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on behalf of himself and all others similarly situated
7 and aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10 MATTHEW JAMES EASTON, an individual
and on behalf of all others similarly situated,

11
12 Plaintiff,

13
14 v.

15 SUNSET TOWER MANAGEMENT LLC, a
California limited liability company; and
DOES 1 through 100, inclusive,

16
17 Defendants.

CASE NO.: 22STCV34112

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

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. VIOLATION OF LABOR CODE § 227.3;
10. UNFAIR COMPETITION.
11. CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (2004) FOR VIOLATIONS OF
LABOR CODE SECTIONS 210, 226.3,
558, 1174.5, 1197.1, AND 2699, et seq

DEMAND FOR JURY TRIAL

[Amount in Controversy Exceeds \$25,000.00]

Complaint Filed: October 21, 2022

COMES NOW plaintiff MATTHEW JAMES EASTON (“Plaintiff”), on behalf of Plaintiff and all others similarly situated and aggrieved, and alleges as follows:

GENERAL ALLEGATIONS

INTRODUCTION

1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against SUNSET TOWER MANAGEMENT LLC, and any of its respective subsidiaries or affiliated companies within the State of California (“SUNSET” and, with DOES 1 through 100, as further defined below, “Defendant”) on behalf of Plaintiff and all other current and former non-exempt California employees employed by or formerly employed by Defendant (“Class Members”).

2. This is also a representative action, pursuant to the Labor Code Private Attorneys General Act of 2004, codified at Labor Code section 2698, et seq. (“PAGA”), against Defendants, and any of their respective subsidiaries or affiliated companies within the State of California, as a proxy of the Labor and Workforce Development Agency of the State of California (“LWDA”), on behalf of Plaintiff and all other current and former non-exempt employees of Defendants working within the Civil Penalty Period, as further defined herein, and, as it pertains to the alleged claims for violations of the Labor Code, including but not limited to, failure to comply with Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, et seq., Labor Code section 2802, on behalf of all employees of Defendants working within the Civil Penalty Period (collectively, “Aggrieved Employees”).

PARTIES

A. Plaintiff

3. Plaintiff MATTHEW JAMES EASTON is a resident of the State of California. At all relevant times herein, Plaintiff is informed and believes, and based thereon allege that Defendant employed Plaintiff MATTHEW JAMES EASTON as a non-exempt employee, with duties that included, but were not limited to, bussing tables and assisting waiters. Plaintiff is informed and believes and based thereon alleges that Plaintiff MATTHEW JAMES EASTON worked for Defendant from approximately November of 2019 through approximately March of 2022.

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2 **B. Defendant**

3 4. Plaintiff is informed and believes and based thereon alleges that defendant
4 SUNSET is, and at all times relevant hereto was, a limited liability company organized and
5 existing under and by virtue of the laws of the State of California and doing business in the
6 County of Los Angeles, State of California.

7 5. The true names and capacities, whether individual, corporate, associate, or
8 otherwise, of Defendant sued herein as DOES 1 through 100, inclusive, are currently unknown to
9 Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure
10 section 474. Plaintiff is informed and believes and based thereon alleges that each of the
11 Defendant designated herein as DOE is legally responsible in some manner for the unlawful acts
12 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
13 names and capacities of the Defendant designated hereinafter as DOES when such identities
14 become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant
15 acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a
16 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
17 defendant are legally attributable to the other Defendant. Whenever, heretofore or hereinafter,
18 reference is made to "Defendant," it shall include SUNSET and any of its parent, subsidiary, or
19 affiliated companies within the State of California, as well as DOES 1 through 100 identified
20 herein.

21 **JOINT LIABILITY ALLEGATIONS**

22 6. Plaintiff is informed and believes and based thereon alleges that all the times
23 mentioned herein, each of the Defendants was the agent, principal, employee, employer,
24 representative, joint venture or co-conspirator of each of the other Defendants, either actually or
25 ostensibly, and in doing the things alleged herein acted within the course and scope of such
26 agency, employment, joint venture, and conspiracy.

27 7. All of the acts and conduct described herein of each and every corporate defendant
28 was duly authorized, ordered, and directed by the respective and collective defendant corporate

employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

8. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendant, and each of them, are joint employers.

JURISDICTION

9. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

10. Venue is proper in Los Angeles County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, Los Angeles County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff, or some of them, and Defendant was due to be performed; the county in which the employment contract, or part of it, between Plaintiff, or some of them, and Defendant was actually performed; and the county in which Defendant, or some of them, reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class Members in Los Angeles County, and because Defendant employ numerous Class Members in Los Angeles County.

11. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and all other aggrieved current and former employees of Defendants, the civil penalties provided by PAGA plus reasonable attorneys’ fees and costs, as the term “civil penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175.

12. Plaintiff seeks to recover the PAGA civil penalties through a representative action

1 permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
2 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
3 PAGA allegations described herein is not required.

4 13. During the period beginning one (1) year preceding the provision of notice to the
5 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),
6 Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3,
7 256, 432, 510, 512, 558, 1174, 1194, 1197, 1198.5, 2802, and 2810.3, and 2810.5, among others.

8 14. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees
9 such as Plaintiff, on behalf of themselves and all other aggrieved current and former employees
10 within the statutory period, to bring a civil action to recover civil penalties pursuant to the
11 procedures specified in Labor Code section 2699.3.

12 15. On or around August 29, 2022, Plaintiff provided written notice under Labor Code
13 section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation
14 of various, including the herein-described, provisions of the Labor Code, to the Labor and
15 Workforce Development Agency (“LWDA”), as well as by certified mail, with return receipt
16 requested to Defendants, and each of them.

