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Superior Court of California

County of Sonoma

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

DORIS VANESSA JACOBY, an individual,
on behalf of herself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

NORCAL HEALTHCONNECT, LLC, a
Limited Liability Company; and DOES 1
through 50, inclusive,

Defendants.

Case No. SCV-271141

**SECOND AMENDED CLASS 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 PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246
10. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [15 U.S.C. § 1681, *et seq.*];
11. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO OBTAIN PROPER AUTHORIZATION [15 U.S.C. § 1681, *et seq.*];
12. VIOLATION OF THE INVESTIGATIVE CONSUMER REPORTING AGENCIES ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [California Civil Code § 1786, *et seq.*];
13. VIOLATION OF THE CONSUMER CREDIT REPORTING AGENCIES ACT FOR FAILURE TO OBTAIN PROPER DISCLOSURES [California Civil Code § 1785, *et seq.*]; and,
14. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, *et seq.*]

DEMAND FOR A JURY TRIAL

1 Plaintiff Doris Vanessa Jacoby (“PLAINTIFF”), an individual, on behalf of herself and all other
2 similarly situated current and former employees alleges on information and belief, except for her own
3 acts and knowledge which are based on personal knowledge, the following:

4
5 **THE PARTIES**

6 1. Defendant Norcal Healthconnect, LLC is a limited liability company that at all relevant
7 times mentioned herein conducted and continues to conduct substantial business in the state of
8 California.

9 2. DEFENDANT owns and operates hospitals in Northern California.

10 3. PLAINTIFF was employed by DEFENDANT in California from January of 2022 to
11 April 29, 2022 and was at all times classified by DEFENDANT as a non-exempt employee, paid on
12 an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and
13 overtime wages due for all time worked.

14 4. PLAINTIFF brings this Class Action on behalf of herself and a California class, defined
15 as all individuals who are or previously were employed by DEFENDANT in California, including any
16 employees staffed with DEFENDANT by a third party, and classified as non-exempt employees (the
17 “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of
18 this Complaint and ending on the date as determined by the Court (the “CALIFORNIA CLASS
19 PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members
20 is under five million dollars (\$5,000,000.00).

21 5. During the employment application process PLAINTIFF executed the background check
22 disclosure and authorization form in December of 2021 permitting DEFENDANT to have a third-party
23 obtain a consumer report, which form included, among other things, extraneous information pertaining
24 to the background check to be “all encompassing,” and additional state law notices.

25 6. The Fair Credit Reporting Act 15 U.S.C. § 1681, *et seq.* (“FCRA”), Investigative
26 Consumer Reporting Agencies Act Cal. Civ. Code § 1786, *et seq.* (“ICRAA”), and the Consumer Credit
27 Reporting Agencies Act Cal. Civ. Code § 1785, *et seq.* (“CCRAA”), provide individuals with a number
28 of rights. Specifically, pertaining to employment-related background checks, the FCRA, ICRAA, and

1 CCRAA provide that a prospective employee must give valid consent to the background check. The
2 FCRA, ICRAA, and CCRAA require a signed authorization and disclosure from the applicant,
3 sometimes referred to as a “consent” form. The authorization and disclosure form must be executed
4 and signed by the applicant prior to an employer requesting or conducting a background check.
5 Importantly, no extraneous information can be attached or included on the consent form. *The*
6 *authorization and disclosure must stand alone.*

7 7. PLAINTIFF also brings this Class Action on behalf of herself and a nationwide class,
8 defined as all employees or prospective employees of DEFENDANT in the United States who executed
9 DEFENDANT’s standard background check disclosure form (the “FCRA CLASS”) at any time during
10 the period beginning on the date five (5) years prior to the filing of this Complaint and ending on the
11 date as determined by the Court (the “FCRA CLASS PERIOD”). The amount in controversy for the
12 aggregate claim of FCRA CLASS Members is under five million dollars (\$5,000,000.00).

13 8. PLAINTIFF also brings this Class Action on behalf of herself and a California class,
14 defined as all persons in California who executed DEFENDANT’s standard background check
15 disclosure form (the “ICRAA CLASS”) at any time during the period beginning five (5) years prior to
16 the filing of this Complaint and ending on the date as determined by the Court (the “ICRAA CLASS
17 PERIOD”). The amount in controversy for the aggregate claim of ICRAA CLASS Members is under
18 five million dollars (\$5,000,000.00).

19 9. PLAINTIFF also brings this Class Action on behalf of herself and a California class,
20 defined as all persons in California who executed DEFENDANT’s standard background check
21 disclosure form that were not provided a valid written notice compliant with the terms of Cal. Civ.
22 Code § 1785.20.5(a) (the “CCRAA Class”) at any time during the period beginning seven (7) years
23 prior to the filing of this Complaint and ending on the date as determined by the Court (the “CCRAA
24 CLASS PERIOD”). The amount in controversy for the aggregate claim of CCRAA CLASS Members
25 is under five million dollars (\$5,000,000.00).

26 10. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA CLASS
27 in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the
28 CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which failed to

1 lawfully compensate these employees. DEFENDANT's policy and practice alleged herein was an
2 unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to
3 retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and
4 the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by
5 DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the
6 CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current
7 unlawful conduct, and all other appropriate legal and equitable relief.

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

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

23 24 THE CONDUCT

25 13. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
26 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning
27 the time during which an employee is subject to the control of an employer, including all the time the
28 employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF and CALIFORNIA

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

21 14. State and federal law provides that employees must be paid overtime and meal and rest
22 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and other
23 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to
24 specific elements of an employee's performance.

25 15. The second component of PLAINTIFF's and other CALIFORNIA CLASS Members'
26 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFF and other
27 CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANT. The
28 non-discretionary incentive program provided all employees paid on an hourly basis with incentive

1 compensation when the employees met the various performance goals set by DEFENDANT. However,
2 when calculating the regular rate of pay in order to pay overtime and meal and rest break premiums to
3 PLAINTIFF and other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
4 compensation as part of the employees' "regular rate of pay" for purposes of calculating overtime pay
5 and meal and rest break premium pay. Management and supervisors described the incentive program
6 to potential and new employees as part of the compensation package. As a matter of law, the incentive
7 compensation received by PLAINTIFF and other CALIFORNIA CLASS Members must be included
8 in the "regular rate of pay." The failure to do so has resulted in a underpayment of overtime
9 compensation and meal and rest break premiums to PLAINTIFF and other CALIFORNIA CLASS
10 Members by DEFENDANT.

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

22 17. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA
23 CLASS Members were also required from time to time to work in excess of four (4) hours without
24 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
25 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time
26 to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six
27 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10)
28 minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other

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

13 18. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately record
14 and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount of time these
15 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
16 required to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, meaning
17 the time during which an employee was subject to the control of an employer, including all the time the
18 employee was permitted or suffered to permit this work. DEFENDANT required these employees to
19 work off the clock without paying them for all the time they were under DEFENDANT's control. As
20 such, DEFENDANT knew or should have known that PLAINTIFF and the other members of the
21 CALIFORNIA CLASS were under compensated for all time worked. As a result, PLAINTIFF and
22 other CALIFORNIA CLASS Members forfeited time worked by working without their time being
23 accurately recorded and without compensation at the applicable minimum wage and overtime wage
24 rates. To the extent that the time worked off the clock does not qualify for overtime premium payment,
25 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab.
26 Code §§ 1194, 1197, and 1197.1.

27 19. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other
28 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to

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

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

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

28 21. DEFENDANT from time to time failed to pay PLAINTIFF and members of the
CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll period
in accordance with Cal. Lab. Code § 204(d), including but not limited to for the “Hourly” regular wage
payments.

