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Attorneys for Plaintiff JUAN J. LUCATERO
on behalf of himself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JUAN J. LUCATERO, an individual on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

CAL-STATE AUTO PARTS, INC., a
California Corporation; WEST MARKET
ACCESSORY CENTER, a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 25CV462210

CLASS ACTION

Assigned for All Purposes To:
Hon. Charles F. Adams
Dept.: 7

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

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

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 1. Plaintiff JUAN J. LUCATERO (“Plaintiff”) brings this action on behalf of himself
3 and the Class Members who are defined as “all current and former employees within the State of
4 California who, at any time from four (4) years prior to the filing of this lawsuit, are or were
5 employed as non-exempt hourly employees by Defendant CAL-STATE AUTO PARTS, INC., a
6 California Corporation (“Defendant Cal-State Auto Parts”); and/or Defendant WEST MARKET
7 ACCESSORY CENTER, a California Corporation (“Defendant West Market Accessory Center”);
8 and/or DOES 1 through 50, inclusive” (all Defendants being collectively referred to herein as
9 “Defendants”).

10 2. Plaintiff alleges that Defendants, and each of them, violated various provisions of
11 the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the
12 California Business & Professions Code, and seeks redress for these violations.

13 3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared
14 similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3)
15 endured similar violations at the hands of Defendants as the other Class Members who served in
16 similar and related positions.

17 **THE PARTIES**

18 **A. The Plaintiff**

19 4. Plaintiff JUAN J. LUCATERO resides in California, during the time period relevant
20 to this Complaint, and was employed by Defendants as a non-exempt hourly employee within the
21 State of California.

22 **B. The Defendants**

23 5. Defendant CAL-STATE AUTO PARTS, INC., (“Defendant Cal-State Auto Parts”)
24 is a California Corporation with its principal place of business in Anaheim, California and is
25 registered with the California Secretary of State. Defendant Cal-State Auto Parts has been the
26 employer listed on the wage statements and employment records issued to Plaintiff during the
27 relevant time period that Plaintiff was employed with Defendants. Defendant Cal-State Auto Parts
28 employs Plaintiff and the Class Members in California, including at Defendants’ offices and

1 facilities in San Jose, California, and throughout California, and conducts business throughout
2 California.

3 6. Defendant WEST MARKET ACCESSORY CENTER (“Defendant West Market
4 Accessory Center”) is a California Corporation with its principal place of business in Anaheim,
5 California and is registered with the California Secretary of State. Defendant West Market
6 Accessory Center has been the employer listed on the employment records issued to Plaintiff
7 during the relevant time period that Plaintiff was employed with Defendants. Defendant West
8 Market Accessory Center employs Plaintiff and the Class Members in California, including at
9 Defendants’ offices and facilities in San Jose, California, and throughout California, and conducts
10 business throughout California.

11 7. The true names and capacities, whether individual, corporate, associate, or
12 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
13 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of
14 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
15 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
16 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
17 this Complaint to reflect the true names and capacities of the Defendants designated herein as
18 Does 1 through 50 when their identities become known.

19 8. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
20 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
21 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
22 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
23 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
24 exercised control over the wages, hours or working conditions of Class Members, or suffered or
25 permitted Class Members to work, or engaged, thereby creating a common law employment
26 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
27 employed Class Members.

28 9. Whenever and wherever reference is made in this Complaint to any act by a

1 Defendant or Defendants, such allegations and references shall also be deemed to mean the acts
2 and failures to act of each Defendant acting individually, jointly, and severally.

3 10. Whenever and wherever reference is made to individuals who are not named as a
4 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
5 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
6 of their employment.

7 **JURISDICTION AND VENUE**

8 11. This Court has jurisdiction over this Action pursuant to California Code of Civil
9 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
10 a Class Action on behalf of similarly situated Class Members of Defendants pursuant to California
11 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant
12 to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
13 liabilities giving rise to this lawsuit occurred in part in Santa Clara County. Defendants maintain
14 and operate facilities in Santa Clara County and employs Plaintiff and other Class Members in San
15 Jose, California, while doing business throughout California.