17 16. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not
18 provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65)
19 calendar days of the August 29, 2022 postmarked date of the herein-described notice sent by
20 Plaintiff to the LWDA and Defendants.

21 **FACTUAL BACKGROUND**

22 17. For at least four (4) years prior to the filing of this action and continuing to the
23 present, Defendant has, at times, failed to pay overtime wages to Plaintiff and Class Members, or
24 some of them, in violation of California state wage and hour laws as a result of, without limitation,
25 Plaintiff and Class Members working over eight (8) hours per day, forty (40) hours per week, and
26 seven consecutive work days in a work week without being properly compensated for hours
27 worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week,
28 and/or hours worked on the seventh consecutive work day in a work week by, among other things,

1 failing to accurately track and/or pay for all minutes actually worked at the proper overtime rate of
2 pay; engaging, suffering, or permitting employees to work off the clock, including, without
3 limitation, by requiring employees: to come early to work and leave late work without being able
4 to clock in for all that time, to suffer under Defendant's control due to waiting in lines to clock in,
5 to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out
6 for meal periods and continue working, and/or go through security screenings and/or temperature
7 checks off the clock; failing to include all forms of remuneration, including non-discretionary
8 bonuses, incentive pay, meal allowances, and other forms of remuneration into the regular rate of
9 pay for the pay periods where overtime was worked and the additional compensation was earned
10 for the purposes of calculating the overtime rate of pay; editing and/or manipulation of time
11 entries to show less hours than actually worked; requiring that employees be "on call" without
12 being properly compensated for all that time; and for paying straight pay (or the otherwise
13 incorrect rate of pay) instead of overtime pay, to the detriment of Plaintiff and Class Members. In
14 addition, Defendants would also be liable for civil penalties pursuant to Labor Code sections 558
15 and 2699.

16 18. For at least four (4) years prior to the filing of this Action and continuing to the
17 present, Defendant has, at times, failed to pay minimum wages to Plaintiff and Class Members, or
18 some of them, in violation of California state wage and hour laws as a result of, among other
19 things, at times, failing to accurately track and/or pay for all minutes actually worked at their
20 regular rate of pay that is above the minimum wage; engaging, suffering, or permitting employees
21 to work off the clock, including, without limitation, by requiring employees: to come early to
22 work and leave late work without being able to clock in for all that time, to suffer under
23 Defendant's control by waiting in lines to clock in, to complete pre-shift tasks before clocking in
24 and post-shift tasks after clocking out, to clock out for meal periods and continue working, and/or
25 go through security screenings and/or temperature checks off the clock; editing and/or
26 manipulating of time entries to show less hours than actually worked; requiring that employees be
27 "on call" without being properly compensated for all that time; and failing to pay split shift
28 premiums, to the detriment of Plaintiff and Class Members. Defendants would also be liable for

1 civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

2 19. For at least four (4) years prior to the filing of this Action and continuing to the
3 present, Defendant has, at times, failed to provide Plaintiff and Class Members, or some of them,
4 full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than
5 five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on
6 which they worked in excess of ten (10) hours in a work day, and failing to provide compensation
7 for such unprovided meal periods as required by California wage and hour laws. Defendants
8 would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

9 20. For at least four (4) years prior to the filing of this action and continuing to the
10 present, Defendant has, at times, failed to authorize and permit Plaintiff and Class Members, or
11 some of them, to take rest periods of at least ten (10) minutes per four (4) hours worked or major
12 fraction thereof and failed to provide compensation for such unprovided rest periods as required
13 by California wage and hour laws. Defendants would also be liable for civil penalties pursuant to
14 Labor Code sections 558 and 2699.

15 21. For at least three (3) years prior to the filing of this action and continuing to the
16 present, Defendant has, at times, failed to pay Plaintiff and Class Members, or some of them, the
17 full amount of their wages owed to them upon termination and/or resignation as required by Labor
18 Code sections 201 and 202, including for, without limitation, failing to pay overtime wages,
19 minimum wages, premium wages, and vacation pay pursuant to Labor Code section 227.3.
20 Defendants would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

21 22. For at least one (1) year prior to the filing of this Action and continuing to the
22 present, Defendant has, at times, failed to furnish Plaintiff and Class Members, or some of them,
23 with itemized wage statements that accurately reflect gross wages earned; total hours worked; net
24 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
25 number of hours worked at each hourly rate; and other such information as required by Labor
26 Code section 226, subdivision (a). As a result thereof, Defendant have further failed to furnish
27 employees with an accurate calculation of gross and gross wages earned, as well as gross and net
28 wages paid. Defendants would also be liable for civil penalties pursuant to Labor Code sections

1 226.3, 558 and 2699.

2 23. For at least one (1) year prior to the filing of this action and continuing to the
3 present, Defendant has, at times, failed to pay Plaintiff and Class Members, or some of them, the
4 full amount of their wages for labor performed in a timely fashion as required under Labor Code
5 section 204. Defendants would be liable for civil penalties pursuant to Labor Code sections 210,
6 558 and 2699.

7 24. For at least four (4) years prior to the filing of this action and continuing to the
8 present, Defendant have had a consistent policy of failing to provide Plaintiff and similarly
9 situated employees or former employees within the State of California with compensation at their
10 final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

11 25. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, brings this
12 action pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226,
13 226.7, 227.3, 510, 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8,
14 section 11040, seeking overtime wages, minimum wages, payment of premium wages for missed
15 meal and rest periods, failure to pay timely wages, waiting time penalties, wage statement
16 penalties, failure to indemnify work-related expenses, failing to pay vested vacation time at the
17 proper rate of pay, other such provisions of California law, and reasonable attorneys' fees and
18 costs.

