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Assigned for all purposes:
Judge William Claster
Dept. CX-104

Attorneys for Plaintiffs and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

Case No.: 30-2022-01298792-CU-OE-CXC

COMPLAINT FOR:

LILIA HERNANDEZ, LAUREN LICAS, IDA LUNA, JENNIFER BURSACK, MICHELLE MANESSE, NATASHA GILMAN, CURTIS ALLEN, JOSHUA PAVELKO, VICTORIA MCGOVERN, DANA COLLINS, KENNETH EALA, NASIM EDRAKIAN, ERIN BRIGANCE, CHRISTOPHER FORTMAN, CONSTANCE GORMAN, MELINDA GUERRERO, JACKIE HOLLIS, KENNETH CHUNG, LISA FLOWER, EDWARD LIU, LORINA WILSON, LUPITA CHINN a/k/a NATALIA CHINN, ARLENE MCGEE, MARVIN MENEFEE, DEAN MOSALLAM a/k/a NORDIEAN MOSALLAM, APRIL PONCE, HEATHER RANDRUP, JUNG SEO, JASON SHUMSKI, JENNIFER TALLEY, and JENNIFER VENEGAS; each as an individual and on behalf of all other similarly situated aggrieved employees,

Plaintiffs,

v.

LOANDEPOT.COM, LLC, a Delaware corporation; and DOES 1-50, inclusive,

Defendant

- (1) FAILURE TO PROVIDE MEAL PERIODS (Labor Code §§ 226.7, 512, and 1198);
- (2) FAILURE TO PROVIDE REST PERIODS (Labor Code §§ 226.7, 1198, and IWC NO. 4-2001);
- (3) FAILURE TO PAY WAGES (Labor Code §§ 510, 1194);
- (4) FAILURE TO REIMBURSE WORK EXPENSES (Labor Code § 2802);
- (5) FAILURE TO MAINTAIN ACCURATE RECORDS (Labor Code § 1174(d));
- (6) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS (Labor Code § 226 (a), 226.3);
- (7) FAILURE TO PAY ALL WAGES DUE UPON TERMINATION (Labor Code §§ 201-203);
- (8) UNFAIR BUSINESS PRACTICES (Bus. & Prof. Code §§ 17200 *et seq.*);
- (9) PENALTIES PURSUANT TO PAGA, LABOR CODE § 2699(a); and
- (10) PENALTIES PURSUANT TO PAGA, LABOR CODE § 2699(f).

JURY TRIAL DEMANDED

1 **INTRODUCTION**

2 1. Plaintiffs Lilia Hernandez, Lauren Licas, Ida Luna, Jennifer Bursack, Michelle
3 Manesse, Natasha Gilman, Curtis Allen, Joshua Pavelko, Victoria McGovern, Dana Collins, Kenneth
4 Eala, Nasim Edrakian, Erin Brigance, Christopher Fortman, Constance Gorman, Melinda Guerrero,
5 Jackie Hollis, Kenneth Chung, Lisa Flower, Edward Liu, Lorina Wilson, Lupita Chinn a/k/a Natalia
6 Chinn, Arlene McGee, Marvin Menefee, Dean Mosallam a/k/a Nordiean Mosallam, April Ponce,
7 Heather Randrup, Jung Seo, Jason Shumski, Jennifer Talley, and Jennifer Venegas (“Plaintiffs”) bring
8 this action individually, and as a representative action, pursuant to the Private Attorneys General Act
9 of 2004, Labor Code §§ 2698 *et seq.* (“PAGA”), on behalf of themselves and non-exempt employees
10 employed, or formerly employed, within the State of California by Defendant LOANDEPOT.COM,
11 LLC (“Defendant” or “Loan Depot”) and any subsidiaries or affiliated companies (hereinafter, along
12 with DOES 1 through 50, collectively referred to as “Defendants”).

13 2. Plaintiffs bring this action against Defendants for violations of California wage and
14 hour laws stemming from Defendants’ unlawful policies and practices, including: (1) failing to pay
15 all wages owed, including minimum and overtime wages; (2) failing to provide or make available
16 meal periods and rest breaks entitled by law, and failing to pay premium payments for non-compliant
17 meal periods and/or rest breaks; (3) failing to reimburse work-related expenses incurred in the
18 discharge of job duties; (4) failing to provide accurate wage statements; (5) failing to pay all wages
19 due upon termination; and (6) failing to maintain accurate records of hours worked and wages earned.

20 3. Plaintiffs bring this lawsuit seeking monetary relief against Defendants to recover,
21 among other things, unpaid wages, meal period and rest break compensation, interest, attorney’s fees,
22 costs and expenses, and penalties, as well as other relief requested herein, pursuant to Labor Code §§
23 201-203, 210, 226, 226.3, 226.7, 558, 512, 1174.5, 2802, and 2698 *et seq.*, and the applicable Industrial
24 Welfare Commission (“IWC”) Wage Orders.

25 **THE PARTIES**

26 **Plaintiffs**

27 4. Plaintiff Lilia Hernandez is an individual over the age of eighteen, and at all times
28 mentioned in this Complaint was a resident of the State of California. Upon information and belief,

1 Plaintiff Hernandez worked for Defendant as a non-exempt, hourly mortgage loan officer in Irvine,
2 California from approximately April 2021 to August 2021.

3 5. Plaintiff Lauren Licas is an individual over the age of eighteen, and at all times
4 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
5 Plaintiff Licas worked for Defendant as a non-exempt, hourly loan officer in Foothill Ranch,
6 California from approximately February 22, 2021 to October 1, 2021.

7 6. Plaintiff Ida Luna is an individual over the age of eighteen, and at all times mentioned
8 in this Complaint was a resident of the State of California. Upon information and belief, Plaintiff Luna
9 worked for Defendant as a non-exempt, hourly senior loan officer in Lake Forest, California from
10 approximately October 2020 to September 2021.

11 7. Plaintiff Jennifer Bursack is an individual over the age of eighteen, and at all times
12 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
13 Plaintiff Bursack worked for Defendant as a non-exempt, hourly mortgage banker in Foothill Ranch,
14 California from approximately April 2020 to April 2022.

15 8. Plaintiff Michelle Manesse is an individual over the age of eighteen, and at all times
16 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
17 Plaintiff Manesse worked for Defendant as a non-exempt, hourly employee in Foothill Ranch,
18 California from approximately October 25, 2021 to March 8, 2022.

