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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **IN AND FOR THE COUNTY OF SAN MATEO**

9 CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on behalf of
herself and on behalf of all persons similarly situated,

11 Plaintiffs,

12 vs.

13 VITALANT, a Corporation; and DOES 1 through 50,
inclusive,

15 Defendants.

Case No. 22-CIV-03291

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

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
 2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
 3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
 4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
 5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
 6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
 7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
 8. FAILURE TO PAY SICK WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
 9. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [15 U.S.C. § 1681, *et seq.*];
 10. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO OBTAIN PROPER AUTHORIZATION [15 U.S.C. § 1681, *et seq.*]; and
 11. CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699, *et seq.* FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11040, SUBDIVISION 5(A)-(B), AND THE APPLICABLE WAGE ORDER(s).
- DEMAND FOR A JURY TRIAL**

Electronically

FILED

by Superior Court of California, County of San Mateo

ON

6/13/2023

By /s/ Ashlee Nelson
Deputy Clerk

1
2 Plaintiffs Chamarie Spears and Kathleen Leonard (collectively “PLAINTIFFS”), individuals, on behalf
3 of themselves and all other similarly situated current and former employees alleges on information and belief,
4 except for their own acts and knowledge which are based on personal knowledge, the following:

5
6 **THE PARTIES**

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

9 2. DEFENDANT is a founding member of the American Association of Blood Banks and was
10 involved in the creation of the America's Blood Centers consortium of nonprofit blood centers.

11 3. PLAINTIFF CHAMARIE SPEARS, was employed by DEFENDANT in California from July
12 of 2021 through May 23, 2023 and was at all times classified by DEFENDANT as a non-exempt employee, paid
13 on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and
14 overtime wages due for all time worked.

15 4. PLAINTIFF KATHLEEN LEONARD, was employed by DEFENDANT in California from May
16 2022 through September 2022 and at all times was classified by DEFENDANT as a non-exempt employee, paid
17 on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and
18 overtime wages due for all time worked.

19 5. PLAINTIFFS bring this Class Action on behalf of themselves and a California class, defined
20 as all individuals who are or previously were employed by DEFENDANT in California, including any
21 employees staffed with DEFENDANT by a third party, and classified as non-exempt employees (the
22 “CALIFORNIA CLASS”) during the period of August 11, 2018 to the earlier of preliminary approval or July
23 28, 2023 (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim of
24 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

25 6. PLAINTIFFS bring this Class Action on behalf of themselves and a CALIFORNIA CLASS in
26 order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS
27 PERIOD caused by DEFENDANT’s policy and practice which failed to lawfully compensate these employees.
28 DEFENDANT’s policy and practice alleged herein was an unlawful, unfair and deceptive business practice

1 whereby DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members of the
2 CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction
3 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and the other
4 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and
5 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

21 **THE CONDUCT**

22 9. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to
23 pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked, meaning the time during
24 which an employee is subject to the control of an employer, including all the time the employee is suffered or
25 permitted to work. DEFENDANT requires PLAINTIFFS and CALIFORNIA CLASS Members to work without
26 paying them for all the time they are under DEFENDANT's control. PLAINTIFFS and CALIFORNIA CLASS
27 Members worked off the clock with respect to time spent undergoing mandatory drug testing or any other testing
28 and/or examination required as a condition of employment. Additionally, DEFENDANT, as a matter of

1 established company policy and procedure, administers a uniform practice of rounding the actual time worked
2 and recorded by PLAINTIFFS and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT,
3 so that during the course of their employment, PLAINTIFFS and CALIFORNIA CLASS Members are paid less
4 than they would have been paid had they been paid for actual recorded time rather than “rounded” time.
5 Additionally, DEFENDANT engages in the practice of requiring PLAINTIFFS and CALIFORNIA CLASS
6 Members to perform work off the clocking that DEFENDANT, as a condition of employment, required these
7 employees to submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening
8 prior to clocking into DEFENDANT’s timekeeping system for the workday. As a result, PLAINTIFFS and other
9 CALIFORNIA CLASS Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks
10 by working without their time being correctly recorded and without compensation at the applicable rates.
11 DEFENDANT’s policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS Members for
12 all time worked, is evidenced by DEFENDANT’s business records.

13 10. State and federal law provides that employees must be paid overtime and meal and rest break
14 premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFFS and other CALIFORNIA CLASS
15 Members are compensated at an hourly rate plus incentive pay that is tied to specific elements of an employee’s
16 performance.

17 11. The second component of PLAINTIFFS’ and other CALIFORNIA CLASS Members’
18 compensation is DEFENDANT’s non-discretionary incentive program that paid PLAINTIFFS and other
19 CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANT. The non-
20 discretionary incentive program provided all employees paid on an hourly basis with incentive compensation
21 when the employees met the various performance goals set by DEFENDANT. However, when calculating the
22 regular rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFFS and other
23 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation as part of the
24 employees’ “regular rate of pay” for purposes of calculating overtime pay and meal and rest break premium pay.
25 Management and supervisors described the incentive program to potential and new employees as part of the
26 compensation package. As a matter of law, the incentive compensation received by PLAINTIFFS and other
27 CALIFORNIA CLASS Members must be included in the “regular rate of pay.” The failure to do so has resulted
28 in a underpayment of overtime compensation and meal and rest break premiums to PLAINTIFFS and other

1 CALIFORNIA CLASS Members by DEFENDANT.

2 12. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA CLASS
3 Members are from time to time unable to take thirty (30) minute off duty meal breaks and are not fully relieved
4 of duty for their meal periods. PLAINTIFFS and other CALIFORNIA CLASS Members are required from time
5 to time to perform work as ordered by DEFENDANT for more than five (5) hours during some shifts without
6 receiving a meal break. Further, DEFENDANT from time to time fails to provide PLAINTIFFS and
7 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which these
8 employees are required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engages in the
9 practice of rounding the meal period times to avoid paying penalties to PLAINTIFFS and other CALIFORNIA
10 CLASS Members. PLAINTIFFS and other members of the CALIFORNIA CLASS therefore forfeit meal breaks
11 without additional compensation and in accordance with DEFENDANT's corporate policy and practice.