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

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

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

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

20 26. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to collect
21 or receive from an employee any part of wages theretofore paid by said employer to said employee."
22 DEFENDANT failed to pay all compensation due to PLAINTIFF and other CALIFORNIA LABOR
23 SUB-CLASS Members, made unlawful deductions from compensation payable to PLAINTIFF and
24 CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all aspects of the deductions from
25 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, and thereby
26 failed to pay these employees all wages due at each applicable pay period and upon termination.
27 PLAINTIFF and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
28 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

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

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

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

1 evidenced by DEFENDANT's business records. The amount in controversy for PLAINTIFF
2 individually does not exceed the sum or value of \$75,000.

3 30. In violation of 15 U.S.C. § 1681b(b)(2)(A)(I), Cal. Civ. Code § 1786.16(a)(2), and Cal.
4 Civ. Code § 1785.20.5(a), DEFENDANT has unlawfully inserted extraneous language, including but
5 not limited to, additional state law notices that do not relate to the Fair Credit Reporting Act, as well
6 as extraneous language that does not relate to the ICRAA and CCRAA. DEFENDANT included the
7 additional state law notices and extraneous language into its form purporting to grant DEFENDANT
8 and its third-party background checking company the authority to obtain and use consumer report
9 information for employment purposes. The FCRA, ICRAA, and CCRAA prohibit this practice and
10 require that the form granting the authority to access and use consumer report information for
11 employment purposes be a stand alone form, and not include any additional information or agreements.
12 DEFENDANT's form is contrary to the plain language of the statute and unambiguous regulatory
13 guidance from the Federal Trade Commission ("FTC"), ICRAA, and CCRAA.

14 31. In violation of 15 U.S.C. § 1681b(b)(2)(A)(ii), Cal. Civ. Code § 1786.16(a)(2), and Cal.
15 Civ. Code § 1785.20.5(a), DEFENDANT has obtained consumer reports without proper authorization
16 because the authorization and disclosure form signed by PLAINTIFF in December of 2021 and other
17 members of the FCRA CLASS, ICRAA CLASS, and CCRAA CLASS failed to comply with the
18 requirements of the FCRA, ICRAA, and CCRAA. The inclusion of, including but not limited to,
19 additional state law notices and other extraneous language in DEFENDANT's disclosure and
20 authorization form invalidates the purported consent and also triggers statutory damages under the
21 FCRA in the amount of up to \$1,000, and under the ICRAA in the amount of \$10,000, for each
22 applicant that DEFENDANT obtained a consumer report without a facially valid authorization or proper
23 disclosures, as well as actual damages, punitive damages, equitable relief, and attorneys' fees and costs.

24 32. The background check disclosure and authorization form disclosed that DEFENDANT
25 intended to conduct a background investigation on the applicant that would involve investigating the
26 applicant's work record, references and education.
27
28

1 33. The inclusion of the extraneous information in the background check disclosure and
2 authorization form violates the FCRA, 15 U.S.C. § 1681, *et seq.*, ICRAA, Cal. Civ. Code § 1786, *et*
3 *seq.*, and CCRAA, Cal. Civ. Code § 1785, *et seq.*

4 34. Under the FCRA, it is unlawful to procure a consumer report or cause a consumer
5 report to be procured for employment purposes, unless:

6 (i) a clear and conspicuous disclosure has been made in writing to the consumer at any
7 time before the report is procured or caused to be procured, ***in a document that***
8 ***consists solely of the disclosure***, that a consumer report may be obtained for
9 employment purposes; and

10 (ii) the consumer has authorized in writing (which authorization may be made on the
11 document referred to in clause(I)) the procurement of the report.

12 15 U.S.C. §§ 1681b(b)(2)(A)(I)-(ii) (emphasis added).

13 35. Under the ICRAA, it is unlawful to procure a consumer report or cause a consumer
14 report to be procured for employment purposes, unless:

15 (B) The person procuring or causing the report to be made provides a ***clear and***
16 ***conspicuous*** disclosure in writing to the consumer at any time before the report is procured or
caused to be made ***in a document that consists solely of the disclosure***, that:

- 17 (i) An investigative consumer report may be obtained.
18 (ii) The permissible purpose of the report is identified.
19 (iii) The disclosure may include information on the consumer's character,
20 general reputation, personal characteristics, and mode of living.
21 (iv) Identifies the ***name, address, and telephone number of the investigative***
22 ***consumer reporting agency*** conducting the investigation.
23 (v) Notifies the consumer in writing of the nature and scope of the
24 investigation requested, including the provisions of Section 1786.22.
25 (vi) ***Notifies the consumer of the Internet Web site address of the***
26 ***investigative consumer reporting agency*** identifies in clause (iv), or, ***if the***
27 ***agency has no Internet Web site address, the telephone number of the***
28 ***agency***, where the consumer may find information about the investigative
reporting agency's privacy practices, including whether the consumer's
personal information will be sent outside the United States or its territories
and information that complies with subdivision (d) of Section 1786.20. This
clause shall become operative on January 1, 2012.

 (C) The consumer has authorized in writing the procurement of the report Cal. Civ.
Code 1786.16(a)(2) (emphasis added).

36. Under the CCRAA, it is unlawful to procure a consumer report or cause a consumer
report to be procured for employment purposes, unless:

1 Prior to requesting a consumer credit report for employment purposes, the user of the
2 report shall provide written notice to the person involved. The notice shall inform the
3 person that a report will be used, and *shall identify the specific basis under
subdivision (a) of Section 1024.5 of the Labor Code for use of the report. The
notice shall also inform the person of the source of the report. . . .*

4 Cal. Civ. Code 1785.20.5(a) of the CCRAA (emphasis added).

5 37. After PLAINTIFF executed the background check disclosure and authorization form,
6 DEFENDANT obtained a consumer report on PLAINTIFF notwithstanding the fact that the
7 background check disclosure and authorization form was invalid under the requirements of the
8 FCRA, ICRAA, and CCRAA.

9 38. Although the disclosure and the authorization form required by the FCRA and
10 ICRAA may be combined in a single document, federal and state laws delineated herein have
11 warned that the form should not include any extraneous information. Further, the federal and state
12 laws delineated herein have also specifically warned that the inclusion of such extraneous
13 information in a disclosure form will violate Section 604(b)(2)(A) of the FCRA [15 U.S.C. §§
14 1681b(b)(2)(A)], Cal. Civ. Code § 1786.16(a)(2), and/or Cal. Civ. Code § 1785.20.5(a), which
15 require that a disclosure consist solely of the disclosure that a consumer report may be obtained for
16 employment purposes.

17 39. By including additional state law notices and the “all Encompassing” extraneous
18 information in its background check disclosure and authorization form, DEFENDANT willfully
19 disregarded the FTC’s regulatory guidance and violated 15 U.S.C. §§ 1681b(b)(2)(A), as well Cal.
20 Civ. Code § 1786.16(a)(2) and Cal. Civ. Code § 1785.20.5(a).

21 JURISDICTION AND VENUE

22
23 40. This Court has jurisdiction over this Action pursuant to California Code of Civil
24 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action
25 is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
26 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

27 41. Venue is proper in this Court pursuant to California Code of Civil Procedure,
28 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and

1 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in
2 this County and/or conducts substantial business in this County, and (ii) committed the wrongful
3 conduct herein alleged in this County against members of the CALIFORNIA CLASS.

4
5 **THE CALIFORNIA CLASS**

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

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

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

24 45. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
25 CLASS Member was paid accurately for all meal and rest breaks missed as required by California
26 laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place
27 during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to
28 ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This

1 common business practice is applicable to each and every CALIFORNIA CLASS Member can be
2 adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business &
3 Professions Code §§ 17200, *et seq.* (the "UCL") as causation, damages, and reliance are not
4 elements of this claim.

