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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
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By: Stephanie Paniagua, DEPUTY

8 Attorneys for Plaintiff HEATHER HARMON

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 HEATHER HARMON, on behalf of herself
and all others similarly situated, and the
12 general public,

13 *Plaintiff,*

14 v.

15 FOREST HOME, INC., a California
corporation; and DOES 1 through 50,
16 inclusive,

17 *Defendants.*
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Case No.: CIVSB2508818

Amended As a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Pay Proper Reporting Time Pay;
6. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
7. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
8. Failure to Indemnify (Lab. Code § 2802);
9. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*); and
10. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff HEATHER HARMON (“Plaintiff”), on behalf of herself, all others similarly situated,
2 the State of California, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants FOREST
5 HOME, INC., a California corporation; and DOES 1 through 50, inclusive, (collectively referred to
6 as “Defendants”) for alleged violations of the California Labor Code and California Business and
7 Professions Code. As set forth below, Plaintiff alleges that Defendants have:

- 8 a. failed to pay them overtime wages at the correct rate;
- 9 b. failed to pay them double time wages at the correct rate;
- 10 c. failed to pay them overtime and/or double time wages by failing to include all
11 applicable remuneration in calculating the regular rate of pay;
- 12 d. failed to provide them with meal periods;
- 13 e. failed to provide them with rest periods;
- 14 f. failed to pay them premium wages for missed meal and rest periods;
- 15 g. failed to pay them proper sick time pay;
- 16 h. failed to pay them proper reporting time pay;
- 17 i. failed to provide them with accurate written wage statements;
- 18 j. failed to reimburse them with necessary business expenditures;
- 19 k. failed to pay them all their final wages following separation of employment.

20 Based on these alleged Labor Code violations, Plaintiff now brings this class and
21 representative action to recover unpaid wages, liquidated damages, civil and statutory penalties,
22 restitution, and related relief on behalf of herself, all others similarly situated, the State of California,
23 and the general public.

24 **JURISDICTION AND VENUE**

25 2. This Court has subject matter jurisdiction to hear this case because the monetary
26 damages and restitution sought by Plaintiff from Defendants’ conduct exceeds the minimal
27 jurisdiction of the Superior Court of the State of California.

28 3. Venue is proper in the County of San Bernardino pursuant to Code of Civil Procedure

1 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
2 that are the subject matter of this Complaint occurred therein and/or each defendant is found,
3 maintains offices, transacts business and/or has an agent therein.

4 4. Venue is proper in San Bernardino County because Defendants have at all times
5 alleged herein, conducted business in San Bernardino County, and throughout California. As such,
6 venue is proper in any county in California.

7 **PARTIES**

8 5. Plaintiff HEATHER HARMON is, and at all relevant times mentioned herein, an
9 individual residing in the State of California.

10 6. Plaintiff is informed and believes, and thereupon alleges that Defendant FOREST
11 HOME, INC. is, and at all relevant times mentioned herein, a California corporation doing business
12 in the State of California.

13 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
14 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff
15 will amend this Complaint to allege the true names and capacities of the DOE defendants when
16 ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously
17 named defendants are responsible in some manner for the occurrences, acts and omissions alleged
18 herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of
19 them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE
20 defendants when ascertained.

21 8. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
22 mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,
23 directors, associates, joint venturers, joint employers, owners, principals or co-participants of some
24 or all of the other defendants, and in doing the things alleged herein, were acting within the course
25 and scope of such relationship and with the full knowledge, consent, and ratification by such other
26 defendants.

27 9. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
28 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and

1 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts
2 and omissions alleged herein.

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

11 11. This action has been brought and may be maintained as a class action pursuant to Code
12 of Civil Procedure section 382 because there is a well-defined community of interest among the
13 persons who comprise the readily ascertainable classes defined below and because Plaintiff is
14 unaware of any difficulties likely to be encountered in managing this case as a class action.

15 12. **Relevant Time Period:** The relevant time period is defined as the time period
16 beginning four years prior to the filing of this action until judgment is entered.

- 17 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
18 separately, and/or any staffing agencies and/or any other third parties in hourly or
19 non-exempt positions in California four years prior to the filing of this action and
20 ending on the date that final judgment is entered in this action (“Hourly Employee
21 Class”).
- 22 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
23 a shift in excess of five hours during the four years prior to the filing of this action
24 and ending on the date that final judgment is entered in this action.
- 25 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
26 shift of at least three and one-half (3.5) hours the four years prior to the filing of
27 this action and ending on the date that final judgment is entered in this action.
- 28 d. **Reporting Time Pay Sub-Class:** All **Hourly Employee Class** members who
worked in a shifts under 2 hours during the four years prior to the filing of this
action and ending on the date that final judgment is entered in this action.
- e. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
separated from their employment with Defendants during the period beginning
three years before the filing of this action and ending when final judgment is
entered.