16 **FACTUAL BACKGROUND**

17 12. Class Members consistently worked at Defendants behest without being paid all
18 wages due. Class Members were either not paid by Defendants for all hours worked or were not
19 paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants
20 failed to pay Class Members all wages due and owing, including by requiring off the clock work,
21 failing to provide meal and rest breaks, failing to furnish accurate wage statements, unlawfully
22 deducting from wages, failing to timely pay wages including final wages, failing to maintain
23 accurate records, and failing to reimburse necessary business expenses all in violation of various
24 provisions of the California Labor Code and applicable Wage Orders.

25 13. During the course of Class Members' employment with Defendants, Class Members
26 were not paid all wages they were owed. Class Members were required to perform pre-shift and
27 post-shift off the clock work which they were not compensated for despite being subject to
28 Defendants' control. Specifically, Plaintiff was required to help other departments while being

1 clocked out and was required to wait in line to clock in. Upon information and belief, Class Members
2 were also required to perform similar off the clock work. Moreover, Class Members were required
3 to work through portions of their meal periods while they were off the clock and were not paid for
4 this time. Defendants also contacted Class Members on their personal cell phones with work
5 demands outside of scheduled work hours, and Class Members were not paid for this time.

6 14. By implementing policies, programs, practices, procedures and protocols which
7 resulted in off the clock work, Defendants' willful actions resulted in the systematic underpayment
8 of wages to Class Members, including underpayment of overtime pay to Class Members over the
9 relevant time period. For example, the above described off the clock work caused Plaintiff and Class
10 Members to begin receiving overtime pay later than they should have.

11 15. As a result of the above-described requirements to work off the clock, and the other
12 wage violations they endured at Defendants' hands, Class Members were not properly paid all wages
13 earned and all wages owed to them by Defendants, including when working more than eight (8)
14 hours in any given day and/or more than forty (40) hours in any given week.

15 16. As a result of Defendants' unlawful policies and practices, Class Members incurred
16 overtime hours worked for which they were not adequately and completely compensated, in addition
17 to the hours they were required to work off the clock. To the extent applicable, Defendants also
18 failed to pay Class Members at an overtime rate of 1.5 times the regular rate for the first eight hours
19 of the seventh consecutive work day in a week and overtime payments at the rate of 2 times the
20 regular rate for hours worked over eight (8) on the seventh consecutive work day, as required under
21 the Labor Code and applicable IWC Wage Orders.

22 17. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
23 to the present, Defendants had a consistent policy or practice of failing to pay Class Members for
24 all hours worked, and failing to pay minimum wages for all time worked, as required by California
25 law. Defendants thus failed to pay Class Members at least minimum wages for all the time they
26 worked for Defendants in violation of the Labor Code and applicable IWC Wage Orders as the
27 actual times when Class Members were under the control and direction of Defendants was under
28 reported in the hours reflected on the timekeeping records. Furthermore, Defendants' willful actions

1 resulted in the systematic underpayment of wages to Class Members, including underpayment of
2 overtime pay to Class Members over a period of time.

3 18. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing
4 to the present, Defendants had a consistent policy or practice of failing to pay Class Members for
5 all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit and continuing
6 to the present, Defendants also had a consistent policy or practice of failing to pay Class Members
7 their true and correct overtime compensation at premium overtime rates for all hours worked in
8 excess of eight (8) hours a day and/or forty (40) hours a week, and double-time rates for all hours
9 worked in excess of twelve (12) hours a day, in violation of Labor Code § 510 and the corresponding
10 sections of IWC Wage Orders.

11 19. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
12 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
13 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
14 ordered by Defendants for more than five (5) hours during a shift but were often required to do so
15 without receiving a lawful and timely meal break. In addition to untimely meal periods, Defendants
16 also required Class Members to respond to work demands. Defendants placed their needs over Class
17 Members lawful meal and rest breaks, and this resulted in Class Members often having to work
18 through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the
19 demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off
20 duty meal and/or rest break.

21 20. On the occasions when Class Members worked over 10 hours in a shift, Defendants
22 also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a
23 result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid meal
24 periods and all the legally required off-duty, paid rest periods is and will be evidenced by
25 Defendants' business records, or lack thereof. Defendants also failed to pay Class Members
26 "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each
27 meal period or rest break that Defendants failed to provide or deficiently provided.

