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Assigned for All Purposes

Judge Layne H. Melzer

CX-102

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE**

JOSE McDONALD, and individual, on behalf  
of himself, the State of California in Plaintiff's  
representative capacity as a private attorney  
general,

Plaintiff,

v.

LINDE, INC., a Delaware Corporation; and  
DOES 1-50, Inclusive,

Defendants.

Case No: 30-2025-01488593-CU-OE-CXC

**CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION  
OF CAL. BUS. & PROF. CODE §17200 *et*  
*seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN  
VIOLATION OF CAL. LAB. CODE §§  
1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES  
IN VIOLATION OF CAL. LAB. CODE §§  
510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED  
MEAL PERIODS IN VIOLATION OF  
CAL. LAB. CODE §§ 226.7 & 512 AND  
THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED  
REST PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE  
ITEMIZED STATEMENTS IN  
VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB.  
CODE §§ 201, 202 AND 203;
- 8) FAILURE TO REIMBURSE EMPLOYEES  
FOR REQUIRED EXPENSES IN  
VIOLATION OF CAL. LAB. CODE § 2802.
- 9) VIOLATIONS OF THE PRIVATE  
ATTORNEYS GENERAL ACT [LABOR  
CODE §§ 2698 ET SEQ

**DEMAND FOR A JURY TRIAL**

PLAINTIFF JOSE McDONALD ("PLAINTIFF"), an individual, on behalf of himself and all other similarly situated current and former employees, alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

**PRELIMINARY ALLEGATIONS**

1. Defendant LINDE, INC. ("DEFENDANTS") is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANTS own and operate an industrial gases and engineering company in California, including in the County of Orange.

3. PLAINTIFF has been employed by DEFENDANTS in California from August 2012 to present, as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all persons who are or previously were employed by Defendant Linde, Inc. in California and classified as non-exempt (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

1. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which failed to

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

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

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

26         4. DEFENDANTS is PLAINTIFF's employers or persons acting on behalf of the  
27 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or  
28 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision

1 regulating hours and days of work in any order of the Industrial Welfare Commission and, as  
2 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,  
3 at all relevant times.

4 5. DEFENDANTS is PLAINTIFF's employers or persons acting on behalf of  
5 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person,  
6 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any  
7 employee a wage less than the minimum fixed by California state law, and as such, are subject to  
8 civil penalties for each underpaid employee.

9 6. DEFENDANTS' uniform policies and practices alleged herein were unlawful,  
10 unfair, and deceptive business practices whereby DEFENDANTS retained and continue to retain  
11 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

12 7. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction  
13 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and  
14 other members of the CALIFORNIA CLASS who has been economically injured by  
15 DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable  
16 relief.

#### 17 **JURISDICTION AND VENUE**

18 8. This Court has jurisdiction over this Action pursuant to California Code of Civil  
19 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
20 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of  
21 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

22 9. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
23 Sections 395 and 395.5, because DEFENDANTS operate in locations across California, employ  
24 the CALIFORNIA CLASS across California, including in this County, and committed the  
25 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

#### 26 **THE CONDUCT**

27 10. In violation of the applicable sections of the California Labor Code and the  
28 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a

1 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
2 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
3 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
4 periods, failed to pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all  
5 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF  
6 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,  
7 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal and rest  
8 premiums at the regular rate of pay, failed to pay PLAINTIFF and other CALIFORNIA CLASS  
9 Members redeemed sick pay at the regular rate of pay, failed to pay PLAINTIFF and other  
10 CALIFORNIA CLASS Members for on call shifts, failed to reimburse PLAINTIFF and other  
11 CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and  
12 the members of the CALIFORNIA CLASS with accurate itemized wage statements showing,  
13 among other things, all applicable hourly rates in effect during the pay periods and the  
14 corresponding amount of time worked at each hourly rate and/or failing to adhere to labor code  
15 section 226(a)(1)-(9). DEFENDANTS' uniform policies and practices are intended to  
16 purposefully avoid the accurate and full payment for all time worked as required by California  
17 law which allows DEFENDANTS to illegally profit and gain an unfair advantage over  
18 competitors who comply with the law. To the extent equitable tolling operates to toll claims by  
19 the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted  
20 accordingly.

21 **A. Meal Period Violations**

22 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS  
23 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
24 meaning the time during which an employee is subject to the control of an employer, including  
25 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
26 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
27 without paying them for all the time they were under DEFENDANTS' control. Specifically,  
28 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to

1 be PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
2 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
3 Members forfeited minimum wage and overtime compensation by regularly working without their  
4 time being accurately recorded and without compensation at the applicable minimum wage and  
5 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
6 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
7 records.

8       12. From time to time during the CLASS PERIOD, as a result of their rigorous work  
9 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other  
10 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty  
11 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
12 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANTS for  
13 more than five (5) hours during some shifts without receiving a meal break. Further,  
14 DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a  
15 second off-duty meal period for some workdays in which these employees are required by  
16 DEFENDANTS to work ten (10) hours of work. The nature of the work performed by  
17 PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for the limited and  
18 narrowly construed "on-duty" meal period exception. When they were provided with meal  
19 periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time,  
20 required to remain on duty and on call. DEFENDANTS' failure to provide PLAINTIFF and the  
21 CALIFORNIA CLASS Members with legally required meal breaks is evidenced by  
22 DEFENDANTS' business records. As a result of their rigorous work schedules and  
23 DEFENDANTS' inadequate staffing, PLAINTIFF and other members of the CALIFORNIA  
24 CLASS therefore forfeit meal breaks without additional compensation and in accordance with  
25 DEFENDANTS' strict corporate policy and practice.