12 13. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA CLASS
13 Members are also required from time to time to work in excess of four (4) hours without being provided ten (10)
14 minute rest periods. Further, these employees are denied their first rest periods of at least ten (10) minutes for
15 some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at
16 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a
17 first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more
18 from time to time. PLAINTIFFS and other CALIFORNIA CLASS Members are also not provided with one hour
19 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers to provide
20 employees with off-duty rest periods, which the California Supreme Court defined as time during which an
21 employee is relieved from all work related duties and free from employer control. In so doing, the Court held
22 that the requirement under California law that employers authorize and permit all employees to take rest period
23 means that employers must relieve employees of all duties and relinquish control over how employees spend
24 their time which includes control over the locations where employees may take their rest period. Employers
25 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out, five minutes back.
26 Here, DEFENDANT's policy restricts PLAINTIFFS and other CALIFORNIA CLASS Members from
27 unconstrained walks and is unlawful based on DEFENDANT's rule which states PLAINTIFFS and other
28 CALIFORNIA CLASS Members cannot leave the work premises during their rest period.

1 14. During the CALIFORNIA CLASS PERIOD, DEFENDANT fails to accurately record and pay
2 PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount of time these employees work.
3 Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is required to pay PLAINTIFFS
4 and other CALIFORNIA CLASS Members for all time worked, meaning the time during which an employee
5 was subject to the control of an employer, including all the time the employee was permitted or suffered to
6 permit this work. DEFENDANT requires these employees to work off the clock without paying them for all
7 the time they are under DEFENDANT's control. As such, DEFENDANT knew or should have known that
8 PLAINTIFFS and the other members of the CALIFORNIA CLASS are under compensated for all time worked.
9 As a result, PLAINTIFFS and other CALIFORNIA CLASS Members forfeit time worked by working without
10 their time being accurately recorded and without compensation at the applicable minimum wage and overtime
11 wage rates. To the extent that the time worked off the clock does not qualify for overtime premium payment,
12 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§
13 1194, 1197, and 1197.1.

14 15. From time to time, DEFENDANT also fails to provide PLAINTIFFS and the other members
15 of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other
16 things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that every employer shall furnish
17 each of his or her employees with an accurate itemized wage statement in writing showing, among other things,
18 gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount
19 of time worked at each hourly rate. Aside, from the violations listed above in this paragraph, DEFENDANT fails
20 to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor Code
21 226 *et seq.* As a result, DEFENDANT from time to time provides PLAINTIFFS and the other members of the
22 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

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

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

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

4 18. DEFENDANT underpays sick pay wages to PLAINTIFFS and other CALIFORNIA CLASS
5 Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code Section 246.
6 Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary remuneration, including
7 but not limited to, incentives, shift differential pay, and bonuses. Rather than pay sick pay at the regular rate
8 of pay, DEFENDANT underpays sick pay to PLAINTIFFS and other CALIFORNIA CLASS Members at their
9 base rates of pay.

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

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

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

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

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

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

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

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

1 PLAINTIFFS does not prevent PLAINTIFFS from being relieved of all of his duties for the legally required off-
2 duty meal periods. As a result, DEFENDANT's failure to provide PLAINTIFFS with the legally required meal
3 periods is evidenced by DEFENDANT's business records. The amount in controversy for PLAINTIFFS
4 individually does not exceed the sum or value of \$75,000.

5 26. The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.* ("FCRA") provides individuals with
6 a number of rights. Specifically, pertaining to employment-related background checks, the FCRA provides that
7 a prospective employee must give valid consent to the background check. The FCRA requires a signed
8 authorization and disclosure from the applicant, sometimes referred to as a "consent" form. The authorization
9 and disclosure form must be executed and signed by the applicant prior to an employer requesting or conducting
10 a background check. Importantly, no extraneous information can be attached or included on the consent form.
11 *The authorization and disclosure must stand alone.*

12 27. PLAINTIFFS sought employment with DEFENDANT in May of 2021 and May of 2022. In
13 connection with PLAINTIFFS' employment application, PLAINTIFFS completed DEFENDANT's standard
14 application materials. These application materials included a background check disclosure and authorization
15 form and included on the form was extraneous information as described herein. Following PLAINTIFFS'
16 submission of the employment application materials, DEFENDANT's third party conducted a background check
17 on PLAINTIFFS and PLAINTIFFS were hired to work for DEFENDANT.

18 28. The background check disclosure and authorization form disclosed that DEFENDANT intended
19 to conduct a background investigation on the applicant that would involve investigating the applicant's work
20 record, references and education.

21 29. Under the FCRA, it is unlawful to procure a consumer report or cause a consumer report to be
22 procured for employment purposes, unless:

- 23 (i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before
24 the report is procured or caused to be procured, ***in a document that consists solely of the***
25 ***disclosure***, that a consumer report may be obtained for employment purposes; and
26 (ii) the consumer has authorized in writing (which authorization may be made on the document
27 referred to in clause(I)) the procurement of the report.

28 15 U.S.C. §§ 1681b(b)(2)(A)(I)-(ii) (emphasis added).

30. After PLAINTIFF CHAMARIE SPEARS executed the background check disclosure and
authorization form in May of 2018, DEFENDANT obtained a consumer report on PLAINTIFFS notwithstanding

1 the fact that the background check disclosure and authorization form was invalid under the requirements of the
2 FCRA.

3 31. Although the disclosure required by clause (i) and the authorization required by clause (ii) may
4 be combined in a single document, the FTC has warned that “the form should not include any extraneous
5 information.”

