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on behalf of himself and others similarly situated

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

DEOWNTE RAHSAAN ABRAMS, an
individual; on behalf of himself and others
similarly situated,

Plaintiff,

vs.

MANCINI'S SLEEPWORLD, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 25CV108806

CLASS ACTION

Assigned for All Purposes To:
Hon. Somnath Raj Chatterjee
Dept.: 21

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Failure to Pay Reporting Time Under 8 CCR § 11050(5);
6. Violation of Labor Code § 226;
7. Violation of Labor Code § 221;
8. Violation of Labor Code § 204;
9. Violation of Labor Code § 203;
10. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
11. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and
12. Violation of Business & Professions Code § 17200 *et seq.*, and
13. Penalties under PAGA, Labor Code § 2698 *et seq.*

DEMAND FOR JURY TRIAL

Original Complaint filed: January 27, 2025

1 Plaintiff DEOWNTE RAHSAAN ABRAMS (hereinafter “Plaintiff”), on behalf of himself
2 and other similarly situated non-exempt, hourly employees employed by Defendants in California
3 during the relevant period (collectively, “Employees”; individually, “Employee”), complains of
4 Defendants, and each of them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly Employees by Defendants MANCINI’S
9 SLEEPWORLD, INC., a California corporation; and DOES 1 through 50, inclusive (all
10 defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that
11 Defendants, and each of them, violated various provisions of the California Labor Code, relevant
12 orders of the Industrial Welfare Commission (“IWC”), and the California Business & Professions
13 Code, and seeks redress for these violations.

14 2. Plaintiff and the Class members worked as hourly, non-exempt Employees for
15 Defendants, including as receivers, drivers, and truck loading workers and in similar and related
16 positions pertaining to selling mattresses and providing warehousing and related customer services
17 to Defendants’ customers at their California stores and warehouse locations. Plaintiff, and upon
18 information and belief other similarly situated Employees, were required to perform work tasks
19 based out of Defendants’ facilities throughout California. Plaintiff worked at Defendants’ behest
20 without being paid all wages due and without being provided all required breaks. More
21 specifically, Plaintiff and the other similarly situated Class members were employed by
22 Defendants and shared similar job duties and responsibilities, were subjected to the same policies
23 and practices, and endured similar violations at the hands of Defendants as the other Employees
24 who served in similar and related positions.

25 3. Defendants required Plaintiff and the Employees in the Class to work off the clock
26 and failed to record accurate time worked by these Employees, failed to pay them at the
27 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
28 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that

1 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
2 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
3 under Defendants' control and were not provided with the opportunity to take full uninterrupted
4 and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable
5 paragraphs of the IWC Wage Orders.

6 4. Defendant MANCINI'S SLEEPWORLD, INC. is a California corporation that lists
7 its principal address with the California Secretary of State in Livermore, California. It also lists its
8 type of business as "Mattress Store." Defendant MANCINI'S SLEEPWORLD, INC. is listed as
9 the employer on the wage statements issued to Plaintiff by Defendants on a bi-weekly basis, and
10 upon information and belief to other Class members, with the same Livermore, California address.
11 Upon information and belief, MANCINI'S SLEEPWORLD, INC. operates various facilities and
12 warehouse and store locations where their California Employees are employed throughout
13 California, including the mattress store and warehousing facility located within Livermore,
14 California where Plaintiff worked.

15 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
16 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
17 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
18 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
19 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
20 obligations and liabilities giving rise to this lawsuit occurred, at least in part in Alameda County
21 and Defendants have listed a principal California address within Alameda County. Defendants
22 also employ and employed Class members at their mattress store locations in Alameda County and
23 throughout California.

24 6. The true names and capacities, whether individual, corporate, associate, or
25 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
26 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
27 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
28 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in

1 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
2 this Complaint to reflect the true names and capacities of the Defendants designated herein as
3 Does 1 through 50 when their identities become known.

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

15 **FACTUAL BACKGROUND**

16 8. The Employees who comprise the Class, including Plaintiff, are non-exempt
17 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
18 ("IWC"). During the period of four years prior to the filing of this action through its resolution,
19 the Employee Class members were employed by Defendants and worked in non-exempt positions
20 at the direction of Defendants in the State of California. Plaintiff and the Class members were
21 either not paid by Defendants for all hours worked or were subjected to unlawful rounding and
22 time shaving or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff
23 also contends that Defendants failed to pay Plaintiff and the Class members all wages due and
24 owing, including by requiring off-the-clock work, failed to provide meal and rest breaks, and
25 failed to furnish accurate wage statements, all in violation of various provisions of the California
26 Labor Code and applicable paragraphs of the IWC Wage Orders.

27 9. During the course of Plaintiff and the Class members' employment with
28 Defendants, they were not paid all wages they were owed, including for all work performed

1 (resulting in “off the clock” work) and for all their overtime hours worked and were subjected to
2 unlawful rounding, and they were not paid at the required rates for overtime. This has resulted in
3 systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders.
4 Upon information and belief, Defendants employ other non-exempt, hourly employees as
5 warehouse workers at Defendants’ locations in California.

6 10. Plaintiff was employed by Defendants as a receiver and in other similar and
7 related positions at Defendants’ mattress store. Plaintiff generally worked over 40 hours per
8 week, at least five to six shifts per week, which resulted in shifts of eight hours or more in
9 duration.

10 Plaintiff had to wait in line for the ADP time clock inside the main office near the
11 breakroom to become available to clock in or out. In addition, there would be multiple Employees
12 waiting to record their time entries for work shift and meal periods times, further resulting in
13 delays of several minutes for Employees to record the start of their shifts or during breaks.
14 Plaintiff normally had to wait approximately 3 minutes in line 5 times per week to log start of
15 shifts, end of lunches.
16

17 11. Prior to his shifts, on most days, Plaintiff did off-the-clock work such as talk to his
18 supervisor, Andres about the day’s work for 2-5 minutes before clocking in. He did off-the-clock
19 work such as a meeting with management for 5-10 minutes after clocking out 3-4 times. This off-
20 the-clock was required by management. The Company required him to use his personal cell phone
21 for work-related purposes such as accessing the ADP app and receiving and replying to texts or
22 calls with supervisors for 5 minutes 1-2 times a week.
23

24 12. Similar issues arose when the warehouse was particularly busy, Plaintiff was
25 compelled to resume working during meal periods without clocking back in. On most instances,
26 Plaintiff was very busy and would commence his meal break after the completion of his fifth hour
27 of work.