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- 1 f. **Sick-Pay Class**: All persons employed by Defendants in California who, at any
2 time from four years prior to the filing of this action and ending on the date that
3 final judgment is entered in this action, worked for more than 30 days for
4 Defendants, and were not paid for at least one hour of sick time for every 30 hours
5 of work thereafter, or at least 3 days of sick time for every 12-month period of
6 employment.
- 7 g. **Wage Statement Class**: All persons employed by Defendants in California during
8 the period beginning one year before the filing of this action and ending when final
9 judgment is entered.
- 10 h. **Expense Reimbursement Class**: All persons employed by Defendants in
11 California who incurred business expenses during the **Relevant Time Period**.
- 12 i. **UCL Class**: All **Hourly Employee Class** and **Expense Reimbursement Class**
13 members employed by Defendants in California during the four years prior to the
14 filing of this action and ending on the date that final judgment is entered in this
15 action.

16 13. **Reservation of Rights**: Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right
17 to amend or modify the class definitions with greater specificity, by further division into sub-classes
18 and/or by limitation to particular issues.

19 14. **Numerosity**: The class members are so numerous that the individual joinder of each
20 individual class member is impractical. While Plaintiff does not currently know the exact number of
21 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
22 exceeds the minimum required for numerosity under California law.

23 15. **Commonality and Predominance**: Common questions of law and fact exist as to all
24 class members and predominate over any questions which affect only individual class members.
25 These common questions include, but are not limited to:

- 26 a. Whether Defendants maintained a policy or practice of failing to provide
27 employees with their rest periods;
- 28 b. Whether Defendants maintained a policy or practice of failing to provide
employees with their meal periods;
- c. Whether Defendants failed to pay premium wages to class members when they
have not been provided with meal and rest periods at the appropriate rates of pay;
- d. Whether Defendants failed to pay minimum and/or overtime wages to class
members for all time worked;

- e. Whether Defendants failed to pay proper sick time pay;
- f. Whether Defendants failed to pay proper reporting time pay;
- g. Whether Defendants failed to pay wages due, negotiable and payable in cash on demand;
- h. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with inaccurate entries for, among other things, amounts of gross and net wages, and total hours worked;
- i. Whether Defendants applied policies or practices that result in late and/or incomplete final wage payments;
- j. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;
- k. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203; and
- l. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

16. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes, and thereupon alleges that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

17. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and has no interests that are adverse to, or otherwise conflict with, the interests of absent class members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and adequately represent and protect the interests of the other class members.

18. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that they have no known conflicts of interest with Plaintiff or absent class members, are experienced in wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf of Plaintiff and absent class members.

19. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

20. Plaintiff worked for Defendants as a non-exempt employee during the relevant and statutory periods.

21. Defendants had a common policy and practice of systemically failing to pay Plaintiff and Class Members proper wages and overtime for all hours worked, at the proper rates of pay. Plaintiff and Class Members were also consistently required to perform work, off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were required to monitor and respond to their company-issued radios during their unpaid meal periods and were required to clock out and continue working during their meal periods. Defendants implemented an unlawful policy and practice of altering Plaintiff and Class Members' timesheets to reflect inaccurate time entries when such practices occurred. Defendants did so with the ostensible intent of paying Plaintiff and Class members only for the hours they were scheduled to work, rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results, over time, to the detriment of the Plaintiff and Class members by systematically undercompensating them. Moreover, Plaintiff and Class Members were required to perform off-the-clock before clocking into work and/or after clocking out of work, such as coordinating for employees' sick time off, responding to questions from the night-shift crew, and answering calls for reservations. The forgoing and uncompensated working time was under the direction and control of Defendants, for which no wages were paid.

1 22. This uncompensated time caused Plaintiff and Class Members to work in excess of
2 eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff
3 and Class Members to minimum and overtime wages, which they were systemically denied.

4 23. Defendants also failed to pay Plaintiff and Class Members overtime wages at the
5 proper and applicable regular rates of pay. Specifically, Plaintiff and Class Members earned
6 commissions, spiff pay, as well as performance-based non-discretionary bonuses in addition to their
7 hourly pay. However, these supplemental earnings were not accounted for when determining Plaintiff
8 and Class Members' regular rates of pay, and respective and proper overtime rates of pay.