28 21. Therefore, for at least four (4) years prior to the filing of this action and continuing

1 to the present, Defendants have regularly required Class Members to work shifts in excess of five
2 (5) hours without providing them with uninterrupted meal periods of not less than thirty (30)
3 minutes, and shifts in excess of (10) hours without providing them with second meal periods of not
4 less than thirty minutes; nor did Defendants pay Class Members “premium pay,” i.e. one hour of
5 wages at each Class Member’s effective hourly rate of pay, for each meal period that Defendants
6 failed to provide or deficiently provided.

7 22. Meal period violations thus occurred in one or more of the following manners:

- 8 (a) Class Members were not provided full thirty-minute duty free meal periods
9 for work days in excess of five (5) hours and were not compensated one (1)
10 hour’s wages in lieu thereof, all in violation of, among others, Labor Code
11 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
12 Order(s);
- 13 (b) Class Members were not provided second full thirty-minute duty free meal
14 periods for work days in excess of ten (10) hours;
- 15 (c) Class Members were required to work through at least part of their daily
16 meal period(s);
- 17 (d) Meal periods were provided after five (5) hours of continuous work during
18 a shift; and
- 19 (e) Class Members were restricted in their ability to take a full thirty-minute
20 meal period.

21 23. Class Members were also not authorized and permitted to take lawful rest periods,
22 were systematically required by Defendants to work through or during breaks and were not provided
23 with one (1) hour’s wages in lieu thereof. Class Members were restricted in their ability to take their
24 full ten (10) minutes net rest time or were otherwise not provided with duty-free rest periods.
25 Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present,
26 Defendants have consistently failed to provide Class Members with paid rest breaks of not less than
27 ten minutes for every work period of four or more consecutive hours; or major fraction thereof, nor
28 did Defendant pay Class Members premium pay for each day on which requisite rest breaks were

1 not provided or were deficiently provided.

2 24. Rest period violations therefore arose in one or more of the following manners:

3 (a) Class Members were required to work without being provided a minimum
4 ten (10) minute rest period for every four (4) hours or major fraction
5 thereof worked and were not compensated one (1) hour of pay at their
6 regular rate of compensation for each workday that a rest period was not
7 provided;

8 (b) Class Members were not authorized and permitted to take timely rest
9 periods for every four hours worked, or major fraction thereof; and

10 (c) Class Members had their rest periods interrupted by work demands.

11 25. Defendants also consistently failed to issue accurate itemized wage statements as
12 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed
13 to accurately account for unpaid wages and overtime because Defendants under-reported Class
14 Members' actual hours worked due to the off the clock work. Additionally, the wage statements
15 given to Class Members failed to accurately account for premium pay for deficiently provided meal
16 periods and rest breaks. Moreover, the wage statements given to Class Members contain unlawful
17 deductions by Defendants.

18 26. From at least four (4) years prior to filing this lawsuit and continuing to the present,
19 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class Members
20 at the time of their termination or within seventy-two (72) hours of their resignation, as required by
21 California wage-and-hour laws. Specifically, Class Members were not paid all regular and overtime
22 wages because Defendants failed to pay for all hours worked by requiring off the clock work.
23 Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest
24 periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
25 required time was willful within the meaning of Labor Code § 203.

26 27. From at least four (4) years prior to the filing of this lawsuit and continuing to the
27 present, Defendants have consistently and unlawfully collected or received wages from Class
28 Members. Defendants made payments of wages to Class Members via direct deposit into their

1 personal bank accounts. However, Defendants unlawfully removed and made deductions of said
2 wages from Class Members' pay without permission and authorization.

3 28. Additionally, from at least four (4) years prior to the filing of this lawsuit and
4 continuing to the present, Defendants have regularly required Plaintiff to incur business expenses in
5 the course of performing his required job duties for Defendants, including for cell phone expenses.
6 Upon information and belief, Class Members incurred similar costs. These expenses incurred by
7 Plaintiff and Class Members were necessary and required of them in performing their assigned job
8 duties, but Defendants failed to reimburse Plaintiff and Class Members for all such necessary
9 expenditures, thus entitling them to reimbursement according to proof as required under Labor Code
10 § 2802 and the applicable provisions of the IWC Wage Orders.

11 29. Defendants also failed to provide suitable seating to Class Members. The
12 operations at Defendants' facilities allowed for the presence and use of a stool or seat by Class
13 Members during the performance of their work duties. The nature of the effected job positions can
14 reasonably be accomplished while using a stool or seat. However, Defendants failed to provide
15 Class Members suitable seating when the nature of these employees' work reasonably permitted
16 sitting.