26       **B. Rest Period Violations**

27       13. From time to time during the CLASS PERIOD, PLAINTIFF and other  
28 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without

1 being provided ten (10) minute rest periods as a result of their rigorous work requirements and  
2 DEFENDANTS' inadequate staffing. Further, for the same reasons, these employees were denied  
3 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four  
4 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some  
5 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and  
6 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from  
7 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA  
8 CLASS Members were, from time to time, required to on duty and/or on call. PLAINTIFF and  
9 other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*  
10 thereof. As a result of their rigorous work schedules and DEFENDANTS' inadequate staffing,  
11 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their  
12 proper rest periods by DEFENDANT and DEFENDANTS' managers.

13 **C. Unreimbursed Business Expenses**

14 14. DEFENDANTS as a matter of corporate policy, practice, and procedure,  
15 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF  
16 and the other CALIFORNIA CLASS Members for required business expenses incurred by the  
17 PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging  
18 their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802, employers  
19 are required to indemnify employees for all expenses incurred in the course and scope of their  
20 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or  
21 her employee for all necessary expenditures or losses incurred by the employee in direct  
22 consequence of the discharge of his or her duties, or of his or her obedience to the directions of  
23 the employer, even though unlawful, unless the employee, at the time of obeying the directions,  
24 believed them to be unlawful."

25 15. In the course of their employment, DEFENDANTS required PLAINTIFF and  
26 other CALIFORNIA CLASS Members to incur personal expenses for the use of their personal  
27 cell phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and  
28 other CALIFORNIA CLASS Members were required to use their personal cell phones in order

1 to perform work related tasks. However, DEFENDANTS unlawfully failed to reimburse  
2 PLAINTIFF and other CALIFORNIA CLASS Members for the use of their personal cell phones.  
3 As a result, in the course of their employment with DEFENDANTS, the PLAINTIFF and other  
4 CALIFORNIA CLASS Members incurred unreimbursed business expenses that included, but  
5 were not limited to, costs related to the use of their personal cell phones, all on behalf of and for  
6 the benefit of DEFENDANTS.

7 **D. Wage Statement Violations**

8 16. California Labor Code Section 226 required an employer to furnish its employees  
9 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours  
10 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,  
11 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the  
12 name of the employee and only the last four digits of the employee's social security number or an  
13 employee identification number other than a social security number, (8) the name and address of  
14 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay  
15 period and the corresponding number of hours worked at each hourly rate by the employee.

16 17. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
17 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
18 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS  
19 also failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
20 accurate wage statements which failed to show, among other things, all deductions, the total hours  
21 worked and all applicable hourly rates in effect during the pay period and the corresponding  
22 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed  
23 meal and rest periods.

24 18. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide  
25 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
26 Cal. Lab. Code § 226.

27 19. As a result, DEFENDANTS issued PLAINTIFF and other members of the  
28 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,

1 DEFENDANTS' violations are knowing and intentional, were not isolated due to an unintentional  
2 payroll error due to clerical or inadvertent mistake.

3 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

4 20. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and  
5 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS  
6 for all hours worked.

7 21. During the CLASS PERIOD, from time-to-time DEFENDANTS required  
8 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
9 work. This resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to  
10 work while off-the-clock.

11 22. DEFENDANTS directed and directly benefited from the undercompensated off-  
12 the-clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

13 23. DEFENDANTS controlled the work schedules, duties, and protocols, applications,  
14 assignments, and employment conditions of PLAINTIFF and the other members of the  
15 CALIFORNIA CLASS.

16 24. DEFENDANTS were able to track the amount of time PLAINTIFF and the other  
17 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to  
18 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
19 wages earned and owed for all the work they performed.

20 25. PLAINTIFF and CALIFORNIA CLASS were regularly required to be "on call"  
21 during certain hours outside their scheduled shifts. While on call, PLAINTIFF AND the  
22 CALIFORNIA CLASS were required to remain available and responsive to communications  
23 from DEFENDANT and to be prepared to report to work within a limited time frame.

24 26. DEFENDANT exercised significant control over PLAINTIFF AND  
25 CALIFORNIA CLASS during their on-call periods. Such control included, but was not limited  
26 to, requiring employees to remain within a geographic proximity to the worksite, prohibiting  
27 consumption of alcohol, mandating immediate response to calls or messages, and requiring  
28 employees to report to work on short notice if called in.

1           27. Due to the restrictions placed on them during on-call periods, PLAINTIFF and  
2 CALIFORNIA CLASS were not free to use their time for their own purposes, thereby rendering  
3 the on-call time compensable under California law, including the Industrial Welfare Commission  
4 (IWC) Wage Orders and relevant case law.

5           28. Despite the compensable nature of the on-call time, DEFENDANT failed to  
6 compensate PLAINTIFF and CALIFORNIA CLASS for these hours worked. As a result,  
7 PLAINTIFF AND CALIFORNIA CLASS were deprived of minimum wages and overtime  
8 compensation, where applicable.