9 24. Defendants had a common policy and practice of systemically denying Plaintiff and
10 Class Members the opportunity to take first and second meal periods in compliance with the
11 California Law. Specifically, due to understaffing and heavy workloads, Plaintiff and Class Members
12 were denied the opportunity to take timely meal periods prior to the completion of their fifth hour of
13 work. Additionally, Plaintiff and Class Members were prohibited from leaving the work premises
14 during meal periods, when such meal periods were taken. Furthermore, Plaintiff and Class Members
15 were not relieved of all work duties during unpaid meal periods and were required to keep working
16 during meal breaks. Finally, Plaintiff and Class Members were often asked to clock-out for their meal
17 periods, continue working, and take their meal periods at a later time. This was not reflected in
18 Plaintiff and Class Members' timesheets because Defendants had a policy and practice of altering the
19 time recorded in Plaintiff and Class Members' timesheets.

20 25. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)
21 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal
22 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
23 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
24 Defendants' practice of requiring putative class members to continue working through their meal and
25 rest periods due to the excessive workload.

26 26. Defendants had a common policy and practice of systemically denying Plaintiff and
27 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff
28 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)

1 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
2 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
3 no formal compliant written rest period policy that encouraged employees to take their rest periods,
4 or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy
5 and practice of requiring Plaintiff and Class Members to remain on the premises during their rest
6 breaks; and (4) Defendants' policy and practice of requiring putative class members to continue
7 working through their rest breaks due to the excessive workload, including having to keep and
8 monitor their company-issued radios during breaks.

9 27. Furthermore, Defendants failed to pay Plaintiff and Class Members premium pay
10 wages at their appropriate regular rates of pay for each meal and rest period denied.

11 28. Plaintiff and Class Members were not provided with accurate wage statements as
12 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
13 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or
14 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."
15 Additionally, the wage statements issued to Plaintiff and Class Members were not recorded in "ink
16 or other indelible form."

17 29. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
18 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

19 30. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked
20 by the employee" were not accurately reflected in that: all hours worked, including overtime, were
21 not included.

22 31. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"
23 were not accurately reflected in that: all hours worked, including overtime, were not included.

24 32. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable
25 hourly rates in effect during the pay period and the corresponding number of hours worked at each
26 hourly rate by the employee" were not accurately reflected in that: all hours worked, including
27 overtime, were not included.

28 33. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay

1 stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters.
2 Plaintiff's and Class Members' wage statement were only provided in electronic format in violation
3 of Labor Code § 226.

4 34. Plaintiff and Class Members were not reimbursed for business expenses incurred in
5 executing their duties under Defendant's employ. Specifically, Plaintiff and Class Members were
6 required to drive their personal vehicles when conducting their duties under Defendants' employ and
7 were not reimbursed for the mileage on their vehicles. Moreover, Plaintiff and Class Members were
8 not reimbursed for their home internet usage when they were required to work from home. Lastly,
9 Plaintiff and Class Members were required to use their personal cell-phones for work-related duties
10 such as clocking in and out, texting and calling their supervisors and co-workers, checking the work
11 schedule, downloading work applications, and using it throughout their entire shift. Plaintiff and Class
12 Members were not reimbursed for the expenses of usage of their personal cell phones. Furthermore,
13 Plaintiff and Class members were not reimbursed for any of these necessary work-related expenses.

14 35. Defendants also had a common policy and practice of failing to pay Plaintiff and Class
15 Members all reporting time pay to which they were entitled under California Law. Specifically,
16 Plaintiff and Class Members were required to call in or otherwise show up to work without being paid
17 half of their usual or scheduled day's work.

18 36. Finally, Defendants had a common policy and practice of systemically failing to pay
19 Plaintiff and Class Members the requisite sick time pay in accordance with California Law.
20 Specifically, Defendants failed to calculate Plaintiff and Class Members' sick pay in accordance with
21 their regular rate of pay. Plaintiff and Class Members' sick pay does not reflect the overtime/double
22 time wages paid to Plaintiff and Class Members.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO PROVIDE MEAL PERIODS**

25 **(Lab. Code §§ 226.7, 512, 1174, and 1198)**

26 **(Plaintiff and Meal Period Sub-Class)**

27 37. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
28 fully alleged herein.

1 38. At all relevant times, Plaintiff and the **Meal Period Sub-Class** members have been
2 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
3 Code and the applicable Industrial Welfare Commission Wage Order.

4 39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare
5 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt
6 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
7 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
8 minutes for each work period of ten hours.

9 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
10 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work
11 during required meal periods and require employers to pay non-exempt employees an hour of
12 premium wages on each workday that the employee is not provided with the required meal period.

13 41. Compensation for missed meal periods constitutes wages within the meaning of Labor
14 Code section 200.

15 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that
16 violate the applicable Wage Order.