19 9. Plaintiff Natasha Gilman is an individual over the age of eighteen, and at all times
20 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
21 Plaintiff Gilman worked for Defendant as a non-exempt, hourly senior account manager in Hollister,
22 California from approximately September 2019 to April 2022.

23 10. Plaintiff Curtis Allen is an individual over the age of eighteen, and at all times
24 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
25 Plaintiff Allen worked for Defendant as a non-exempt, hourly Mortgage Loan Officer in California
26 from approximately September 2021 to June 2022.

27 11. Plaintiff Joshua Pavelko is an individual over the age of eighteen, and at all times
28 mentioned in this Complaint was a resident of the State of California. Upon information and belief,

1 Plaintiff Pavelko worked for Defendant in California from approximately August 30, 2021 to April
2 15, 2022 as a non-exempt, hourly Loan Officer.

3 12. Plaintiff Victoria McGovern is an individual over the age of eighteen. Upon
4 information and belief, Plaintiff McGovern worked for Defendant as a non-exempt Junior Account
5 Manager and Senior Loan Processor in Foothill Ranch, California from approximately October 2020
6 to February 2022.

7 13. Plaintiff Dana Collins is an individual over the age of eighteen, and at all times
8 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
9 Plaintiff Collins worked for Defendant as a non-exempt Account Manager and then Customer Lending
10 Representative in California from approximately October 2020 to October 2021.

11 14. Plaintiff Kenneth Eala is an individual over the age of eighteen, and at all times
12 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
13 Plaintiff Eala worked for Defendant as a non-exempt Loan Officer in California from approximately
14 March 2020 to September 2021.

15 15. Plaintiff Nasim Edrakian is an individual over the age of eighteen, and at all times
16 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
17 Plaintiff Edrakian worked for Defendant as a non-exempt hourly Funding Specialist in California from
18 approximately October 26, 2020 to September 2, 2021.

19 16. Plaintiff Erin Brigrance is an individual over the age of eighteen, and at all times
20 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
21 Plaintiff Brigrance worked for Defendant as a non-exempt hourly Closer Funder in California from
22 approximately September 2020 to July 2021.

23 17. Plaintiff Christopher Fortman is an individual over the age of eighteen. Upon
24 information and belief, Plaintiff Fortman worked for Defendant as a non-exempt Loan Officer in
25 California from approximately November 2020 to May 2021.

26 18. Plaintiff Constance Gorman is an individual over the age of eighteen, and at all times
27 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
28 Plaintiff Gorman worked for Defendant as a non-exempt hourly Loan Processor in California from

1 approximately October 05, 2020 to May 13, 2022.

2 19. Plaintiff Melinda Guerrero is an individual over the age of eighteen, and at all times
3 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
4 Plaintiff Guerrero worked for Defendant as a non-exempt hourly Loan Processor in California from
5 approximately April 12, 2021 to April 26, 2022.

6 20. Plaintiff Jackie Hollis is an individual over the age of eighteen, and at all times
7 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
8 Plaintiff Hollis worked for Defendant as a non-exempt hourly Loan Processor in California from
9 approximately October 11, 2021 to March 2022.

10 21. Plaintiff Kenneth Chung is an individual over the age of eighteen, and at all times
11 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
12 Plaintiff Chung worked for Defendant as a non-exempt hourly Mortgage Loan Officer in California
13 from approximately September 2021 to June 24, 2022.

14 22. Plaintiff Lisa Flower is an individual over the age of eighteen, and at all times
15 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
16 Plaintiff Flower worked for Defendant as a non-exempt, hourly Underwriter in California from
17 approximately August 2019 to April 26, 2022.

18 23. Plaintiff Edward Liu is an individual over the age of eighteen, and at all times
19 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
20 Plaintiff Liu worked for Defendant as a non-exempt hourly Mortgage Underwriter in California from
21 approximately June 2019 to March 2022.

22 24. Plaintiff Lorina Wilson is an individual over the age of eighteen, and at all times
23 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
24 Plaintiff Wilson worked for Defendant as a non-exempt hourly Customer Service Support
25 Representative in California from approximately January 2021 to December 2021.

26 25. Plaintiff Lupita Chinn a/k/a Natalia Chinn is an individual over the age of eighteen,
27 and at all times mentioned in this Complaint was a resident of the State of California. Upon
28 information and belief, Plaintiff Chinn worked for Defendant as a non-exempt Senior Account

1 Manager in California from approximately March 22, 2020 to February 2, 2022. Plaintiff Arlene
2 McGee is an individual over the age of eighteen, and at all times mentioned in this Complaint was a
3 resident of the State of California. Upon information and belief, Plaintiff McGee worked for
4 Defendant as a Senior Account Manager in California from approximately March 2020 to April 2021.

5 26. Plaintiff Marvin Menefee is an individual over the age of eighteen, and at all times
6 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
7 Plaintiff Menefee worked for Defendant as a Mortgage Closer Funder in California from
8 approximately June 2020 to March 25, 2022.

9 27. Plaintiff Dean Mosallam a/k/a Nordiean Mosallam is an individual over the age of
10 eighteen, and at all times mentioned in this Complaint was a resident of the State of California. Upon
11 information and belief, Plaintiff Mosallam worked for Defendant as a non-exempt hourly Loan Officer
12 and Customer Lending Representative in California from approximately February 8, 2021 to February
13 28, 2022.

14 28. Plaintiff April Ponce is an individual over the age of eighteen, and at all times
15 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
16 Plaintiff Ponce worked for Defendant as a non-exempt hourly Loan Officer in California from
17 approximately April 2021 to November 2021.

18 29. Plaintiff Heather Randrup is an individual over the age of eighteen, and at all times
19 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
20 Plaintiff Randrup worked for Defendant as a non-exempt hourly Loan Processing Team Leader in
21 California from approximately August 2020 to June 2022.

22 30. Plaintiff Jung Seo is an individual over the age of eighteen, and at all times mentioned
23 in this Complaint was a resident of the State of California. Upon information and belief, Plaintiff Seo
24 worked for Defendant as a non-exempt hourly Loan Officer in California from approximately
25 February 2020 to April 2022.