17 30. Further, the facilities where Defendants required Class Members to work were
18 intolerably hot, and Plaintiff, and upon information and belief, the Class Members, were
19 concerned that they would suffer from heat-related injuries during their work shifts. The
20 warehouse where Plaintiff and Class Members were required to work did not have air conditioning
21 nor proper air ventilation. By failing to maintain temperatures providing reasonable comfort levels
22 consistent with industry-wide standards for the nature and process of the work performed,
23 Defendants violated paragraph 15 of the applicable IWC Wage Orders and are entitled to civil
24 penalties as appropriate.

25 31. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
26 *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 510, 512, 551,
27 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698 *et seq.*, 2802,
28 2926 and California Code of Regulations, Title 8, section 11000 *et seq.*

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

CLASS ALLEGATIONS

33. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

a. Subclass 1. Minimum Wages Subclass. All Class Members who were not compensated for all hours worked for Defendants at the applicable minimum wage.

b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.

c. Subclass 3. Meal Period Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to authorize and permit Class Members to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu thereof.

e. Subclass 5. Wage Statement Subclass. All Class Members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

f. Subclass 6. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.

g. Subclass 7: Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Payroll Records Subclass. All Class Members who were subject to

Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

i. Subclass 9. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

j. Subclass 10. Unauthorized Deductions from Wages Subclass. All Class Members who were subject to Defendants' policy and/or practice of automatically deducting wages from Employees' pay.

k. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

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

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

36. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

A. Numerosity

1 37. The potential members of the class as defined are so numerous that joinder of all the
2 members of the class is impracticable. While the precise number of class members has not been
3 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
4 time period relevant to this lawsuit, employed hundreds of employees who satisfy the Class
5 definition within the State of California.

6 38. Accounting for employee turnover during the relevant time period increases this
7 number substantially. Plaintiff alleges that Defendants' employment records will provide
8 information as to the number and location of all Class Members.

9 **B. Commonality**

10 39. There are questions of law and fact common to the Class that predominates over any
11 questions affecting only individual Class Members. These common questions of law and fact
12 include:

- 13 a. Whether Defendants failed to pay Class Members minimum wages;
- 14 b. Whether Defendants failed to pay Class Members wages for all hours worked;
- 15 c. Whether Defendants failed to pay Class Members overtime as required under Labor
16 Code § 510;
- 17 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
18 IWC Wage Orders, by failing to provide Class Members with requisite meal
19 periods or premium pay in lieu thereof;
- 20 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
21 Orders, by failing to authorize and permit Class Members to take requisite rest
22 breaks or provide premium pay in lieu thereof;
- 23 f. Whether Defendants violated Labor Code § 226(a) by providing Class Members
24 with inaccurate wage statements;
- 25 g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
26 wages and compensation due and owing at the time of termination of employment;
- 27 h. Whether Defendants' conduct was willful;
- 28 i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage

Orders by failing to maintain accurate records of Class Members' earned wages and work periods;

j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class Members during the relevant time period for all hours worked, whether regular or overtime;

k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;

l. Whether Defendants violated Labor Code § 221;

m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all necessary business expenses Defendants required them to incur in performing their job duties;

n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

o. Whether Class Members are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

40. The claims of the named Plaintiff is typical of those of Class Members. The Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of statutes, as well as regulations that have the force and effect of law, as alleged herein.

D. Adequacy of Representation

41. Plaintiff will fairly and adequately represent and protect the interest of the Class Members. Counsel who represents Class Members are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

42. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to all Class Members predominate over any questions affecting only individual Class Members. Each Class Member has been damaged and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to compensate Class Members

1 properly.

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

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

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

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

7 **FIRST CAUSE OF ACTION**
8 **FAILURE TO PAY MINIMUM WAGES**
9 **(Against All Defendants)**

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

12 48. Defendants failed to pay Class Members minimum wages for all hours worked.
13 Defendants had a consistent policy of misstating Class Members' time records and failing to pay
14 Class Members for all hours worked. Class Members would work hours and not receive wages,
15 including as alleged above in connection with off the clock work. Defendants, and each of them,
16 have intentionally and improperly changed, adjusted and/or modified the hours of Class Members,
17 which resulted in off the clock work and underpayment of all wages owed to Class Members over
18 a period of time, while benefiting Defendants. During the relevant time period, Defendants thus
19 regularly failed to pay minimum wages to Class Members, to their detriment. Additionally,
20 Defendants had a consistent policy of failing to pay Class Members for hours worked during
21 alleged meal and rest periods for which Class Members were consistently denied, as also
22 addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested,
23 without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy
24 and practice that denied accurate compensation to Class Members as to minimum wage pay.