5 46. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
6 CLASS Members is impracticable.

7 47. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
8 by:

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

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

- 20 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that
21 the joinder of all such persons is impracticable and the disposition of their
22 claims as a class will benefit the parties and the Court;
23 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
24 are raised in this Complaint are common to the CALIFORNIA CLASS will
25 apply to every member of the CALIFORNIA CLASS;
26 (c) The claims of the representative PLAINTIFF are typical of the claims of each
27 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other
28 members of the CALIFORNIA CLASS, was classified as a non-exempt

1 employee paid on an hourly basis who was subjected to the DEFENDANT's
2 deceptive practice and policy which failed to provide the legally required
3 meal and rest periods to the CALIFORNIA CLASS and thereby underpaid
4 compensation to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF
5 sustained economic injury as a result of DEFENDANT's employment
6 practices. PLAINTIFF and the members of the CALIFORNIA CLASS were
7 and are similarly or identically harmed by the same unlawful, deceptive and
8 unfair misconduct engaged in by DEFENDANT; and,

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

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

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

- 22 1) Inconsistent or varying adjudications with respect to individual
23 members of the CALIFORNIA CLASS which would establish
24 incompatible standards of conduct for the parties opposing the
25 CALIFORNIA CLASS; and/or,
26 2) Adjudication with respect to individual members of the
27 CALIFORNIA CLASS which would as a practical matter be
28 dispositive of interests of the other members not party to the

1 adjudication or substantially impair or impede their ability to protect
2 their interests.

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

8 1) With respect to the First Cause of Action, the final relief on behalf of
9 the CALIFORNIA CLASS sought does not relate exclusively to
10 restitution because through this claim PLAINTIFF seeks declaratory
11 relief holding that the DEFENDANT's policy and practices constitute
12 unfair competition, along with declaratory relief, injunctive relief,
13 and incidental equitable relief as may be necessary to prevent and
14 remedy the conduct declared to constitute unfair competition;

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

21 1) The interests of the members of the CALIFORNIA CLASS in
22 individually controlling the prosecution or defense of separate actions
23 in that the substantial expense of individual actions will be avoided to
24 recover the relatively small amount of economic losses sustained by
25 the individual CALIFORNIA CLASS Members when compared to
26 the substantial expense and burden of individual prosecution of this
27 litigation;
28

- 1 2) Class certification will obviate the need for unduly duplicative
2 litigation that would create the risk of:
- 3 A. Inconsistent or varying adjudications with respect to
4 individual members of the CALIFORNIA CLASS, which
5 would establish incompatible standards of conduct for the
6 DEFENDANT; and/or,
- 7 B. Adjudications with respect to individual members of the
8 CALIFORNIA CLASS would as a practical matter be
9 dispositive of the interests of the other members not parties to
10 the adjudication or substantially impair or impede their ability
11 to protect their interests;
- 12 3) In the context of wage litigation because a substantial number of
13 individual CALIFORNIA CLASS Members will avoid asserting their
14 legal rights out of fear of retaliation by DEFENDANT, which may
15 adversely affect an individual's job with DEFENDANT or with a
16 subsequent employer, the Class Action is the only means to assert
17 their claims through a representative; and,
- 18 4) A class action is superior to other available methods for the fair and
19 efficient adjudication of this litigation because class treatment will
20 obviate the need for unduly and unnecessary duplicative litigation that
21 is likely to result in the absence of certification of this action pursuant
22 to Cal. Code of Civ. Proc. § 382.

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

- 25 (a) The questions of law and fact common to the CALIFORNIA CLASS
26 predominate over any question affecting only individual CALIFORNIA
27 CLASS Members because the DEFENDANT's employment practices are
28 applied with respect to the CALIFORNIA CLASS;

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

1 claims arising out of the conduct of DEFENDANT as to the members of the
2 CALIFORNIA CLASS.

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

8
9 **THE CALIFORNIA LABOR SUB-CLASS**

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

19 53. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
20 Commission ("IWC") Wage Order requirements, and the applicable provisions of California law,
21 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to
22 correctly calculate compensation for the time worked by PLAINTIFF and the other members of the
23 CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even
24 though DEFENDANT enjoyed the benefit of this work, required employees to perform this work
25 and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA
26 LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly
27 cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims
28

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

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

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

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

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

24 57. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under
25 California law by:

- 26 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF
27 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due
28

1 for overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab.
2 Code § 1194;

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

7 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate
9 itemized statement in writing showing the corresponding correct amount of
10 wages earned by the employee;

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

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

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

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

26 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
27 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
28

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 PLAINTIFF are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's practice and policy which failed to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT; and,

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

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

- 1 (a) Without class certification and determination of declaratory, injunctive,
2 statutory and other legal questions within the class format, prosecution of
3 separate actions by individual members of the CALIFORNIA LABOR SUB-
4 CLASS will create the risk of:
- 5 1) Inconsistent or varying adjudications with respect to individual
6 members of the CALIFORNIA LABOR SUB-CLASS which would
7 establish incompatible standards of conduct for the parties opposing
8 the CALIFORNIA LABOR SUB-CLASS; or,
- 9 2) Adjudication with respect to individual members of the
10 CALIFORNIA LABOR SUB-CLASS which would as a practical
11 matter be dispositive of interests of the other members not party to the
12 adjudication or substantially impair or impede their ability to protect
13 their interests.
- 14 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
15 refused to act on grounds generally applicable to the CALIFORNIA LABOR
16 SUB-CLASS, making appropriate class-wide relief with respect to the
17 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT fails
18 to pay all wages due. Including the correct wages for all time worked by the
19 members of the CALIFORNIA LABOR SUB-CLASS as required by law;
- 20 (c) Common questions of law and fact predominate as to the members of the
21 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
22 violations of California Law as listed above, and predominate over any
23 question affecting only individual CALIFORNIA LABOR SUB-CLASS
24 Members, and a Class Action is superior to other available methods for the
25 fair and efficient adjudication of the controversy, including consideration of:
- 26 1) The interests of the members of the CALIFORNIA LABOR SUB-
27 CLASS in individually controlling the prosecution or defense of
28 separate actions in that the substantial expense of individual actions

will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;

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

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

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

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

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

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

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

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

10
11 **THE FCRA CLASS ALLEGATIONS**

12 61. PLAINTIFF brings the Tenth and Eleventh Causes of Action pursuant to Cal. Code
13 of Civ. Proc. § 382, on behalf of a nationwide Class, defined as all employees or prospective
14 employees of DEFENDANT in the United States who executed DEFENDANT's standard
15 background check disclosure form (the "FCRA CLASS") at any time during the period beginning
16 on the date five (5) years prior to the filing of this Complaint and ending on the date as determined
17 by the Court (the "FCRA CLASS PERIOD"). The amount in controversy for the aggregate claim of
18 FCRA CLASS Members is under five million dollars (\$5,000,000.00). To the extent equitable
19 tolling operates to toll claims by the FCRA CLASS against DEFENDANT, the FCRA CLASS
20 PERIOD should be adjusted accordingly.

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

25 63. The FCRA CLASS is so numerous that joinder of all FCRA CLASS Members is
26 impracticable.

