 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, the overtime
2 work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,
3 and/or forty (40) hours in any workweek.

4 82. In committing these violations of the California Labor Code, DEFENDANT inaccurately
5 recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFFS and other
6 CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an illegal attempt to avoid
7 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
8 Industrial Welfare Commission requirements and other applicable laws and regulations. As a direct
9 result of DEFENDANT's unlawful wage practices as alleged herein, the PLAINTIFFS and the other
10 members of the CALIFORNIA LABOR SUB-CLASS did not receive full compensation for overtime
11 worked.

12 83. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
13 from the overtime requirements of the law. None of these exemptions are applicable to the
14 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
15 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject to
16 a valid collective bargaining agreement that would preclude the causes of action contained herein this
17 Complaint. Rather, PLAINTIFFS brings this Action on behalf of themselves and the CALIFORNIA
18 LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable, non-waiveable rights
19 provided by the State of California.

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

23 85. DEFENDANT failed to accurately pay the PLAINTIFFS and the other members of the
24 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in excess
25 of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
26 though PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were required
27 to work, and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay
28 as evidenced by DEFENDANT's business records and witnessed by employees.

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

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

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

20 89. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
21 therefore request recovery of all overtime wages, according to proof, interest, statutory costs, as well
22 as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
23 California Labor Code and/or other applicable statutes. To the extent minimum and/or overtime
24 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who
25 have terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or
26 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code
27 § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS
28 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.

1 Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek
2 and recover statutory costs.

3
4 **FOURTH CAUSE OF ACTION**

5 **For Failure to Provide Required Meal Periods**

6 **[Cal. Lab. Code §§ 226.7, 512, 516 & 1198]**

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

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

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

26 92. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable IWC
27 Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
28 Members who were not provided a meal period, in accordance with the applicable Wage Order, one

1 additional hour of compensation at each employee's regular rate of pay for each workday that a meal
2 period was not provided.

3 93. As a proximate result of the aforementioned violations, PLAINTIFFS and
4 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof
5 at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.
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7 **FIFTH CAUSE OF ACTION**

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

9 **[Cal. Lab. Code §§ 226.7, 512, 516 & 1198]**

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

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

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

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

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

4 **SIXTH CAUSE OF ACTION**

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

6 **[Cal. Lab. Code § 226]**

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

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

11 99. Cal. Labor Code § 226 provides that an employer must furnish employees with
12 an “accurate itemized” statement in writing showing:

- 13 (1) gross wages earned,
14 (2) total hours worked by the employee, except for any employee whose compensation is solely
15 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
16 515 or any applicable order of the Industrial Welfare Commission,
17 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
18 on a piece-rate basis,
19 (4) all deductions, provided that all deductions made on written orders of the employee may be
20 aggregated and shown as one item,
21 (5) net wages earned,
22 (6) the inclusive dates of the period for which the employee is paid,
23 (7) the name of the employee and his or her social security number, except that by January 1,
24 2008, only the last four digits of his or her social security number or an employee identification
25 number other than a social security number may be shown on the itemized statement,
26 (8) the name and address of the legal entity that is the employer, and
27 (9) all applicable hourly rates in effect during the pay period and the corresponding number of
28 hours worked at each hourly rate by the employee.

100. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements
which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
226 provides that every employer shall furnish each of his or her employees with an accurate itemized
wage statement in writing showing, among other things, gross wages earned and all applicable hourly
rates in effect during the pay period and the corresponding amount of time worked at each hourly rate.
PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As

1 such, the wage statements should reflect all applicable hourly rates during the pay period and the total
2 hours worked, and the applicable pay period in which the wages were earned pursuant to California
3 Labor Code Section 226(a). The wage statements DEFENDANT provided to PLAINTIFFS and other
4 CALIFORNIA LABOR SUB-CLASS Members failed to identify such information. More specifically,
5 the wage statements failed to identify the accurate total hours worked each pay period. When the hours
6 shown on the wage statements were added up, they did not equal the actual total hours worked during
7 the pay period in violation of Cal. Lab. Code 226(a)(2). Additionally, DEFENDANT violates Cal. Lab.
8 Code Section 226(a)(8) by failing to list the correct name of the legal entity that employed
9 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members. Aside, from the violations
10 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage
11 statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,
12 DEFENDANT from time to time provided PLAINTIFFS and the other members of the CALIFORNIA
13 LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code § 226.