28 13. As a result of the above-referenced policies and practices, Defendants failed to

1 compensate Plaintiff and, on information and belief, other Class members for all their time
2 worked. The failure to maintain accurate timekeeping and payroll records perpetrated by
3 Defendants has also been exacerbated by other off-the-clock work Defendants required their
4 Employees to endure. Accordingly, all of Plaintiff's pre- or post-shift time worked, and on
5 information and belief that of other Class members, went uncompensated.

6 14. Defendants followed a similar unlawful practices, upon information and belief, in
7 connection with other Employees in a concerted effort to limit and restrict regular, overtime, and
8 double-time hours earned by and owing to them. Time worked off the clock also caused Plaintiff
9 and other Class members to work beyond eight hours in a shift. As a result of the above-described
10 rounding and other off the clock work, Defendants failed to pay Plaintiff and Class members
11 overtime and double-time for several minutes at the end of work shifts which Defendants did not
12 record in any timekeeping or payroll records.

13 15. Plaintiff was therefore not paid for all his hours worked at the required minimum,
14 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
15 and practice of requiring him and his fellow Class members to work off the clock and without
16 pay. Defendants systematically underpaid Plaintiff and the Class members by failing to pay him
17 at the required overtime rates for all hours over eight in a work shift or over forty in a work week,
18 and all hours over twelve in a day at the required double time rate. Upon information and belief,
19 the Class members were bound by similar scheduling and timekeeping policies and endured
20 similar violations at Defendants' hands as Plaintiff.

21 16. Defendants also failed to pay reporting time pay to Plaintiff and Class members.
22 On several occasions, Plaintiff attended work to complete his regularly scheduled shifts but was
23 sent home within two or three hours because there were too many people working. Defendants
24 failed to pay Plaintiff for half of his usual or scheduled day's work at the appropriate rates on
25 these occasions. Upon information and belief, the Class members endured similar violations at
26 Defendants' hands as Plaintiff.

27 17. Defendants have either failed to maintain timekeeping records for Plaintiff that
28 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants

1 required and the actual hours Plaintiff worked or the breaks they received or have otherwise
2 declined to produce them to Plaintiff in response to a timely and lawful records request. By
3 failing to pay for all hours worked, and by under-recording regular hours to the detriment of the
4 Class members, Defendants have committed knowing and intentional ongoing violations of the
5 record keeping requirements under the Labor Code, including section 1174, by either failing to
6 maintain records or retaining inaccurate ones.

7 18. The failure to pay for all hours worked and underpayment of wages to Plaintiff
8 and the Class members is and has been a direct consequence of Defendants' unlawful
9 compensation policies and practices, which upon information and belief applied uniformly to the
10 Class members working based out of Defendants' facilities throughout California. As a result of
11 the above-described unlawful requirements to work off the clock, the rounding and time shaving,
12 the failure to accurately record all hours worked and pay wages at the correct rates, and the other
13 wage violations they endured at Defendants' hands, Plaintiff and the Class members were not
14 properly paid all wages earned and all wages owed to them by Defendants, including when
15 working more than eight hours in any given day and/or more than forty hours in any given week.
16 To the extent Defendants paid Plaintiff and the Class members other forms of remuneration
17 beyond their hourly rates during the same pay periods when they worked overtime, such as
18 bonuses and shift differentials, they failed to include these additional forms of remuneration in
19 the regular rate used to calculate and pay overtime hours resulting in regular rate miscalculation
20 and underpayment for all hours worked at the applicable hourly rates.

21 19. Therefore, from at least four years prior to the filing of this lawsuit and continuing
22 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
23 hours worked and failing to pay minimum wages for all time worked, as required by California
24 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
25 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
26 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
27 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
28 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

1 20. Defendants also failed to provide Plaintiff and the Class members with their
2 required meal periods and at least two ten-minute rest breaks as required at a minimum for
3 Plaintiff's scheduled shift durations. The above described off -the-clock work contributed to
4 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
5 members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
6 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
7 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
8 IWC Wage Order(s).

9 21. Defendants failed to provide lawful meal periods as required under the Labor Code
10 and IWC Wage Orders. More specifically, Plaintiff worked shifts that entitled him to at least one
11 meal period, but Defendants' required Plaintiff and the Class members to prioritize work over
12 taking lawful meal periods. Furthermore, for the shifts that Plaintiff worked more than 10-12
13 hours, he was never provided with a second meal period. In fact, Defendants made little effort to
14 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
15 net thirty minute meal periods.

16 22. Due to short staffing and volume of work, Plaintiff was compelled to endure short
17 and interrupted meal periods. To the extent Defendants required Plaintiff to work over ten hours
18 on a work shift, Defendants also failed to provide second meal periods and Defendants have
19 produced no evidence of payments for meal period violations under Labor Code 226.7. To the
20 extent Defendants have paid any such premiums, upon information and belief they failed to
21 include all forms of remuneration, including bonuses and shift differentials, in the regular rate at
22 which Defendants paid the premium.

23 23. Therefore, meal period violations systematically occurred ongoing throughout all
24 of Plaintiff's work shifts where Defendants failed to provide a lawful meal period or penalty
25 payment. To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to
26 include all forms of remuneration in the regular rate used to calculate it. Upon information and
27 belief, the other Class members were subjected to similar unlawful policies and practices and
28 endured similar violations as Plaintiff.

1 24. Defendants thus failed to provide all the legally required unpaid, off-duty meal
2 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
3 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
4 members were required to perform work as ordered by Defendants for more than five hours during
5 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
6 followed a practice of requiring off the clock work and rounding and time shaving in a manner
7 that would impact when Employees were to receive meal periods and rest breaks, and required
8 them to respond to work calls and other demands during breaks, thus leading to further violations.

9 25. Upon information and belief, Defendants' systems did not automatically generate a
10 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
11 into a work shift or in the event the time punch records reflected a meal period of less than thirty
12 minutes. However, upon information and belief, in the event Defendants did pay any meal period
13 premiums, they did so at the employee's customary regular rate of hourly compensation without
14 including all forms of remuneration in that hourly rate calculation, for example by omitting
15 bonuses and shift differentials and the like from the rate at which meal premiums were paid.