27 64. DEFENDANT uniformly violated the rights of the FCRA CLASS by:
28

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

6 65. Common questions of law and fact exist as to members of the FCRA CLASS,
7 including, but not limited, to the following:

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

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

- 22 (a) The persons who comprise the FCRA CLASS are so numerous that the
23 joinder of all such persons is impracticable and the disposition of their claims
24 as a class will benefit the parties and the Court;
25 (b) Nearly all factual, legal, statutory, and declaratory relief issues that are raised
26 in this Complaint are common to the FCRA CLASS will apply uniformly to
27 every member of the FCRA CLASS;
28

1 (c) The claims of the representative PLAINTIFF are typical of the claims of each
2 member of the FCRA CLASS. PLAINTIFF, like all the other members of the
3 FCRA CLASS, had a credit report obtained on their behalf by DEFENDANT
4 prior to obtaining valid authorization to do so in violation of the FCRA as
5 described herein. PLAINTIFF and the members of the FCRA CLASS were
6 and are similarly or identically harmed by the same unlawful, deceptive,
7 unfair and pervasive pattern of misconduct engaged in by DEFENDANT;
8 and,

9 (d) The representative PLAINTIFF will fairly and adequately represent and
10 protect the interest of the FCRA CLASS, and has retained counsel who are
11 competent and experienced in Class Action litigation. There are no material
12 conflicts between the claims of the representative PLAINTIFF and the
13 members of the FCRA CLASS that would make class certification
14 inappropriate. Counsel for the FCRA CLASS will vigorously assert the
15 claims of all employees in the FCRA CLASS.

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

18 (a) Without class certification and determination of declaratory, statutory and
19 other legal questions within the class format, prosecution of separate actions
20 by individual members of the FCRA CLASS will create the risk of:

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

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

1 asserting their legal rights out of fear of retaliation by DEFENDANT,
2 which may adversely affect an individual's job with DEFENDANT or
3 with a subsequent employer, the Class Action is the only means to
4 assert their claims through a representative; and,

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

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

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

obtaining adequate compensation for the injuries which DEFENDANT's actions have inflicted upon the FCRA CLASS;

- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the FCRA CLASS for the 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.

69. 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. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of similarly situated employees when they have been identified.

THE ICRAA CLASS

70. PLAINTIFF brings the Twelfth Cause of Action pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a statewide California Class, defined as all persons in California who executed DEFENDANT's standard background check disclosure form (the "ICRAA CLASS") at any time during the period beginning five (5) years prior to the filing of this Complaint and ending on the

1 date as determined by the Court (the “ICRAA CLASS PERIOD”). To the extent equitable tolling
2 operates to toll claims by the ICRAA CLASS against DEFENDANT, the ICRAA CLASS PERIOD
3 should be adjusted accordingly. The amount in controversy for the aggregate claim of ICRAA
4 CLASS Members is under five million dollars (\$5,000,000.00).

5 71. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
6 violation of Investigative Consumer Reporting Agencies Act Cal. Civ. Code § 1786, *et seq.*,
7 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT uniformly,
8 unfairly, unlawfully, and deceptively instituted a practice of obtaining consumer reports without
9 valid authorization to do so.

10 72. The ICRAA CLASS is so numerous that joinder of all ICRAA CLASS Members is
11 impracticable.

12 73. DEFENDANT uniformly violated the rights of the ICRAA CLASS by:

- 13 (a) Violating Investigative Consumer Reporting Agencies Act Cal. Civ. Code §
14 1786, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
15 company policies, practices and procedures that uniformly obtained credit
16 reports on without first obtaining valid authorization consent form.

17 74. Common questions of law and fact exist as to members of the ICRAA CLASS,
18 including, but not limited, to the following:

- 19 (a) Whether DEFENDANT required the ICRAA CLASS Members to sign a
20 background check disclosure and authorization form;
21 (b) Whether DEFENDANT’s background check disclosure and authorization
22 form complies with the Investigative Consumer Reporting Agencies Act Cal.
23 Civ. Code § 1786, *et seq.*;
24 (c) Whether DEFENDANT violated the ICRAA by including extraneous
25 information in its background check disclosure and authorization form;
26 (d) Whether DEFENDANT violated the ICRAA by procuring consumer report
27 information based on invalid authorizations;
28 (e) Whether DEFENDANT’s violations of the ICRAA were willful;

1 (f) The proper measure of statutory damages and punitive damages; and,

2 (g) The proper form of injunctive and declaratory relief.

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

5 (a) The persons who comprise the ICRAA CLASS are so numerous that the
6 joinder of all such persons is impracticable and the disposition of their claims
7 as a class will benefit the parties and the Court;

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

11 (c) The claims of the representative PLAINTIFF are typical of the claims of each
12 member of the ICRAA CLASS. PLAINTIFF, like all the other members of
13 the ICRAA CLASS, had a credit report and background check obtained on
14 PLAINTIFF's behalf by DEFENDANT prior to obtaining valid authorization
15 to do so in violation of the ICRAA as described herein. PLAINTIFF and the
16 members of the ICRAA CLASS were and are similarly or identically harmed
17 by the same unlawful, deceptive, unfair and pervasive pattern of misconduct
18 engaged in by DEFENDANT; and,

19 (d) The representative PLAINTIFF will fairly and adequately represent and
20 protect the interest of the ICRAA CLASS, and has retained counsel who are
21 competent and experienced in Class Action litigation. There are no material
22 conflicts between the claims of the representative PLAINTIFF and the
23 members of the ICRAA CLASS that would make class certification
24 inappropriate. Counsel for the ICRAA CLASS will vigorously assert the
25 claims of all ICRAA CLASS members.

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

- 1 (a) Without class certification and determination of declaratory, statutory and
2 other legal questions within the class format, prosecution of separate actions
3 by individual members of the ICRAA CLASS will create the risk of:
- 4 1) Inconsistent or varying adjudications with respect to individual
5 members of the ICRAA CLASS which would establish incompatible
6 standards of conduct for the parties opposing the CLASS; and/or,
7 2) Adjudication with respect to individual members of the ICRAA
8 CLASS which would as a practical matter be dispositive of interests
9 of the other members not party to the adjudication or substantially
10 impair or impede their ability to protect their interests.
- 11 (b) The parties opposing the ICRAA CLASS have acted or refused to act on
12 grounds generally applicable to the ICRAA CLASS, making appropriate
13 class-wide relief with respect to the ICRAA CLASS as a whole; and
- 14 (c) Common questions of law and fact exist as to the members of the ICRAA
15 CLASS, with respect to the practices and violations of the ICRAA as listed
16 above, and predominate over any question affecting only individual ICRAA
17 CLASS Members, and a Class Action is superior to other available methods
18 for the fair and efficient adjudication of the controversy, including
19 consideration of:
- 20 1) The interests of the members of the ICRAA CLASS in individually
21 controlling the prosecution or defense of separate actions in that the
22 substantial expense of individual actions will be avoided to recover
23 the relatively small amount of economic losses sustained by the
24 individual ICRAA CLASS Members when compared to the
25 substantial expense and burden of individual prosecution of this
26 litigation;
- 27 2) Class certification will obviate the need for unduly duplicative
28 litigation that would create the risk of:

- 1 A. Inconsistent or varying adjudications with respect to
2 individual members of the ICRAA CLASS, which would
3 establish incompatible standards of conduct for
4 DEFENDANT; and/or,
- 5 B. Adjudications with respect to individual members of the
6 ICRAA CLASS would as a practical matter be dispositive of
7 the interests of the other members not parties to the
8 adjudication or substantially impair or impede their ability to
9 protect their interests;
- 10 3) In the context of employment litigation because as a practical matter a
11 substantial number of individual ICRAA CLASS Members will avoid
12 asserting their legal rights out of fear of retaliation by DEFENDANT,
13 which may adversely affect an individual's job with DEFENDANT or
14 with a subsequent employer, the Class Action is the only means to
15 assert their claims through a representative; and,
- 16 4) A Class Action is superior to other available methods for the fair and
17 efficient adjudication of this litigation because class treatment will
18 obviate the need for unduly and unnecessary duplicative litigation that
19 is likely to result in the absence of certification of this Action
20 pursuant to Cal. Code of Civ. Proc. § 382.