19 26. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to
20 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)
21 prohibiting Defendant from further violating the Labor Code and requiring the establishment of
22 appropriate and effective means to prevent further violations, as well as all monies owed but
23 withheld and retained by Defendant to which Plaintiff and Class Members are entitled, as well as
24 restitution of amounts owed.

25 27. At all relevant times mentioned herein, Defendants have had a policy or practice of
26 failing to comply with the notice requirements of Labor Code section 2810.5 (i.e., the Wage Theft
27 Protection Act of 2011) by, among other things, failing to provide Plaintiff and other Aggrieved
28 Employees with the rates of pay and overtime rates of pay applicable to their employment;

1 allowances claimed as part of the minimum wage; the regular payday designated by Defendants;
2 the name, address, and telephone number of the workers' compensation insurance carrier;
3 information regarding paid sick leave; and other pertinent information required to be disclosed by
4 Defendants under Labor Code section 2810.5.

5 28. At all relevant times mentioned herein, Defendants failed to provide Plaintiff and
6 other Aggrieved Employees with the amount of paid sick leave required to be provided pursuant to
7 California law (including, without limitation Labor Code section 246, et seq.), and also did not
8 permit its use upon request as contemplated under California laws, to the detriment of Plaintiff and
9 all other Aggrieved Employees.

10 29. Plaintiff, in his representative capacity, seeks civil penalties under Labor Code
11 sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate the
12 California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved
13 Employees pursuant to PAGA.

14 **CLASS ACTION ALLEGATIONS**

15 30. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class
16 action pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all
17 current and former non-exempt employees of Defendant within the State of California at any time
18 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that
19 notice of the class action is provided to the class (collectively referred to as "Class Members").

20 31. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision
21 (b) to amend or modify the class description with greater specificity, further divide the defined
22 class into subclasses, and to further specify or limit the issues for which certification is sought.

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

26 **A. Numerosity**

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

determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class Members employed by Defendant within the State of California.

34. Accounting for employee turnover during the relevant periods necessarily increases this number. Plaintiff alleges Defendant's employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

B. Commonality

35. There are questions of law and fact common to Class Members. These common questions include, but are not limited to:

- A. Did Defendant violate Labor Code sections 510 and 1194 by failing to pay all hours worked at a proper overtime rate of pay?
- B. Did Defendant violate Labor Code sections 510, 1194 and 1197 by failing to pay for all other time worked at the employee's regular rate of pay and a rate of pay that is greater than the applicable minimum wage?
- C. Did Defendant violate Labor Code section 512 by not authorizing or permitting Class Members to take compliant meal periods?
- D. Did Defendant violate Labor Code section 226.7 by not providing Class Members with additional wages for missed or interrupted meal periods?
- E. Did Defendant violate applicable Wage Orders by not authorizing or permitting Class Members to take compliant rest periods?
- F. Did Defendant violate Labor Code section 226.7 by not providing Class Members with additional wages for missed rest periods?
- G. Did Defendant violate Labor Code sections 201 and 202 by failing to pay Class Members upon termination or resignation all wages earned?
- H. Are Defendant liable to Class Members for waiting time penalties under Labor Code section 203?
- I. Did Defendant violate Labor Code section 226, subdivision (a) by not furnishing Class Members with accurate wage statements?

1 J. Did Defendant fail to pay Class Members in a timely fashion as required under
2 Labor Code section 204?

3 K. Did Defendant fail to indemnify Class Members for all necessary expenditures or
4 losses incurred in direct consequence of the discharge of their duties or by
5 obedience to the directions of Defendant as required under Labor Code section
6 2802?

7 L. Did Defendant violate Labor Code section 227.3 by not providing Class Members
8 with compensation at their final rate of pay for vested paid vacation time?

9 M. Did Defendant violate the Unfair Competition Law, Business and Professions Code
10 section 17200, *et seq.*, by their unlawful practices as alleged herein?

11 N. Are Class Members entitled to restitution of wages under Business and Professions
12 Code section 17203?

13 O. Are Class Members entitled to costs and attorneys' fees?

14 P. Are Class Members entitled to interest?

15 **C. Typicality**

16 36. The claims of Plaintiff herein alleged are typical of those claims which could be
17 alleged by any Class Members, and the relief sought is typical of the relief which would be sought
18 by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and
19 damages arising out of and caused by Defendant's common course of conduct in violation of laws
20 and regulations that have the force and effect of law and statutes as alleged herein.

21 **D. Adequacy of Representation**

22 37. Plaintiff will fairly and adequately represent and protect the interest of Class
23 Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and
24 hour class actions.

25 **E. Superiority of Class Action**

26 38. A class action is superior to other available means for the fair and efficient
27 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
28 questions of law and fact common to Class Members predominate over any questions affecting

1 only individual Class Members. Class Members, as further described therein, have been damaged
2 and are entitled to recovery by reason of Defendant's policies and/or practices that have resulted in
3 the violation of the Labor Code at times, as set out herein.

4 39. Class action treatment will allow Class Members to litigate their claims in a manner
5 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware
6 of any difficulties that are likely to be encountered in the management of this action that would
7 preclude its maintenance as a class action.

8 **FIRST CAUSE OF ACTION**

9 **(Failure to Pay Overtime Wages – Against All Defendant)**

10 40. Plaintiff realleges and incorporates by reference all of the allegations contained in
11 the preceding paragraphs as though fully set forth hereat.