14 101. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226,
15 causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA LABOR
16 SUB-CLASS. These damages include, but are not limited to, costs expended calculating the correct
17 wages for all missed meal and rest breaks and the amount of employment taxes which were not properly
18 paid to state and federal tax authorities. These damages are difficult to estimate. Therefore,
19 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS may elect to recover
20 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred,
21 and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab.
22 Code § 226, in an amount according to proof at the time of trial (but in no event more than four
23 thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA
24 LABOR SUB-CLASS herein).

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1 **SEVENTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 2802]**

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

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

7
8 103. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

12 104. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing
13 to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for
14 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.
15 DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
16 members for expenses which included, but were not limited to, costs related to using their personal
17 cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFFS and other
18 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal
19 cellular phones in order to perform work related job tasks. DEFENDANT's policy and practice was
20 to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for expenses
21 resulting from using their personal cellular phones for DEFENDANT within the course and scope of
22 their employment for DEFENDANT. These expenses were necessary to complete their principal job
23 duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.
24 Although these expenses were necessary expenses incurred by PLAINTIFFS and the CALIFORNIA
25 LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFFS and
26 the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to
27 do under the laws and regulations of California.
28

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

EIGHTH CAUSE OF ACTION

For Failure to Pay Wages When Due

[Cal. Lab. Code §§ 201, 202, 203 and 204]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

107. Cal. Lab. Code § 200 provides, in relevant part, that:

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

108. Cal. Lab. Code § 201 provides, in relevant part, “that If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

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

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

110. There was no definite term in PLAINTIFFS's or any CALIFORNIA LABOR SUB-CLASS Members' employment contract.

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

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

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

7 113. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
8 members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated and who have
9 not been fully paid their wages due to them, PLAINTIFFS demands thirty days of pay as penalty for
10 not paying all wages due at time of termination for all employees who terminated employment during
11 the CALIFORNIA LABOR SUB-CLASS PERIOD and demands an accounting and payment of all
12 wages due, plus interest and statutory costs as allowed by law.

13 **NINTH CAUSE OF ACTION**

14 **For Failure to Pay Sick Pay Wages**

15 **[Cal. Lab. Code §§ 201-204, 210, 233, 246]**

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

17 **and Against All Defendants)**

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

21 115. Cal Lab. Code § 233 provides that an employer must permit an employee to use accrued
22 sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate of entitlement.
23 Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick
24 leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is used as paid sick
25 time, an employee has a vested right to sick pay wages, which an employer must calculate and
26 compensate based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be
27 calculated in the same manner as the regular rate of pay for the workweek in which the employee uses
28 paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid

1 sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not
2 including overtime premium pay, by the employee's total hours worked in the full pay periods of the
3 prior 90 days of employment." Under Cal Lab. Code §§ 218 and 233, employees may sue to recover
4 underpaid sick pay wages as damages.

5 116. As a matter of policy and practice, DEFENDANT pays sick pay wages to PLAINTIFFS
6 and the other members of the CALIFORNIA LABOR SUB-CLASS at the incorrect rate of pay.
7 PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS regularly use accrued
8 sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter of policy
9 and practice, DEFENDANT pays sick pay wages to PLAINTIFFS and the other members of the
10 CALIFORNIA LABOR-SUB-CLASS at the base hourly pay, as opposed to the regular rate of pay,
11 which would consider all non-hourly remuneration in addition to base hourly wages, or the rate
12 resulting from dividing the employee's total wages, not including overtime premium pay, by the
13 employee's total hours worked in the full pay periods of the prior 90 days of employment. As a result,
14 DEFENDANT underpaid sick pay wages to PLAINTIFFS and the other members of the CALIFORNIA
15 LABOR-SUB-CLASS.