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

- 23 (a) The questions of law and fact common to the ICRAA CLASS predominate
24 over any question affecting only individual ICRAA CLASS Members
25 because DEFENDANT's employment practices were uniform and
26 systematically applied with respect to the ICRAA CLASS;
- 27 (b) A Class Action is superior to any other available method for the fair and
28 efficient adjudication of the claims of the members of the ICRAA CLASS

1 because in the context of employment litigation a substantial number of
2 individual ICRAA CLASS Members will avoid asserting their rights
3 individually out of fear of retaliation or adverse impact on their employment;
4 (c) The members of the ICRAA CLASS are so numerous that it is impractical to
5 bring all members of the ICRAA CLASS before the Court;
6 (d) PLAINTIFF, and the other ICRAA CLASS Members, will not be able to
7 obtain effective and economic legal redress unless the action is maintained as
8 a Class Action;
9 (e) There is a community of interest in obtaining appropriate legal and equitable
10 relief for the acts of statutory violations and other improprieties, and in
11 obtaining adequate compensation for the injuries which DEFENDANT's
12 actions have inflicted upon the ICRAA CLASS;
13 (f) There is a community of interest in ensuring that the combined assets of
14 DEFENDANT are sufficient to adequately compensate the members of the
15 CLASS for the injuries sustained;
16 (g) DEFENDANT has acted or refused to act on grounds generally applicable to
17 the ICRAA CLASS, thereby making final class-wide relief appropriate with
18 respect to the ICRAA CLASS as a whole;
19 (h) The members of the ICRAA CLASS are readily ascertainable from the
20 business records of DEFENDANT; and,
21 (i) Class treatment provides manageable judicial treatment calculated to bring an
22 efficient and rapid conclusion to all litigation of all ICRAA claims arising out
23 of the conduct of DEFENDANT as to the members of the ICRAA CLASS.

24
25 **THE CCRAA CLASS**

26 78. PLAINTIFF brings the Thirteenth Cause of Action pursuant to Cal. Code of Civ.
27 Proc. § 382, on behalf of a statewide Class, defined as all persons in California who executed
28 DEFENDANT's standard background check disclosure form that were not provided a valid written

1 notice compliant with the terms of Cal. Civ. Code § 1785.20.5(a) (the “CCRAA CLASS”) at any
2 time during the period beginning seven (7) years prior to the filing of this Complaint and ending on
3 the date as determined by the Court (the “CCRAA CLASS PERIOD”). To the extent equitable
4 tolling operates to toll claims by the CCRAA CLASS against DEFENDANT, the CCRAA CLASS
5 PERIOD should be adjusted accordingly. The amount in controversy for the aggregate claim of
6 CCRA CLASS Members is under five million dollars (\$5,000,000.00).

7 79. DEFENDANT, as a matter of corporate policy, practice and procedure, and in
8 violation of the Consumer Credit Reporting Agencies Act Cal. Civ. Code § 1785, *et seq.*,
9 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT uniformly,
10 unfairly, unlawfully, and deceptively instituted a practice of obtaining consumer reports without
11 valid authorization to do so.

12 80. The CCRAA CLASS is so numerous that joinder of all CCRAA CLASS Members is
13 impracticable.

14 81. DEFENDANT uniformly violated the rights of the CCRAA CLASS by:

- 15 (a) Violating the Consumer Credit Reporting Agencies Act Cal. Civ. Code §
16 1785, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
17 company policies, practices and procedures that uniformly obtained credit
18 reports on without first obtaining valid authorization consent form.

19 82. Common questions of law and fact exist as to members of the CCRAA CLASS,
20 including, but not limited, to the following:

- 21 (a) Whether DEFENDANT required the CCRAA CLASS Members to sign a
22 background check disclosure and authorization form;
23 (b) Whether DEFENDANT’s background check disclosure and authorization
24 form complies with the Consumer Credit Reporting Agencies Act Cal. Civ.
25 Code § 1785, *et seq.*;
26 (c) Whether DEFENDANT violated the CCRAA by including additional state
27 law notices in its background check disclosure and authorization form;
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- (d) Whether DEFENDANT violated the CCRAA by procuring consumer report information based on invalid authorizations;
- (e) Whether DEFENDANT's violations of the CCRAA were willful;
- (f) The proper measure of statutory damages and punitive damages; and,
- (g) The proper form of injunctive and declaratory relief.

83. 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 CCRAA CLASS are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, and declaratory relief issues that are raised in this Complaint are common to the CCRAA CLASS will apply uniformly to every member of the CCRAA CLASS;
- (c) The claims of the representative PLAINTIFF are typical of the claims of each member of the CCRAA CLASS. PLAINTIFF, like all the other members of the CCRAA CLASS, had a credit report and background check obtained on PLAINTIFF's behalf by DEFENDANT prior to obtaining valid authorization to do so in violation of the CCRAA as described herein. PLAINTIFF and the members of the CLASS were and are similarly or identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of misconduct engaged in by DEFENDANT; and,
- (d) The representative PLAINTIFF will fairly and adequately represent and protect the interest of the CCRAA CLASS, and has retained counsel who are competent and experienced in Class Action litigation. There are no material conflicts between the claims of the representative PLAINTIFF and the members of the CCRAA CLASS that would make class certification inappropriate. Counsel for the CCRAA CLASS will vigorously assert the claims of all CCRAA CLASS members.

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

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

6 1) Inconsistent or varying adjudications with respect to individual
7 members of the CCRAA CLASS which would establish incompatible
8 standards of conduct for the parties opposing the CCRAA CLASS;
9 and/or,

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

14 (b) The parties opposing the CCRAA CLASS have acted or refused to act on
15 grounds generally applicable to the CCRAA CLASS, making appropriate
16 class-wide relief with respect to the CCRAA CLASS as a whole; and

17 (c) Common questions of law and fact exist as to the members of the CCRAA
18 CLASS, with respect to the practices and violations of the CCRAA as listed
19 above, and predominate over any question affecting only individual CCRAA
20 CLASS Members, and a Class Action is superior to other available methods
21 for the fair and efficient adjudication of the controversy, including
22 consideration of:

23 1) The interests of the members of the CCRAA CLASS in individually
24 controlling the prosecution or defense of separate actions in that the
25 substantial expense of individual actions will be avoided to recover
26 the relatively small amount of economic losses sustained by the
27 individual CCRAA CLASS Members when compared to the
28

substantial expense and burden of individual prosecution of this litigation;

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

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

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

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

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

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

(a) The questions of law and fact common to the CCRAA CLASS predominate over any question affecting only individual CCRAA CLASS Members

1 because DEFENDANT's employment practices were uniform and
2 systematically applied with respect to the CCRAA CLASS;

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

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

5 86. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7 87. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
8 17021.

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

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

16 Cal. Bus. & Prof. Code § 17203.

17 89. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in
18 a business practice which violates California law, including but not limited to, the applicable Industrial
19 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections
20 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act
21 and federal regulations promulgated thereunder, for which this Court should issue declaratory and other
22 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
23 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

11 92. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
12 deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the other members
13 of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

14 93. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
15 deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally
16 required meal breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as required
17 by Cal. Lab. Code §§ 226.7 and 512.

18 94. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
19 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
20 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
21 workday in which a second off-duty meal period was not timely provided for each ten (10) hours of
22 work.