16 26. Defendants thus followed uniformly applied policies of not providing all required
17 meal periods to their Employees. Meal periods were often not properly provided, as work
18 demands impermissibly shortened their breaks. Even when Plaintiff and the Class members were
19 able to take a meal period, it was generally interrupted by work duties or was taken after the fifth
20 hour of work. Plaintiff would consistently take late meal breaks on Mondays, since she worked
21 alone on Mondays and the next shift would start after 5 hours had passed. Additionally, as
22 addressed above, Defendants followed a practice of requiring off the clock work in a manner that
23 would impact when Employees were to receive meal periods and rest breaks, thus leading to
24 further violations.

25 27. As a result, Defendants' failure to provide Plaintiff and the Class members with all
26 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
27 periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at
28 least four years prior to the filing of this action and through to the present, Plaintiff and the Class

1 members were unable to take off-duty breaks or were otherwise not provided with the opportunity
2 to take required breaks as required under the Labor Code and Wage Orders due to Defendants'
3 policies and practices. On the occasions when Plaintiff and the Class members were provided with
4 a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
5 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
6 occurred in one or more of the following manners:

- 7 (a) Class members were not provided full thirty-minute duty free meal periods
8 for work days in excess of five hours and were not compensated one
9 hour's wages in lieu thereof, or were not compensated at the correct
10 regular rate of compensation, all in violation of, among others, Labor Code
11 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
12 Order(s);
- 13 (b) Class members were not provided second full thirty-minute duty free meal
14 periods for work days in excess of ten hours;
- 15 (c) Class members were required to work through at least part of their daily
16 meal period(s);
- 17 (d) Meal periods were provided after five hours of continuous work during a
18 shift; and
- 19 (e) Class members were restricted in their ability to take a full thirty-minute
20 meal periods or were otherwise required to remain under Defendants'
21 control during them.

22 28. Similar violations resulted from Defendants' failure to authorize and permit
23 Plaintiff and the Class members to take duty-free, net ten-minute rest breaks for every four hours
24 of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class members
25 were either not authorized and permitted the opportunity to take a rest break, or were required to
26 remain under Defendants' control if and when they even attempted to take one. Employees were
27 prohibited from leaving the premises for meal and rest breaks, evidencing Defendants' policy and
28

1 practice of requiring Plaintiff and the Class members to remain under their control during
2 required off-duty break times.

3 29. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
4 required under the Labor Code and IWC Wage Orders. In fact, Defendants made little effort to
5 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
6 net ten-minute rest breaks. This common and unlawful policy uniformly applied to the
7 Employees during the relevant period, meaning Defendants' rest break policy was not to schedule
8 or otherwise authorize and permit them. Plaintiff and the Class members worked seven to eight
9 hours on an average shift, and were required to receive at least two rest breaks or three rest breaks
10 on shifts over ten hours. Given the work demands, understaffing, and pressure from Defendants'
11 management, Plaintiff and the Class members were compelled to not take rest breaks despite
12 working extended shifts. Defendants have produced no evidence of any payments for rest break
13 violations under Labor Code § 226.7. To the extent Defendants have paid any such premiums,
14 upon information and belief they failed to include all forms of remuneration, including bonuses
15 and shift differentials, in the regular rate at which Defendants paid the premium.

16 30. Defendants' uniformly applied policies and practices thus resulted in untimely and
17 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
18 members worked shifts of at least eight hours, which required at least two rest breaks, and if they
19 worked over ten hours, required at least three rest breaks. Even on the occasions when
20 Defendants authorized and permitted Plaintiff to take a first rest break, they were not permitted to
21 take a second or a third break, and those that were provided were often late and generally
22 interrupted by job duties.

23 31. During rest periods, employers must relieve employees of all duties and relinquish
24 control over how employees spend their time. Plaintiff and the Class members were and are under
25 compiling hours worked when Defendants required them to work through rest breaks or to
26 otherwise remain under Defendants' control while being unable to leave the premises. Defendants
27 have also provided either impermissibly shortened or untimely meal and rest breaks to Plaintiff
28 and the Class members. Plaintiff and the Employees in the Class were thus not authorized and

1 permitted to take lawful rest periods, were systematically required by Defendants to work through
2 or during breaks, and were not provided with one hour's wages in lieu thereof. They were
3 required to remain on-duty during breaks or portions of their breaks, thus making them either
4 untimely or shortened and on-duty, and they were also prevented from leaving the premises and
5 otherwise remain under Defendants' control during rest breaks under Defendants' uniformly
6 applied policies and practices. Rest period violations therefore arose in one or more of the
7 following manners:

- 8 (a) Class members were required to work without being provided a minimum
9 ten minute rest period for every four hours or major fraction thereof worked
10 and were not compensated one hour of pay at their regular rate of
11 compensation for each workday that a rest period was not provided;
- 12 (b) Class members were not authorized and permitted to take timely rest periods
13 for every four hours worked, or major fraction thereof; and
- 14 (c) Class members were required to remain on-duty and on premises or
15 otherwise under Defendants' control during rest periods or otherwise had
16 their rest periods interrupted by work demands.

17 32. From at least four years prior to the filing of this lawsuit and continuing to the
18 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
19 deducting the Employees' earned wages, including by the above described off the clock work and
20 rounding and time shaving and on-duty work while on unpaid meal breaks. By not compensating
21 Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of
22 Labor Code § 221.

23 33. Defendants also violated California Labor Code § 246 by not providing all
24 required paid sick days to Plaintiff and the Class members. Labor Code § 246 provides that an
25 Employee who "works in California for the same employer for 30 or more days within a year
26 from the commencement of employment is entitled to paid sick days as specified in this section."
27 Defendants failed to provide Plaintiff and the other similarly aggrieved Employees with all their
28 required and earned sick days, in violation of Labor Code § 246. Additionally and upon

1 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
2 the Class members during the relevant time period, including by failing to provide two work
3 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
4 248.2 and including damages and penalties as these sections are enforced through Labor Code §
5 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid
6 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
7 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
8 (\$4,000), shall be included in the administrative penalty.” Plaintiff accordingly seeks this relief
9 available for Defendants’ failure to provide Employees with all their required and earned sick
10 days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1,
11 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246,
12 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees
13 and costs pursuant to Labor Code § 2699(g)(1).