25 49. In California, employees must be paid at least the then applicable state minimum
26 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
27 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
28 timely pay its employees for all hours worked. Defendants failed to do so.

1 50. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:
2 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to
3 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

4 51. The applicable minimum wages fixed by the commission for work during the
5 relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

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

12 53. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
13 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
14 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
15 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
16 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
17 be used as a credit against a minimum wage obligation.

18 54. In committing these violations of the California Labor Code, Defendants
19 inaccurately recorded, or required Class Members to input times that did not reflect their actual
20 hours worked, or calculated the correct time worked and consequently underpaid the actual time
21 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all
22 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
23 Commission requirements and other applicable laws and regulations. As a result of these
24 violations, Defendant also failed to timely pay all wages earned in accordance with California
25 Labor Code § 1194.

26 55. California Labor Code § 1194.2 also provides for the following remedies: “In any
27 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
28 minimum wages fixed by an order of the commission, an employee shall be entitled to recover

liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

56. In addition to restitution for all unpaid wages, pursuant to California Labor Code § 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

57. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

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

59. Wherefore, Class Members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code, including § 558, and/or other applicable statutes.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

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

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

1 62. By their conduct, as set forth herein, Defendants violated California Labor Code §
2 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class
3 Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8)
4 hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours
5 worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for
6 hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of
7 eight (8) hours on any seventh day of work in a workweek.

8 63. Defendants had a consistent policy of not paying Class Members wages for all
9 hours worked, including by requiring off the clock work, as addressed above. Defendants, and
10 each of them, have intentionally and improperly rounded, changed, adjusted, and/or modified
11 certain employees' hours, including Plaintiff's, in order to avoid paying Class Members all earned
12 and owed straight time and overtime wages and other benefits, in violation of the California Labor
13 Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by
14 the Division of Labor Standards and Enforcement. Defendants have also violated these provisions
15 by requiring Class Members to work through portions of their meal period. Therefore, Class
16 Members were not properly compensated, nor were they paid overtime rates for hours worked in
17 excess of eight hours in a given day, and/or forty hours in a given week. Based on information and
18 belief, Defendants did not make available to Class Members a reasonable protocol for correcting
19 time records when Class Members worked overtime hours or to fix incorrect time entries.

20 64. Defendants' failure to pay Class Members the unpaid balance of regular wages
21 owed and overtime compensation, as required by California law, violates the provisions of Labor
22 Code §§ 510 and 1198, and is therefore unlawful.

23 65. Additionally, Labor Code § 558(a) provides "any employer or other person acting
24 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
25 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
26 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
27 pay period for which the employee was underpaid in addition to an amount sufficient to recover
28 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each

1 underpaid employee for each pay period for which the employee was underpaid in addition to an
2 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
3 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
4 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
5 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
6 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
7 Code § 558.

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

15 67. Class Members have been damaged by these violations of California Labor Code
16 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

17 68. Consequently, pursuant to the California Labor Code, including Labor Code §§
18 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
19 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
20 compensation, with interest, plus their reasonable attorneys’ fees and costs, as well as the
21 assessment of any statutory penalties against Defendants, and each of them, and any additional
22 sums as provided by the Labor Code and/or other statutes.

23 **THIRD CAUSE OF ACTION**

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

25 **(Against All Defendants)**

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

28 70. Class Members regularly worked shifts greater than five (5) hours and in some

1 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
2 someone for a shift of more than five (5) hours without providing him or her with a meal period of
3 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
4 her with a second meal period of not less than thirty (30) minutes.

5 71. Defendants failed to provide Class Members with meal periods as required under
6 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
7 resulted in Class Members consistently having to work through their scheduled meal breaks
8 because the demands of the job would not avail them the opportunity to take a lawfully
9 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
10 when Class Members worked more than ten (10) hours in a given shift, they did so without
11 receiving a second uninterrupted thirty (30) minute meal period as required by law.

12 72. Defendants thus failed to provide Class Members with meal periods as required by
13 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
14 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
15 during breaks.