12 41. At all relevant times, Plaintiff and Class Members were employees or former
13 employees of Defendant covered by Labor Code sections 510, 1194 and 1199, as well as
14 applicable Wage Orders.

15 42. At all times relevant to this Complaint, Labor Code section 510 was in effect and
16 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
17 one workday and any work in excess of forty hours in any one workweek . . . shall be
18 compensated at the rate of no less than one and one-half times the regular rate of pay for an
19 employee."

20 43. At all times relevant to this Complaint, Labor Code section 510 further provided
21 that "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than
22 twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on
23 any seventh day of a workweek shall be compensated at the rate of no less than twice the regular
24 rate of pay."

25 44. Four (4) years prior to the filing of the Complaint in this Action through the
26 present, Plaintiff and Class Members, at times, worked for Defendant during shifts that consisted
27 of more than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or
28 seven (7) consecutive workdays in a workweek, without being paid overtime wages for all hours

1 worked as a result of, including but not limited to, Defendant failing to accurately track and/or pay
2 for all minutes actually worked at the proper overtime rate of pay; engaging, suffering, or
3 permitting employees to work off the clock, including, without limitation, by requiring employees:
4 to come early to work and leave late work without being able to clock in for all that time, to suffer
5 under Defendant's control due to waiting in lines to clock in, to complete pre-shift tasks before
6 clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue
7 working, and/or go through security screenings and/or temperature checks off the clock; failing to
8 include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal
9 allowances, and other forms of remuneration into the regular rate of pay for the pay periods where
10 overtime was worked and the additional compensation was earned for the purposes of calculating
11 the overtime rate of pay; editing and/or manipulation of time entries to show less hours than
12 actually worked; requiring that employees be "on call" without being properly compensated for all
13 that time; and for paying straight pay (or the otherwise incorrect rate of pay) instead of overtime
14 pay, to the detriment of Plaintiff and Class Members.

15 45. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater
16 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight
17 workdays without properly compensating overtime wages at the proper overtime rate of pay,
18 Defendant, on occasion, willfully violated the provisions of the Labor Code, among others,
19 sections 510, 1194, and applicable IWC Wage Orders, and California law.

20 46. As a result of the unlawful acts of Defendant, Plaintiff and Class Members have
21 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,
22 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194
23 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

24 **SECOND CAUSE OF ACTION**

25 **(Failure to Pay Minimum Wages – Against All Defendant)**

26 47. Plaintiff realleges and incorporates by reference all of the allegations contained in
27 the preceding paragraphs as though fully set forth hereat.

28 48. At all relevant times, Plaintiff and Class Members were employees or former

1 employees of Defendant covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

2 49. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and
3 Class Members were entitled to receive minimum wages for all hours worked or otherwise under
4 Defendant's control.

5 50. For four (4) years prior to the filing of the Complaint in this Action through the
6 present, Defendant failed, at times, to accurately track and/or pay for all hours actually worked at
7 their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class
8 Members; engaged, suffered, or permitted employees to work off the clock, including, without
9 limitation, by requiring employees: to come early to work and leave late work without being able
10 to clock in for all that time, to suffer under Defendant's control by waiting in lines to clock in, to
11 complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for
12 meal periods and continue working, and/or go through security screenings and/or temperature
13 checks off the clock; edited and/or manipulated time entries to show less hours than actually
14 worked; required that employees be "on call" without being properly compensated for all that
15 time; and failed to pay split shift premiums, to the detriment of Plaintiff and Class Members.

16 51. As a result of Defendant's unlawful conduct, Plaintiff and Class Members have
17 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages
18 for all hours worked or otherwise due.

19 52. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure
20 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled
21 to recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated
22 damages, reasonable attorneys' fees and costs of suit.

23 **THIRD CAUSE OF ACTION**

24 **(Failure to Provide Meal Periods – Against All Defendant)**

25 53. Plaintiff realleges and incorporates by reference all of the allegations contained in
26 the preceding paragraphs as though fully set forth hereat.

27 54. At all relevant times, Plaintiff and Class Members were employees or former
28 employees of Defendant covered by Labor Code section 512 and applicable Wage Orders.

1 55. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer
2 shall employ an employee for a work period of more than five (5) hours without a timely meal
3 break of not less than thirty (30) minutes in which the employee is relieved of all of his or her
4 duties. Furthermore, no employer shall employ an employee for a work period of more than ten
5 (10) hours per day without providing the employee with a second timely meal period of not less
6 than thirty (30) minutes in which the employee is relieved of all of his or her duties.

7 56. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
8 with a meal period as provided in the applicable Wage Order of the Industrial Welfare
9 Commission, the employer shall pay the employee one (1) additional hour of pay at the
10 employee's regular rate of compensation for each workday that the meal period is not provided.

11 57. For four (4) years prior to the filing of the Complaint in this Action through the
12 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute,
13 duty-free uninterrupted meal periods every five hours of work without waiving the right to take
14 them, as permitted. Moreover, at times, Defendant failed to provide one (1) additional hour of pay
15 at the Class Member's regular rate of compensation on the occasions that Class Members were not
16 provided compliant meal periods.

17 58. By their failure to provide Plaintiff and Class Members compliant meal periods as
18 contemplated by Labor Code section 512, among other California authorities, and failing, at times,
19 to provide compensation for such unprovided meal periods, as alleged above, Defendant willfully
20 violated the provisions of Labor Code section 512 and applicable Wage Orders.

21 59. As a result of Defendant's unlawful conduct, Plaintiff and Class Members have
22 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
23 owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

24 60. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
25 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus
26 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and
27 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

28 **FOURTH CAUSE OF ACTION**

(Failure to Provide Rest Periods – Against All Defendant)

61. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth hereat.

62. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendant covered by applicable Wage Orders.

63. California law and applicable Wage Orders require that employers “authorize and permit” employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period “or major fraction thereof.” Accordingly, employees who work shifts of three and-a-half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

64. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.

65. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 10-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendant failed to provide one (1) additional hour of pay at the Class Member’s regular rate of compensation on the occasions that Class Members were not authorized or permitted to take compliant rest periods.

66. By their failure, at times, to authorize and permit Plaintiff and Class Members to take rest periods contemplated by California law, and one (1) additional hour of pay at the employee’s regular rate of compensation for such unprovided rest periods, as alleged above, Defendant willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

67. As a result of Defendant’s unlawful conduct, Plaintiff and Class Members have

1 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay
2 owed for rest periods that they were not authorized or permitted to take.

3 68. Plaintiff and Class Members are entitled to recover the full amount of their unpaid
4 additional pay for unprovided compliant rest periods, in amounts to be determined at trial, plus
5 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and
6 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

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9 **FIFTH CAUSE OF ACTION**

10 **(Failure to Pay All Wages Due Upon Termination – Against All Defendant)**

11 69. Plaintiff realleges and incorporates by reference all of the allegations contained in
12 the preceding paragraphs as though fully set forth hereat.

13 70. At all relevant times, Plaintiff and Class Members were employees or former
14 employees of Defendant covered by Labor Code sections 201, 202 and 203, as well as applicable
15 Wage Orders.

16 71. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were
17 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.
18 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to
19 discharge immediately upon termination. Class Members who resigned were entitled to payment
20 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of
21 resignation or, if they gave 72 hours previous notice, they were entitled to payment of all wages
22 earned and unpaid at the time of resignation.

23 72. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)
24 years before the filing of the Complaint in this Action through the present, Defendant, due to the
25 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class
26 Members all wages earned prior to resignation or termination in accordance with Labor Code
27 sections 201 or 202.

28 73. Plaintiff is informed and believes Defendant's failure, at times, to pay Plaintiff and

1 Class Members all wages earned prior to termination or resignation in accordance with Labor
2 Code sections 201 and 202 was willful. Defendant had the ability to pay all wages earned by
3 Plaintiff and Class Members at the time of termination in accordance with Labor Code sections
4 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of
5 Labor Code sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to
6 termination or resignation.

7 74. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to
8 waiting time penalties from the date their earned and unpaid wages were due, upon termination or
9 resignation, until paid, up to a maximum of thirty (30) days.

10 75. As a result of Defendant's unlawful conduct, Plaintiff and Class Members have
11 suffered damages in an amount subject to proof, to the extent they were not paid for all wages
12 earned prior to termination or resignation.

13 76. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections
14 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
15 waiting time penalties, interest, and their costs of suit, as well.

16 **SIXTH CAUSE OF ACTION**

17 **(Failure to Provide Accurate Wage Statements – Against All Defendant)**

18 77. Plaintiff realleges and incorporates by reference all of the allegations contained in
19 the preceding paragraphs as though fully set forth hereat.

20 78. At all relevant times, Plaintiff and Class Members were employees or former
21 employees of Defendant covered by Labor Code section 226, as well as applicable Wage Orders.

22 79. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members
23 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate
24 itemized statement that accurately reflects, among other things, gross wages earned; total hours
25 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
26 corresponding number of hours worked at each hourly rate; and the name and address of the legal
27 entity that is the employer, among other things.

28 80. Plaintiff is informed and believes, and based thereon alleges, that in the one (1)

1 year before the filing of the Complaint in this Action through the present, Defendant failed to
2 comply with Labor Code section 226, subdivision (a) by adopting policies and practices that
3 resulted in their failure, at times, to furnish Plaintiff and Class Members with accurate itemized
4 statements that accurately reflect, among other things, gross wages earned; total hours worked; net
5 wages earned; all applicable hourly rates in effect during the pay period and the corresponding
6 number of hours worked at each hourly rate; and the name and address of the legal entity that is
7 the employer, among other things.

8 81. Defendant's failure to, at times, provide Plaintiff and Class Members with accurate
9 wage statements was knowing, intentional, and willful. Defendant had the ability to provide
10 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully
11 provided wage statements that Defendant knew were not accurate.

12 82. As a result of Defendant's unlawful conduct, Plaintiff and Class Members have
13 suffered injury. The absence of accurate information on Class Members' wage statements at times
14 has delayed timely challenge to Defendant's unlawful pay practices; requires discovery and
15 mathematical computations to determine the amount of wages owed; causes difficulty and expense
16 in attempting to reconstruct time and pay records; and led to submission of inaccurate information
17 about wages and amounts deducted from wages to state and federal governmental agencies, among
18 other things.

19 83. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members
20 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor
21 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent
22 pay period, not to exceed an aggregate \$4,000.00 per employee.

23 84. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil
24 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to
25 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable
26 attorneys' fees, and costs of suit.

27 **SEVENTH CAUSE OF ACTION**

28 **(Failure to Timely Pay Wages During Employment – Against All Defendant)**

1 85. Plaintiff reallege each and every allegation set forth in the preceding paragraphs
2 and incorporate each by reference as though fully set forth hereat.

3 86. At all relevant times, Plaintiff and Class Members were employees or former
4 employees of Defendant covered by Labor Code section 204 and applicable Wage Orders.

5 87. Labor Code section 204 provides that “[l]abor performed between the 1st and 15th
6 days, inclusive, of any calendar month shall be paid for between the 16th and 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.”