26 31. Plaintiff Jason Shumski is an individual over the age of eighteen, and at all times
27 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
28 Plaintiff Shumski worked for Defendant as a non-exempt hourly Senior Account Manager in

1 California from approximately October 20, 2020 to March 13, 2022.

2 32. Plaintiff Jennifer Talley is an individual over the age of eighteen, and at all times
3 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
4 Plaintiff Talley worked for Defendant as a Loan Closer in California from approximately October 26,
5 2020 to August 12, 2022.

6 33. Plaintiff Jennifer Venegas is an individual over the age of eighteen, and at all times
7 mentioned in this Complaint was a resident of the State of California. Upon information and belief,
8 Plaintiff Venegas worked for Defendant as a non-exempt hourly Loan Officer in California from
9 approximately July 2021 to May 2022.

10 34. Aggrieved Employees are former hourly, non-exempt employees of Defendants,
11 including but not limited to loan officers, senior loan officers, lending officers, customer lending
12 representatives, business intelligence analysts, loan consultants, escrow administrators, mortgage loan
13 officers, mortgage consultants, mortgage bankers, loan specialists, loss mitigation specialists,
14 foreclosure specialists, tax specialists, and other employees with similar job duties, in California.

15 **Defendant**

16 35. Plaintiffs are informed and believe and thereon allege that Defendant LoanDepot.com,
17 LLC (“Defendant”) is a residential and consumer lending company. Defendant is a Delaware limited
18 liability company headquartered in Foothill Ranch, California. Defendant is registered to do business
19 in California, does business in California, and employs and employed thousands of hourly, non-
20 exempt employees, including Plaintiffs in California. Defendant may be served with process by
21 serving its registered agent, Registered Agent Solutions, Inc., 720 14th Street, Sacramento, California
22 95814.

23 36. Plaintiffs are unaware of the true names or capacities of Defendants sued herein under
24 the fictitious names DOES 1–50, inclusive, but pray for leave to amend and serve such fictitiously-
25 named Defendants pursuant to California Code of Civil Procedure § 474 once their names and
26 capacities become known.

27 37. Plaintiffs are informed and believe and thereon allege that DOES 1–50, inclusive, are
28 the partners, agents, owners, shareholders, managers, principals or employees of Defendant and/or

1 were acting on behalf of Defendant in doing the acts and omissions alleged herein.

2 38. Plaintiffs are informed and believe and thereon allege that each and all of the acts and
3 omissions alleged herein was performed by or is attributable to Defendants, each acting as the agent
4 for the other, with legal authority to act on the other's behalf. The acts of any and all Defendants were
5 in accordance with, and represent the policy of, Defendants.

6 39. At all times relevant herein, Defendants ratified each and every act or omission
7 complained of herein. At all times herein mentioned, Defendants aided and abetted the acts and
8 omissions of each and all of the other Defendants in proximately causing the damages herein alleged.

9 40. Defendants, directly or indirectly, controlled at all relevant times the employment
10 terms, pay practices, timekeeping practices, and daily work of Plaintiffs and Aggrieved Employees.
11 Thus, each Defendant is an "employer" as that term is used in the Labor Code and IWC Wage Orders.

12 41. At all relevant times, Defendants have done business under the laws of California, have
13 had places of business in California including in this judicial district, and have employed Plaintiffs
14 and Aggrieved Employees in California and in this judicial district. At all relevant times, each
15 Defendant was a "person" as defined in Labor Code § 18 and Business and Professions Code § 17201.

16 42. Plaintiffs are informed and believe and thereon allege that Defendants are in some
17 manner, intentionally, negligently or otherwise, responsible for the acts, omissions, occurrences and
18 transactions alleged herein.

19 **JURISDICTION AND VENUE**

20 43. The civil penalties sought by Plaintiffs exceed the minimum jurisdiction limits of the
21 Orange County Superior Court and will be established according to proof at trial.

22 44. This Court has jurisdiction of this action pursuant to the California Constitution, Article
23 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given
24 by statute to other courts. The statutes under which this action is brought do not specify any other basis
25 for jurisdiction.

26 45. This Court has jurisdiction over the violations alleged herein and over Defendants
27 because upon information and belief, each party has sufficient minimum contacts in California or
28 otherwise intentionally avails itself of California law so as to render the exercise of jurisdiction over

1 it by the California courts consistent with traditional notions of fair play and substantial
2 justice. Defendant at all relevant times employed Plaintiffs that performed their work duties
3 throughout the State of California, including in the County of Orange.

4 46. Venue is proper in this Court because, upon information and belief, the named
5 Defendant maintains an office in this county and the acts and omissions alleged herein took place in
6 this county.

7 **GENERAL ALLEGATIONS AND SUMMARY OF CLAIMS**

8 47. Loan Depot is a residential and consumer lending company with locations throughout
9 California, including the County of Orange.

10 48. Plaintiffs and Aggrieved Employees are current and former employees of Defendants
11 in California, including but not limited to loan officers, senior loan officers, lending officers, customer
12 lending representatives, business intelligence analysts, loan consultants, escrow administrators,
13 mortgage loan officers, mortgage consultants, mortgage bankers, loan specialists, loss mitigation
14 specialists, foreclosure specialists, tax specialists, and other employees with similar job duties.
15 Plaintiffs' and Aggrieved Employees' job duties generally include but are not limited to providing
16 customer service and support to Defendants' lending clients.

17 49. Plaintiffs are informed and believe and thereon allege that the policies and practices
18 of Defendants have at all relevant times been similar for Plaintiffs and Aggrieved Employees,
19 regardless of particular job assignment or location in California.

20 50. The nature of Plaintiffs' and Aggrieved Employees' work, providing loan services to
21 clients, is time sensitive, rigorous, and nonstop. As such, Plaintiffs and Aggrieved Employees were
22 frequently prevented from taking timely meal periods and rest breaks and were not relieved of all
23 duties to take such breaks due to constant work demands and staffing shortages.

24 51. Plaintiffs and Aggrieved Employees were regularly and systematically prohibited by
25 Defendants from taking timely, compliant, uninterrupted, unpaid 30-minute meal periods for every
26 five hours worked as required by Labor Code § 512 and Wage Order No. 4, nor were Plaintiffs or
27 Aggrieved Employees paid a one hour premium wage at their regular rate of pay for each missed,
28 short, late or interrupted meal period.