16 117. Cal. Lab. Code § 204 provides that wages generally are due and payable twice during
17 each calendar month and are to be paid no later than the payday for the next regular payroll period.
18 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of
19 accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for the next
20 regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code §
21 201 provides that if an employer discharges an employee, wages earned and unpaid at the time of
22 discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled
23 to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless
24 the employee has given 72-hour notice of his or her intention to quit, in which case the employee is
25 entitled to his or her wages at the time of quitting. The Labor Code penalizes untimely payments. For
26 example, Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in
27 accordance with Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a penalty
28 from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty

(30) days. Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204 and untimely payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218, employees may sue to recover applicable penalties.

118. As alleged herein and as a matter of policy and practice, DEFENDANT routinely underpays sick pay wages and thus did not timely pay PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result, DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246, among other Labor Code provisions. PLAINTIFFS is informed and believes that DEFENDANT was advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to PLAINTIFFS's allegations, especially since the California Supreme Court has explained that "[c]ourts have recognized that 'wages' also include those benefits to which an employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT willfully fails to timely pay PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable penalties.

119. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties, attorney's fees, and costs of suit.

TENTH CAUSE OF ACTION

Failure to Provide Required Recovery Periods

[Cal. Lab. Code § 226.7; California Code of Regulations, Title 8, Section 3395]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

1 121. During the statute of limitations period, Defendant failed to authorize and permit
2 PLAINTIFFS and the CALIFORNIA LABOR-SUB-CLASS to take recovery periods as required under
3 Cal. Lab. Code § 226.7 and California Code of Regulations, Title 8, Section 3395. Defendant was and
4 is required to provide recovery or “cooldown” periods to non-exempt employees like PLAINTIFFS and
5 his coworkers, who work outdoors performing manual labor, in order to prevent heat illness.

6 122. PLAINTIFFS and the CALIFORNIA LABOR-SUB-CLASS work outdoors performing
7 manual labor. This work is performed over the course of many hours in temperatures often exceeding
8 80 degrees Fahrenheit. Despite these work conditions, Defendant has failed to implement an adequate
9 policy or practice of providing recovery periods to its non-exempt employees. Defendant has similarly
10 failed to make efforts to comply with heat illness prevention regulations by providing places of shade
11 for recovery periods or by supplying sufficient drinking water. As with meal periods and rest breaks,
12 Defendant did not provide Class members with adequate information informing them of their rights to
13 take recovery periods, and thus they did not take them.

14 123. Defendant further violated California Labor Code § 226.7, and the California Unfair
15 Competition Law, Cal. Bus. & Prof. Code § 17200, *et. seq.*, by failing to pay PLAINTIFFS and the
16 CALIFORNIA LABOR-SUB-CLASS members who were not provided with a recovery period, one
17 additional hour of compensation at the proper regular rate of pay for each workday that a recovery
18 period was not provided.

19 124. As a proximate result of the foregoing violations, PLAINTIFFS and the CALIFORNIA
20 LABOR-SUB-CLASS have been damaged in an amount according to proof at trial, and seek all wages
21 earned and due, interest, penalties, expenses, and costs of suit.

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ELEVENTH CAUSE OF ACTION

Failure to Pay All Wages

[Cal. Labor Code Section 221, 223, 1194, 1197, and 1198]

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

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

126. At all times relevant herein, which comprise the time period not less than four (4) years preceding the filing of this action, Defendant was required to compensate their hourly employees for all hours worked.

127. For at least the four (4) years preceding the filing of this action, Defendant failed to compensate employees for all hours worked. Defendant implemented policies that actively prevented employees from being compensated for all time worked by paying overtime, meal and rest break premiums, and sick pay wages at the base rate of pay as mentioned above.

128. Under the applicable wage order and state regulations, Plaintiff and the CALIFORNIA LABOR-SUB-CLASS are entitled to recover compensation for all hours worked, but not paid, for the four (4) years preceding the filing of this action, in addition to reasonable attorney's fees and costs of suit in accordance with Labor Code section 218.5, and penalties pursuant to Labor Code sections 203 and 206.

129. The applicable IWC wage order section 2(G) defines "hours worked" to mean "the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

130. Labor Code section 1194(a) provides in relevant part: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage... is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage ... including interest thereon, reasonable attorney's fees, and costs of suit."