6 32. By including the extraneous information described herein in its background check disclosure
7 and authorization form, DEFENDANT willfully disregarded the FTC’s regulatory guidance and violated 15
8 U.S.C. §§ 1681b(b)(2)(A).

9 33. In violation of 15 U.S.C. § 1681b(b)(2)(A)(I), DEFENDANT has unlawfully inserted extraneous
10 language, including but not limited to, multiple state-specific background check notices that do not relate to the
11 Fair Credit Reporting Act, notice and acknowledgment of the FCRA summary rights, and specific instructions
12 on how to request their files, into forms purporting to grant DEFENDANT and its third-party background
13 checking company the authority to obtain and use consumer report information for employment purposes. The
14 FCRA prohibits this practice and requires that forms granting the authority to access and use consumer report
15 information for employment purposes be stand alone forms, and not include any additional information or
16 agreements. DEFENDANT’s form is contrary to the plain language of the statute and unambiguous regulatory
17 guidance from the Federal Trade Commission (“FTC”).

18 19 JURISDICTION AND VENUE

20 34. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure,
21 Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as a Class
22 Action on behalf of PLAINTIFFS and similarly situated employees of DEFENDANT pursuant to Cal. Code of
23 Civ. Proc. § 382. The Court also has Jurisdiction under the FCRA. (15 U.S.C. §§ 1681n, 1681p.).

24 35. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and
25 395.5, because PLAINTIFFS worked in this County for DEFENDANT and DEFENDANT (i) currently
26 maintains and at all relevant times maintained offices and facilities in this County and/or conducts substantial
27 business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members
28 of the CALIFORNIA CLASS.

THE CALIFORNIA CLASS

36. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by DEFENDANT in California, including any employees staffed with DEFENDANT by a third party, and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

40. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS Members is impracticable.

41. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law by:

- 1 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof. Code §§
2 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having in place
3 company policies, practices and procedures that failed to record and pay PLAINTIFFS
4 and the other members of the CALIFORNIA CLASS for all time worked, including
5 minimum wages owed and overtime wages owed for work performed by these
6 employees; and,
- 7 (b) Committing an act of unfair competition in violation of the UCL, by failing to provide
8 the PLAINTIFFS and the other members of the CALIFORNIA CLASS with the legally
9 required meal and rest periods.

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

- 12 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the joinder
13 of all such persons is impracticable and the disposition of their claims as a class will
14 benefit the parties and the Court;
- 15 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
16 raised in this Complaint are common to the CALIFORNIA CLASS will apply to every
17 member of the CALIFORNIA CLASS;
- 18 (c) The claims of the representative PLAINTIFFS are typical of the claims of each
19 member of the CALIFORNIA CLASS. PLAINTIFFS, like all the other members of
20 the CALIFORNIA CLASS, was classified as a non-exempt employee paid on an hourly
21 basis who was subjected to the DEFENDANT's deceptive practice and policy which
22 failed to provide the legally required meal and rest periods to the CALIFORNIA
23 CLASS and thereby underpaid compensation to PLAINTIFFS and CALIFORNIA
24 CLASS. PLAINTIFFS sustained economic injury as a result of DEFENDANT's
25 employment practices. PLAINTIFFS and the members of the CALIFORNIA CLASS
26 were and are similarly or identically harmed by the same unlawful, deceptive and
27 unfair misconduct engaged in by DEFENDANT; and,
- 28 (d) The representative PLAINTIFFS will fairly and adequately represent and protect the

1 interest of the CALIFORNIA CLASS, and has retained counsel who are competent and
2 experienced in Class Action litigation. There are no material conflicts between the
3 claims of the representative PLAINTIFFS and the members of the CALIFORNIA
4 CLASS that would make class certification inappropriate. Counsel for the
5 CALIFORNIA CLASS will vigorously assert the claims of all CALIFORNIA CLASS
6 Members.

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

9 (a) Without class certification and determination of declaratory, injunctive, statutory and
10 other legal questions within the class format, prosecution of separate actions by
11 individual members of the CALIFORNIA CLASS will create the risk of:

12 1) Inconsistent or varying adjudications with respect to individual members of the
13 CALIFORNIA CLASS which would establish incompatible standards of
14 conduct for the parties opposing the CALIFORNIA CLASS; and/or,

15 2) Adjudication with respect to individual members of the CALIFORNIA
16 CLASS which would as a practical matter be dispositive of interests of the
17 other members not party to the adjudication or substantially impair or impede
18 their ability to protect their interests.

19 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on
20 grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-
21 wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT
22 failed to pay all wages due to members of the CALIFORNIA CLASS as required by
23 law;

24 1) With respect to the First Cause of Action, the final relief on behalf of the
25 CALIFORNIA CLASS sought does not relate exclusively to restitution
26 because through this claim PLAINTIFFS seek declaratory relief holding that
27 the DEFENDANT's policy and practices constitute unfair competition, along
28 with declaratory relief, injunctive relief, and incidental equitable relief as may

1 be necessary to prevent and remedy the conduct declared to constitute unfair
2 competition;

3 (c) Common questions of law and fact exist as to the members of the CALIFORNIA
4 CLASS, with respect to the practices and violations of California law as listed above,
5 and predominate over any question affecting only individual CALIFORNIA CLASS
6 Members, and a Class Action is superior to other available methods for the fair and
7 efficient adjudication of the controversy, including consideration of:

8 1) The interests of the members of the CALIFORNIA CLASS in individually
9 controlling the prosecution or defense of separate actions in that the
10 substantial expense of individual actions will be avoided to recover the
11 relatively small amount of economic losses sustained by the individual
12 CALIFORNIA CLASS Members when compared to the substantial expense
13 and burden of individual prosecution of this litigation;

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

16 A. Inconsistent or varying adjudications with respect to individual
17 members of the CALIFORNIA CLASS, which would establish
18 incompatible standards of conduct for the DEFENDANT; and/or,