1 52. Plaintiffs and Aggrieved employees were regularly and systematically prohibited by
2 Defendants from taking, timely, compliant, uninterrupted paid 10-minute rest periods for every four
3 hours worked (or major fraction thereof) as required by Labor Code §§ 226.7, 512 and Wage Order
4 No. 4, nor were Plaintiffs or Aggrieved Employees paid a one-hour premium wage at their regular rate
5 of pay for each missed, short, late or interrupted rest period.

6 53. Defendants knew or reasonably should have known that Plaintiffs and Aggrieved
7 Employees were not timely relieved of all duties and were impeded or prevented from taking timely
8 all meal periods and rest breaks.

9 54. Defendants maintained a policy and/or practice of failing to properly compensate
10 Plaintiffs and Aggrieved Employees for work related tasks performed while “off-the-clock,” either
11 before/after their scheduled shifts or during their meal periods while clocked out. Defendants’ failure
12 to compensate Plaintiffs and Aggrieved Employees for work performed while off-the-clock results in
13 a failure to compensate Plaintiffs and Aggrieved Employees for all time spent working for Defendants’
14 benefit, including at minimum wage, overtime, and/or double time under California law.

15 55. Further, many Plaintiffs and Aggrieved Employees receive commission payments from
16 Defendant that are not factored into the regular rate for purposes of calculating overtime
17 compensation, resulting in them performing services for the benefit of Defendant without proper
18 compensation.

19 56. Plaintiffs are informed, believe, and thereon allege that Defendants utilize the same or
20 substantially similar timekeeping mechanisms throughout all California.

21 57. As a result of these policies and/or practices, Plaintiffs and Aggrieved Employees are
22 denied compensation for all hours worked, including minimum wages and overtime.

23 58. Defendants’ common course of wage-and-hour abuse includes routinely failing to
24 maintain true and accurate records of the hours worked by Plaintiffs and Aggrieved Employees.
25 Defendants have failed to record hours that Plaintiffs and Aggrieved Employees work off-the-clock,
26 as well as non-compliant meal and rest periods.

27 59. Defendants do not provide Plaintiffs and Aggrieved Employees with accurate wage
28 statements as required by California law. Plaintiffs and Aggrieved Employees receive wage statements

1 that do not reflect all hours worked, premium pay for missed meal and rest periods, and applicable
2 overtime premiums.

3 60. Defendants also fail to reimburse Plaintiffs and Aggrieved Employees for all business
4 expenses incurred while on the job. Plaintiffs and Aggrieved Employees must use their personal
5 cellphones and personal cell voice, text, and data plans for extensive, work-related communications,
6 such as speaking with supervisors, clients, and coworkers about mortgage loans in process. Defendants
7 fail to reimburse Plaintiffs and Aggrieved Employees for expenses incurred while using their home
8 internet to complete required job duties. Defendants fail to reimburse Plaintiffs and Aggrieved
9 Employees for such “out-of-pocket” business expenses in violation of Labor Code § 2802.

10 61. Defendants do not provide Plaintiffs and Aggrieved Employees with full payment of
11 all wages owed upon separation from employment. At the time their employment ends, Plaintiffs and
12 Aggrieved Employees are owed wages and premium pay for all time worked, overtime, and missed
13 meal and rest breaks, whether their termination was voluntary or involuntary; yet Defendants fail to
14 provide Plaintiffs and Aggrieved Employees with such payments. As a result, Defendants are subject
15 to waiting time penalties pursuant to the California Labor Code.

16 62. Plaintiffs are informed and believe and thereon allege that Defendants are aware that
17 their policies and practices deprive Plaintiffs and Aggrieved Employees of substantial pay for all time
18 worked, including overtime compensation and minimum wages, and that their workers do not receive
19 legally compliant meal and rest periods. Thus, Defendants’ denial of wages, compliant meal and rest
20 periods, and premium payments is and was deliberate and willful.

21 63. Plaintiffs are informed and believe and thereon allege that Defendants’ unlawful
22 conduct has been widespread, repeated, and consistent as to the Plaintiffs and Aggrieved Employees
23 throughout Defendants’ operations in California.

24 64. Defendants’ conduct was willful, carried out in bad faith, and triggers significant civil
25 penalties in an amount to be determined at trial.

26 65. Defendants’ company-wide policies and practices violate California law as pled herein.
27 Plaintiffs seek declaratory relief, regular and overtime compensation, premium pay for rest and meal
28 break violations, reimbursement of business expenses, liquidated damages and other damages and

penalties as permitted by California Law, interest, and attorneys' fees and costs.

FIRST CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS
In Violation of Labor Code §§ 226.7(c), 512(a), 1198 and IWC Order No. 4-2001
(Brought by Plaintiffs on Behalf of Themselves
Against Defendant and Does 1 – 50, inclusive)

66. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

67. Defendants routinely fail to provide or make available complaint meal periods to Plaintiffs.

68. The work demands placed on Plaintiffs regularly prevent them from taking first meal periods, and, when applicable, second meal periods throughout the day. Plaintiffs do not receive the requisite premium pay for their missed meal breaks as required by California law.

69. Labor Code §§ 226.7 and 512 and the applicable Wage Order require Defendants to provide or make available meal periods to their employees. Labor Code §§ 226.7 and 512 and the Wage Order prohibit employers from employing an employee for more than five (5) hours without a meal period of not less than thirty minutes, and from employing an employee more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty minutes.

70. Unless the employee is relieved of all duty during the thirty-minute meal period, the employee is considered "on duty" and the meal period is counted as time worked under the applicable Wage Order 1-2001(11)(C) and Wage Order 7-2001(11)(C).

71. Under Labor Code § 226.7(b) and the applicable Wage Order, an employer who fails to provide or make available a required meal period must, as compensation, pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided or made available.

72. Despite these requirements, Defendants have knowingly and willfully refused to perform their obligations to provide or make available to Plaintiffs the ability to take the off-duty meal periods to which they are entitled.

73. Defendants have also failed to pay Plaintiffs one (1) hour of pay for each day an off-duty meal period was denied. Defendants' conduct described herein violates Labor Code §§ 226.7

1 and 512. Therefore, pursuant to Labor Code § 226.7(b), Plaintiffs are entitled to compensation for the
2 failure to provide or make available meal periods, plus interest, attorneys' fees, expenses and costs of
3 suit.