14 34. Defendants also failed to provide suitable air conditioning and proper ventilation to
15 Plaintiff and the Class members.. California Labor Code §1198 makes it illegal to employ an
16 employee under conditions of labor that are prohibited by the applicable Wage Order. By failing to
17 provide Plaintiff and certain Class members with proper ventilation in the warehouse, Defendants
18 are in violation of Wage Order 1-2001, § 12, and California Labor Code § 1198. Plaintiff has been
19 injured because they were employed by Defendants and was not provided with the proper air
20 ventilation and air conditioning needed in such a work environment, in violation of Lab. Code §
21 1198 and Wage Order 1-2001, § 12.

22 35. As a result of these illegal policies and practices, Defendants also engaged in and
23 enforced the following additional unlawful practices and policies against Plaintiff and the Class
24 members he seeks to represent:

- 25 (a) failing to pay all wages owed to Class members who either were discharged,
26 laid off, or resigned in accordance with the requirements of Labor Code §§
27 201, 202, 203;
28 (b) failing to pay all wages owed to the Class members twice monthly in

1 accordance with the requirements of Labor Code § 204;

2 (c) failing to pay Class members all wages owed, including all meal and rest
3 period premium wages, and failing to pay them at the regular rate of
4 compensation;

5 (d) failing to maintain accurate records of Class members' hours worked and
6 earned wages and meal periods in violation of Labor Code §§ 226 and
7 1174(d) and section 7 of the applicable IWC Wage Orders; and

8 (e) failing to produce timekeeping records in response to Plaintiff's timely and
9 lawful request to receive them under these authorities.

10 36. Defendants have also consistently failed to provide Class members with timely,
11 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
12 including by the above-described requirement of off the clock work, failure to pay all overtime
13 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
14 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
15 miscalculating any overtime or meal period or rest break premium wages and by the systematic
16 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
17 difficult to account with precision for the unlawfully withheld wages and meal and rest period
18 compensation owed to Plaintiff and the Class, during the liability period, including because they
19 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
20 and because they did not implement and preserve a record-keeping method as required for non-
21 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
22 California Wage Orders. Upon information and belief, time clock punches were not maintained or
23 were not accurately maintained for work shifts and meal periods, which were automatically
24 presumed by Defendants to have been lawfully provided when they were not. Defendants also
25 failed to accurately record and pay for all regular and overtime hours worked and submitted by
26 Plaintiff and the Class members, including by failing to pay all overtime hours at the correctly
27 calculated overtime premium rate.

28 37. Defendants have thus failed to comply with Labor Code § 226(a) by inaccurately

1 reporting total hours worked and total wages earned by Plaintiff and the Class members, along
2 with the appropriate applicable rates, among others requirements. Plaintiff and Class members are
3 therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code
4 § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California
5 IWC Wage Orders by failing to maintain time records showing when the employee begins and
6 ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total
7 daily hours worked by itemizing in wage statements all deductions from payment of wages and
8 accurately reporting total hours worked.

9 38. Upon information and belief, Defendants also failed to provide Employees such as
10 Plaintiff at the time of her employment and thereafter with written notice complying with all the
11 requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer
12 shall provide to each employee a written notice, in the language the employer normally uses to
13 communicate employment-related information to the employee, containing” specific required
14 information. Upon information and belief, Defendants failed to provide this information to the
15 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
16 provide Plaintiff and the aggrieved employee Class members certain specific information upon
17 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
18 any such information when they were hired, or have failed to produce it, and upon information
19 and belief Defendants committed similar violations in connection with similarly situated and
20 aggrieved Class members.

21 39. Defendants also required Plaintiff and the Class members to work hours off the
22 clock for which they were not compensated. They were required to endure off the clock work
23 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
24 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
25 work and rounding and miscalculation. Defendants also failed to pay all overtime premium wages
26 owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as
27 addressed above. Therefore, Defendants have also followed a uniform and consistent policy of
28 failing to pay all wages owed to Plaintiff and other similarly situated Employees at the time of

1 their termination or within seventy-two hours of their resignation, as required by California wage-
2 and-hour laws, including Labor Code §§ 201-203.

3 40. Additionally, from at least four years prior to the filing of this lawsuit and
4 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
5 incur necessary business expenses in the course of performing their required job duties without
6 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
7 communications with managers and other employees regarding work-related issues and for
8 checking on her schedule and in maintaining his work uniform, specifically his safety vest.
9 Plaintiff and the Class members must be reimbursed for these necessary business expenses under
10 Labor Code § 2802 and Defendants systematically failed to do so.

11 41. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
12 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
13 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
14 1194.2 1197, 1198, 1198.5, and 1199, 2802, 2810.5 and California Code of Regulations, Title 8,
15 section 11000 *et seq.*

16 42. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
17 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits
18 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
19 fraudulent practices alleged in this Complaint.

20 **CLASS ALLEGATIONS**

21 43. Plaintiff brings this class action on behalf of himself and all others similarly
22 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the
23 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
24 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
25 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
26 hourly employees within the State of California.” This includes all warehouse workers and those
27 in similar and related positions. Further, Plaintiff seek to represent the Subclasses composed of
28 and defined as follows:

- 1 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
2 compensated for all hours worked for Defendants at the applicable minimum wage.
- 3 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
4 compensated for all hours worked for Defendants at the required rates of pay, including for all
5 hours worked in excess of eight in a day and/or forty in a week.
- 6 c. Subclass 3. Meal Period Subclass. All Class members who were subject to
7 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
8 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 9 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
10 Defendants' policy and/or practice of failing to authorize and permit Employees to take
11 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
12 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.
- 13 e. Subclass 5. Reporting Time Pay Subclass: All Class members who were not
14 compensated reporting time pay
- 15 f. Subclass 6. Wage Statement Subclass. All Class members who, within the
16 applicable limitations period, were not provided with accurate itemized wage statements.
- 17 g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members
18 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
19 including by requiring off the clock work.
- 20 h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
21 members who were subject to Defendants' policy and practice of not timely paying all wages
22 earned when they were due and payable at least twice monthly.
- 23 i. Subclass 9. Termination Pay Subclass. All Class members who, within the
24 applicable limitations period, either voluntarily or involuntarily separated from their employment
25 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
26 termination.
- 27 j. Subclass 10. Payroll Records Subclass. All Class members who were subject to
28 Defendants' policy and/or practice of failing to keep accurate time and wage records as required

1 by California wage-and-hour laws.