17 43. Section 11 of the applicable Wage Order states:

18 No employer shall employ any person for a work period of more than
19 five (5) hours without a meal period of not less than 30 minutes, except
20 that when a work period of not more than six (6) hours will complete
21 the day’s work the meal period may be waived by mutual consent of
22 the employer and employee. Unless the employee is relieved of all duty
23 during a 30 minute meal period, the meal period shall be considered an
24 ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal
 period shall be permitted only when the nature of the work prevents an
 employee from being relieved of all duty and when by written
 agreement between the parties an on-the-job paid meal period is agreed
 to. The written agreement shall state that the employee may, in writing,
 revoke the agreement at any time.

25 44. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
26 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
27 members were not subject to valid on-duty meal period agreements with Defendants.

28 45. Plaintiff alleges that, at all relevant times during the applicable limitations period,

1 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
2 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
3 hour work period, as required by Labor Code section 512 and the applicable Wage Order.
4 Specifically, due to understaffing and heavy workloads, Plaintiff and **Meal Period Sub-Class**
5 members were denied the opportunity to take timely meal periods prior to the completion of their fifth
6 hour of work. Additionally, Plaintiff and **Meal Period Sub-Class** members were prohibited from
7 leaving the work premises during meal periods, when such meal periods were taken. Furthermore,
8 Plaintiff and **Meal Period Sub-Class** members were not relieved of all work duties during unpaid
9 meal periods and were required to keep working during meal breaks. Finally, Plaintiff and **Meal**
10 **Period Sub-Class** members were often asked to clock-out for their meal periods, continue working,
11 and take their meal periods at a later time. This was not reflected in Plaintiff and **Meal Period Sub-**
12 **Class** members' timesheets because Defendants had a policy and practice of altering the time
13 recorded in Plaintiff and Class Members' timesheets.

14 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,
15 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
16 **Class** members when they worked five (5) hours without clocking out for any meal period.

17 47. Plaintiff alleges that, at all relevant times during the applicable limitations period,
18 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
19 **Sub-Class** with a second meal period when they worked shifts of ten (10) or more hours and failed
20 to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

21 48. Moreover, Defendants written policies fail to inform Meal period Class Members of
22 their meal period rights under the Labor Code and applicable Wage Orders.

23 49. At all relevant times, Defendants failed to pay Plaintiff and the **Meal Period Sub-**
24 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
25 regular rates of pay when required meal periods were not provided.

26 50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
27 herself and the **Meal Period Sub-Class** members, seeks to recover unpaid premium wages, interest
28 thereon, and costs of suit.

51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(Lab. Code §§ 204, 223, 226.7 and 1198)

(Plaintiff and Rest Period Sub-Class)

52. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged herein.

53. At all relevant times, Plaintiff and the **Rest Period Sub-Class** members have been non-exempt employees of Defendants entitled to the full rest period protections of both the Labor Code and the applicable Wage Order.

54. Section 12 of the applicable Wage Order imposes an affirmative obligation on employers to permit and authorize employees to take required rest periods at a rate of no less than ten (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must be in the middle of each work period insofar as practicable.

55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit employers from requiring employees to work during required rest periods and require employers to pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each workday that the employee is not provided with the required rest period(s).

56. Compensation for missed rest periods constitutes wages within the meaning of Labor Code section 200.

57. Labor Code section 1198 makes it unlawful to employ a person under conditions that violate the Wage Order.

58. Plaintiff alleges that, at all relevant times during the applicable limitations period, Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class** with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or major fraction thereof, as required by the applicable Wage Order.

1 59. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of
2 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
3 Defendants' policy of not scheduling each rest period as part of each work shift, including second
4 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that
5 encouraged employees to take their rest periods, or that properly advised Plaintiff and **Rest Period**
6 **Sub-Class** members of their rest period rights; (3) Defendants' policy and practice of requiring
7 Plaintiff and **Rest Period Sub-Class** members to remain on the premises during their rest breaks; and
8 (4) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to continue
9 working through their rest breaks due to the excessive workload, including having to keep an monitor
10 their company-issued radios during breaks.

11 60. At all relevant times, Defendants failed to pay Plaintiff and the **Rest Period Sub-Class**
12 members additional premium wages when required rest periods were not provided.

13 61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of herself
14 and **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and
15 costs of suit.

16 62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
17 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Rest**
18 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

19 **THIRD CAUSE OF ACTION**

20 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

21 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

22 **(Plaintiff and Hourly Employee Class)**

23 63. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
24 herein.

25 64. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been
26 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
27 applicable Wage Order.