10 88. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely
11 independent and apart from, any other penalty provided in this article, every person who fails to
12 pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205,
13 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one
14 hundred dollars (\$100) for each failure to pay each employee” and “(2) For each subsequent
15 violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay
16 each employee, plus 25 percent of the amount unlawfully withheld.”

17 89. Plaintiff is informed and believes, and based thereon alleges, that in the one (1)
18 year before the filing of the Complaint in this Action through the present, Defendant employed
19 policies and practices that resulted in, at times, not paying Plaintiff and Class Members in
20 accordance with Labor Code section 204.

21 90. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to
22 recover penalties for Defendant’s violations of Labor Code section 204, in the amount of one
23 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars
24 (\$200) for each subsequent violation in connection with each payment that was made in violation
25 of Labor Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

26 91. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and
27 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of
28 penalties, interest, and their costs of suit, as well.

1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of Labor Code § 2802 – Against All Defendant)**

3 92. Plaintiff realleges and incorporates by reference all of the allegations contained in
4 the preceding paragraphs as though fully set forth hereat.

5 93. At all relevant times, Plaintiff and Class Members were employees or former
6 employees of Defendant covered by Labor Code section 2802 and applicable Wage Orders.

7 94. Labor Code section 2802, subdivision (a) provides that “an employer shall
8 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
9 in direct consequence of the discharge of his or her duties . . .”

10 95. For three (3) years prior to the filing of the Complaint in this Action through the
11 present, Defendant required Plaintiff and Class Members, or some of them, to incur, at times,
12 necessary expenditures or losses in direct consequence of the discharge of their duties or at the
13 obedience to the directions of Defendant that included, without limitation: purchasing and/or
14 providing unreturned deposits for mandatory work uniforms and separately laundering mandatory
15 work uniforms.

16 96. During that time period, Plaintiff is informed and believes, and based thereon
17 allege that Defendant failed and refused, and still fail and refuse, at times, to reimburse Plaintiff
18 sand Class Members for those losses and/or expenditures.

19 97. As a result of Defendant’s unlawful conduct, Plaintiff and Class Members have
20 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the
21 herein-described losses and/or expenditures.

22 98. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and
23 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover
24 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees
25 and costs of suit.

26 **NINTH CAUSE OF ACTION**

27 **(Violation of Labor Code § 227.3 – Against All Defendant)**

28 99. Plaintiff re-alleges and incorporates by reference all of the allegations contained in

1 the preceding paragraphs of this Complaint as though fully set forth hereon.

2 100. According to Labor Code section 227.3, whenever a contract of employment or
3 employer policy provides for paid vacations, and an employee is terminated without having taken
4 off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in
5 accordance with such contract of employment or employer policy respecting eligibility or time
6 served.

7 101. Plaintiff is informed and believes, and based thereon alleges that, at all times
8 relevant hereto, Defendant promulgated and maintained a uniform policy providing for paid
9 vacations, and that Plaintiff's employment contract with Defendant included paid vacations.

10 102. For at least four (4) years prior to the filing of this action and continuing to the
11 present, Defendant have had a consistent policy of failing to provide Plaintiff and similarly
12 situated employees or former employees within the State of California with compensation at their
13 final rate of pay for unused vested paid vacation days pursuant to Labor Code section 227.3.

14 103. As a proximate result of Defendant's failure to pay vested vacation at the final rate
15 of Plaintiff and Class Members upon their resignation or termination, Defendant violated Labor
16 Code section 227.3, entitling Plaintiff and Class Members to all vested and unused vacation pay at
17 their final rate of pay, as set out in Defendant's policy or the contract of employment between
18 Plaintiff and Class Members, on the one hand, and Defendant, on the other hand.

19 104. As a further proximate result of Defendant's above-described acts and/or
20 omissions, Plaintiff and Class Members are entitled to recover reasonable attorneys' fees, costs of
21 suit and prejudgment interest.

22 **TENTH CAUSE OF ACTION**

23 **(Unfair Competition – Against All Defendant)**

24 105. Plaintiff realleges and incorporates by reference all of the allegations contained in
25 the preceding paragraphs as though fully set forth hereat.

26 106. Plaintiff is informed and believes, and based thereon alleges that the unlawful
27 conduct of Defendant alleged herein constitutes unfair competition within the meaning of
28 Business and Professions Code section 17200. Due to their unlawful business practices in

1 violation of the Labor Code, Defendant have gained a competitive advantage over other
2 comparable companies doing business in the State of California that comply with their obligations
3 to compensate employees in accordance with the Labor Code.

4 107. As a result of Defendant's unfair competition as alleged herein, Plaintiff and Class
5 Members have suffered injury in fact and lost money or property.

6 108. Pursuant to Business and Professions Code section 17203, Plaintiff and Class
7 Members are entitled to (an) injunction(s) prohibiting Defendant from further violating the Labor
8 Code and requiring the establishment of appropriate and effective means to prevent further
9 violations, as well as restitution of all wages and other monies owed to them under the Labor
10 Code, including interest thereon, in which they had a property interest and which Defendant
11 nevertheless failed to pay them and instead withheld and retained for themselves. Restitution of
12 the money owed to Plaintiff and Class Members is necessary to prevent Defendant from becoming
13 unjustly enriched by their failure to comply with the Labor Code.

14 109. Plaintiff and Class Members are entitled to costs of suit under Code of Civil
15 Procedure section 1032 and interest under Civil Code section 3287.

16 **ELEVENTH CAUSE OF ACTION**

17 **(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

18 110. Plaintiff realleges and incorporates by reference all of the allegations contained in
19 the preceding paragraphs as though fully set forth hereat.