19 B. Adjudications with respect to individual members of the
20 CALIFORNIA CLASS would as a practical matter be dispositive of
21 the interests of the other members not parties to the adjudication or
22 substantially impair or impede their ability to protect their interests;

23 3) In the context of wage litigation because a substantial number of individual
24 CALIFORNIA CLASS Members will avoid asserting their legal rights out of
25 fear of retaliation by DEFENDANT, which may adversely affect an
26 individual's job with DEFENDANT or with a subsequent employer, the Class
27 Action is the only means to assert their claims through a representative; and,

28 4) A class action is superior to other available methods for the fair and efficient

1 adjudication of this litigation because class treatment will obviate the need for
2 unduly and unnecessary duplicative litigation that is likely to result in the
3 absence of certification of this action pursuant to Cal. Code of Civ. Proc. §
4 382.

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

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

CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA CLASS as a whole;

(h) The members of the CALIFORNIA CLASS are readily ascertainable from the business records of DEFENDANT; and,

(i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

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

THE CALIFORNIA LABOR SUB-CLASS

46. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth causes Action on behalf of a California sub-class, defined as all members of the CALIFORNIA CLASS who are or previously were employed by DEFENDANT in California, including any employees staffed with DEFENDANT by a third party, and classified as non exempt employees (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior to the filing of the complaint and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

47. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate compensation for the time worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the

1 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS
2 PERIOD should be adjusted accordingly.

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

7 49. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all CALIFORNIA
8 LABOR SUB-CLASS Members is impracticable.

9 50. Common questions of law and fact exist as to members of the CALIFORNIA LABOR SUB-
10 CLASS, including, but not limited, to the following:

- 11 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay compensation
12 due to members of the CALIFORNIA LABOR SUB-CLASS for missed meal and rest
13 breaks in violation of the California Labor Code and California regulations and the
14 applicable California Wage Order;
- 15 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other members of
16 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- 17 (c) Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;
- 18 (d) The proper measure of damages and penalties owed to the members of the
19 CALIFORNIA LABOR SUB-CLASS; and,
- 20 (e) Whether DEFENDANT's conduct was willful.

21 51. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California
22 law by:

- 23 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFFS and the
24 members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime
25 worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;
- 26 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay
27 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS the correct
28 minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§

1194 and 1197;

- (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing the corresponding correct amount of wages earned by the employee;
- (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required off-duty rest breaks;
- (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee is discharged or quits from employment, the employer must pay the employee all wages due without abatement, by failing to tender full payment and/or restitution of wages owed or in the manner required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment; and,
- (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the discharge of their job duties.

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

- (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will apply to every member of the CALIFORNIA LABOR SUB-CLASS;
- (c) The claims of the representative PLAINTIFFS are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee

1 paid on an hourly basis who was subjected to the DEFENDANT's practice and policy
2 which failed to pay the correct amount of wages due to the CALIFORNIA LABOR
3 SUB-CLASS. PLAINTIFFS sustained economic injury as a result of DEFENDANT's
4 employment practices. PLAINTIFFS and the members of the CALIFORNIA LABOR
5 SUB-CLASS were and are similarly or identically harmed by the same unlawful,
6 deceptive, and unfair misconduct engaged in by DEFENDANT; and,

- 7 (d) The representative PLAINTIFFS will fairly and adequately represent and protect the
8 interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel who are
9 competent and experienced in Class Action litigation. There are no material conflicts
10 between the claims of the representative PLAINTIFFS and the members of the
11 CALIFORNIA LABOR SUB-CLASS that would make class certification
12 inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
13 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

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

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

- 20 1) Inconsistent or varying adjudications with respect to individual members of the
21 CALIFORNIA LABOR SUB-CLASS which would establish incompatible
22 standards of conduct for the parties opposing the CALIFORNIA LABOR
23 SUB-CLASS; or,
24 2) Adjudication with respect to individual members of the CALIFORNIA
25 LABOR SUB-CLASS which would as a practical matter be dispositive of
26 interests of the other members not party to the adjudication or substantially
27 impair or impede their ability to protect their interests.

- 28 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or refused

1 to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS,
2 making appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-
3 CLASS as a whole in that DEFENDANT fails to pay all wages due. Including the
4 correct wages for all time worked by the members of the CALIFORNIA LABOR SUB-
5 CLASS as required by law;

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

12 1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in
13 individually controlling the prosecution or defense of separate actions in that
14 the substantial expense of individual actions will be avoided to recover the
15 relatively small amount of economic losses sustained by the individual
16 CALIFORNIA LABOR SUB-CLASS Members when compared to the
17 substantial expense and burden of individual prosecution of this litigation;

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

20 A. Inconsistent or varying adjudications with respect to individual
21 members of the CALIFORNIA LABOR SUB-CLASS, which would
22 establish incompatible standards of conduct for the DEFENDANT;
23 and/or,

24 B. Adjudications with respect to individual members of the
25 CALIFORNIA LABOR SUB-CLASS would as a practical matter be
26 dispositive of the interests of the other members not parties to the
27 adjudication or substantially impair or impede their ability to protect
28 their interests;

- 1 3) In the context of wage litigation because a substantial number of individual
2 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal
3 rights out of fear of retaliation by DEFENDANT, which may adversely affect
4 an individual's job with DEFENDANT or with a subsequent employer, the
5 Class Action is the only means to assert their claims through a representative;
6 and,
7 4) A class action is superior to other available methods for the fair and efficient
8 adjudication of this litigation because class treatment will obviate the need for
9 unduly and unnecessary duplicative litigation that is likely to result in the
10 absence of certification of this action pursuant to Cal. Code of Civ. Proc. §
11 382.