16 73. Moreover, Defendants failed to compensate Class Members for each meal period
17 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
18 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
19 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
20 pay at the employee's regular rate of compensation for each workday that the meal period is not
21 provided. Defendants failed to compensate Class Members for each meal period not provided or
22 inadequately provided, as required under Labor Code § 226.7.

23 74. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
24 paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages
25 at their effective hourly rates of pay for each meal period not provided or deficiently provided, a
26 sum to be proven at trial, as well as the assessment of any statutory penalties against the
27 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

28 **FOURTH CAUSE OF ACTION**

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

2 **(Against All Defendants)**

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

5 76. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
6 provide that employers must authorize and permit all employees to take rest periods at the rate of
7 ten (10) minutes net rest time per four (4) work hours.

8 77. Class Members consistently worked consecutive four (4) hour shifts and were
9 generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to
10 authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC
11 Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for
12 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely
13 rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants
14 placed their needs over Class Members lawful rest breaks, and this resulted in Class Members
15 consistently having to work through their scheduled rest breaks because the demands of the job
16 would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break.
17 Thus, Class Members were consistently denied of their rest breaks.

18 78. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
19 provide that if an employer fails to provide an employee rest period in accordance with this
20 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
21 compensation for each workday that the rest period is not provided.

22 79. Defendants, and each of them, have therefore intentionally and improperly denied
23 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
24 the applicable IWC Wage Orders.

25 80. Defendants failed to authorize and permit Class Members to take rest periods, as
26 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
27 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
28 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

1 81. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
2 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
3 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
4 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
5 of them, in a sum as provided by the Labor Code and/or other statutes.

6 **FIFTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 226(a)**
8 **(Against All Defendants)**

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

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

18 84. Defendants failed to provide Class Members with accurate itemized wage
19 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
20 Class Members failed to accurately account for unpaid wages and overtime because Defendants
21 under-reported Class Members' actual hours worked due to off the clock work described above.
22 Additionally, the wage statements given to Class Members failed to accurately account for
23 premium pay for deficiently provided meal periods and rest breaks. Moreover, the wage
24 statements given to Class Members contain unlawful deductions by Defendants.

25 85. Throughout the liability period, Defendants intentionally failed to furnish to Class
26 Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages
27 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
28 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the

1 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
2 only the last four digits of his or her social security number or an employee identification number
3 other than a social security number, (8) the name and address of the legal entity that is the
4 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,
6 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
7 Class Members with such timely and accurate wage and hour statements.

8 86. Class Members suffered injury as a result of Defendants' knowing and intentional
9 failure to provide them with the accurate wage and hour statements as required by law and are
10 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
11 Defendants have failed to provide wage statements with accurate and complete information as
12 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class
13 Members cannot promptly and easily determine from the wage statement alone one or more of the
14 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
15 period or any of the other information required to be provided on the itemized wage statement
16 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the
17 employer made from gross wages to determine the net wages paid to the employee during the pay
18 period, (iii) The name and address of the employer and, (iv) The name of the employee and only
19 the last four digits of his or her social security number or an employee identification number other
20 than a social security number. For purposes of Labor Code § 226(e) "promptly and easily
21 determine" means a reasonable person [i.e. an objective standard] would be able to readily
22 ascertain the information without reference to other documents or information.

23 87. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
24 § 226(a), Class Members suffered injuries, including among other things confusion over whether
25 they received all wages owed to them, the difficulty and expense involved in reconstructing pay
26 records, and forcing them to make mathematical computations to analyze whether the wages paid
27 in fact compensated them correctly for all hours worked.

28 88. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC

1 Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual
2 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
3 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
4 penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and
5 reasonable attorneys' fees.

6 **SIXTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 203**
8 **(Against All Defendants)**

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

11 90. Numerous Class Members are no longer employed by Defendants; they either quit
12 Defendants' employ or were fired therefrom.

13 91. Defendants failed to pay these Class Members all wages due and certain at the time
14 of termination or within seventy-two (72) hours of resignation.

15 92. The wages withheld from these Class Members by Defendants remained due and
16 owing for more than thirty (30) days from the date of separation from employment.

17 93. Defendants failed to pay Class Members without abatement, all wages as defined
18 by applicable California law. Class Members were not paid all regular and overtime wages
19 because Defendants failed to pay for all hours worked and required off the clock work.
20 Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest
21 periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
22 required time was willful within the meaning of Labor Code § 203.