2 k. Subclass 11. Expense Reimbursement Subclass. All Class members who incurred
3 necessary and reasonable expenses in connection with performing their job duties for Defendants
4 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

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

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

12 45. Defendants, as a matter of company policy, practice and procedure, and in violation
13 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
14 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
15 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
16 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the
17 benefit of this work, required Employees to perform this work and permitted or suffered to permit
18 this work. Defendants have uniformly denied these Class members wages to which these
19 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
20 order to unfairly cheat the competition and unlawfully profit.

21 46. This action has been brought and may properly be maintained as a class action
22 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
23 of interest in this litigation and the proposed Class is easily ascertainable from the employment
24 records for Plaintiff and the Class members that Defendants are required to maintain under
25 California law.

26 **A. Numerosity**

27 47. The potential members of the class as defined are so numerous that joinder of all
28 the member of the class is impracticable. While the precise number of class member has not been

determined at this time, Plaintiff is informed and believe that Defendants employ or, during the time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the Class definition within the State of California. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class members.

B. Commonality

48. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to his or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants paid reporting time pay under the applicable wage order and 8 CCR § 11050(5);
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- g. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave at the appropriate rates of pay;
- h. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;

- i. Whether Defendants violated Labor Code § 221;
- j. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- k. Whether Defendants' conduct was willful;
- l. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- m. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- n. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

49. The claims of the named Plaintiff are typical of those of the other Employees. The Employee Class members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off- the- clock work and meal and rest violations he was required to endure are typical of those of the other Class members.

D. Adequacy of Representation

50. Plaintiff will fairly and adequately represent and protect the interest of the Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

51. A class action is superior to other available means for the fair and efficient

1 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
2 questions of law and fact common to all Employees predominate over any questions affecting only
3 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
4 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

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

16 53. Class action treatment will allow those persons similarly situated to litigate their
17 claims in the manner that is most efficient and economical for the parties and the judicial system.
18 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
19 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would
20 set forth the subject and nature of the instant action. The Defendants' own business records can be
21 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
22 that any further notice is required additional media and/or mailings can be used.

23 54. Defendants, as prospective and actual employers of the Employees in the Class,
24 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
25 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
26 Employees as well as the effect of any alleged arbitration agreements that may have been forced
27 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
28 and policies, most notably intentionally refusing to pay for all hours actually worked which should

1 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
2 agreements and policies and practices on the Employees and Class as a whole.

3 55. Plaintiff and the Employees in the Class did not discover the fact that they were
4 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
5 ever any discussion about Plaintiff's and the Class's waiver of their Constitutional rights of trial
6 by jury, right to collectively organize and oppose unlawful pay practices under California law as
7 well as obtain injunctive relief preventing such practices from continuing. As a result, the
8 applicable statutes of limitation were tolled until such time as Plaintiff and the Class members
9 discovered their claims.

10 **FIRST CAUSE OF ACTION**
11 **FAILURE TO PAY MINIMUM WAGES**
12 **(Against All Defendants)**

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

15 57. Defendants failed to pay Employees minimum wages for all hours worked.
16 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
17 would work hours and not receive wages, including as alleged above in connection with off the
18 clock work and rounding and time shaving, including all the time required to remain on duty and
19 under Defendants' control during breaks and due to the work demands placed upon them by
20 Defendants' management and customers. Defendants' uniformly applied policies required
21 systematic off -the- clock work and underpayment of all wages owed to Employees over a period
22 of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly
23 failed to pay minimum wages to Plaintiff and the Class members, including by requiring
24 systematic off the clock work. To the extent any local wage ordinances were also applicable to
25 paying the employees an hourly rate above the minimum wage rate, Defendants failed to comply
26 with the local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices
27 manifested, without limitation, applicable to the Class as a whole, as a result of implementing a
28 uniform policy and practice that denied accurate compensation to Plaintiff and the other members

1 of the Class as to minimum wage pay.

2 58. In California, employees must be paid at least the applicable state minimum wage
3 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
4 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
5 California Labor Code § 204, other applicable laws and regulations, and public policy, an
6 employer must timely pay its employees for all hours worked. Defendants failed to do so.

7 59. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
8 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
9 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
10 applicable minimum wage rate fixed by the commission for work during the relevant period is
11 found in the Wage Orders.

12 60. The minimum wage provisions of California Labor Code are enforceable by private
13 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
14 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
15 overtime compensation applicable to the employee is entitled to recover in a civil action the
16 unpaid balance of the full amount of this minimum wage or overtime compensation, including
17 interest thereon, reasonable attorney’s fees and costs of suit.”

18 61. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
22 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
23 the absence of a contractually agreed upon one.

24 62. In committing these violations of the California Labor Code, Defendants
25 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
26 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
27 time worked by Plaintiff and other members of the Class, including by requiring off the clock
28 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of

1 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
2 Welfare Commission requirements and other applicable laws and regulations. As a result of these
3 violations, Defendants also failed to timely pay all wages earned in accordance with California
4 Labor Code § 1194.

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

9 64. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
10 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
11 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
12 pay each employee minimum wages. Pursuant to California Labor Code § 1194.2, Plaintiff and
13 Class members are further entitled to recover liquidated damages in an amount equal to wages
14 unlawfully unpaid and interest thereon.

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

18 66. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
19 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
20 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
21 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
22 members of the Class further request recovery of all unpaid wages, according to proof, interest,
23 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
24 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
25 wage compensation is determined to be owed to the Class members who have terminated their
26 employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202, and therefore
27 these individuals are also entitled to waiting time penalties under California Labor Code § 203,
28 which penalties are sought herein on behalf of these Class members. Defendants’ failure to timely

1 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
2 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
3 alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class
4 members are entitled to seek and recover statutory costs.

5 **SECOND CAUSE OF ACTION**

6 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

7 **(Against All Defendants)**

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

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

16 69. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
17 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
18 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
19 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
20 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
21 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
22 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
23 work in a workweek.