9           29. DEFENDANT knew or should have known that its failure to compensate on-call  
10 hours violated California labor laws, yet willfully adopted and maintained these unlawful  
11 practices.

12           30. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
13 exempt employees, subject to the requirements of the California Labor Code.

14           31. DEFENDANTS' policies and practices deprived PLAINTIFF and the other  
15 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed  
16 for the off-the-clock work activities. Because PLAINTIFF and the other members of the  
17 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than  
18 eight (8) hours per day, DEFENDANTS' policies and practices also deprived them of overtime  
19 pay.

20           32. DEFENDANTS knew or should have known that PLAINTIFF and the other  
21 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

22           33. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
23 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control, and  
24 benefit for the time spent working while off-the-clock. DEFENDANTS' uniform policy and  
25 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
26 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business  
27 records.

28       **F. Split-Shift Premium and Overtime Violations**

34. During the relevant time period, DEFENDANT also systematically failed to record and pay PLAINTIFF and CALIFORNIA CLASS the correct amount of wages due for split-shift premiums. The applicable Industrial Welfare Commission Wage Orders define a “split-shift” as a “work schedule, which is interrupted by non-paid, non-working, periods established by the employer, other than bona fide rest or meal periods.” The Industrial Welfare Commission Wage Orders further provide, “When an employee works a split shift, one (1) hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” DEFENDANT, from time-to-time, required PLAINTIFF and CALIFORNIA CLASS to work split-shifts throughout the relevant time PERIOD, but intentionally and unlawfully failed to pay PLAINTIFF and the CALIFORNIA CLASS split-shift premium wages and failed to pay PLAINTIFF and CALIFORNIA CLASS the correct overtime compensation for hours worked in excess of eight (8) in a workday and forty (40) in a workweek. As a result, PLAINTIFF and the CALIFORNIA CLASS were underpaid during their employment with DEFENDANT.

**F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay**

35. State law provides that employees must be paid overtime at one-and-one-half times their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS were compensated at an hourly rate plus commissions and/or non-discretionary incentive pay that was tied to specific elements of an employee’s performance and/or commissions.

36. DEFENDANTS’ non-discretionary commission and bonus program provided the CALIFORNIA CLASS, including PLAINTIFF, with commissions and/or bonus compensation when the employees met the various performance goals set by DEFENDANTS. However, when calculating the regular rate of pay, in those pay periods where PLAINTIFF and the CALIFORNIA CLASS worked overtime and earned non-discretionary bonus and/or commission wages, DEFENDANTS failed to accurately include the non-discretionary bonus compensation and/or commission wages as part of the employees’ “regular rate of pay.”

1           37. Management and supervisors described the bonus and commissions programs and  
2 commission compensation program to potential and new employees as part of the compensation  
3 package. As a matter of law, the incentive and commission compensation received by  
4 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly  
5 calculated into the “regular rate of pay” for purposes of overtime and double time compensation,  
6 meal and rest period premium payments, and sick pay. DEFENDANTS’ failure to do so has  
7 resulted in DEFENDANTS’ systematic underpayment of overtime and double time  
8 compensation, meal and rest period premium payments, and sick pay to PLAINTIFF and other  
9 CALIFORNIA CLASS members. Specifically, California Labor Code Section 246 mandates that  
10 paid sick time for non-employees shall be calculated in the same manner as the regular rate of pay  
11 for the workweek in which the employee uses paid sick time, whether or not the employee actually  
12 works overtime in that workweek. DEFENDANTS’ conduct, as articulated herein, by failing to  
13 include the incentive compensation as part of the “regular rate of pay” for purposes of sick pay  
14 compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable  
15 under Cal. Labor Code Sections 201, 202, 203 and/or 204.

16           38. In violation of the applicable sections of the California Labor Code and the  
17 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a  
18 matter of company policy, practice and procedure, intentionally and knowingly failed to  
19 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate  
20 of pay for all overtime and double time compensation, meal and rest period premium payments,  
21 and sick pay. This uniform policy and practice of DEFENDANTS is intended to purposefully  
22 avoid the payment of the correct overtime and double time compensation, meal and rest period  
23 premium payments, and sick pay as required by California law which allowed DEFENDANTS to  
24 illegally profit and gain an unfair advantage over competitors who complied with the law. To the  
25 extent equitable tolling operates to toll claims by the CALIFORNIA CLASS members against  
26 DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

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1 **G.Unlawful Deductions**

2           39. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF  
3 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do  
4 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,  
5 DEFENDANTS violated Labor Code § 221.

6 **H.Timekeeping Manipulation**

7           40. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an  
8 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
9 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
10 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
11 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and  
12 unilaterally alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and  
13 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all  
14 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and  
15 missed rest breaks.

16           41. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
17 time-to-time, forfeited time worked by working without their time being accurately recorded and  
18 without compensation at the applicable pay rates.

19           42. The mutability of the timekeeping system also allowed DEFENDANTS to alter  
20 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'  
21 timekeeping system so as to create the appearance that PLAINTIFF and other members of the  
22 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees  
23 were not at all times provided an off-duty meal break. This practice is a direct result of  
24 DEFENDANTS' uniform policy and practice of denying employees uninterrupted thirty (30)  
25 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

26           43. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
27 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit  
28

1 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and  
2 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
3 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business  
4 records.