23 94. Defendants' failure to pay wages, as alleged entitles these Class Members to
24 penalties under Labor Code § 203, which provides that an employee's wages shall continue until
25 paid for up to thirty (30) days from the date they were due.

26 **SEVENTH CAUSE OF ACTION**
27 **VIOLATION OF LABOR CODE § 204**
28 **(Against All Defendants)**

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

3 96. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
4 employment are due and payable twice during each calendar month, on days designated in
5 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
6 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
7 during which the labor was performed, and labor performed between the 16th and the last day,
8 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
9 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of
10 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
11 calendar days following the close of the payroll period.” As detailed above, Defendants
12 maintained a consistently applied policy and practice of not paying all wages earned between the
13 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
14 between the 16th and the last day of the month between the 1st and 10th day of the following month.
15 Defendants similarly failed to pay all wages earned by not more than seven calendar days
16 following the close of the payroll period. These failures all arose from Defendants’ failure to pay
17 for all hours worked as detailed above.

18 97. All wages due and owing to Plaintiff and the Class Members, including as required
19 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
20 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
21 payable to each Class Member in each pay period that he or she was not provided with a meal
22 period or rest period or paid straight or overtime wages or commissions to which he or she was
23 entitled.

24 98. Defendants thus violated Labor Code § 204 by systematically refusing to pay
25 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
26 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
27 payday for the period involved, not less than the applicable minimum wage for all hours worked in
28 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer

1 hours than those fixed by the order or under conditions of labor prohibited by the order is
2 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
3 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
4 penalties under paragraph 20 of the applicable IWC Wage Orders.

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

10 **EIGHTH CAUSE OF ACTION**
11 **VIOLATION OF LABOR CODE § 221**
12 **(Against All Defendants)**

13 100. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
14 full herein.

15 101. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
16 receive from an employee any part of wages theretofore paid by said employer to said employee.”

17 102. Defendants unlawfully received and/or collected wages from Class Members’ pay
18 without permission and authorization in violation of Labor Code § 221.

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

21 **NINTH CAUSE OF ACTION**
22 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
23 **AND 1174.5**
24 **(Against All Defendants)**

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

27 105. California Labor Code § 1174 requires that all employers shall keep accurate time
28 and wage records for all employees. California Labor Code § 1174.5 further requires that any

1 employee suffering injury due to a willful violation of the aforementioned obligations may seek
2 damages, including civil penalties, from the employer.

3 106. During the course of Plaintiff's and Class Members' employment, Defendants
4 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
5 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper
6 wages, overtime, and premium pay as discussed above.

7 107. Accordingly, Defendants are liable for civil penalties pursuant to the California
8 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

9 **TENTH CAUSE OF ACTION**

10 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

11 **(Against All Defendants)**

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

14 109. Under Labor Code § 2802(a) an employer must indemnify its employees for all
15 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
16 of his or her duties, or of his or her obedience to the directions of the employer.

17 110. Defendants have regularly required Plaintiff to incur business expenses in the course
18 of performing his required job duties for Defendants including for cell phone expenses. Upon
19 information and belief, Class Members incurred similar costs. These expenses incurred by Plaintiff
20 and Class Members were necessary and required of them in performing their assigned job duties,
21 but Defendants failed to reimburse Plaintiff and Class Members for all such necessary expenditures.
22 Class Members were not reimbursed for those lawful and necessary work related expenses or losses
23 incurred in direct discharge of their job duties during their employment with Defendants and at the
24 direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders,
25 paragraph 9.

26 111. As a result of the unlawful acts of Defendants, Class Members have been deprived
27 of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
28 plus interest and penalties thereon, attorneys' fees, and costs.

ELEVENTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*
(Against All Defendants)

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

113. Plaintiff, on behalf of himself, Class Members, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class Members and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

114. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, has suffered an injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

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

116. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to

1 comply with minimum labor standards.

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

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

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

14 120. By the conduct alleged herein, Defendants have engaged and continue to engage in
15 a business practice which violates California and federal law, including but not limited to, the
16 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
17 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court
18 should issue declaratory and other equitable relief pursuant to California Business & Professions
19 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
20 competition, including restitution of wages wrongfully withheld.

21 121. As a proximate result of the above-mentioned acts of Defendants, Class Members
22 have been damaged, in a sum to be proven at trial.