28 65. Section 2 of the applicable Wage Order defines "hours worked" as "the time during

1 which an employee is subject to the control of the employer, and includes all the time the employee
2 is suffered or permitted to work, whether or not required to do so.”

3 66. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
4 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours
5 that an employer has actual or constructive knowledge that employees are working.

6 67. Labor Code section 1194 invalidates any agreement between an employer and an
7 employee to work for less than the minimum or overtime wage required under the applicable Wage
8 Order.

9 68. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
10 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
11 to the underlying unpaid minimum wages and interest thereon.

12 69. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
13 than the minimum wage required under the applicable Wage Order for all hours worked during a
14 payroll period.

15 70. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
16 person acting either individually or as an officer, agent or employee of another person, to pay an
17 employee, or cause an employee to be paid, less than the applicable minimum wage.

18 71. Labor Code section 1198 makes it unlawful for employers to employ employees under
19 conditions that violate the applicable Wage Order.

20 72. Labor Code section 204 requires employers to pay non-exempt employees their earned
21 wages for the normal work period at least twice during each calendar month on days the employer
22 designates in advance and to pay non-exempt employees their earned wages for labor performed in
23 excess of the normal work period by no later than the next regular payday.

24 73. Labor Code section 223 makes it unlawful for employers to pay their employees lower
25 wages than required by contract or statute while purporting to pay them legal wages.

26 74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
27 to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their
28 respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all

1 hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours
2 worked on the seventh consecutive day of one workweek.

3 75. Labor Code section 510 and Section 3 of the applicable Wage Order also require
4 employers to pay non-exempt employees overtime wages of no less than two (2) times their respective
5 regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all
6 hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

7 76. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
8 centrally devised policies and practices to him and **Hourly Employee Class** members with respect to
9 working conditions and compensation arrangements.

10 77. At all relevant times, Defendants failed to pay hourly wages to Plaintiff and **Hourly**
11 **Employee Class** members for all time worked, including but not limited to, overtime hours at
12 statutory and/or agreed rates.

13 78. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
14 overtime for all hours worked, at the proper rates of pay. Plaintiff and **Hourly Employee Class**
15 members were also consistently required to perform work, off-the-clock, for which they were not paid
16 wages. Specifically, Plaintiff and **Hourly Employee Class** members were required to monitor and
17 respond to their company-issued radios during their unpaid meal periods and were required to clock
18 out and continue working during their meal periods. Defendants implemented an unlawful policy and
19 practice of altering Plaintiff and **Hourly Employee Class** members' timesheets to reflect inaccurate
20 time entries when such practices occurred. Defendants did so with the ostensible intent of paying
21 Plaintiff and **Hourly Employee Class** members only for the hours they were scheduled to work,
22 rather than the hours they were actually under Defendants' control. Plaintiff contends this policy is
23 not neutral and results, over time, to the detriment of the Plaintiff and **Hourly Employee Class**
24 members by systematically undercompensating them. Moreover, Plaintiff and **Hourly Employee**
25 **Class** members were required to perform off-the-clock before clocking into work and/or after
26 clocking out of work, such as coordinating for employees' sick time off, responding to questions from
27 the night-shift crew, and answering calls for reservations. The forgoing and uncompensated working
28 time was under the direction and control of Defendants, for which no wages were paid.

79. Plaintiff and **Hourly Employee Class** members were systemically required to attend weekly training sessions, for which no wages were paid. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which they were systemically denied.

80. Defendants also failed to Plaintiff and **Hourly Employee Class** members overtime wages at the proper and applicable regular rates of pay. Specifically, Plaintiff and **Hourly Employee Class** members earned commissions, spiff pay, as well as performance-based non-discretionary bonuses in addition to their hourly pay. However, these supplemental earnings were not accounted for when determining Plaintiff and **Hourly Employee Class** members' regular rates of pay, and respective and proper overtime rates of pay.

81. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class** members have suffered damages in an amount, subject to proof, to the extent they were not paid the full amount of wages earned during each pay period during the applicable limitations period, including overtime wages.

82. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and overtime wages, interest thereon and costs of suit.

83. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

RECOVERY OF REPORTING TIME PAY

(Plaintiff and Reporting Time Pay Sub-Class)

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

85. The IWC Wage Orders, require that reporting time pay be provided to any employee
///

1 who is required to report for work and does report, but is not put to work or is furnished less than
2 half said employee's usual or scheduled day's work.

3 86. Plaintiff is informed and believes and thereon alleges that all or substantially all the
4 **Reporting Time Pay Sub-Class** are subject to Defendants' policies and practices requiring them to
5 call in or otherwise show up to work but not being paid half said their usual or scheduled day's
6 work.