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

- 14 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS
15 predominate over any question affecting only individual CALIFORNIA LABOR SUB-
16 CLASS Members;
17 (b) A Class Action is superior to any other available method for the fair and efficient
18 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS
19 because in the context of employment litigation a substantial number of individual
20 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights
21 individually out of fear of retaliation or adverse impact on their employment;
22 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is
23 impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before
24 the Court;
25 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will not
26 be able to obtain effective and economic legal redress unless the action is maintained
27 as a Class Action;
28 (e) There is a community of interest in obtaining appropriate legal and equitable relief for

1 the acts of unfair competition, statutory violations and other improprieties, and in
2 obtaining adequate compensation for the damages and injuries which DEFENDANT's
3 actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

4 (f) There is a community of interest in ensuring that the combined assets of DEFENDANT
5 are sufficient to adequately compensate the members of the CALIFORNIA LABOR
6 SUB-CLASS for the injuries sustained;

7 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
8 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
9 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;

10 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable
11 from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-
12 CLASS consists of all CALIFORNIA CLASS Members who worked for
13 DEFENDANT in California at any time during the CALIFORNIA LABOR SUB-
14 CLASS PERIOD; and,

15 (i) Class treatment provides manageable judicial treatment calculated to bring a efficient
16 and rapid conclusion to all litigation of all wage and hour related claims arising out of
17 the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-
18 CLASS.

19
20 **THE FCRA CLASS ALLEGATIONS**

21 55. PLAINTIFFS bring the Ninth and Tenth Causes of Action pursuant to Cal. Code of Civ. Proc.
22 § 382, on behalf of a nationwide Class, defined as all employees or prospective employees of DEFENDANT
23 in the United States who executed DEFENDANT's standard FCRA disclosure form (the "FCRA CLASS") at
24 any time during the period beginning on the date five (5) years prior to the filing of this Complaint and ending
25 on the date as determined by the Court (the "FCRA CLASS PERIOD"). The amount in controversy for the
26 aggregate claim of FCRA CLASS Members is under five million dollars (\$5,000,000.00).

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

1 57. DEFENDANT, as a matter of corporate policy, practice and procedure, and in violation of The
2 Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, intentionally, knowingly, and wilfully, engaged in a practice
3 whereby DEFENDANT uniformly, unfairly, unlawfully, and deceptively instituted a practice of obtaining
4 consumer reports without valid authorization to do so.

5 58. The FCRA CLASS is so numerous that joinder of all FCRA CLASS Members is impracticable.

6 59. DEFENDANT uniformly violated the rights of the FCRA CLASS by:

7 (a) Violating The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.*, by unlawfully,
8 unfairly and/or deceptively having in place company policies, practices and procedures
9 that uniformly obtained credit reports on prospective employees without first obtaining
10 valid authorization consent forms.

11 60. Common questions of law and fact exist as to members of the FCRA CLASS, including, but
12 not limited, to the following:

- 13 (a) Whether DEFENDANT required the FCRA CLASS Members to sign a background
14 check disclosure and authorization form;
15 (b) Whether DEFENDANT's background check disclosure and authorization form
16 complies with the Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.* ("FCRA");
17 (c) Whether DEFENDANT violated the FCRA by including extraneous information in its
18 background check disclosure and authorization form; and,
19 (d) Whether DEFENDANT violated the FCRA by procuring consumer report information
20 based on invalid authorizations;
21 (e) Whether DEFENDANT's violations of the FCRA were willful;
22 (f) The proper measure of statutory damages and punitive damages; and,
23 (g) The proper form of injunctive and declaratory relief.

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

- 26 (a) The persons who comprise the FCRA CLASS are so numerous that the joinder of all
27 such persons is impracticable and the disposition of their claims as a class will benefit
28 the parties and the Court;

- 1 (b) Nearly all factual, legal, statutory, and declaratory relief issues that are raised in this
2 Complaint are common to the FCRA CLASS will apply uniformly to every member
3 of the FCRA CLASS;
- 4 (c) The claims of the representative PLAINTIFFS are typical of the claims of each
5 member of the FCRA CLASS. PLAINTIFFS, like all the other members of the FCRA
6 CLASS, had a credit report obtained on his behalf by DEFENDANT prior to obtaining
7 valid authorization to do so in violation of the FCRA as described herein.
8 PLAINTIFFS and the members of the FCRA CLASS were and are similarly or
9 identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of
10 misconduct engaged in by DEFENDANT; and,
- 11 (d) The representative PLAINTIFFS will fairly and adequately represent and protect the
12 interest of the FCRA CLASS, and has retained counsel who are competent and
13 experienced in Class Action litigation. There are no material conflicts between the
14 claims of the representative PLAINTIFFS and the members of the FCRA CLASS that
15 would make class certification inappropriate. Counsel for the FCRA CLASS will
16 vigorously assert the claims of all employees in the FCRA CLASS.

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

- 19 (a) Without class certification and determination of declaratory, statutory and other legal
20 questions within the class format, prosecution of separate actions by individual
21 members of the FCRA CLASS will create the risk of:
- 22 1) Inconsistent or varying adjudications with respect to individual members of the
23 FCRA CLASS which would establish incompatible standards of conduct for
24 the parties opposing the FCRA CLASS; and/or,
- 25 2) Adjudication with respect to individual members of the FCRA CLASS which
26 would as a practical matter be dispositive of interests of the other members not
27 party to the adjudication or substantially impair or impede their ability to
28 protect their interests.