23 122. Unless restrained by this Court, Defendants will continue to engage in such
24 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
25 should make such orders or judgments, including the appointment of a receiver, as may be
26 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
27 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
28 disgorgement of such profits as may be necessary to restore Class Members to the money

Defendants have unlawfully failed to pay.

TWELFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 2698, ET SEQ.
(Against All Defendants)

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

2. Plaintiff and the Employees in the Class are also Class Members as defined under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were or are employed by the alleged violators, Defendants, during the relevant time period (“Class Members”).

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

4. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699 for Defendants’ violation of Labor Code provisions included under Labor Code 2699.5, including the penalty provisions, without limitation, based, inter alia, on the following California Labor Code sections: 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2802, 2926, *et seq.*

5. More specifically, after complying with the notice procedures of Labor Code § 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General and other similarly Class Members, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Class Members all earned

1 regular pay and minimum wages for regular hours worked and for failure to pay overtime
2 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
3 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
4 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
5 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
6 to Labor Code § 2699(g)(1);

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

15 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
16 provide Plaintiff and Class Members with accurate, itemized wage statements and failure to
17 maintain employment records for Plaintiff and Class Members under Labor Code §§ 226, 1174,
18 and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all
19 civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
20 226.3, 558, 1174.5, 1199, 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and
21 also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
22 providing inaccurate wage statements and failing to maintain records as required under Labor
23 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor
24 Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a
25 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial
26 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
27 citation, ...";

28 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at

1 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 202, 203, 204,
2 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor
3 Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the
4 applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code §
5 2699(g)(1);

6 (e) All Alleged Violations of the IWC Wage Orders and Other Labor Code
7 Sections: For any above addressed violation of the applicable provisions of the IWC Wage
8 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §
9 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
10 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
11 Labor Code § 2699(g)(1).

12 6. As also addressed above, Plaintiff, on behalf of the Class Members, also seeks the
13 penalties and remedies set forth in Labor Code § 558, which states:

14 (a) Any employer or other person acting on behalf of an employer who violates, or
15 causes to be violated, a section of this chapter or any provision regulating hours and days of work
16 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
17 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
18 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
19 wages. (2) For any subsequent violation, one hundred dollars (\$100) for each underpaid employee
20 for each pay period for which the employee was underpaid in addition to an amount sufficient to
21 recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
22 employee.

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

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

7. Plaintiff has exhausted her administrative remedies by sending a certified letter to the LWDA and Defendants postmarked on **March 28, 2025**, addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice Letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Class Members and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Class Members for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be

1 proven;

2 8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were
3 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

4 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
5 for all class members in violation of Labor Code § 204, as may be proven;

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

7 11. For restitution and/or damages for all amounts unlawfully withheld from the wages
8 for all Class Members in violation of Labor Code § 2802, as may be proven;

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

11 13. For restitution for unfair competition pursuant to Business & Professions Code
12 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

13 14. For an order enjoining Defendants and their agents, servants, and employees, and
14 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
15 duties adumbrated in this Complaint;

16 15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

17 16. For other wages and penalties under the Labor Code as may be proven;

18 17. For all general, special, and incidental damages as may be proven;

19 18. For an award of pre-judgment and post-judgment interest;

20 19. For an award providing for the payment of the costs of this suit;

21 20. For an award of attorneys' fees; and

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1 21. For such other and further relief as this Court may deem proper and just.

2
3 DATED: June 2, 2025

D.LAW, INC.

4
5 By: Natalie Haritonian
6 Emil Davtyan
7 David Yeremian
8 Natalie Haritonian
9 Andrea A. Amaya Silva
10 Attorneys for Plaintiff JUAN J. LUCATERO,
11 and all others similarly situated
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DATED: June 2, 2025

By: Natalie Harit
Emil Davtyan
David Yeremian
Natalie Harit
Andrea A. Amaya Silva
Attorneys for Plaintiff JUAN J. LUCATERO,
and all others similarly situated

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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.

Richard J. Deblasi
1361 N Red Gum St.
Anaheim, CA 92806

Ryan Wilkinson (rwilkinson@acrisure.com)
Actisure
18952 MacArthur Blvd, Suite 300
Irvine, CA 92612

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

☐ **(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.

Executed on June 2, 2025, at Glendale, California.


Silvia Pimentel