24 70. Defendants had a consistent policy of not paying Employees wages for all hours
25 worked, including by requiring off the clock work and rounding as addressed above, by unlawful
26 deductions, by under-reporting actual hours worked, and by requiring Employees to do so as well.
27 Defendants have also failed to include all forms of remuneration in the regular rate of pay used to
28 calculate and pay overtime, and failed to begin paying overtime when it was incurred due to the

1 off the clock work, as detailed above.

2 71. Defendants thus had a consistent policy of not paying Employees wages for all
3 hours worked, including hours at their required regular, overtime, and double-time rates.
4 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
5 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
6 members to do so, or otherwise caused them to work off -the- clock to avoid paying Plaintiff and
7 the Class members all earned and owed straight time and overtime wages and other benefits, in
8 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
9 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
10 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
11 employees to work through meal periods or remain under Defendants' control when they were
12 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
13 respond to demands from customers and management.

14 72. Therefore, Employees were not properly compensated, nor were they paid overtime
15 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
16 Based on information and belief, Defendants did not make available to Employees a reasonable
17 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
18 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
19 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
20 Class members to work through meal periods when they were required to be clocked out or to
21 otherwise work off the clock to complete their daily job duties.

22 73. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
23 regular wages owed and overtime compensation for all hours worked, as required by California
24 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
25 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
26 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

27 74. Additionally, Labor Code § 558(a) provides "any employer or other person acting
28 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any

1 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
2 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
3 pay period for which the employee was underpaid in addition to an amount sufficient to recover
4 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was underpaid in addition to an
6 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
7 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
8 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
9 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
10 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
11 Code § 558.

12 75. Defendants’ failure to pay compensation in a timely fashion also constituted a
13 violation of California Labor Code § 204, which requires that all wages shall be paid
14 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
15 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
16 and overtime compensation earned by Employees. Each such failure to make a timely payment of
17 compensation to Employees constitutes a separate violation of California Labor Code § 204.

18 76. Employees have been damaged by these violations of California Labor Code §§
19 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
20 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
21 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
22 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
23 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
24 any order or ruling of the commission.”

25 77. Consequently, pursuant to the California Labor Code, including Labor Code §§
26 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
27 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
28 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus

1 their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties
2 against Defendants, and each of them, and any additional sums as provided by the Labor Code
3 and/or other statutes.

4
5 **THIRD CAUSE OF ACTION**

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

7 **(Against All Defendants)**

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

10 79. Employees regularly worked shifts greater than five (5) hours and in some
11 instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the
12 applicable IWC Wage Order, an employer may not employ someone for a shift of more than five
13 (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or
14 for a shift of more than ten (10) hours without providing him or her with a second meal period of
15 not less than thirty (30) minutes.

16 80. Defendants failed to provide Employees with meal periods as required under the
17 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
18 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
19 provided them after Employees worked beyond the fifth hour of their shifts or Employees
20 otherwise had them shortened and interrupted by work demands and requirements to perform off
21 the clock work and remain under Defendants' control. Furthermore, upon information and belief,
22 on the occasions when Employees worked more than ten hours in a given shift, they did so
23 without receiving a second uninterrupted thirty-minute meal period as required by law.

24 81. Defendants thus failed to provide Plaintiff and the Class members with meal
25 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
26 including by not providing them with the opportunity to take meal breaks, by providing them late
27 or for less than thirty minutes, or by requiring them to perform work during breaks.

28 82. Moreover, Defendants failed to compensate Employees for each meal period not

1 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
2 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
3 employee a meal period in accordance with this section, the employer shall pay the employee one
4 hour of pay at the employee's regular rate of compensation for each workday that the meal period
5 is not provided. As detailed above, on the occasions when Defendants did pay any meal period
6 premiums, they upon information and belief underpaid them by miscalculating the regular rate of
7 compensation by not including all forms of remuneration in it. Defendants thus failed to
8 compensate the Employees for each meal period not provided or inadequately provided, as
9 required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

10 83. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
11 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
12 to one hour of wages at their effective hourly rates of pay for each meal period not provided or
13 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
14 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
15 other statutes and applicable IWC Wage Order paragraphs.

16 **FOURTH CAUSE OF ACTION**

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

18 **(Against All Defendants)**

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

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

24 86. Employees consistently worked consecutive four hour shifts and were generally
25 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
26 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
27 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
28 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest

1 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
2 to schedule or otherwise authorize and permit Plaintiff and the Class members to take lawful rest
3 breaks. Employees were often required to work or to otherwise remain under Defendants' control
4 during rest periods she was ever able to take, including by responding to work requirements, and
5 Defendants' prohibition from leaving the premises, and had breaks provided untimely as a result
6 of the above described off the clock work.

7 87. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
8 Orders provide that if an employer fails to provide an employee rest period in accordance with this
9 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
10 compensation for each workday that the rest period is not provided. Defendants failed to do so.

11 88. Defendants, and each of them, have therefore intentionally and improperly denied
12 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
13 paragraph 12 of the applicable IWC Wage Orders.

14 89. Defendants failed to authorize and permit Plaintiff and the Class members to take
15 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
16 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
17 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
18 12 and 20 of the applicable IWC Wage Orders.

19 90. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
20 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
21 of wages at their effective hourly rates of pay for each day worked without the required rest
22 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
23 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

24 **FIFTH CAUSE OF ACTION**

25 **FAILURE TO PAY REPORTING TIME PAY - WAGE ORDER 5-2001, 8 CCR § 11050(5)**

26 **(Against All Defendants)**

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

92. Wage Order 5-2001 provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” Cal. Code Regs., tit. 8, § 11050(5)(A).

93. As set forth herein, Employees were required to report for work and were sent home before half of their scheduled days' work. Defendants failed to pay Plaintiff and Employees for half of their scheduled days' work in violation of the applicable Wage Order.

94. As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff and the Class members have been damaged in that they have not been paid all required reporting time pay.

95. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 5(A-D), Defendants are liable to Employees for the full amount of all their unpaid wages, including reporting time pay, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

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

97. California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the

1 employer must give the employee these statements twice a month or each time wages are paid.

2 98. Defendants failed to provide Plaintiff and the similarly situated Employee Class
3 members with accurate itemized wage statements in writing, as required by the Labor Code and
4 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
5 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
6 including for all overtime and double time hours worked and for deficient meal periods and rest
7 breaks, all of which Defendants knew or reasonably should have known were owed to the
8 Employees, as alleged above.