7 87. Therefore, **Reporting Time Pay Sub-Class** Members are owed the unpaid balance
8 of said wages pursuant to the Wage order according to proof at trial, Interest pursuant to Labor
9 Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and
10 costs and/or penalties pursuant to Labor Code § 558(a).

11 **FIFTH CAUSE OF ACTION**

12 **FAILURE TO PAY PROPER SICK PAY**

13 **(Lab. Code § 246)**

14 **(Plaintiff and Sick Pay Class)**

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

17 89. Labor Code Section 246 affords an employee “who works in California for 30 or
18 more days within a year from the commencement of employment [] paid sick days . . . of not less
19 than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid
20 time off by the 120th calendar day of employment or each calendar year, or in each 12-month
21 period.”

22 90. Additionally, Subsection (l) of Section 246 provides:

23 For the purposes of this section, an employer shall calculate paid sick leave
24 using any of the following calculations:

25 (1) Paid sick time for nonexempt employees shall be calculated in the same
26 manner as the regular rate of pay for the workweek in which the employee
27 uses paid sick time, whether or not the employee actually works overtime
in that workweek.

28 91. Defendants had a common policy and practice of systemically failing to pay Plaintiff

1 and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law.
2 Specifically, Plaintiff and **Sick Pay Class** Members worked for Defendants for more than 30 days,
3 but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick
4 time for every 12 month period of work. Specifically, Defendants failed to calculate Plaintiff and
5 Class Members' sick pay in accordance with their regular rate of pay. Plaintiff and Class Members'
6 sick pay does not reflect the overtime/double time wages paid to Plaintiff and Class Members.

7 92. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages
8 pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and
9 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties
10 pursuant to Labor Code § 558(a).

11 **SIXTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

13 **(Lab. Code § 226)**

14 **(Plaintiff and Wage Statement Penalties Sub-Class)**

15 93. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

17 94. Labor Code section 226(a) states:

18 An employer, semimonthly or at the time of each payment of wages,
19 shall furnish to his or her employee, either as a detachable part of the
20 check, draft, or voucher paying the employee's wages, or separately if
21 wages are paid by personal check or cash, an accurate itemized
22 statement in writing showing (1) gross wages earned, (2) total hours
23 worked by the employee, except as provided in subdivision (j), (3) the
24 number of piece-rate units earned and any applicable piece rate if the
25 employee is paid on a piece-rate basis, (4) all deductions, provided that
26 all deductions made on written orders of the employee may be
27 aggregated and shown as one item, (5) net wages earned, (6) the
28 inclusive dates of the period for which the employee is paid, (7) the
name of the employee and only the last four digits of his or her social
security number or an employee identification number other than a
social security number, (8) the name and address of the legal entity that
is the employer and, if the employer is a farm labor contractor, as
defined in subdivision (b) of Section 1682, the name and address of the
legal entity that secured the services of the employer, and (9) all
applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the
employee and, beginning July 1, 2013, if the employer is a temporary
services employer as defined in Section 201.3, the rate of pay and the

1 total hours worked for each temporary services assignment. The
2 deductions made from payment of wages shall be recorded in ink or
3 other indelible form, properly dated, showing the month, day, and year,
4 and a copy of the statement and the record of the deductions shall be
5 kept on file by the employer for at least three years at the place of
employment or at a central location within the State of California. For
purposes of this subdivision, 'copy' includes a duplicate of the itemized
statement provided to an employee or a computer-generated record that
accurately shows all of the information required by this subdivision.

6 95. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the
7 "detachable part of the check" provision and the "accurate itemized statement in writing" provision
8 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
9 retains the right to elect to receive a written paper stub or record and that those who are provided with
10 electronic wage statements retain the ability to easily access the information and convert the electronic
11 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

12 96. Plaintiff is informed and believes that, at all relevant times during the applicable
13 limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members
14 with written wage statements as described above. Additionally, the wage statements issued to class
15 members failed to account for the unpaid minimum wages, overtime, and premium pay wages
16 described above.

17 97. Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class**
18 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE
19 Opinion Letters. Plaintiff's and **Wage Statement Class** members' wage statements were only
20 provided in electronic format in violation of Labor Code § 226.

21 98. Plaintiff is informed and believes that Defendants' failure to provide Plaintiff and
22 **Wage Statement Class** members with accurate written wage statements was intentional in that
23 Defendants have the ability to provide them with accurate wage statements but have intentionally
24 provided them with written wage statements that Defendants have known do not comply with Labor
25 Code section 226(a).

26 99. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
27 Defendants have violated their legal rights to receive accurate wage statements and have misled them
28 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage

1 statements has prevented immediate challenges to Defendants' unlawful pay practices, has required
2 discovery and mathematical computations to determine the amount of wages owed, has caused
3 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
4 submission of inaccurate information about wages and deductions to federal and state government
5 agencies.