5 **I.Unlawful Rounding Practices**

6 44. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
7 place an immutable timekeeping system to accurately record and pay PLAINTIFFS and other  
8 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
9 including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding  
10 policy and practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being  
11 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did  
12 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping  
13 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid paying  
14 these employees for all their time worked, including the applicable overtime compensation for  
15 overtime worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members, from  
16 time to time, forfeited compensation for their time worked by working without their time being  
17 accurately recorded and without compensation at the applicable overtime rates.

18 45. Further, the mutability of DEFENDANTS' timekeeping system and unlawful  
19 rounding policy and practice resulted in PLAINTIFFS and CALIFORNIA CLASS Members'  
20 time being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful  
21 rounding policy and practice caused PLAINTIFFS and CALIFORNIA CLASS Members to  
22 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without  
23 receiving an off-duty meal break.

24 **J.Violations for Untimely Payment of Wages**

25 46. Pursuant to California Labor Code section 204, PLAINTIFF and the  
26 CALIFORNIA CLASS members were entitled to timely payment of wages during their  
27 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not  
28

1 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,  
2 meal period premium wages, and rest period premium wages within permissible time period.

3 47. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the  
4 wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant  
5 to Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall  
6 become due and payable not later than 72 hours thereafter, unless the employee has given 72  
7 hours previous notice of his or her intention to quit, in which case the employee is entitled to his  
8 or her wages at the time of quitting.” PLAINTIFF and the CALIFORNIA CLASS Members  
9 were, from time to time, not timely provided the wages earned and unpaid at the time of their  
10 discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

11 48. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely  
12 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose  
13 employment ended during the CLASS PERIOD.

#### 14 **K.Sick Pay Violations**

15 49. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after  
16 July 1, 2015, works in California for the same employer for 30 or more days within a year from  
17 the commencement of employment is entitled to paid sick days as specified in this section.”  
18 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements.  
19 From time to time, DEFENDANT failed to have a policy or practice in place that provided  
20 PLAINTIFF and other members of the CALIFORNIA CLASS with sick days and/or paid sick  
21 leave.

22 50. California Labor Code Section 246(i) requires an employer to furnish its  
23 employees with written wage statements setting forth the amount of paid sick leave available.  
24 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish  
25 PLAINTIFF and other members of the CALIFORNIA CLASS with wage statements setting  
26 forth the amount of paid sick leave available.

27 51. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
28 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.

1 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
2 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
3 provide PLAINTIFF with a second off-duty meal period each workday in which he was required  
4 by DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided  
5 PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call for the  
6 rest break. DEFENDANTS policy caused PLAINTIFF to remain on-call and on-duty during  
7 what was supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and  
8 rest breaks without additional compensation and in accordance with DEFENDANTS' strict  
9 corporate policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with  
10 paystubs that failed to comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed  
11 to reimburse PLAINTIFF for required business expenses related to the personal expenses  
12 incurred for the use of his personal cell phone, on behalf of and in furtherance of his employment  
13 with DEFENDANTS. To date, DEFENDANTS have not fully paid PLAINTIFF the minimum,  
14 overtime and double time compensation still owed to him or any penalty wages owed to him  
15 under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not  
16 exceed the sum or value of \$75,000.

### 17 **CLASS ACTION ALLEGATIONS**

18 52. PLAINTIFF brings this Class Action on behalf of himself, and a California Class  
19 defined as all persons who are or previously were employed by Defendant Linde, Inc. in  
20 California and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time  
21 during the period beginning four (4) years prior to the filing of this Complaint and ending on the  
22 date as determined by the Court (the "CLASS PERIOD").

23 53. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been  
24 deprived of wages and penalties from unpaid wages earned and due, including but not limited to  
25 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,  
26 illegal meal and rest period policies, failed to reimburse for business expenses, failure to  
27 compensate for on call shifts, failed compensate for off-the-clock work, failure to provide accurate  
28

1 itemized wage statements, failure to maintain required records, and interest, statutory and civil  
2 penalties, attorney's fees, costs, and expenses.

3 54. The members of the class are so numerous that joinder of all class members is  
4 impractical.

5 55. Common questions of law and fact regarding DEFENDANTS' conduct, including  
6 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately  
7 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the  
8 regular rate of compensation for missed meal and rest period premiums, failing to pay for on call  
9 shifts, failing to provide legally compliant meal and rest periods, failure to reimburse for business  
10 expenses, failure to provide accurate itemized wage statements accurate, and failure to ensure  
11 they are paid at least minimum wage and overtime, exist as to all members of the class and  
12 predominate over any questions affecting solely any individual members of the class. Among the  
13 questions of law and fact common to the class are:

- 14 a. Whether DEFENDANT maintained legally compliant meal period policies and  
15 practices;
- 16 b. Whether DEFENDANT maintained legally compliant rest period policies and  
17 practices;
- 18 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
19 Members accurate premium payments for missed meal and rest periods;
- 20 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
21 Members accurate overtime wages;
- 22 e. Whether DEFENDANT failed to pay PLAINTIFF AND the CALIFORNIA  
23 CLASS Members for their on call shifts;
- 24 f. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
25 Members at least minimum wage for all hours worked;
- 26 g. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA  
27 CLASS Members for required business expenses;
- 28 h. Whether DEFENDANT issued legally compliant wage statements;