131. Labor Code section 1194.2(a) provides in relevant part: "In any action under section 1193.6

1 or section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by
2 an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal
3 to the wages unlawfully unpaid and interest thereon.”

4
5 132. Labor Code section 1197 provides: “The minimum wage for employees fixed by the
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
7 minimum so fixed is unlawful.”

8 133. PLAINTIFFS are informed and believes, and therefore alleges, that Defendant’s
9 compensation schemes do not fairly compensate Plaintiff and the CALIFORNIA LABOR-SUB-CLASS
10 for all hours spent performing their job duties.

11 134. The failure to pay at least minimum wages to PLAINTIFFS and the CALIFORNIA
12 LABOR-SUB-CLASS for each and every hour worked violates Labor Code sections 1182.11-1182.12,
13 1194, 1194.2, and 1197; the applicable IWC wage order section 4; and Business & Professions Code.

14 135. The failure to pay designated wages to PLAINTIFFS and the CALIFORNIA LABOR-
15 SUB-CLASS for each and every hour worked violates Labor Code section 221 and 223; the applicable
16 IWC wage order section 3; and Business & Professions Code.

17
18 136. During the applicable time period, Defendant has and continues to have a pattern and
19 practice of not providing its employees all wages.

20 137. As a proximate result of the above-mentioned violations. PLAINTIFFS AND the
21 CALIFORNIA LABOR-SUB-CLASS have been damaged in an amount according to proof at time of trial.

22
23 **TWELFTH CAUSE OF ACTION**

24 **Failure to Maintain Required Records**

25 **[Cal. Lab. Code §§ 226, 1174; IWC Order No. 4-2001, § 7]**

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

27 **and Against All Defendants)**

28 138. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS,

1 reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this
2 Complaint.

3 139. During the statute of limitations period, as part of Defendant's unlawful payroll policies
4 and practices to deprive PLAINTIFFS and the CALIFORNIA LABOR-SUB-CLASS of all wages
5 earned and due, Defendant knowingly and intentionally failed to maintain records as required under
6 California Labor Code §§ 226(a) and 1174(d) and IWC Wage Order No. 4-2001, § 7, including but not
7 limited to, the following records: total daily hours worked by each employee; applicable rates of pay;
8 all deductions; meal periods; time records showing when each employee begins and ends each work
9 period; and accurate itemized statements. Moreover, Defendant does not provide nonexempt employees
10 with proper meal, rest, and recovery periods, but omits from the wage statements such compensation
11 and/or remuneration owed and due. Additionally, Defendant knowingly permits non-exempt employees
12 to work off-the-clock but fails to record this time or compensate them for this time, which invariably
13 results in inaccurate time and payroll records.

14 140. As a proximate result of Defendant's unlawful actions and omissions, PLAINTIFFS and
15 the CALIFORNIA LABOR-SUB-CLASS have been damaged in an amount according to proof at trial,
16 and are entitled to all wages earned and due, plus interest thereon. Additionally, PLAINTIFFS and the
17 CALIFORNIA LABOR-SUB-CLASS are entitled to all available penalties, including but not limited
18 to, penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of costs,
19 expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor
20 Code § 226(e), as well as all other available remedies.

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[Cal. Lab. Codes §§ 204, 210]

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

143. During the statute of limitations period, Defendant, among other things, failed to pay PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS all wages earned and due to them including but not limited to, meal, rest and recovery period premiums, overtime and minimum wages, and payment for work performed off-the-clock, within any time period permissible under California Labor Code § 204.

144. As a proximate result of Defendant's unlawful actions and omissions, PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are entitled to all available statutory penalties, including but not limited to, civil penalties pursuant to California Labor Code §§ 200, 210, 558, 1194, 1197.1, 2699(a), and other applicable provisions under the California Labor Code and

1 applicable IWC Wage Order, and an award of costs, expenses, and reasonable attorneys' fees.