4 74. As a proximate result of the aforementioned violations, Plaintiffs have been damaged
5 in an amount according to proof at time of trial.

6 75. Wherefore, Plaintiffs request relief as hereinafter provided.

7 **SECOND CAUSE OF ACTION**
8 **FAILURE TO PROVIDE REST PERIODS**
9 **In Violation of Labor Code §§ 226.7(c), 1198 and IWC Order No. 9-2001**
10 **(Brought by Plaintiffs on Behalf of Themselves**
11 **Against Defendant and Does 1 – 50, inclusive)**

12 76. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though
13 fully set forth herein.

14 77. Defendants routinely fail to authorize and permit rest periods to Plaintiffs.

15 78. Labor Code § 226.7 and the applicable Wage Orders require employers to authorize
16 and permit employees to take ten (10) minutes of net rest time per (4) four hours or major fraction
17 thereof of work, and to pay employees their full wage during those rest periods.

18 79. Under Labor Code §226.7(b), IWC Wage Order 1-2001(12)(B), and IWC Wage Order
19 7-2001(12)(B), an employer who fails to provide or make available a required rest period must, as
20 compensation, pay the employee one (1) hour of pay at the employee's regular rate of compensation
21 for each workday that the rest period was not provided or made available.

22 80. Despite these requirements, Defendants have knowingly and willfully refused to
23 perform their obligations to provide or make available to Plaintiffs the ability to take the off-duty rest
24 periods to which they are entitled.

25 81. Defendants have also failed to pay Plaintiffs one (1) hour of pay for each day an off-
26 duty rest period was denied. Defendants' conduct described herein violations Labor Code § 226.7.
27 Therefore, pursuant to Labor Code § 226.7(b), Plaintiffs are entitled to compensation for the failure
28 to authorize and permit rest periods, plus interest, attorneys' fees, expenses, and cost of suit.

82. As a proximate result of the aforementioned violations, Plaintiffs have been damaged
in an amount according to proof at time of trial.

83. Wherefore, Plaintiffs request relief as hereinafter provided.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES, INCLUDING MINIMUM AND OVERTIME
In Violation of Labor Code §§ 510, 1194
(Brought by Plaintiffs on Behalf of Themselves
Against Defendant and Does 1 – 50, inclusive)

84. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

85. At all relevant times, the IWC Wage Orders applicable to Plaintiffs require employers to pay their employees for each hour worked at no less than minimum wage. “Hours worked” means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so, and in the case of an employee who is required to reside on the employment premises, that time spent carrying out assigned duties shall be counted as hours worked.

86. At all relevant times, the IWC Wage Orders applicable to Plaintiffs’ employment by Defendants provided that employees working for more than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week. An employee who works more than twelve (12) hours in a day is entitled to overtime compensation at a rate of twice the regular rate of pay.

87. Labor Code § 510 codifies the right to overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week, and to overtime compensation at twice the regular rate of pay for hours worked in excess of twelve (12) hours in a day or eight (8) hours in a day on the seventh day of work in a particular work week.

88. Labor Code § 1197.1 states, “Any employer or other persons acting individually as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203...”

1 89. At all times relevant, Plaintiffs regularly performed non-exempt work and thus were
2 subject to the overtime requirements of the IWC Wage Orders, CCR §§ 11000 *et. seq.*, and the Labor
3 Code.

4 90. As discussed herein, Defendants did not compensate Plaintiffs for all hours worked as
5 required by California law and the applicable IWC Wage Order. As a result, Plaintiffs were not paid
6 all lawful wages, including minimum wages and overtime wages. Plaintiffs are informed and believes,
7 and thereon allege, that Defendants knew or should have known that Plaintiffs were entitled to receive
8 all wages owed yet failed to do so.

9 91. Pursuant to Labor Code §§ 510, 558 and 1194, Plaintiffs are entitled to recover their
10 unpaid wages and overtime compensation, as well as interest, costs, and attorneys' fees.

11 92. As a proximate result of the aforementioned violations, Plaintiffs have been damaged
12 in an amount according to proof at time of trial.

13 93. Wherefore, Plaintiffs request relief as hereinafter provided.

14 **FOURTH CAUSE OF ACTION**
15 **FAILURE TO REIMBURSE WORK EXPENSES**
16 **In Violation of Labor Code § 2802**
 (Brought by Plaintiffs on Behalf of Themselves
 Against Defendant and Does 1 – 50, inclusive)

17 94. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully
18 set forth herein.

19 95. Labor Code § 2802 requires employers to indemnify employees for all necessary
20 expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

21 96. Plaintiffs are required to pay out of pocket for necessary business expenses incurred as
22 a result of their work for Defendants, but they are not reimbursed for these expenses. Defendant
23 required Plaintiffs to use personal cell phones and personal cell voice, text, and data plans for
24 extensive, work-related communications, such as speaking with supervisors, clients, and coworkers
25 about mortgage loans in process. Defendants also required Plaintiffs to use their home internet to
26 successfully complete tasks as part of their employment. Defendants did not reimburse Plaintiffs for
27 such "out-of-pocket" business expenses in violation of Labor Code § 2802.

28 97. As a proximate result of the aforementioned violations, Plaintiffs have been damaged

1 in an amount according to proof at time of trial.

2 98. Wherefore, Plaintiffs request relief as hereinafter provided.

3 **FIFTH CAUSE OF ACTION**
4 **FAILURE TO MAINTAIN ACCURATE RECORDS**
5 **In Violation of Labor Code § 1174(d)**
6 **(Brought by Plaintiffs on Behalf of Themselves**
7 **Against Defendant and Does 1 – 50, inclusive)**

8 99. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully
9 set forth herein.

10 100. California Labor Code § 1174(d) provides in pertinent part, “Every person employing
11 labor in this state shall keep... at a central location in the state or at the plants or establishments at
12 which employees are employed, payroll records showing the hours worked daily by and the wages
13 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
14 employed at the respective plants or establishments. These records shall be kept in accordance with
15 rules established for this purpose by the commission, but in any case shall be kept on file for not less
16 than three years. An employer shall not prohibit an employee from maintaining a personal record of
17 hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

18 101. Defendants knowingly and intentionally failed to accurately record, track, maintain and
19 keep accurate records of each and every hour worked, and wages earned for Plaintiffs.