- 1 i. Whether DEFENDANT committed an act of unfair competition by systematically  
2 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA  
3 CLASS for all time worked;
- 4 j. Whether DEFENDANT committed an act of unfair competition by systematically  
5 failing to record all meal and rest breaks missed by PLAINTIFF and other  
6 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit  
7 of this work, required employees to perform this work and permits or suffers to  
8 permit this work;
- 9 k. Whether DEFENDANT committed an act of unfair competition in violation of the  
10 UCL, by failing to provide the PLAINTIFF and the other members of the  
11 CALIFORNIA CLASS with the legally required meal and rest periods.
- 12 56. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as  
13 a result of DEFENDANTS' conduct and actions alleged herein.
- 14 57. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and  
15 PLAINTIFF has the same interests as the other members of the class.
- 16 58. PLAINTIFF will fairly and adequately represent and protect the interests of the  
17 CALIFORNIA CLASS Members.
- 18 59. PLAINTIFF retained able class counsel with extensive experience in class action  
19 litigation.
- 20 60. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the  
21 interest of the other CALIFORNIA CLASS Members.
- 22 61. There is a strong community of interest among PLAINTIFF and the members of  
23 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are  
24 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
25 sustained.
- 26 62. The questions of law and fact common to the CALIFORNIA CLASS Members  
27 predominate over any questions affecting only individual members, including legal and factual  
28 issues relating to liability and damages.

63. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all class members is impractical. Moreover, since the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation makes it practically impossible for the members of the class individually to redress the wrongs done to them. Without class certification and determination of declaratory, injunctive, statutory, and other legal questions within the class format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will create the risk of:

- a. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or,
- b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

64. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT.

**FIRST CAUSE OF ACTION**

## Unlawful Business Practices

(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)

**(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

66. DEFENDANTS are a “person” as that term is defined under Cal. Bus. And Prof. Code § 17021.

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

5           Any person who engages, has engaged, or proposes to engage in unfair competition may  
6 be enjoined in any court of competent jurisdiction. The court may make such orders or  
7 judgments, including the appointment of a receiver, as may be necessary to prevent the  
8 use or employment by any person of any practice which constitutes unfair competition, as  
9 defined in this chapter, or as may be necessary to restore to any person in interest any  
10 money or property, real or personal, which may have been acquired by means of such  
11 unfair competition. (Cal. Bus. & Prof. Code § 17203).

12           68. By the conduct alleged herein, DEFENDANTS have engaged and continue to  
13 engage in a business practice which violates California law, including but not limited to, the  
14 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
15 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and  
16 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
17 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
18 constitute unfair competition, including restitution of wages wrongfully withheld.

19           69. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and  
20 unfair in that these practices violated public policy, were immoral, unethical, oppressive  
21 unscrupulous or substantially injurious to employees, and were without valid justification or  
22 utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203  
23 of the California Business & Professions Code, including restitution of wages wrongfully  
24 withheld.

25           70. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and  
26 fraudulent in that DEFENDANTS’ uniform policy and practice failed to provide the legally  
27 mandated meal and rest periods and the required amount of compensation for missed meal and  
28 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all  
necessary business expenses incurred, due to a systematic business practice that cannot be  
justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission  
requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should

1 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
2 restitution of wages wrongfully withheld.

3 71. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,  
4 unfair, and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the  
5 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
6 DEFENDANTS.

7 72. By the conduct alleged herein, DEFENDANTS' practices were also unfair and  
8 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to provide  
9 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
10 required by Cal. Lab. Code §§ 226.7 and 512.

11 73. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
12 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal  
13 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for  
14 each workday in which a second off-duty meal period was not timely provided for each ten (10)  
15 hours of work.

16 74. PLAINTIFF further demands on behalf of himself and on behalf of each  
17 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was  
18 not timely provided as required by law.

19 75. By and through the unlawful and unfair business practices described herein,  
20 DEFENDANTS have obtained valuable property, money and services from PLAINTIFF and the  
21 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
22 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
23 detriment of these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS  
24 to unfairly compete against competitors who comply with the law.

25 76. All the acts described herein as violations of, among other things, the Industrial  
26 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor  
27 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and  
28

1 unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business  
2 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

3 77. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
4 and do, seek such relief as may be necessary to restore to them the money and property which  
5 DEFENDANTS have acquired, or of which PLAINTIFF and the other members of the  
6 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair  
7 business practices, including earned but unpaid wages for all time worked.

8 78. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
9 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,  
10 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from  
11 engaging in any unlawful and unfair business practices in the future.

12 PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy  
13 and/or adequate remedy at law that will end the unlawful and unfair business practices of  
14 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a  
15 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
16 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
17 and economic harm unless DEFENDANTS are restrained from continuing to engage in these  
18 unlawful and unfair business practices.

## 19 **SECOND CAUSE OF ACTION**

### 20 **Failure To Pay Minimum Wages**

21 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

22 **Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

23 79. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
24 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
25 Complaint.

26 80. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
27 for DEFENDANTS' willful and intentional violations of the California Labor Code and the  
28

1 Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately calculate  
2 and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

5 82. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
7 the minimum so fixed is unlawful.

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

10 84. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and  
11 the other members of the CALIFORNIA CLASS without regard to the correct amount of time  
12 they work. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully  
13 and intentionally deny timely payment of wages due to PLAINTIFF and the other members of  
14 the CALIFORNIA CLASS.