2 **FIFTEENTH CAUSE OF ACTION**

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

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

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

6 145. PLAINTIFFS Michael Yaw and David Scott, Jr., reallege and incorporate by this
7 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

8 146. PLAINTIFFS, Michael Yaw and David Scott, Jr., and such persons that may be
9 added from time to time who satisfy the requirements and exhaust the administrative procedures
10 under the Private Attorney General Act, bring this Representative Action on behalf of the State of
11 California with respect to themselves and all individuals who are or previously were employed by
12 DEFENDANT, directly or through a staffing agency or other third party, in the State in California
13 who were classified as non-exempt ("AGGRIEVED EMPLOYEES") from August 26, 2018
14 through the earlier of the date of Preliminary Approval or March 2024 (the "PAGA PERIOD").

15 147. On May 25, 2022, PLAINTIFF Michael Yaw, gave written notice by electronic mail
16 to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
17 employer of the specific provisions of this code alleged to have been violated as required by Labor
18 Code § 2699.3. On March 24, 2023, PLAINTIFF Scott, Jr., provided written notice to the LWDA
19 and by certified mail to Defendant of the specific provisions of the California Labor Codes alleged
20 to have been violated, including those facts and theories to support the alleged violations. The
21 statutory waiting period for PLAINTIFFS to add these allegations to the Complaint has expired. As
22 a result, pursuant to Section 2699.3, PLAINTIFFS may now commence a representative civil action
23 under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all
24 AGGRIEVED EMPLOYEES as herein defined.

25 148. The policies, acts and practices heretofore described were and are an unlawful
26 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
27 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and
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1 provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay
2 overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses, and (f)
3 failure to pay wages when due, all in violation of the applicable Labor Code sections listed in Labor
4 Code §§ 201, 202, 203, 204 et seq., 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2),
5 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040,
6 Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as
7 a result of such conduct.¹ PLAINTIFFS hereby seeks recovery of only civil penalties as prescribed
8 by the Labor Code Private Attorney General Act of 2004 as the representative of the State of
9 California for the illegal conduct perpetrated on PLAINTIFFS and the AGGRIEVED
10 EMPLOYEES.

11 149. All of the conduct and violations alleged herein occurred during the PAGA PERIOD.
12 To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFFS
13 during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that affected the
14 AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 30 Cal.App.5th 504
15 (2018).

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
18 severally, as follows:

19 1. On behalf of the CALIFORNIA CLASS:

- 20 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
21 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
22 B) An order temporarily, preliminarily and permanently enjoining and restraining
23 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
24 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
25 from compensation due to PLAINTIFFS and the other members of the
26 CALIFORNIA CLASS; and,
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28 ¹PLAINTIFFS specifically excludes and/or does not allege any claims under California Labor Code §558(a)(3).

1 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
2 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS
3 and to the other members of the CALIFORNIA CLASS.

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

- 5 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
6 Ninth, Tenth, Eleventh, Twelfth, Thirteenth and Fourteenth Causes of Action
7 asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to
8 Cal. Code of Civ. Proc. § 382;
- 9 B) Compensatory damages, according to proof at trial, including compensatory damages
10 for minimum, overtime and sick pay wage compensation due PLAINTIFFS and the
11 other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
12 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory
13 rate;
- 14 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
15 which a violation occurs and one hundred dollars (\$100) per each member of the
16 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period,
17 not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award
18 of costs for violation of Cal. Lab. Code § 226;
- 19 D) Meal, rest and recovery period compensation pursuant to Cal. Lab. Code §§ 226.7,
20 512 and the applicable IWC Wage Order;
- 21 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
22 1197;
- 23 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
24 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
25 costs of suit.; and,
- 26 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS
27 as a penalty from the due date thereof at the same rate until paid or until an action
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therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004; and,

B) An award of attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §2699.

4. On all claims:

A) An award of interest, including prejudgment interest at the legal rate;

B) Such other and further relief as the Court deems just and equitable; and,

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

Dated: February 27,, 2024

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw

Nicholas J. De Blouw

Attorneys for PLAINTIFFS

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DEMAND FOR A JURY TRIAL

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

Dated: February 27, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw
Nicholas J. De Blouw
Attorneys for PLAINTIFFS