23 95. PLAINTIFF further demands on behalf of herself and each member of the
24 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty paid
25 rest period was not timely provided as required by law.

26 96. By and through the unlawful and unfair business practices described herein,
27 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the other
28 members of the CALIFORNIA CLASS, including earned wages for all time worked, and has deprived

1 them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
2 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete
3 against competitors who comply with the law.

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

9 98. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and
10 do, seek such relief as may be necessary to restore to them the money and property which
11 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA
12 CLASS have been deprived, by means of the above described unlawful and unfair business practices,
13 including earned but unpaid wages for all time worked.

14 99. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled
15 to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive,
16 and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful
17 and unfair business practices in the future.

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

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1 108. In committing these violations of the California Labor Code, DEFENDANT
2 inaccurately calculated the correct time worked and consequently underpaid the actual time worked
3 by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT
4 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
5 of the California Labor Code, the Industrial Welfare Commission requirements and other applicable
6 laws and regulations.

7 109. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
8 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the
9 correct minimum wage compensation for their time worked for DEFENDANT.

10 110. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required,
11 permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members to work
12 without paying them for all the time they were under DEFENDANT's control. During the
13 CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were entitled to,
15 constituting a failure to pay all earned wages.

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

21 112. DEFENDANT knew or should have known that PLAINTIFF and the other
22 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
23 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not
24 pay employees for their labor as a matter of company policy, practice and procedure, and
25 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members of
26 the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

27 113. In performing the acts and practices herein alleged in violation of California labor
28 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all

1 time worked and provide them with the requisite compensation, DEFENDANT acted and continues
2 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
3 CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for their legal rights, or
4 the consequences to them, and with the despicable intent of depriving them of their property and
5 legal rights, and otherwise causing them injury in order to increase company profits at the expense
6 of these employees.

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

18 19 **THIRD CAUSE OF ACTION**

20 **For Failure To Pay Overtime Compensation**

21 **[Cal. Lab. Code § 510]**

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

23 115. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
24 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this
25 Complaint.

26 116 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring
27 a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the
28 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees for

1 all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or
2 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

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

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

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

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

4 123. 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
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
7 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject to
8 a valid collective bargaining agreement that would preclude the causes of action contained herein
9 this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself and the CALIFORNIA
10 LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable, non-waiveable rights
11 provided by the State of California.

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

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

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

27 127. DEFENDANT knew or should have known that PLAINTIFF and the other members
28 of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.

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

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

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

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1 **FOURTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

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

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

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

FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

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

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

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

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

137. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to

1 proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

2
3 **SIXTH CAUSE OF ACTION**

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

5 **[Cal. Lab. Code § 226]**

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

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

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

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

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

22 141. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code §
23 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
24 LABOR SUB-CLASS. These damages include, but are not limited to, costs expended calculating
25 the correct wages for all missed meal and rest breaks and the amount of employment taxes which
26 were not properly paid to state and federal tax authorities. These damages are difficult to estimate.
27 Therefore, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS may
28

1 elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
2 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
3 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
4 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of
5 the CALIFORNIA LABOR SUB-CLASS herein).

6
7 **SEVENTH CAUSE OF ACTION**

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

9 **[Cal. Lab. Code § 2802]**

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

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

14 143. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

18 144. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by
19 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
20 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
21 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
22 CLASS members for expenses which included, but were not limited to, costs related to using their
23 personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically,
24 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by
25 DEFENDANT to use their personal cellular phones in order to perform work related job tasks.
26 DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the CALIFORNIA
27 LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones for
28 DEFENDANT within the course and scope of their employment for DEFENDANT. These

1 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by
2 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were
3 necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
4 members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA
5 LABOR SUB-CLASS members for these expenses as an employer is required to do under the laws
6 and regulations of California.

7 145. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by
8 herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties
9 for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
10 statutory rate and costs under Cal. Lab. Code § 2802.

11 **EIGHTH CAUSE OF ACTION**

12 **For Failure to Pay Wages When Due**

13 **[Cal. Lab. Code §§ 201, 202, 203]**

14 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**
15 **and Against All Defendants)**

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

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

20 As used in this article:

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

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

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

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

If an employee not having a written contract for a definite period quits his or her
employment, his or her wages shall become due and payable not later than 72

1 hours thereafter, unless the employee has given 72 hours previous notice of his
2 or her intention to quit, in which case the employee is entitled to his or her
3 wages at the time of quitting. Notwithstanding any other provision of law, an
4 employee who quits without providing a 72-hour notice shall be entitled to
5 receive payment by mail if he or she so requests and designates a mailing
6 address. The date of the mailing shall constitute the date of payment for
7 purposes of the requirement to provide payment within 72 hours of the notice of
8 quitting.

9 150. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-
10 CLASS Members' employment contract.

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

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

17 152. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS
18 Members has terminated and DEFENDANT has not tendered payment of all wages owed as
19 required by law.

20 153. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
21 members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated and who
22 have not been fully paid their wages due to them, PLAINTIFF demands thirty days of pay as penalty
23 for not paying all wages due at time of termination for all employees who terminated employment
24 during the CALIFORNIA LABOR SUB-CLASS PERIOD and demands an accounting and payment
25 of all wages due, plus interest and statutory costs as allowed by law.

26 **NINTH CAUSE OF ACTION**

27 **For Failure to Pay Sick Pay Wages**

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

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

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

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

24 157. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
25 during each calendar month and are to be paid no later than the payday for the next regular payroll
26 period. Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon
27 use of accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for
28 the next regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal.

1 Lab. Code § 201 provides that if an employer discharges an employee, wages earned and unpaid at
2 the time of discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an
3 employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his
4 or her employment, unless the employee has given 72-hour notice of his or her intention to quit, in
5 which case the employee is entitled to his or her wages at the time of quitting. The Labor Code
6 penalizes untimely payments. For example, Cal. Lab. Code § 203 provides that if an employer
7 willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-202, then the wages of
8 the employee shall continue as a penalty from the due date, and at the same rate until paid, but the
9 wages shall not continue for more than thirty (30) days. Likewise, Cal. Lab. Code § 210 provides
10 penalties for violations of Cal. Lab. Code § 204 and untimely payments during employment. Under
11 Cal. Lab. Code §§ 203, 210 and 218, employees may sue to recover applicable penalties.

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

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

1 **TENTH CAUSE OF ACTION**

2 **For Failure to Make Proper Disclosure in Violation of the FCRA**

3 **[15 U.S.C. § 1681b(b)(2)(A)(I), *et seq.*]**

4 **(By PLAINTIFF and the FCRA CLASS and Against All Defendants)**

5
6 160. PLAINTIFF, and the other members of the FCRA CLASS, reallege and incorporate by
7 this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

8 161. DEFENDANT violated 15 U.S.C. § 1681b(b)(2)(A)(I) of the FCRA by including
9 extraneous information in DEFENDANT's background check disclosure and authorization form that
10 PLAINTIFF and other FCRA CLASS Members were required to execute as a condition of employment
11 with DEFENDANT.

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

16 163. PLAINTIFF and the other FCRA CLASS Members are entitled to statutory damages of
17 not less than \$100 and not more than \$1,000 for every violation of the FCRA, pursuant to 15 U.S.C.
18 § 1681n(a)(1)(A).

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

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

23 **ELEVENTH CAUSE OF ACTION**

24 **For Failure to Obtain Proper Authorization in Violations of the FCRA**

25 **[15 U.S.C. § 1681b(b)(2)(A)(ii)]**

26 **(By PLAINTIFF and the FCRA CLASS and Against All Defendants)**

27 166 PLAINTIFF, and the other members of the FCRA CLASS, reallege and incorporate by
28 this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 167. DEFENDANT violated the FCRA by procuring consumer reports relating to
2 PLAINTIFF and other FCRA CLASS Members without proper authorization as alleged herein. See 15
3 U.S.C. § 1681b(b)(2)(A)(ii).