20 102. Upon information and belief, Plaintiffs have alleged herein that in an effort to fabricate
21 the appearance of compliance with the provisions of the Labor Code, Defendants routinely required
22 Plaintiffs to work off-the-clock and prohibited Plaintiffs from receiving proper, timely, and compliant
23 meal and rest breaks to avoid paying overtime.

24 103. Thus, at all relevant times, Defendants failed to maintain accurate records of all hours
25 Plaintiffs worked, including hours they were working during meal periods and rest breaks, and for the
26 days they worked in excess of eight hours, and/or work weeks in excess of forty hours. As a result of
27 Defendants’ failure to maintain proper accurate records, premium penalties to which Plaintiffs were
28 entitled for meal period and rest break violations were not properly recorded either.

104. Plaintiffs are therefore entitled to and seek to recover penalties, pursuant to Labor Code
§ 1174.5, which provides that an employer who fails to properly maintain records pursuant to §

1 1174(d) shall be subject to a civil penalty of five hundred dollars (\$500).

2 105. As a proximate result of the aforementioned violations, Plaintiffs have been damaged
3 in an amount according to proof at time of trial.

4 106. Wherefore, Plaintiffs request relief as hereinafter provided.

5 **SIXTH CAUSE OF ACTION**
6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
7 **In Violation of Labor Code § 226(a)**
8 **(Brought by Plaintiffs on Behalf of Themselves**
9 **Against Defendant and Does 1 – 50, inclusive)**

10 107. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully
11 set forth herein.

12 108. Section 226(a) of the California Labor Code requires Defendants to itemize in wage
13 statements all deductions from payment of wages and to accurately report total hours worked by
14 Plaintiffs including applicable hourly rates and reimbursement expenses among other things.
15 Defendants knowingly and intentionally failed to comply with Labor Code § 226 on wage statements
16 they provided to Plaintiffs.

17 109. The applicable IWC Wage Orders require Defendants to maintain time records for each
18 employee showing, among other things, start and end times for each work period, meal periods, split
19 shift intervals, and total daily hours worked in an itemized wage statement; Defendants must show all
20 deductions and reimbursements from payment of wages, and accurately report total hours worked by
21 each of Plaintiffs. On information and belief, Defendants have failed to record all or some of the items
22 delineated in applicable IWC Wage Orders and Labor Code § 226.

23 110. As a result of Defendants' knowing and intentional failure to comply with Labor Code
24 § 226(a), Plaintiffs have suffered injury and damage to their statutorily protected rights. Specifically,
25 Plaintiffs have been injured by Defendants' intentional violation of Labor Code § 226(a) because they
26 were denied both their legal right to receive, and their protected interest in receiving, accurate itemized
27 wage statements under Labor Code § 226(a). In addition, Defendants have made it difficult to calculate
28 the amount of wages and compensation owed to Plaintiffs. Plaintiffs have had to file this lawsuit and
will be required to conduct discovery and perform computations in order to analyze whether in fact
Plaintiffs were paid correctly and the extent of the underpayment, thereby causing Plaintiffs to incur

1 expenses and lost time. Plaintiffs would not have had to engage in these efforts and incur these costs
2 had Defendants provided wage statements accurately showing their regular and overtime rates of pay
3 and the other information specified above. This has also impaired and delayed Plaintiffs' ability to
4 demand and recover underpaid wages from Defendants.

5 111. Plaintiffs are entitled to recover from Defendants the greater of their actual damages
6 caused by Defendants' failure to comply with Labor Code § 226(a) or an aggregate penalty not
7 exceeding \$4,000 dollars per employee.

8 112. Wherefore, Plaintiffs request relief as hereinafter provided.

9 **SEVENTH CAUSE OF ACTION**
10 **FAILURE TO PAY ALL WAGES DUE UPON TERMINATION**
11 **In Violation of Labor Code §§ 201-203**
(Brought by Plaintiffs on Behalf of Themselves
Against Defendant and Does 1 – 50, inclusive)

12 113. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully
13 set forth herein.

14 114. Defendants did not provide Plaintiffs with their wages when due under California law
15 after their employment with Defendants ended.

16 115. Labor Code § 201 provides: "If an employer discharges an employee, the wages earned
17 and unpaid at the time of discharge are due and payable immediately."

18 116. Labor Code § 202 provides:

19 If an employee not having a written contract for a definite period quits his or her
20 employment, his or her wages shall become due and payable not later than 72 hours
21 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.

22 117. Labor Code § 203 provides, in relevant part:

23 If an employer willfully fails to pay, without abatement or reduction, in accordance
24 with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is
25 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.

26 118. Plaintiffs left their employment with Defendants during the statutory period, at which
27 time Defendants owed them unpaid wages. These earned, but unpaid, wages derive from time spent
28 working off-the-clock for the benefit of Defendants before and after their scheduled shifts and during

missed or interrupted meal periods, and/or missed or interrupted second meal periods.

119. Defendants willfully refuse and continue to refuse to pay Plaintiffs all the wages that are due and owing to them for the work performed and premium payments for missed or interrupted meal periods, and/or missed or interrupted second meal periods, upon the end of their employment. As a result of Defendants' actions, Plaintiffs have suffered and continue to suffer substantial losses, including lost earnings, and interest.

120. Defendants' willful failure to pay Plaintiffs the wages due and owing them constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are liable to Plaintiffs for all penalties owing pursuant to Labor Code §§ 201-203.

121. In addition, addition, Labor Code § 203 provides that an employee's wages will continue as a penalty up to thirty days from the time the wages were due. Therefore, the Plaintiffs are entitled to penalties pursuant to Labor Code § 203, plus interest.

122. Wherefore, Plaintiffs request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES
In Violation of Bus. & Prof. Code § 17200 et seq.
(Brought by Plaintiffs on Behalf of Themselves
Against Defendant and Does 1 – 50, inclusive)

123. Plaintiffs reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

124. Business and Professions Code §§ 17200 *et seq.*, the Unfair Competition Law (the "UCL"), prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

125. Business and Professions Code § 17204 allows a person injured by unfair business acts or practices to prosecute a civil action for violation of the UCL.

126. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

1 127. Beginning at an exact date unknown to Plaintiffs, but at least since the date four years
2 prior to the filing of this lawsuit, Defendants have committed acts of unfair competition as defined by
3 the UCL, by engaging in the unlawful, unfair, and fraudulent business acts and practices described in
4 this Complaint, including, but not limited to:

- 5 a. violations of Labor Code §§ 226.7 and 512 and Wage Orders 1-2001 and 7-2001
6 pertaining to meal breaks;
- 7 b. violations of Labor Code §§ 226.7 and Wage Order 1-2001 pertaining to rest
8 breaks;
- 9 c. violations of Labor Code §§ 1182.11, 1182.12, 1194, 1197, 1197.1, 1198, and
10 IWC Wage Order 1-2001 pertaining to payment of wages, including minimum
11 wage, for all hours worked;
- 12 d. violations of Labor Code § 2802 and Wage Orders 1-2001 and 7-2001 pertaining
13 to reimbursement of necessary business expenses;
- 14 e. violations of Labor Code §§ 226, 226.3 and 226.6 regarding accurate, timely
15 itemized wage statements; and
- 16 f. violations of Labor Code §§ 201-203 pertaining to payment of all wages owed
17 during employment and following separation from employment.

18 128. The violations of these laws and regulations, as well as of the fundamental California
19 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of the
20 UCL.

21 129. The acts and practices described above constitute unfair, unlawful, and fraudulent
22 business practices, and unfair competition, within the meaning of the UCL. Among other things, the
23 acts and practices described herein have taken from Plaintiffs wages rightfully earned by them, while
24 enabling Defendants to gain an unfair competitive advantage over law-abiding employers and
25 competitors.

26 130. Business and Professions Code § 17203 provides that a court may make such orders or
27 judgments as may be necessary to prevent the use or employment by any person of any practice which
28 constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent Defendants

1 from repeating the unlawful, unfair, and fraudulent business acts and practices alleged above.

2 131. As a direct and proximate result of the aforementioned acts and practices, Plaintiffs
3 have suffered a loss of money and property, in the form of unpaid wages, which are due and payable.

4 132. Business and Professions Code § 17203 provides that the Court may restore to any
5 person in interest any money or property which may have been acquired by means of such unfair
6 competition. Plaintiffs are entitled to restitution pursuant to Business and Professions Code § 17203
7 for all wages and payments unlawfully withheld from them during the four-year period prior to the
8 filing of this Complaint. Plaintiffs' success in this action will enforce important rights affecting the
9 public interest. Plaintiffs seek and are entitled to unpaid wages, declaratory and injunctive relief, and
10 all other equitable remedies owing to them.

11 133. Plaintiffs herein take upon themselves enforcement of these laws and lawful claims.

12 134. There is a financial burden involved in pursuing this action, the action is seeking to
13 vindicate a public right, and it would be against the interests of justice to penalize Plaintiffs by forcing
14 them to pay attorneys' fees from any recovery thereof. Attorneys' fees are appropriate pursuant to
15 Code of Civil Procedure § 1021.5 and otherwise.

16 135. Wherefore, Plaintiffs and request relief as hereinafter provided.

17 **NINTH CAUSE OF ACTION**
18 **PENALTIES PURSUANT TO § 2699(a) OF**
19 **THE PRIVATE ATTORNEYS GENERAL ACT**
(Brought by Plaintiffs on Behalf of Themselves and Aggrieved Employees
Against Defendant and Does 1 – 50, inclusive)

20 136. Plaintiffs reallege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 137. The Private Attorneys General Act ("PAGA") expressly establishes that any provision
23 of the California Labor Code which provides for a civil penalty to be assessed and collected by the
24 Labor and Workforce Development Agency (the "LWDA"), or any of its departments, divisions,
25 commissions, boards, agencies, or employees for a violation of the Labor Code may be recovered
26 through a civil action brought by an aggrieved employee on behalf of himself or herself, and other
27 current or former employees.

28 138. Plaintiffs, by their employment with Defendants and Defendants' violations of the

1 Labor Code as alleged herein, are Aggrieved Employees with standing to bring an action under the
2 PAGA.

3 139. Defendants do not provide Plaintiffs and Aggrieved Employees with accurate itemized
4 wage statements as required by California law, as a result of the meal and rest break, off-the-clock
5 work, and overtime violations set forth above, and Defendants' failure to provide premium pay for the
6 missed breaks.

7 140. Labor Code § 2699(a) provides:

8 Notwithstanding any other provision of law, any provision of this code that
9 provides for a civil penalty to be assessed and collected by the Labor and
10 Workforce Development Agency or any of its departments, divisions,
11 commissions, boards, agencies or employees, for a violation of this code,
12 may, as an alternative, be recovered through a civil action brought by an
aggrieved employee on behalf of himself or herself and other current or
former employees.

13 141. Labor Code § 226(a) provides:

14 An employer, semimonthly or at the time of each payment of wages, shall
15 furnish to his or her employee, either as a detachable part of the check, draft,
16 or voucher paying the employee's wages, or separately if wages are paid by
17 personal check or cash, an accurate itemized statement in writing showing
18 (1) gross wages earned, (2) total hours worked by the employee, except as
19 provided in subdivision (j), (3) the number of piece-rate units earned and any
20 applicable piece rate if the employee is paid on a piece-rate basis, (4) all
21 deductions, provided that all deductions made on written orders of the
22 employee may be aggregated and shown as one item, (5) net wages earned,
23 (6) the inclusive dates of the period for which the employee is paid, (7) the
24 name of the employee and only the last four digits of his or her social security
number or an employee identification number other than a social security
number, (8) the name and address of the legal entity that is the employer ...
and (9) all applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the employee
... The deductions made from payment of wages shall be recorded in ink or
other indelible form, properly dated, showing the month, day, and year, and
a copy of the statement and the record of the deductions shall be kept on file
by the employer for at least three years at the place of employment or at a
central location within the State of California.

25 The IWC Wage Orders also establishes this requirement. (*See* IWC Wage Order 4-2001(7)).

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1 142. Labor Code § 226(e)(1) provides:

2 An employee suffering injury as a result of a knowing and intentional failure
3 by an employer to comply with subdivision (a) is entitled to recover the greater
4 of all actual damages or fifty dollars (\$50) for the initial pay period in which a
5 violation occurs and one hundred dollars (\$100) per employee for each
 violation in a subsequent pay period, not to exceed an aggregate penalty of four
 thousand dollars (\$4,000), and is entitled to an award of costs and reasonable
 attorney's fees.