9 99. Throughout the liability period, Defendants thus intentionally failed to furnish to
10 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
11 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
12 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
13 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
14 the employee and only the last four digits of his or her social security number or an employee
15 identification number other than a social security number, (8) the name and address of the legal
16 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
17 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
18 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
19 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
20 members with such timely and accurate wage and hour statements.

21 100. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
22 and intentional failure to provide them with the wage and hour statements as required by law and
23 are presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
24 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
25 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
26 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the
27 wage statement alone one or more of the following: (i) The amount of the gross wages or net
28 wages paid to the employee during the pay period or any of the other information required to be

1 provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of
2 subdivision (a), (ii) Which deductions the employer made from gross wages to determine the net
3 wages paid to the employee during the pay period, (iii) The name and address of the employer
4 and, (iv) The name of the employee and only the last four digits of his or her social security
5 number or an employee identification number other than a social security number. For purposes
6 of Labor Code § 226(e) “promptly and easily determine” means a reasonable person [i.e. an
7 objective standard] would be able to readily ascertain the information without reference to other
8 documents or information.

9 101. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
10 are required “to pay each employee, on the established payday for the period involved, not less
11 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
12 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
13 or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members
14 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
15 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20.

16 102. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
17 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
18 Class suffered injuries, including among other things confusion over whether they received all
19 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
20 them to make mathematical computations to analyze whether the wages paid in fact compensated
21 them correctly for all hours worked.

22 103. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
23 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
24 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
25 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
26 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
27 an award of costs and reasonable attorneys’ fees.
28

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 221
(Against All Defendants)

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

105. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay for all hours worked. Defendants failed to do so.

106. Defendants unlawfully received and/or collected wages from the Employees in the Class by requiring off the clock work and rounding, by miscalculating overtime, and by automatically deducting time for meal periods when they were not lawfully provided and not paying one hour of pay at the regular rate of compensation for every meal and rest period violation endured by Plaintiff and the other Class members, as alleged above. By not compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

107. As a direct and proximate cause of the unauthorized deductions, Employees have been damaged, in an amount to be determined at trial.

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

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

109. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day,

1 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
2 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
3 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
4 calendar days following the close of the payroll period.” As detailed above, Defendants
5 maintained a consistently applied policy and practice of not paying all wages earned between the
6 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
7 between the 16th and the last day of the month between the 1st and 10th day of the following month.
8 Defendants similarly failed to pay all wages earned by not more than seven calendar days
9 following the close of the payroll period.

10 110. All wages due and owing to Plaintiff and the Class members, including as required
11 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
12 required by Labor Code § 1194 and other sections became due and payable to each employee in
13 each pay period that he or she was not provided with a meal period or rest period or paid straight
14 or overtime wages to which he or she was entitled.

15 111. Defendants violated Labor Code § 204 by systematically refusing to timely pay
16 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
17 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
18 payday for the period involved, not less than the applicable minimum wage for all hours worked in
19 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
20 hours than those fixed by the order or under conditions of labor prohibited by the order is
21 unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for
22 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
23 penalties under paragraph 20 of the applicable IWC Wage Orders.

24 112. As a result of the unlawful acts of Defendants, Plaintiff and the Class they seek to
25 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
26 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
27 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
28 applicable IWC Wage Orders.

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

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

114. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

115. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation.

116. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment. Additionally, Defendants failed to timely pay Plaintiff all of their final wages at the end of their employment.

117. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

118. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer

1 hours than those fixed, or under conditions of labor prohibited by an order of the commission” or
2 if the employer pays “a wage less than the minimum fixed by an order of the commission” or
3 “violates...any provision of this chapter or any order or ruling of the commission.”

4 119. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
5 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
6 the IWC Wage Orders as addressed above, including the requirement that an employee’s wages
7 shall continue until paid for up to thirty (30) days from the date they were due.

8 **TENTH CAUSE OF ACTION**

9 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

10 **(Against All Defendants)**

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

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

17 122. During the course of Plaintiff and Employees’ employment, Defendants
18 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
19 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
20 premium pay as discussed above and failing to document and pay for actual hours worked.

21 123. Defendants are also required by the California Labor Code § 1198 and the
22 applicable Wage Order to maintain a tracking system that accurately records the times during
23 which Employees work.

24 124. Defendants have maintained a common unlawful policy and practice of failing to
25 accurately record all hours worked and all meal period start and end times and by adjusting or
26 otherwise rounding and shaving hours worked.

27 125. Defendants’ failure to pay wages, as alleged above, was willful in that Defendants
28 knew wages to be due but failed to pay them.

1 126. Accordingly, Defendants are liable for civil penalties pursuant to the California
2 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

3
4 **ELEVENTH CAUSE OF ACTION**
5 **FOR FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**
6 **UNDER LABOR CODE § 2802**
7 **(Against All Defendants)**

8 127. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
9 full herein.

10 128. Plaintiff is informed and believes and based thereon alleges that throughout the
11 period applicable, Defendants required Plaintiff and the Class members to pay for necessary work
12 related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred
13 in responding to communications from managers and in maintaining their work uniforms. Plaintiff
14 and the Class members must be reimbursed for these necessary business expenses under Labor
15 Code § 2802 and Defendants systematically failed to do so.

16 129. Defendants thus followed a uniform policy and practice of failing to reimburse
17 Employees for these necessary work related expenses or losses incurred in direct discharge of their
18 job duties during employment with Defendants and at the direction of the Defendants pursuant to
19 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

20 130. Defendants' knowing and willful failure to reimburse lawful necessary work related
21 expenses and losses to Plaintiff and the Class members resulted in damages because, among other
22 things, Defendants did not inform employees of their right to be reimbursed for those work related
23 expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard
24 to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and
25 necessary expenses was an expected and essential function of their employment with Defendants
26 and that failure to incur those expenses would have adverse consequences on their employment.

27 131. Therefore, Plaintiff and the Class members are entitled to reimbursement for any
28 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9

1 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
2 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
3 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
4 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

5 **TWELFTH CAUSE OF ACTION**
6 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***
7 **(Against All Defendants)**

8 132. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
9 in full herein. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
10 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
11 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
12 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
13 the public interest within the meaning of Code of Civil Procedure § 1021.5.