6 100. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage**
7 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in
8 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
9 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
10 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

13 **(Lab. Code §§ 201-203)**

14 **(Plaintiff and Waiting Time Penalties Sub-Class)**

15 101. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

17 102. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
18 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
19 earned and unpaid before termination or resignation.

20 103. At all relevant times, pursuant to Labor Code section 201, employees who have been
21 discharged have been entitled to payment of all final wages immediately upon termination.

22 104. At all relevant times, pursuant to Labor Code section 202, employees who have
23 resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to
24 payment of all final wages at the time of resignation.

25 105. Plaintiff is informed and believes that, at all relevant times during the applicable
26 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
27 members all their final wages in accordance with the Labor Code.

28 106. Plaintiff is informed and believes that, at all relevant times during the applicable

1 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
2 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
3 sections 201 or 202 by failing to timely pay them all final wages.

4 107. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to
5 timely pay all final wages to him and **Waiting Time Penalties Sub-Class** members has been willful
6 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
7 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
8 requirements.

9 108. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of herself and
10 **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that their
11 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

12 109. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
13 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**
14 **Class** members, seeks awards of reasonable attorneys' fees and costs.

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO INDEMNIFY**

17 **(Lab. Code § 2802)**

18 **(Plaintiff and Reimbursement Class)**

19 110. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
20 herein.

21 111. Labor Code section 2802(a) states:

22 An employer shall indemnify his or her employee for all necessary
23 expenditures or losses incurred by the employee in direct consequence
24 of the discharge of his or her 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.

25 112. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
26 business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff
27 and **Expense Reimbursement Class** members were required to drive their personal vehicles when
28 conducting their duties under Defendants' employ and were not reimbursed for the mileage on their

1 vehicles. Moreover, Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
2 their home internet usage when they were required to work from home. Lastly, Plaintiff and **Expense**
3 **Reimbursement Class** members were required to use their personal cell-phones for work-related
4 duties such as clocking in and out, texting and calling their supervisors and co-workers, checking the
5 work schedule, downloading work applications, and using it throughout their entire shift. Plaintiff
6 and **Expense Reimbursement Class** members were not reimbursed for the expenses of usage of their
7 personal cell phones. Furthermore, Plaintiff and **Expense Reimbursement Class** members were not
8 reimbursed for any of these necessary work-related expenses. Accordingly, Plaintiff and **Expense**
9 **Reimbursement Class** members are entitled to restitution for all unpaid amounts due and owing to
10 within four (4) years of the date of the filing of the Complaint and until the date of entry of judgment.

11 113. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seeks
12 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and
13 costs pursuant to Code of Civil Procedure section 1021.5.

14 **NINTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

17 **(Plaintiff and UCL Class)**

18 114. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
19 herein.

20 115. Business and Professions Code section 17200 defines "unfair competition" to include
21 any unlawful business practice.

22 116. Business and Professions Code sections 17203-17204 allow a person who has lost
23 money or property as a result of unfair competition to bring a class action in accordance with Code
24 of Civil Procedure section 382 to recover money or property that may have been acquired from
25 similarly situated persons by means of unfair competition.

26 117. California law requires employers to pay hourly, non-exempt employees for all hours
27 they are permitted or suffered to work, including hours that the employer knows or reasonable should
28 know that employees have worked.

1 118. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,
2 THIRD, FOURTH, FIFTH, AND EIGHTH causes of action herein.

3 119. Plaintiff lost money or property as a result of the aforementioned unfair competition.

4 120. Defendants have or may have acquired money by means of unfair competition.

5 121. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor
6 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
7 226.6, 226.7, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and
8 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations
9 alleged herein.

10 122. Defendants have committed criminal conduct through their policies and practices of,
11 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
12 employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;
13 proper sick time pay; reporting time pay; and reimbursement for necessary business expenditures.

14 123. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
15 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
16 Business and Professions Code section 17200 *et seq.* protects against unfair competition and allows
17 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
18 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of
19 similarly situated persons in a class action proceeding.

20 124. As a result of Defendants' violations of the Labor Code during the applicable
21 limitations period, Plaintiff has suffered an injury-in-fact and has lost money or property in the form
22 of earned wages. Specifically, Plaintiff has lost money or property as a result of Defendants' conduct.

23 125. Plaintiff is informed and believes that other similarly situated persons have been
24 subject to the same unlawful policies or practices of Defendants.

25 126. Due to the unfair and unlawful business practices in violation of the Labor Code,
26 Defendants have gained a competitive advantage over other comparable companies doing business in
27 the State of California that comply with their legal obligations.