15 85. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
16 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
17 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
18 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

19 86. In committing these violations of the California Labor Code, DEFENDANTS  
20 inaccurately calculated the correct time worked and consequently underpaid the actual time  
21 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS acted  
22 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of  
23 the California Labor Code, the Industrial Welfare Commission requirements and other applicable  
24 laws and regulations.

25 87. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
26 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
27 minimum wage compensation for their time worked for DEFENDANTS.  
28

1           88. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a  
3 failure to pay all earned wages.

4           89. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned  
5 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
6 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have  
7 suffered and will continue to suffer an economic injury in amounts which are presently unknown  
8 to them, and which will be ascertained according to proof at trial.

9           90. DEFENDANTS knew or should have known that PLAINTIFF and the other  
10 members of the CALIFORNIA CLASS were under-compensated for their time worked.  
11 DEFENDANTS systematically elected, either through intentional malfeasance or gross  
12 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
13 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
14 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages  
15 for their time worked.

16           91. In performing the acts and practices herein alleged in violation of California labor  
17 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
18 and provide them with the requisite compensation, DEFENDANTS acted and continues to act  
19 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
20 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the  
21 consequences to them, and with the despicable intent of depriving them of their property and legal  
22 rights, and otherwise causing them injury in order to increase company profits at the expense of  
23 these employees.

24           92. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request  
25 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the  
26 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the  
27 California Labor Code and/or other applicable statutes. To the extent minimum wage  
28 compensation is determined to be owed to the CALIFORNIA CLASS Members who have

1 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or  
2 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.  
3 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS  
4 Members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good  
5 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and  
6 recover statutory costs.

### 7 **THIRD CAUSE OF ACTION**

#### 8 **Failure To Pay Overtime Compensation**

9 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

10 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

14 94. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
15 for DEFENDANTS' willful and intentional violations of the California Labor Code and the  
16 Industrial Welfare Commission requirements for DEFENDANTS' failure to pay these employees  
17 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,  
18 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

24 97. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
25 including minimum and overtime compensation and interest thereon, together with the costs of  
26 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours  
27 than those fixed by the Industrial Welfare Commission is unlawful.  
28

1           98. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
2 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time  
3 they worked, including overtime work.

4           99. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
5 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
6 implementing a uniform policy and practice that failed to accurately record overtime worked by  
7 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to  
8 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,  
9 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve  
10 (12) hours in a workday, and/or forty (40) hours in any workweek.

11           100. In committing these violations of the California Labor Code, DEFENDANTS  
12 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
13 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANTS acted in an illegal  
14 attempt to avoid the payment of all earned wages, and other benefits in violation of the California  
15 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and  
16 regulations.

17           101. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
18 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
19 overtime compensation for their time worked for DEFENDANTS.

20           102. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
21 from the overtime requirements of the law. None of these exemptions are applicable to  
22 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the  
23 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining  
24 agreement that would preclude the causes of action contained herein this Complaint. Rather,  
25 PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA CLASS based on  
26 DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State of  
27 California.

28

1           103. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting  
3 a failure to pay all earned wages.

4           104. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of  
5 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the  
6 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even  
7 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly required  
8 to work, and did in fact work overtime, and did in fact work overtime as to which DEFENDANTS  
9 failed to accurately record and pay as evidenced by DEFENDANTS' business records and  
10 witnessed by employees.

11           105. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned  
12 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
13 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA  
14 CLASS have suffered and will continue to suffer an economic injury in amounts which are  
15 presently unknown to them, and which will be ascertained according to proof at trial.

16           106. DEFENDANTS knew or should have known that PLAINTIFF and the other  
17 members of the CALIFORNIA CLASS were undercompensated for their time worked.  
18 DEFENDANTS systematically elected, either through intentional malfeasance or gross  
19 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and  
20 procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
21 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct overtime wages for  
22 their overtime worked.

23           107. In performing the acts and practices herein alleged in violation of California labor  
24 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
25 and provide them with the requisite compensation, DEFENDANTS acted and continue to act  
26 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the  
28 consequences to them, and with the despicable intent of depriving them of their property and legal

1 rights, and otherwise causing them injury in order to increase company profits at the expense of  
2 these employees.

3 108. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS  
4 request recovery of overtime wages, according to proof, interest, statutory costs, as well as the  
5 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the  
6 California Labor Code and/or other applicable statutes. To the extent overtime compensation is  
7 determined to be owed to the CALIFORNIA CLASS Members who have terminated their  
8 employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore  
9 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which  
10 penalties are sought herein. DEFENDANTS' conduct as alleged herein was willful, intentional,  
11 and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are  
12 entitled to seek and recover statutory costs.

#### 13 **FOURTH CAUSE OF ACTION**

##### 14 **Failure To Provide Required Meal Periods**

15 **(Cal. Lab. Code §§ 226.7 & 512)**

16 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

17 109. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and  
18 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
19 Complaint.

20 110. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally  
21 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as  
22 required by the applicable Wage Order and Labor Code. The nature of the work performed by  
23 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being  
24 relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
25 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not  
26 fully relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS'  
27 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required  
28 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business

1 records. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS  
2 Members with a second off-duty meal period in some workdays in which these employees were  
3 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other  
4 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation  
5 and in accordance with DEFENDANTS' strict corporate policy and practice.