14 133. Plaintiff is a "person" within the meaning of Business & Professions Code
15 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
16 injunctive relief, restitution, and other appropriate equitable relief.

17 134. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
18 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
19 fraudulent in that Defendants' policy and practice failed to provide the required amount of
20 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
21 Class members for all hours worked, due to systematic business practices as alleged herein that
22 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
23 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
24 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
25 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

26 135. Wage-and-hour laws express fundamental public policies. Paying employees their
27 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
28 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State

1 vigorously to enforce minimum labor standards, to ensure that employees are not required or
2 permitted to work under substandard and unlawful conditions, and to protect law-abiding
3 employers and their employees from competitors who lower costs to themselves by failing to
4 comply with minimum labor standards.

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

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

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

17 139. By the conduct alleged herein, Defendants have engaged and continue to engage in
18 a business practice which violates California and federal law, including but not limited to, the
19 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
20 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
21 Court should issue declaratory and other equitable relief pursuant to California Business &
22 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
23 constitute unfair competition, including restitution of wages wrongfully withheld.

24 140. As a proximate result of the above-mentioned acts of Defendants, Employees have
25 been damaged, in a sum to be proven at trial.

26 141. Unless restrained by this Court, Defendants will continue to engage in such
27 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
28 should make such orders or judgments, including the appointment of a receiver, as may be

1 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
2 deceptive practice prohibited by the Business & Professions Code, including but not limited to
3 the disgorgement of such profits as may be necessary to restore Employees to the money
4 Defendants have unlawfully failed to pay.

5 **THIRTEENTH CAUSE OF ACTION**
6 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***
7 **(Against All Defendants)**

8 142. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
9 full herein. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full
10 herein.

11 143. Plaintiff and the Employees in the Class are also aggrieved employees as defined
12 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
13 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
14 period.

15 144. In failing to pay Aggrieved Employees minimum wages and overtime, not
16 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
17 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
18 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
19 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
20 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
21 paragraph 7 of the applicable IWC Wage Orders.

22 145. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
23 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5,
24 including the penalty provisions, without limitation, based, inter alia, on the following California
25 Labor Code sections: 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7, 246, 248.1,
26 248.2, 248.5, 510, 511, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2
27 1197, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 *et seq.*

28 146. More specifically, after complying with the notice procedures of Labor Code §

1 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
2 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
3 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
4 including as follows:

5 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
6 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
7 premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198,
8 and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all
9 civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2,
10 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to
11 Labor Code § 2699(g)(1);

12 (b) Meal, Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
13 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
14 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
15 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
16 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
17 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
18 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
19 pursuant to Labor Code § 2699(g)(1);

20 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
21 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
22 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
23 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
24 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
25 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
26 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
27 providing inaccurate wage statements and failing to maintain records as required under Labor
28 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor

Code §226.3, which in addition to other penalties provided by law, subjects Defendants to “a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”;

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201.1, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(e) Unlawful Deductions and Failure to Reimburse Business Expenses: For Defendants’ unlawful deductions from wages and for Defendants’ failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants’ failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(g) Failure to Pay Reporting Time Pay: For Defendants failure to provide Employees with all their required reporting time pay in violation of Wage Order 5-2001 and 8 § CCR 11050(5) and civil and statutory penalties available and applicable under Labor Code §§ 204, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1);

(h) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor

Code §§ 551, 552, 2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

147. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks the penalties and remedies set forth in Labor Code § 558, which states:

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

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

148. Plaintiff has exhausted his administrative remedies by submitting a certified letter to the LWDA and Defendants on January 27, 2025 (LWDA-CM-1075885-25) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work

1 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
2 the filing of this action, as may be proven;

3 3. For liquidated damages in the amount equal to the unpaid minimum wage and
4 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;

5 4. For compensatory damages in the amount of all unpaid wages, including overtime
6 and double-time pay, as may be proven;

7 5. For compensatory damages in the amount of the hourly wage made by Employees
8 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
9 years prior to the filing of this action, as may be proven;

10 6. For compensatory damages in the amount of the hourly wage made by Employees
11 for each day requisite rest breaks were not provided or were deficiently provided where no
12 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
13 be proven;

14 7. For compensatory damages in the amount of the hourly wage made by Employees
15 for shifts where no reporting time pay was paid from at least four (4) years prior to the filing of
16 this action, as may be proven;

17 8. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

18 9. For restitution and/or damages and penalties for Defendants' failure to pay all
19 wages due twice monthly under Labor Code § 204, as may be proven;

20 10. For restitution and/or damages for all amounts unlawfully withheld from the wages
21 for all class members in violation of Labor Code § 221, as may be proven;

22 11. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
23 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

24 12. For penalties pursuant to Labor Code § 1174.5, as may be proven;

25 13. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

26 14. For restitution for unfair competition pursuant to Business & Professions Code
27 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

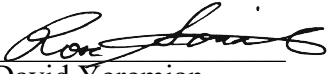
28 15. For an order enjoining Defendants and their agents, servants, and employees, and

all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;

16. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
17. For penalties under Labor Code § 558, as may be proven;
18. For other wages and penalties under the Labor Code as may be proven;
19. For all general, special, and incidental damages as may be proven;
20. For an award of pre-judgment and post-judgment interest;
21. For an award providing for the payment of the costs of this suit;
22. For an award of attorneys' fees; and
23. For such other and further relief as this Court may deem proper and just.

DATED: April 4, 2025

D.LAW, INC.

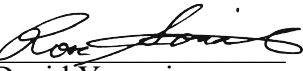
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Rose Sorial
Attorneys for Plaintiff
Deownte Rahsaan Abrams
and the putative class

DEMAND FOR JURY TRIAL

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

DATED: April 4, 2025

D.LAW, INC.

By: 
David Yeremian
Natalie Haritonian
Rose Sorial
Attorneys for Plaintiff
Deownte Rahsaan Abrams
and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd, Suite 840, Glendale, CA 91203.

On April 4, 2025, I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Jeff Ames

2535 Truxtun Rd, Suite 206
San Diego, CA 92106
Telephone: 619.374.0206

[] **(BY MAIL)** I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am "readily familiar" with this firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above

☐ **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 4, 2025, at Glendale, California.


Silvia Pimentel