- 1 (b) The parties opposing the FCRA CLASS have acted or refused to act on grounds
2 generally applicable to the FCRA CLASS, making appropriate class-wide relief with
3 respect to the FCRA CLASS as a whole;
- 4 (c) Common questions of law and fact exist as to the members of the FCRA CLASS, with
5 respect to the practices and violations of the FCRA as listed above, and predominate
6 over any question affecting only individual FCRA CLASS Members, and a Class
7 Action is superior to other available methods for the fair and efficient adjudication of
8 the controversy, including consideration of:
- 9 1) The interests of the members of the FCRA CLASS in individually controlling
10 the prosecution or defense of separate actions in that the substantial expense
11 of individual actions will be avoided to recover the relatively small amount of
12 economic losses sustained by the individual FCRA CLASS Members when
13 compared to the substantial expense and burden of individual prosecution of
14 this litigation;
- 15 2) Class certification will obviate the need for unduly duplicative litigation that
16 would create the risk of:
- 17 A. Inconsistent or varying adjudications with respect to individual
18 members of the FCRA CLASS, which would establish incompatible
19 standards of conduct for DEFENDANT; and/or,
- 20 B. Adjudications with respect to individual members of the FCRA
21 CLASS would as a practical matter be dispositive of the interests of
22 the other members not parties to the adjudication or substantially
23 impair or impede their ability to protect their interests;
- 24 3) In the context of employment litigation because as a practical matter a
25 substantial number of individual FCRA CLASS Members will avoid asserting
26 their legal rights out of fear of retaliation by DEFENDANT, which may
27 adversely affect an individual's job with DEFENDANT or with a subsequent
28 employer, the Class Action is the only means to assert their claims through a

1 representative; and,

- 2 4) A Class Action is superior to other available methods for the fair and efficient
3 adjudication of this litigation because class treatment will obviate the need for
4 unduly and unnecessary duplicative litigation that is likely to result in the
5 absence of certification of this Action pursuant to Cal. Code of Civ. Proc. §
6 382.

7 63. This Court should permit this Action to be maintained as a Class Action pursuant to Cal. Code
8 of Civ. Proc. § 382, because:

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

(g) DEFENDANT has acted or refused to act on grounds generally applicable to the FCRA CLASS, thereby making final class-wide relief appropriate with respect to the FCRA CLASS as a whole;

(h) The members of the FCRA CLASS are readily ascertainable from the business records of DEFENDANT. The FCRA CLASS consists of all employees or prospective employees of DEFENDANT in the United States who executed DEFENDANT's standard FCRA disclosure form allowing DEFENDANT to obtain a consumer report during the FCRA CLASS PERIOD; and,

(i) Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all FCRA claims arising out of the conduct of DEFENDANT as to the members of the FCRA CLASS.

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

FIRST CAUSE OF ACTION

For Unlawful Business Practices

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

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

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

66. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof. Code § 17021.

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments,

1 including the appointment of a receiver, as may be necessary to prevent the use or employment
2 by any person of any practice which constitutes unfair competition, as defined in this chapter,
or as may be necessary to restore to any person in interest any money or property, real or
personal, which may have been acquired by means of such unfair competition.

3 Cal. Bus. & Prof. Code § 17203.

4 68. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a
5 business practice which violates California law, including but not limited to, the applicable Industrial Wage
6 Order(s), the California Code of Regulations and the California Labor Code including Sections 204, 210, 221,
7 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and federal regulations
8 promulgated thereunder, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
9 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
10 competition, including restitution of wages wrongfully withheld.

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

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

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

1 72. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
2 deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally required meal
3 breaks to PLAINTIFFS and the other members of the CALIFORNIA CLASS as required by Cal. Lab. Code §§
4 226.7 and 512.

5 73 Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each CALIFORNIA
6 CLASS Member, one (1) hour of pay for each workday in which an off-duty meal period was not timely
7 provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in which a second off-
8 duty meal period was not timely provided for each ten (10) hours of work.

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

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

17 74. All the acts described herein as violations of, among other things, the Industrial Welfare
18 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were unlawful
19 and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were deceptive, and
20 thereby constitute unlawful, unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§
21 17200, *et seq.*

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

27 76. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further entitled to, and
28 do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and that

1 injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and unfair business
2 practices in the future.

3 77 PLAINTIFFS and the other members of the CALIFORNIA CLASS have no plain, speedy and/or
4 adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT. Further, the
5 practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business
6 practices described herein, PLAINTIFFS and the other members of the CALIFORNIA CLASS have suffered
7 and will continue to suffer irreparable legal and economic harm unless DEFENDANT is restrained from
8 continuing to engage in these unlawful and unfair business practices.

9
10 **SECOND CAUSE OF ACTION**

11 **For Failure To Pay Minimum Wages**

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

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

14 **and Against All Defendants)**

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

17
18 79. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim
19 for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare
20 Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum wages to
21 PLAINTIFFS and CALIFORNIA CLASS Members.

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

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

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

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

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

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

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

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

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

27 89. DEFENDANT knew or should have known that PLAINTIFFS and the other
28 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked.

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

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

12 91 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS therefore
13 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of
14 any statutory penalties against DEFENDANT, in a sum as provided by the California Labor Code and/or other
15 applicable statutes. To the extent minimum wage compensation is determined to be owed to the CALIFORNIA
16 LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's conduct also violates
17 Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties
18 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-
19 CLASS Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
20 Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
21 statutory costs.

22 **THIRD CAUSE OF ACTION**

23 **For Failure To Pay Overtime Compensation**

24 **[Cal. Lab. Code § 510]**

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

26 92. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and
27 incorporate by this reference, as though full set forth herein, the prior paragraphs of this Complaint.
28

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

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

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

11 96. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including
12 minimum wage and overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code
13 § 1198 further states that the employment of an employee for longer hours than those fixed by the Industrial
14 Welfare Commission is unlawful.

15 97. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
16 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by DEFENDANT to work
17 for DEFENDANT and were not paid for all the time they worked, including overtime work.

18 98. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable
19 to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and practice that
20 failed to accurately record overtime worked by PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
21 Members and denied accurate compensation to PLAINTIFFS and the other members of the CALIFORNIA
22 LABOR SUB-CLASS for overtime worked, including, the overtime work performed in excess of eight (8) hours
23 in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

24 99. In committing these violations of the California Labor Code, DEFENDANT inaccurately
25 recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFFS and other
26 CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an illegal attempt to avoid the payment
27 of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
28 Commission requirements and other applicable laws and regulations.