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

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

#### 14 **FIFTH CAUSE OF ACTION**

#### 15 **Failure To Provide Required Rest Periods**

16 **(Cal. Lab. Code §§ 226.7 & 512)**

17 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

21 114. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were  
22 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
23 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
24 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
25 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
26 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
27 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour  
28 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other

1 CALIFORNIA CLASS Members were periodically denied their proper rest periods by  
2 DEFENDANTS and DEFENDANTS' managers. In addition, DEFENDANTS failed to  
3 compensate PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as  
4 required by the applicable Wage Order and Labor Code. As a result, DEFENDANTS' failure to  
5 provide PLAINTIFFS and the CALIFORNIA CLASS Members with all the legally required paid  
6 rest periods is evidenced by DEFENDANTS' business records.

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

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

## 15 **SIXTH CAUSE OF ACTION**

### 16 **Failure To Provide Accurate Itemized Statements**

#### 17 **(Cal. Lab. Code § 226)**

#### 18 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

22 118. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
23 "accurate itemized" statement in writing showing:

- 24 a. Gross wages earned,
- 25 b. (2) total hours worked by the employee, except for any employee whose  
26 compensation is solely based on a salary and who is exempt from payment of  
27 overtime under subdivision (a) of Section 515 or any applicable order of the  
28 Industrial Welfare Commission,

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

119. When DEFENDANTS did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANTS violated Cal. Lab. Code § 226 in that DEFENDANTS failed to provide PLAINTIFFS and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods.

120. In addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of California Labor Code Section 226.

121. DEFENDANTS knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct

1 wages for all missed meal and rest breaks and the amount of employment taxes which were not  
2 properly paid to state and federal tax authorities. These damages are difficult to estimate.  
3 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover  
4 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation  
5 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period  
6 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no  
7 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member  
8 of the CALIFORNIA CLASS herein).

## 9 **SEVENTH CAUSE OF ACTION**

### 10 **Failure To Pay Wages When Due**

11 **(Cal. Lab. Code § 203)**

12 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

13 122. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
14 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
15 Complaint.

16 123. Cal. Lab. Code § 200 provides that:

17 As used in this article:

- 18 (d) "Wages" includes all amounts for labor performed by employees of every  
description, whether the amount is fixed or ascertained by the standard of time,  
19 task, piece, Commission basis, or other method of calculation.  
20 (e) "Labor" includes labor, work, or service whether rendered or performed under  
contract, subcontract, partnership, station plan, or other agreement if the to be  
21 paid for is performed personally by the person demanding payment.

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

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

26 If an employee not having a written contract for a definite period quits his or her  
employment, his or her wages shall become due and payable not later than 72 hours  
27 thereafter, unless the employee has given 72 hours previous notice of his or her intention  
to quit, in which case the employee is entitled to his or her wages at the time of quitting.  
28 Notwithstanding any other provision of law, an employee who quits without providing a  
72-hour notice shall be entitled to receive payment by mail if he or she so requests and

designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

126. There was no definite term in PLAINTIFFS' or any CALIFORNIA CLASS Members' employment contract.

127. Cal. Lab. Code § 203 provides:

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

128. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANTS have not tendered payment of wages to these employees who missed meal and rest breaks, as required by law.

129. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demands up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

### **EIGHTH CAUSE OF ACTION**

#### **Failure To Reimburse Employees for Required Expenses**

**(Cal. Lab. Code §§ 2802)**

**(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

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

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

132. From time to time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS

1 members for required expenses incurred in the discharge of their job duties for DEFENDANTS’  
2 benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA CLASS  
3 members for expenses which included, but were not limited to, the use of their personal cell  
4 phones, all on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and  
5 other CALIFORNIA CLASS Members were required by DEFENDANTS to use their personal  
6 cell phones to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS’  
7 uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA  
8 CLASS members for expenses resulting from the use of their personal cell phones within the  
9 course and scope of their employment for DEFENDANTS. These expenses were necessary to  
10 complete their principal job duties. DEFENDANTS are estopped by DEFENDANTS’ conduct  
11 to assert any waiver of this expectation. Although these expenses were necessary expenses  
12 incurred by PLAINTIFF and the CALIFORNIA CLASS members, DEFENDANTS failed to  
13 indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS members for these  
14 expenses as an employer is required to do under the laws and regulations of California.

15 133. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred  
16 by him and the CALIFORNIA CLASS members in the discharge of their job duties for  
17 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the  
18 statutory rate and costs under Cal. Lab. Code § 2802.

19 **NINTH CAUSE OF ACTION**

20 **Violation of the Private Attorney General Act (“PAGA”)**

21 **(Cal. Lab. Code §§ 2698 *et seq.*)**

22 **(Alleged by PLAINTIFF against all Defendants)**

23 134. PLAINTIFF reallege and incorporates by this reference, as though fully set forth  
24 herein, the prior paragraphs of this Complaint.

25 135. PAGA is a mechanism by which the State of California itself can enforce state  
26 labor laws through the employee suing under the PAGA who does so as the proxy or agent of  
27 the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
28 fundamentally a law enforcement action designed to protect the public and not to benefit private

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

7 136. For all provisions of the Labor Code except those for which a civil penalty is  
8 specifically provided, Labor Code § 2699(f) imposes upon DEFENDANTS a penalty of one  
9 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation  
10 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each  
11 subsequent pay period in which DEFENDANTS' violated these provisions of the Labor Code.