20 **Civil Penalties Under Labor Code § 210**

21 111. At all relevant times herein, Labor Code section 204, requires and required that:
22 “[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid
23 for between the 16th and 26th day of the month during which the labor was performed, and labor
24 performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for
25 between the 1st and 10th day of the following month.”

26 112. At all relevant times herein, Labor Code section 210, subdivision (a) states and
27 stated that “[i]n addition to, and entirely independent and apart from, any other penalty provided in
28 this article, every person who fails to pay the wages of each employee as provided in Sections

1 201.3, 204, 204b, 204.1, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1)
2 For any initial violation, one hundred dollars (\$100) for each failure to pay each employee” and
3 “(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars
4 (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

5 113. At all relevant times herein, Defendants have had a consistent policy or practice of
6 failing to pay Plaintiff and/or Aggrieved Employees during their employment on a timely basis as
7 per Labor Code section 204. Thus, pursuant to Labor Code section 210, Plaintiff and other
8 Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Labor
9 Code section 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for
10 each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee
11 for each subsequent violation in connection with each payment that was made in violation of
12 Labor Code section 204.

13 Civil Penalties Under Labor Code § 226.3

14 114. Defendants had and have a policy or practice of failing to comply with Labor Code
15 section 226, subdivision (a) by intentionally failing to furnish Plaintiff and Aggrieved Employees
16 with itemized wage statements that accurately reflect: reflect gross wages earned; total hours
17 worked; net wages earned; all applicable hourly rates in effect during the pay period and the
18 corresponding number of hours worked at each hourly rate; and other such information as required
19 by Labor Code section 226, subdivision (a).

20 115. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)
21 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
22 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
23 for each violation in a subsequent citation, for which the employer fails to provide the employee a
24 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

25 116. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in
26 this section are in addition to any other penalty provided by law.”

27 117. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
28 and have a policy or practice of failing to furnish non-exempt employees, including, without

1 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;
2 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period
3 and the corresponding number of hours worked at each hourly rate; and other such information as
4 required by Labor Code section 226, subdivision (a).

5 118. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are
6 entitled to recover civil penalties for Defendants' violation of Labor Code section 226, subdivision
7 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period
8 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay
9 period for each subsequent violation.

10 Violation of Labor Code § 558

11 119. Pursuant to Labor Code section 558, subdivision (a): "Any employer or other
12 person acting on behalf of an employer who violates, or causes to be violated . . . any provision
13 regulating hours and days of work in any of the Industrial Welfare Commission" shall be subject
14 to a civil penalty as follows:

15 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and
16 for each pay period for which the employee was underpaid in addition to an amount sufficient to
17 recover underpaid wages;

18 (2) For each subsequent violation, one hundred dollars (\$100) for each
19 underpaid employee for each pay period for which the employee was underpaid in addition to an
20 amount sufficient to recover underpaid wages;

21 (3) Wages recovered pursuant to this section shall be paid to the affected
22 employee.

23 120. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
24 each of them, violated, or caused to be violated, the Labor Code sections described herein,
25 including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay
26 and overtime rates of pay applicable to their employment, allowances claimed as part of the
27 minimum wage, the regular payday designated by Employer, the name of the employer, including
28 any "doing business as" names used, the name, address and telephone number of the workers'

1 compensation insurance carrier, information regarding paid sick leave, and other pertinent
2 information.

3 121. As a direct and proximate result of the herein-described Labor Code violations,
4 pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to
5 recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty
6 dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one
7 hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent
8 violation.

9 Violation of Labor Code § 1174.5

10 122. At all times mentioned herein, Labor Code section 1174, subdivision (b) has
11 required every person employing labor in California to "[a]llow any member of the commission or
12 the employees of the Division of Labor Standards Enforcement free access to the place of business
13 or employment of the person to secure any information or make any investigation that they are
14 authorized by this chapter to ascertain or make. The commission may inspect or make excerpts,
15 relating to the employment of employees, from the books, reports, contracts, payrolls, documents,
16 or papers of the person."

17 123. At all times mentioned herein, Labor Code section 1174, subdivision (c) has
18 required every person employing labor in California to "[k]eep a record showing the names and
19 addresses of all employees employed and the ages of all minors."

20 124. At all times mentioned herein, Labor Code section 1174, subdivision (d) has
21 required every person employing labor in California to "[k]eep, at a central location in the state or
22 at the plants or establishments at which employees are employed, payroll records showing the
23 hours worked daily by and the wages paid to, and the number of piece-rate units earned by and
24 applicable piece rate paid to, employees employed at the respective plants or establishments.
25 These records shall be kept in accordance with rules established for this purpose by the
26 commission, but in any case, shall be kept on file for not less than three years. An employer shall
27 not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a
28 piece-rate basis, piece-rate units earned."

1 125. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who
2 willfully fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or
3 accurate and complete records required by subdivision (d) of [Labor Code] Section 1174, or to
4 allow any member of the commission or employees of the division to inspect records pursuant to
5 subdivision (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred
6 dollars (\$500).

7 126. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
8 willfully failed keep adequate or accurate time records including wage statements and similar
9 payroll documents under Labor Code section 226, documents signed to obtain or hold
10 employment under Labor Code section 432, personnel records under Labor Code section 1198.5,
11 and time records under Labor Code section 1174.

12 127. As a direct and proximate result of the herein-described Labor Code violations,
13 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to
14 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of
15 five hundred dollars (\$500) per violation per Aggrieved Employee.