1 100. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, the
2 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive full
3 compensation for overtime worked.

4 101. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
5 from the overtime requirements of the law. None of these exemptions are applicable to the PLAINTIFFS and
6 the other members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFFS and the other members
7 of the CALIFORNIA LABOR SUB-CLASS were not subject to a valid collective bargaining agreement that
8 would preclude the causes of action contained herein this Complaint. Rather, PLAINTIFFS brings this Action
9 on behalf of herself and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-
10 negotiable, non-waiveable rights provided by the State of California.

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

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

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

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

1 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

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

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

19 **FOURTH CAUSE OF ACTION**

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

21 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

25 109. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time failed to provide
26 all the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA LABOR SUB-
27 CLASS Members as required by the applicable Wage Order and Labor Code. The nature of the work performed
28

1 by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS MEMBERS did not prevent these employees from
2 being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous
3 work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from time to time
4 not fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to
5 provide PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal breaks
6 prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business records from time to time.
7 Further, DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-
8 duty meal period in some workdays in which these employees were required by DEFENDANT to work ten (10)
9 hours of work from time to time. As a result, PLAINTIFFS and other members of the CALIFORNIA LABOR
10 SUB-CLASS therefore forfeited meal breaks without additional compensation and in accordance with
11 DEFENDANT's strict corporate policy and practice.

12 110. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable IWC Wage
13 Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members who were
14 not provided a meal period, in accordance with the applicable Wage Order, one additional hour of compensation
15 at each employee's regular rate of pay for each workday that a meal period was not provided.

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

19 **FIFTH CAUSE OF ACTION**

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

21 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

25 113. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from time to time
26 required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these
27 employees from time to time were denied their first rest periods of at least ten (10) minutes for some shifts
28 worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some

1 shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10)
2 minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other
3 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in lieu thereof.
4 As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
5 Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

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

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

13 **SIXTH CAUSE OF ACTION**

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

15 **[Cal. Lab. Code § 226]**

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

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

19 117. Cal. Labor Code § 226 provides that an employer must furnish employees with
20 an "accurate itemized" statement in writing showing:

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

118. From time to time, DEFENDANT also fails to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. Aside, from the violations listed above in this paragraph, DEFENDANT fails to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provides PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code § 226.

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

SEVENTH CAUSE OF ACTION

For Failure to Reimburse Employees for Required Expenses

[Cal. Lab. Code § 2802]

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

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

1 121. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

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

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

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1 **EIGHTH CAUSE OF ACTION**

2 **For Failure to Pay Sick Pay Wages**

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

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

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

9 125. Cal Lab. Code § 233 provides that an employer must permit an employee to
10 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate of
11 entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of accrued
12 sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is used as paid sick
13 time, an employee has a vested right to sick pay wages, which an employer must calculate and compensate
14 based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the
15 same manner as the regular rate of pay for the workweek in which the employee uses paid sick time,
16 whether or not the employee actually works overtime in that workweek," or (ii) "Paid sick time for
17 nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime
18 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of
19 employment." Under Cal Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay
20 wages as damages.

21 126. As a matter of policy and practice, DEFENDANT pays sick pay wages to
22 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS at the incorrect rate of
23 pay. PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS regularly use
24 accrued sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter of
25 policy and practice, DEFENDANT pays sick pay wages to PLAINTIFFS and the other members of the
26 CALIFORNIA LABOR-SUB-CLASS at the base hourly pay, as opposed to the regular rate of pay, which
27 would consider all non-hourly remuneration in addition to base hourly wages, or the rate resulting from
28 dividing the employee's total wages, not including overtime premium pay, by the employee's total hours
worked in the full pay periods of the prior 90 days of employment. As a result, DEFENDANT underpaid

1 sick pay wages to PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS.

2 127. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
3 during each calendar month and are to be paid no later than the payday for the next regular payroll period.
4 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of accrued
5 sick leave, vested sick pay wages are due and to be paid no later than the payday for the next regular payroll
6 period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code § 201 provides that if an
7 employer discharges an employee, wages earned and unpaid at the time of discharge are due and payable
8 immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive all unpaid wages no later
9 than 72 hours after an employee quits his or her employment, unless the employee has given 72-hour notice
10 of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
11 quitting. The Labor Code penalizes untimely payments. For example, Cal. Lab. Code § 203 provides that if
12 an employer willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-202, then the
13 wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the
14 wages shall not continue for more than thirty (30) days. Likewise, Cal. Lab. Code § 210 provides penalties
15 for violations of Cal. Lab. Code § 204 and untimely payments during employment. Under Cal. Lab. Code
16 §§ 203, 210 and 218, employees may sue to recover applicable penalties.

17 128. As alleged herein and as a matter of policy and practice, DEFENDANT
18 routinely underpays sick pay wages and thus did not timely pay PLAINTIFFS and the other members of the
19 CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result, DEFENDANT
20 violates Cal. Lab. Code §§ 201-204, 210, 233, and 246, among other Labor Code provisions. PLAINTIFFS
21 is informed and believes that DEFENDANT was advised by skilled lawyers and knew, or should have
22 known, of the mandates of the Labor Code as it relates to PLAINTIFFS' allegations, especially since the
23 California Supreme Court has explained that "[c]ourts have recognized that 'wages' also include those
24 benefits to which an employee is entitled as a part of his or her compensation, including money, room,
25 board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103
26 (2007)(emphasis added). Because DEFENDANT willfully fails to timely pay PLAINTIFFS and the other
27 members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to
28 applicable penalties.