4 168. The violations of the FCRA were willful. DEFENDANT acted in deliberate disregard
5 of its obligations and the rights of PLAINTIFF and other FCRA CLASS Members under 15 U.S.C. §
6 1681b(b)(2)(A)(ii).

7 169. PLAINTIFF and the FCRA CLASS Members are entitled to statutory damages of not
8 less than \$100 and not more than \$1,000 for every violation of the FCRA, pursuant to 15 U.S.C. §
9 1681n(a)(1)(A).

10 170. PLAINTIFF and the FCRA CLASS Members are also entitled to punitive damages for
11 these violations, pursuant to 15 U.S.C. § 1681n(a)(2).

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

14
15 **TWELFTH CAUSE OF ACTION**

16 **For Failure to Obtain Proper Authorization in Violation of the ICRAA**

17 **[Cal. Civ. Code § 1786 *et seq.*]**

18 **(By PLAINTIFF and the ICRAA CLASS and Against All Defendants)**

19 172. PLAINTIFF, and the other members of the ICRAA CLASS, reallege and incorporate
20 by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

21 173. DEFENDANT is a "person" as defined by Section 1786.2(a) of the Investigative
22 Consumer Reporting Agencies Act ("ICRAA").

23 174. PLAINTIFF and ICRAA CLASS members are "consumers" within the meaning of
24 Section 1786.2(b) of the ICRAA because they are "individuals."

25 175. Section 1786.2(c) of the ICRAA defines "investigative consumer report" as:

26 "a consumer report in which information on a consumer's character, general reputation,
27 personal characteristics, or mode of living is obtained through any means."
28

1 176. Thus, a background check qualifies as an investigative consumer report under the
2 ICRAA.

3 177. Section 1786.16(a)(2) of the ICRAA provides, in relevant part:

4 If, at any time, an investigative consumer report is sought for employment purposes. .
5 .the person seeking the investigative consumer report may procure the report, or cause
the report to be made, only if all of the following apply:

6 (B) The person procuring or causing the report to be made provides a ***clear and***
7 ***conspicuous*** disclosure in writing to the consumer at any time before the report is
procured or caused to be made ***in a document that consists solely of the disclosure***,
8 that:

9 (i) An investigative consumer report may be obtained.

10 (ii) The permissible purpose of the report is identified.

11 (iii) The disclosure may include information on the consumer's character,
general reputation, personal characteristics, and mode of living.

12 (iv) Identifies the ***name, address, and telephone number of the investigative***
13 ***consumer reporting agency*** conducting the investigation.

14 (v) Notifies the consumer in writing of the nature and scope of the investigation
requested, including the provisions of Section 1786.22.

15 (vi) ***Notifies the consumer of the Internet Web site address of the investigative***
16 ***consumer reporting agency*** identifies in clause (iv), or, ***if the agency has no***
17 ***Internet Web site address, the telephone number of the agency***, where the
18 consumer may find information about the investigative reporting agency's
privacy practices, including whether the consumer's personal information will
be sent outside the United States or its territories and information that complies
with subdivision (d) of Section 1786.20. This clause shall become operative on
19 January 1, 2012.

20 (C) The consumer has authorized in writing the procurement of the report
(Emphasis added).

21 178. As alleged above, because DEFENDANT's disclosures do not meet the requirements
22 of Section 101(c)(1) of 15 U.S.C. 7001, the disclosures do not satisfy Section 1786.16(a)(2) of the
23 ICRAA requirement that the disclosures be made in writing.

24 179. As described above, PLAINTIFF alleges that in evaluating their and other class members
25 for employment, DEFENDANT procured or caused to be prepared investigative consumer report (e.g.
26 background checks), as defined by Cal. Civ. Code § 1786.2(c).

1 180. Because the purported disclosures are embedded with extraneous information, and are
2 not clear and unambiguous disclosures in stand-alone documents, they do not meet the requirements
3 under the law.

4 181. Under the ICRAA, it is unlawful to procure or cause to be prepared, a consumer report
5 or investigative consumer report for employment purposes unless the disclosure is made in a document
6 that consists solely of the disclosure and the consumer has authorized, in writing, the procurement of
7 the report. Cal. Civ. Code § 1786.16(a)(2)(B)-(C). The inclusion of the extraneous information,
8 therefore, violates § 1786.16(a)(2)(B) of the ICRAA.

9 182. By including the extraneous information, DEFENDANTS willfully violated §
10 1786.16(a)(2)(B) of the ICRAA. Additionally, the inclusion of the extraneous provisions causes the
11 disclosure to fail to be “clear and conspicuous” and thus violates § 1786.16(a)(2)(B).

12 183. Based upon facts that are likely to have evidentiary support after a reasonable
13 opportunity for investigation and discovery, PLAINTIFF alleges that DEFENDANT has a policy and
14 practice of failing to provide adequate written disclosures to applicants and employees, before procuring
15 background checks or causing background checks to be procured, as described above. Pursuant to that
16 policy and practice, DEFENDANT procured background checks or caused background checks to be
17 procured for PLAINTIFF and class members without first providing a written disclosure in compliance
18 with § 1786.16(a)(2)(B) of the ICRAA, as described above.

19 184. DEFENDANT’s conduct in violation of § 1786.16(a)(2)(B) of the ICRAA was and is
20 willful and/or grossly negligent. DEFENDANT acted in deliberate or reckless disregard of their
21 obligations and the rights of applicants and employees, including PLAINTIFF and class members.
22 DEFENDANT’s willful conduct is reflected by, among other things, the following facts:

- 23 (A) DEFENDANT is a large corporation with access to legal advice;
24 (B) DEFENDANT required a purported authorization to perform credit and
25 background checks in the process of employing the class members which,
26 although defective, evidences DEFENDANT’s awareness of and willful failure
27 to follow the governing laws concerning such authorizations; and,
28

1 (C) The plain language of the statute unambiguously indicates that inclusion of
2 extraneous information in a disclosure form violates the disclosure and
3 authorization requirements, and that the disclosure form must contain the name,
4 address, phone number, and/or website address of the investigative consumer
5 reporting agency conducting the investigation.

6 185. As a result of DEFENDANT's illegal procurement of background reports by way of their
7 inadequate disclosures, as set forth above, PLAINTIFF and class members have been injured including,
8 but not limited to, having their privacy and statutory rights invaded in violation of the ICRAA.

9 186. PLAINTIFF, on behalf of herself and all class members, seeks all available remedies
10 pursuant to Cal. Civ. Code § 1786.50, including statutory damages and/or actual damages, punitive
11 damages, and attorneys' fees and costs.

12 187. In the alternative to PLAINTIFF's allegation that these violations were willful or grossly
13 negligent, PLAINTIFF alleges that the violations were negligent and seeks the appropriate remedy, if
14 any, under Cal. Civ. Code § 1786.50(a), including actual damages and attorneys' fees and costs.

15
16
17 **THIRTEENTH CAUSE OF ACTION**

18 **For Failure to Make Proper Disclosures in Violation of the CCRAA**

19 **[Cal. Civ. Code § 1785 *et seq.*]**

20 **(By PLAINTIFF and the CCRAA CLASS and Against All Defendants)**

21 188. PLAINTIFF, and the other members of the CCRAA CLASS, reallege and incorporate
22 by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

23 189. DEFENDANT is a "person" as defined by Section 1785.3(j) of the Consumer Credit
24 Reporting Agencies Act ("CCRAA").