16 Violation of Labor Code § 1197.1

17 128. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other
18 person acting either individually or as an officer, agent, or employee of another person, who pays
19 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
20 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
21 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
22 Section 203 as follows:

23 A. For any initial violation that is intentionally committed, one hundred dollars
24 (\$100) for each underpaid employee for each pay period for which the employee is underpaid.
25 This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
26 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section
27 203.

28 B. For each subsequent violation for the same specific offense, two hundred fifty

1 dollars (\$250) for each underpaid employee for each pay period for which the employee is
2 underpaid regardless of whether the initial violation is intentionally committed. This amount shall
3 be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
4 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

5 C. Wages, liquidated damages, and any applicable penalties imposed pursuant to
6 Section 203, recovered pursuant to this section shall be paid to the affected employee.”

7 129. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 caused Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of
9 Defendants, without limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to
10 pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to
11 actual and liquidated damages.

12 130. As a direct and proximate result of the herein-described Labor Code violations,
13 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to
14 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one
15 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and
16 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each
17 subsequent violation.

18 Civil Penalties Under Labor Code § 2699

19 131. Pursuant to Labor Code section 2699, subdivision (a), notwithstanding any other
20 provision of law, any provision of the Labor Code that provides for a civil penalty to be assessed
21 and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or
22 employees for a violation of the Labor Code may, as an alternative, be recovered through a civil
23 action brought by an aggrieved employee on behalf of himself or herself and other current or
24 former employees pursuant to the procedures specified in Labor Code section 2699.3.

25 132. Pursuant to Labor Code section 2699, subdivision (f), for all provisions of the
26 Labor Code except those for which a civil penalty is specifically provided, the established civil
27 penalty for a violation of those provisions is as follows: if, at the time of the alleged violation, the
28 person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each

1 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for
2 each aggrieved employee per pay period for each subsequent violation.

3 133. Plaintiff is informed and believes, and based thereon alleges that Defendants, and
4 each of them, violated the Labor Code sections described herein, including, without limitation, for
5 the failure to: pay the rates of pay and overtime rates of pay applicable to their employment,
6 allowances claimed as part of the minimum wage, the regular payday designated by Defendants,
7 the name of the employer, including any “doing business as” names used, the name, address and
8 telephone number of the workers’ compensation insurance carrier, information regarding paid sick
9 leave, and other pertinent information required to be disclosed by Employer under Labor Code
10 section 2810.5, failing to provide Employee and other aggrieved employees with the amount of
11 paid sick leave required to be provided pursuant to California and local laws.

12 134. Moreover, Plaintiff and other Aggrieved Employees within the State of California
13 whom he seeks to represent are entitled to an award of reasonable attorneys’ fees and costs in
14 connection with their herein-described claims for civil penalties.

15 **DEMAND FOR JURY TRIAL**

16 135. Plaintiff demands a trial by jury on all causes of action contained herein.

17 **PRAYER**

18 WHEREFORE, on behalf of Plaintiff and Class Members, Plaintiff prays for judgment
19 against Defendant as follows:

- 20 A. An order certifying this case as a Class Action;
- 21 B. An Order appointing Plaintiff as Class representative and appointing Plaintiff’s
22 counsel as Class Counsel;
- 23 C. Damages for all wages earned and owed, including minimum. overtime wages and
24 unpaid wages for vested vacation time, under Labor Code sections 510, 1194, 1197
25 and 1199 and 227.3;
- 26 D. Liquidated damages pursuant to Labor Code sections 1194.2;
- 27 E. Damages for unpaid premium wages from missed meal and rest periods under,
28 among other Labor Code sections, 512 and 226.7;

- 1 F. Penalties for inaccurate wage statements under Labor Code sections 226,
2 subdivision (e);
3 G. Waiting time penalties under Labor Code section 203;
4 H. Penalties to timely pay wages under Labor Code section 210;
5 I. Damages under Labor Code sections 2802;
6 J. Preliminary and permanent injunctions prohibiting Defendant from further
7 violating the California Labor Code and requiring the establishment of appropriate
8 and effective means to prevent future violations;
9 K. Restitution of wages and benefits due which were acquired by means of any unfair
10 business practice, according to proof;
11 L. Prejudgment and post-judgment interest at the maximum rate allowed by law;
12 M. An award of civil penalties pursuant to Labor Code sections 210, 226.3, 558,
13 1174.5, 1197.1, and 2699;
14 N. An award of reasonable attorneys' fees and costs pursuant to Labor Code sections
15 210, 226.3, 558, 1174.5, 1197.1, and 2699;
16 O. For attorneys' fees in prosecuting this action;
17 P. For costs of suit incurred herein; and
18 Q. For such other and further relief as the Court deems just and proper.
19

20 Dated: February 7, 2023

BIBIYAN LAW GROUP, P.C.

21
22 BY: /s/ Diego Aviles

23 DIEGO AVILES

24 Attorneys for Plaintiff MATTHEW JAMES EASTON
25 on behalf of himself and all others similarly situated
26 and aggrieved
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 8484 Wilshire Blvd, Suite 500, Beverly Hills, California 90211.

On February 7, 2023, and pursuant to the California Code of Civil Procedure section 1010.6, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED COMPLAINT** to be served by electronic transmission via Case Anywhere to the parties and/or counsel who are registered to use Case Anywhere and set forth in the below service list:

Michelman & Robinson LLP

Amanda K. Monroe

Amonroe@mrllp.com

10880 Wilshire Blvd., 19th Floor

Los Angeles, CA 90024

Counsel for Defendant Sunset Tower Management LLC

Executed on February 7, 2023 at Beverly Hills, California.

/s/ Jasmin Rodriguez

Jasmin Rodriguez