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

NINTH CAUSE OF ACTION

For Failure to Make Proper Disclosure in Violation of the FCRA

[15 U.S.C. § 1681b(b)(2)(A)(I), *et seq.*]

(By PLAINTIFFS and the FCRA CLASS and Against All Defendants)

130. PLAINTIFFS, and the other members of the FCRA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

131. DEFENDANT violated 15 U.S.C. § 1681b(b)(2)(A)(I) of the FCRA by including extraneous information, including language pertaining to additional state law notices in DEFENDANT's background check disclosure and authorization form that PLAINTIFFS and other FCRA CLASS Members were required to execute as a condition of employment with DEFENDANT.

132. The violations of the FCRA were willful. DEFENDANT knew that its background check disclosure and authorization form should not include extraneous information that is prohibited by the FCRA, and acted in deliberate disregard of its obligations and the rights of PLAINTIFFS and other FCRA CLASS Members under 15 U.S.C. § 1681b(b)(2)(A)(I).

133. PLAINTIFFS and the other FCRA CLASS Members are entitled to statutory damages of not less than \$100 and not more than \$1,000 for every violation of the FCRA, pursuant to 15 U.S.C. § 1681n(a)(1)(A).

134. PLAINTIFFS and FCRA CLASS Members are also entitled to punitive damages for these violations, pursuant to 15 U.S.C. § 1681n(a)(2).

135. PLAINTIFFS and FCRA CLASS Members are further entitled to recover their costs and attorneys' fees, pursuant to 15 U.S.C. § 1681n(a)(3).

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1 enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law
2 enforcement action designed to protect the public and not to benefit private parties. The purpose of the
3 PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private
4 attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that
5 "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover
6 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be
7 subject to arbitration.

8 144. PLAINTIFF, CHAMARIE SPEARS, and such persons that may be added from time to time
9 who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General
10 Act, brings this Representative Action on behalf of the State of California with respect to herself and all
11 individuals who are or previously were employed by DEFENDANT in California, including any employees
12 staffed with DEFENDANT by a third party, and classified as non-exempt employees ("AGGRIEVED
13 EMPLOYEES") during the time period of June 29, 2021 to the earlier of preliminary approval or July 28,
14 2023 (the "PAGA PERIOD").

15 145. On June 29, 2022, PLAINTIFF CHAMARIE SPEARS, gave written notice by electronic
16 mail to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the employer
17 of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3.
18 The statutory waiting period for PLAINTIFF CHAMARIE SPEARS, to add these allegations to the
19 Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF, CHAMARIE SPEARS, may
20 now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State
21 of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

22 146. The policies, acts and practices heretofore described were and are an unlawful business act
23 or practice because DEFENDANT (a) failed to provide PLAINTIFF CHAMARIE SPEARS, and the
24 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and provide
25 legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay overtime wages
26 and sick pay wages, and (e) failed to reimburse employees for required expenses, all in violation of the
27 applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a),
28 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title

8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF CHAMARIE SPEARS, and the AGGRIEVED EMPLOYEES.

147. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF, CHAMARIE SPEARS seeks penalties for those violations that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 30 Cal.App.5th 504 (2018)

PRAYER FOR RELIEF

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

1. On behalf of the CALIFORNIA CLASS:

- A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFFS and the other members of the CALIFORNIA CLASS; and,
- D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and to the other members of the CALIFORNIA CLASS.

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

- A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of

¹Plaintiff specifically excludes and/or does not allege any claims under California Labor Code §558(a)(3).

1 Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Cal.
2 Code of Civ. Proc. § 382;

3 B) Compensatory damages, according to proof at trial, including compensatory damages for
4 minimum, overtime and sick pay compensation due PLAINTIFFS and the other members of
5 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-
6 CLASS PERIOD plus interest thereon at the statutory rate;

7 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
8 violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA
9 LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an
10 aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal.
11 Lab. Code § 226;

12 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable
13 IWC Wage Order;

14 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197; and,

15 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA LABOR
16 SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit.

17 3. On behalf of the FCRA CLASS:

18 A) That the Court certify the Ninth and Tenth Causes of Action asserted by the FCRA CLASS as
19 a Class Action pursuant to Cal. Code of Civ. Proc. § 382;

20 B) A determination and judgment that DEFENDANT willfully violated the 15 U.S.C. §
21 1681(b)(2)(A)(I) and(ii) of the FCRA by improperly including extraneous information in its
22 background check disclosure and authorization form and by obtaining consumer reports on
23 PLAINTIFFS and FCRA CLASS Members without having proper authorization to do so;

24 C) Pursuant to 15 U.S.C. § 1681n(a)(1)(A), an award of statutory damages to PLAINTIFFS and
25 the members of the FCRA CLASS in an amount equal to \$1,000 for each PLAINTIFFS and
26 each FCRA CLASS Member for DEFENDANT's willful violation of the FCRA:

27 D) Pursuant to 15 U.S.C. § 1681n(a)(2), an award of punitive damages to PLAINTIFFS and other
28 FCRA CLASS Members;

- 1 E) An award for costs of suit and reasonable attorneys' fees pursuant to 15 U.S.C. § 1681n(a)(3);
2 and,
3 F) Such other and further relief as the Court deems just and equitable.
- 4 4. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 5 A) Recovery of civil penalties as prescribed by the Labor Code Private
6 Attorneys General Act of 2004; and,
7 B) An award of attorneys' fees and cost of suit, as allowable under the
8 law, including, but not limited to, pursuant to Labor Code §2699.
- 9 5. On all claims:
- 10 A) An award of interest, including prejudgment interest at the legal rate;
11 B) Such other and further relief as the Court deems just and equitable; and,
12 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including,
13 but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

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17 Dated: June 13, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

19 By: /s/ Nicholas J. De Blouw
Nicholas J. De Blouw
Attorneys for Plaintiff

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DEMAND FOR A JURY TRIAL

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

Dated: June 13, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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