25 190. PLAINTIFF and CCRAA Class members are "consumers" within the meaning Section
26 1785.3(b) of the CCRAA, because they are "natural individuals."

27 191. Section 1785.3(c) of the ICRAA defines "consumer credit report" as:
28

1 any written, oral, or other communication of any information by a consumer credit
2 reporting agency bearing on a consumer's credit worthiness, credit standing, or credit
3 capacity, which is used or is expected to be used, or collected in whole or in part, for
the purpose of serving as a factor in establishing the consumer's eligibility: . . . (2)
employment purposes. . . .

4 Thus, a credit report qualifies as a consumer credit report under the CCRAA.

5 192. Section 1785.20.5(a) of the CCRAA provides, in relevant part:

6 Prior to requesting a consumer credit report for employment purposes, the user of the
7 report shall provide written notice to the person involved. The notice shall inform the
8 person that a report will be used, and ***shall identify the specific basis under***
subdivision (a) of Section 1024.5 of the Labor Code for use of the report. The
notice shall also inform the person of the source of the report. . . . (Emphasis
9 added).

10 193. As described above, PLAINTIFF alleges that in evaluating their and other class
11 members for employment, DEFENDANT procured or caused to be prepared consumer credit
12 reports (e.g. credit reports), as defined by Cal. Civ. Code § 1785.3(c).

13 194. The disclosure provided by DEFENDANT does not identify the specific basis under
14 subdivision (a) of Section 1024.5 of the Labor Code for use of the credit report. This omission
15 clearly violates § 1785.20.5(a) of the CCRAA, as delineated above.

16 195. Based upon facts that are likely to have evidentiary support after a reasonable
17 opportunity for investigation and discovery, PLAINTIFF alleges that DEFENDANT has a policy
18 and practice of failing to provide adequate written disclosures to applicants and employees, before
19 procuring credit reports or causing credit reports to be procured, as described above. Pursuant to
20 that policy and practice, DEFENDANT procured credit reports or caused credit reports to be
21 procured for PLAINTIFF and class members without first providing a written notice in compliance
22 with § 1785.20.5(a) of the CCRAA, as described above.

23 196. DEFENDANT'S conduct in violation of § 1785.20.5(a) of the CCRAA was and is
24 willful and/or grossly negligent. DEFENDANT acted in deliberate and reckless disregard of their
25 obligations and the rights of applicants and employees, including PLAINTIFF and class members.
26 DEFENDANT's willful conduct is reflected by, among other things, the following facts:

27 (A) DEFENDANT is a large corporation with access to legal advice;

1 (B) DEFENDANT required a purported authorization to perform credit checks in
2 the process of employing class members which, although defective,
3 evidences DEFENDANT's awareness of and willful failure to follow the
4 governing laws concerning such authorizations; and,

5 (C) The plain language of the statute unambiguously indicate that failure to
6 include the provisions identified above violates the CCRAA's notice
7 requirements, and that the notice must identify the specific basis under
8 subdivision (a) of Section 1024.5 of the Labor Code for use of the credit
9 report and must identify the source of any credit report.

10 197. As a result of DEFENDANT's illegal procurement of credit reports by way of their
11 inadequate notice, as set forth above, PLAINTIFF and class members have been injured including, but
12 not limited to, having their privacy and statutory rights invaded in violation of the CCRAA.

13 198. PLAINTIFF, on behalf of herself and all class members, seeks all available remedies
14 pursuant to Cal. Civ. Code § 1785.31, including statutory damages and/or actual damages, punitive
15 damages, injunctive relief, and attorneys' fees and costs.

16 199. In the alternative to PLAINTIFF's allegation that these violations were willful,
17 PLAINTIFF alleges that the violations were negligent and seek the appropriate remedy, if any, under
18 Cal. Civ. Code § 1785.31(a)(1), including but not limited to actual damages and attorneys' fees and
19 costs.

20
21 **FOURTEENTH CAUSE OF ACTION**

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

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

24 **(By PLAINTIFF and Against All Defendants)**

25 200. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
26 herein, the prior paragraphs of this Complaint.

27 201. PAGA is a mechanism by which the State of California itself can enforce state labor
28 laws through the employee suing under the PAGA who do so as the proxy or agent of the state's

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

8 202. PLAINTIFF, and such persons that may be added from time to time who satisfy the
9 requirements and exhaust the administrative procedures under the Private Attorney General Act,
10 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
12 employees staffed with DEFENDANT by a third party, and classified as non-exempt employees
13 ("AGGRIEVED EMPLOYEES") during the time period of June 9, 2021 until a date as determined
14 by the Court (the "PAGA PERIOD").

15 203. On June 9, 2022, PLAINTIFF gave written notice by electronic mail to the Labor and
16 Workforce Development Agency (the "Agency") and by certified mail to the employer of the
17 specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3.
18 The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired.
19 As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil
20 action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to
21 all AGGRIEVED EMPLOYEES as herein defined.

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

1 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
2 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to civil
3 penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of civil penalties as
4 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the
5 State of California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED
6 EMPLOYEES.

7 205. All of the conduct and violations alleged herein occurred during the PAGA
8 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
9 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
10 affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally,
13 as follows:

14 1. On behalf of the CALIFORNIA CLASS:

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

25 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:
26

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

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

22 3. On behalf of the FCRA CLASS:

- 23 A) That the Court certify the Ninth and Tenth Causes of Action asserted by the FCRA
24 CLASS as a Class Action pursuant to Cal. Code of Civ. Proc. § 382;
- 25 B) A determination and judgment that DEFENDANT willfully violated the 15 U.S.C. §
26 1681(b)(2)(A)(I) and(ii) of the FCRA by improperly including extraneous information
27 in its background check disclosure and authorization form and by obtaining consumer
28

- 1 reports on PLAINTIFF and FCRA CLASS Members without having proper
2 authorization to do so;
- 3 C) Pursuant to 15 U.S.C. § 1681n(a)(1)(A), an award of statutory damages to PLAINTIFF
4 and the members of the FCRA CLASS in an amount equal to \$1,000 for PLAINTIFF
5 and each FCRA CLASS Member for DEFENDANT's willful violation of the FCRA:
- 6 D) Pursuant to 15 U.S.C. § 1681n(a)(2), an award of punitive damages to PLAINTIFF and
7 other FCRA CLASS Members;
- 8 E) An award for costs of suit and reasonable attorneys' fees pursuant to 15 U.S.C. §
9 1681n(a)(3); and,
- 10 F) Such other and further relief as the Court deems just and equitable.
- 11 4. On behalf of the ICRAA CLASS and CCRAA CLASS:
- 12 A) That the Court certify the Eleventh and Twelfth Causes of Action asserted by the
13 ICRAA CLASS and CCRAA CLASS as a Class Action pursuant to Cal. Code. Of
14 Civ. Proc. § 382;
- 15 B) Statutory penalties;
- 16 C) Civil penalties;
- 17 D) Punitive damages;
- 18 E) Injunctive relief;
- 19 F) Costs of suit;
- 20 G) Interest;
- 21 H) Restitution;
- 22 I) Reasonable attorneys' fees; and,
- 23 J) Such other relief as the Court deems just and proper.
- 24 5. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 25 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
26 General Act of 2004.
- 27 6. On all claims:
- 28 A) An award of interest, including prejudgment interest at the legal rate;

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- B) Such other and further relief as the Court deems just and equitable; and,
- C) An award of penalties, attorneys’ fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

Dated: October 26, 2022 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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

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DEMAND FOR A JURY TRIAL

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

Dated: October 26, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw

Nicholas J. De Blouw

Attorneys for Plaintiff