12 137. PLAINTIFF, and such persons that may be added from time to time who satisfy  
13 the requirements and exhaust the administrative procedures under the Private Attorney General  
14 Act, bring this Representative Action on behalf of the State of California with respect to himself  
15 and all individuals who are or previously were employed by DEFENDANTS in California during  
16 the time period of April 4, 2024 until the present (the "AGGRIEVED EMPLOYEES").

17 138. On April 4, 2024, PLAINTIFF gave written notice by online submission to the  
18 Labor and Workforce Development Agency (the "Agency") and by certified mail to the  
19 employer of the specific provisions of this code alleged to have been violated as required by  
20 Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations and  
21 Parties to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may  
22 now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy  
23 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

24 139. The policies, acts and practices heretofore described were and are an unlawful  
25 business act or practice because DEFENDANTS (a) failed to pay PLAINTIFF and other  
26 AGGRIEVED EMPLOYEES all earned wages, including by not limited to, minimum wages and  
27 overtime wages, (b) failed to provide PLAINTIFF and other AGGRIEVED EMPLOYEES  
28 legally required meal and rest breaks and failed to pay premium wages for unlawful meal periods

1 and rest periods, (c) failed to provide accurate itemized wage statements, (d) failed to pay for off  
2 the clock work, (e) failed to keep accurate records of hours worked; and (f) failed to timely pay  
3 wages, all in violation of the applicable Labor Code sections listed in Labor Code §2699.5,  
4 including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204 *et seq.*, 210, 218, 218.5,  
5 218.6, 221, 226(a), 226(a)(8), 226.2, 226.3, 246, 510, 512, 558, 1102.5, 1174(d), 1174.5, 1194,  
6 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802 and 2804 and the applicable Industrial Wage  
7 Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFF  
8 hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney  
9 General Act of 2004 as the representative of the State of California for the illegal conduct  
10 perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

11 140. Some or all of the conduct and violations alleged herein occurred during the PAGA  
12 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect  
13 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seek penalties for those violations that  
14 affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30  
15 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App.  
16 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by **at least one** Labor  
17 Code violation committed by an employer—to **pursue penalties for all the Labor Code**  
18 **violations committed by that employer.**”], Emphasis added, reh'g denied (June 13, 2018).)

### 19 PRAYER FOR RELIEF

20 WHEREFORE, PLAINTIFF prays for a judgment against each Defendant, jointly and  
21 severally, as follows:

22 1. On behalf of the CALIFORNIA CLASS:

- 23 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA  
24 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;  
25 b. An order temporarily, preliminarily and permanently enjoining and restraining  
26 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;  
27 c. An order requiring DEFENDANTS to pay all overtime wages and all sums  
28 unlawfully withheld from compensation due to PLAINTIFF and the other members

1 of the CALIFORNIA CLASS; and

2 d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund  
3 for restitution of the sums incidental to DEFENDANTS' violations due to  
4 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

5 2. On behalf of the CALIFORNIA CLASS:

6 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
7 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant  
8 to Cal. Code of Civ. Proc. § 382;

9 b. Compensatory damages, according to proof at trial, including compensatory  
10 damages for overtime compensation due to PLAINTIFF and the other members of  
11 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest  
12 thereon at the statutory rate;

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

15 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
16 which a violation occurs and one hundred dollars (\$100) per each member of the  
17 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding  
18 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for  
19 violation of Cal. Lab. Code § 226

20 e. The wages of all terminated employees from the CALIFORNIA CLASS as a  
21 penalty from the due date thereof at the same rate until paid or until an action  
22 therefore is commenced, in accordance with Cal. Lab. Code § 203.

23 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA  
24 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

25 3. On Behalf of the State of California and with respect to all AGGRIEVED  
26 EMPLOYEES:

27 a. Recovery of civil penalties as prescribed by the Labor Code private Attorneys  
28 General Act of 2004; and

1 b. An Award of penalties, attorneys' fees, and costs of suit, as allowable under the  
2 law, including, but not limited to, pursuant to Labor Code §226, §1194, and  
3 §2699(g); and

4 c. For such other relief as the Court Deems just and proper.

5 4. On all claims:

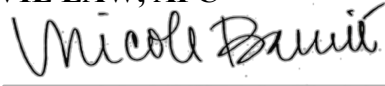
6 a. An award of interest, including prejudgment interest at the legal rate;

7 b. Such other and further relief as the Court deems just and equitable; and

8 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,  
9 including, but not limited to, pursuant to Labor Code § 218.5, § 226, § 246 and/or  
10 § 1194.

11 DATED: June 9, 2025

BARVIE LAW, APC

12 By: 

13 Nicole Barvie, Esq.

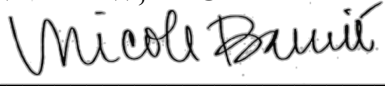
14 Attorney for PLAINTIFF

15  
16  
17 **DEMAND FOR A JURY TRIAL**

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

19  
20 DATED: June 9, 2025

BARVIE LAW, APC

21 By: 

22 Nicole Barvie, Esq.

23 Attorney for PLAINTIFF  
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