28 127. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive

1 relief for “any unlawful, unfair or fraudulent business act or practice,” including if a practice or act
2 violates or is considered unlawful under any other state or federal law.

3 128. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
4 Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
5 Defendants, and each of them, and their agents and employees, from further violations of the Labor
6 Code and applicable Wage Orders.

7 129. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff
8 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
9 Defendants, and each of them, and their agents and employees, from further violations of the Labor
10 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks
11 an order permanently enjoining Defendants, and each of them, and their respective agents and
12 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission
13 Wage Orders.

14 130. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
15 herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully
16 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
17 and unfair business practices.

18 131. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
19 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
20 reasonable attorneys’ fees in connection with their unfair competition claims.

21 132. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
22 herself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully
23 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
24 and unfair business practices.

25 133. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
26 and/or the common fund doctrine, Plaintiff and **UCL Class** members are entitled to recover
27 reasonable attorneys’ fees in connection with their unfair competition claims.

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1 **TENTH CAUSE OF ACTION**

2 **CIVIL PENALTIES**

3 **(Lab. Code §§ 2698, *et seq.*)**

4 134. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

5 135. During the applicable limitations period, Defendants have violated Labor Code §§
6 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5,
7 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.

8 136. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of herself
9 and other current and former employees, to bring a representative civil action to recover civil penalties
10 pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be brought or
11 maintained as a class action pursuant to Code of Civil Procedure section 382.

12 137. Plaintiff, a former employee against whom Defendants committed one or more of the
13 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
14 within the meaning of Labor Code § 2699(c). Plaintiff was employed by Defendants as a non-exempt
15 hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of
16 Defendants within the state of California from one year prior to the date of this letter and continuing
17 through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as
18 “Aggrieved Employees”)

19 138. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §
20 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”)
21 and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to
22 investigate.

23 139. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
24 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 226.7, 226(a), 246, 510,
25 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 26 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 246 1174, 1194, 1198
27 and 2802, one hundred dollars (\$100) for each employee per pay period for
28 each initial violation and two hundred dollars (\$200) for each employee per

1 pay period for each subsequent violation (penalties set by Labor Code §
2 2699(f)(2));

3 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
4 (30) days' pay as waiting time (penalties set by Labor Code § 256);

5 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
6 employee for each initial violation that was neither willful nor intentional, two
7 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
8 withheld from each employee, for each initial violation that was either willful
9 or intentional, and two hundred dollars (\$200) for each employee, plus twenty-
10 five percent (25%) of the amount unlawfully withheld from each employee,
11 for each subsequent violation, regardless of whether the subsequent violation
12 was either willful or intentional (penalties set by Labor Code § 210);

13 iv. For violations of Labor Code § 226(a), if this action is deemed to be an initial
14 citation, two hundred and fifty dollars (\$250) for each employee for each
15 violation. Alternatively, if an initial citation or its equivalent occurred before
16 the filing of this action, one thousand dollars (\$1,000) for each employee for
17 each violation (penalties set by Labor Code § 226.3);

18 v. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
19 employee for each initial pay period for which the employee was underpaid,
20 and one hundred dollars (\$100) for each employee for each subsequent pay
21 period for which the employee was underpaid (penalties set by Labor Code §
22 558);

23 vi. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
24 aggrieved employee for each initial violation of Labor Code § 1197 that was
25 intentional and two hundred and fifty dollars (\$250) for each aggrieved
26 employee per pay period for each subsequent violation of Labor Code § 1197,
27 regardless of whether the initial violation was intentional (penalties set by
28 Labor Code § 1197.1);

vii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general public, prays for relief and judgment against Defendants as follows:

- a. An order that the action be certified as a class action;
- b. An order that Plaintiff be appointed class representative;
- c. An order that counsel for Plaintiff be appointed class counsel;
- d. Unpaid wages and overtime;
- e. Actual damages;
- f. Liquidated damages;
- g. Unreimbursed expenses;
- h. Restitution;
- i. Declaratory relief;
- j. Pre-judgment interest;
- k. Statutory penalties;
- l. Civil penalties;
- m. Costs of suit;
- n. Reasonable attorneys' fees; and
- o. Such other relief as the Court deems just and proper.

Dated: May 5, 2025

D.LAW, INC.



David Yeremian
David Keledjian
Elizabeth Harrier
Attorneys for Plaintiff
HEATHER HARMON, and the putative class

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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: May 5, 2025

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Elizabeth Harrier
Attorneys for Plaintiff
HEATHER HARMON, and the putative class

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

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

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


Jordan Floyd