6 143. Defendants' failure to provide Plaintiffs and Aggrieved Employees with compliant
7 meal and rest periods is and was in violation of Labor Code § 512 and Wage Orders 1-2001 and 7-
8 2001.

9 144. Due to Defendants' failure to pay one hour of premium pay to Plaintiffs and Aggrieved
10 Employees for each missed or noncompliant meal or rest period, along with the off-the-clock work,
11 and overtime violations, the wage statements Defendants provide their employees, including the
12 Aggrieved Employees, do not reflect the actual gross wages earned, actual net wages earned, or actual
13 hours worked. Accordingly, Defendants have knowingly and willfully failed to provide timely,
14 accurate itemized wage statements to Plaintiffs and the Aggrieved Employees in accordance with
15 Labor Code §§ 226, 226.3, and 226.6, and the applicable IWC Wage Order(s).

16 145. Defendants also do not provide Plaintiff and Aggrieved Employees with their wages
17 when due under California law after their employment with Defendants ends, as a result of the meal
18 and rest break, off-the-clock work, and overtime violations set forth herein and Defendants' failure to
19 provide premium pay for the noncompliant breaks.

20 146. Labor Code §§ 201 and 202 require employers to immediately pay wages earned and
21 unpaid to an employee that is discharged, and to pay an employee who quits within 72 hours after he
22 or she quits, at the latest.

23 147. Labor Code § 203 provides, in relevant part:

24 If an employer willfully fails to pay, without abatement or reduction, in
25 accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages
26 of an employee who is discharged or who quits, the wages of the employee
27 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.

28 148. Labor Code § 256 provides: "The Labor Commissioner shall impose a civil penalty in

1 an amount not exceeding 30 days' pay as waiting time under the terms of Section 203."

2 149. Plaintiffs and Aggrieved Employees have left their employment with Defendants
3 during the statutory period, at which time Defendants owed them unpaid wages for premium pay for
4 missed or noncompliant meal and rest periods.

5 150. On information and belief, Defendants violated Labor Code § 2802 and Wage Orders
6 1-2001 and 7-2001 pertaining to reimbursement of necessary business expenses, by failing and
7 refusing to reimburse Plaintiffs' expenses necessarily incurred in the discharge of their job duties for
8 Defendants.

9 151. On information and belief, Defendants violated Labor Code §§ 201-202, 1182.11,
10 1182.12, 1194, 1197, 1197.1, 1198, and IWC Wage Order 1-2001 pertaining to payment of wages,
11 including minimum wage, for all hours worked, including but not limited to by failing to pay Plaintiffs
12 at no less than minimum wage for all time spent working for Defendants, and/or by failing to pay the
13 legal overtime rate as set forth above.

14 152. Defendants willfully refused and continue to refuse to pay Plaintiffs and Aggrieved
15 Employees all the wages that are due and owing them, in the form of meal and rest period premium
16 pay and other wages due and owing, upon the end of their employment. Defendants' failure to pay all
17 premiums required for noncompliant meal and rest periods is and was in violation of Labor Code §
18 226.7.

19 153. As a result of Defendants' actions, Plaintiffs and Aggrieved Employees have suffered
20 and continue to suffer substantial losses, including lost earnings, and interest.

21 154. Plaintiffs seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by
22 Defendants, as alleged above, to timely pay all wages owed to Plaintiff and Aggrieved Employees in
23 compliance with Labor Code §§ 201-202 in the amounts established by Labor Code § 203. Plaintiffs
24 seek such penalties as an alternative to the penalties available under Labor Code § 203, as prayed for
25 herein.

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1 155. Labor Code § 226.3 provides:

2 Any employer who violates subdivision (a) of Section 226 shall be subject
3 to a civil penalty in the amount of two hundred fifty dollars (\$250) per
4 employee per violation in an initial citation and one thousand dollars
5 (\$1,000) per employee for each violation in a subsequent citation, for which
6 the employer fails to provide the employee a wage deduction statement or
7 fails to keep the records required in subdivision (a) of Section 226. The civil
8 penalties provided for in this section are in addition to any other penalty
9 provided by law.

10 156. Plaintiffs seek civil penalties pursuant to Labor Code § 2699(a) for each failure by
11 Defendants, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage
12 statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226(e).
13 Plaintiffs seek such penalties as an alternative to the penalties available under Labor Code § 226(e),
14 as prayed for herein.

15 157. Plaintiffs also seek civil penalties pursuant to Labor Code § 2699(a) for Defendants'
16 violations of Labor Code §§ 226.7, 512, 1182.11, 1182.12, 1194, 1197, 1197.1, 1198.

17 158. Plaintiffs also seek civil penalties pursuant to Labor Code §§ 225.5, 226.3, and 256.

18 159. Pursuant to Labor Code § 2699.3(a)(1) and (2), on August 31, 2022, Plaintiffs Lilia
19 Hernandez, Lauren Licas, Ida Luna, Jennifer Bursack, Michelle Manesse, Natasha Gilman, Curtis
20 Allen, and Joshua Pavelko provided the LWDA with notice of their intention to file these claims, and
21 65 calendar days have passed without notice from the LWDA. These plaintiffs have satisfied the
22 administrative prerequisites to commence this civil action in compliance with Labor Code § 2699.3(a).

23 160. Pursuant to Labor Code § 2699.3(a)(1) and (2), on December 22, 2022, Plaintiffs Dana
24 Collins, Kenneth Eala, Nasim Edrakian, Erin Brigance, Constance Gorman, Melinda Guerrero, Jackie
25 Hollis, Kenneth Chung, Lisa Flower, Edward Liu, Lorina Wilson, Lupita Chinn a/k/a Natalia Chinn,
26 Arlene McGee, Marvin Menefee, Dean Mosallam a/k/a Nordiean Mosallam, April Ponce, Heather
27 Randrup, Jung Seo, Jason Shumski, Jennifer Talley, and Jennifer Venegas, provided the LWDA with
28 notice of their intention to file these claims. Once the 65-day administrative exhaustion period
29 provided in Labor Code § 2699.3(a) has passed, these plaintiffs will amend this Complaint to allege
30 the same. Plaintiffs seek the aforementioned penalties on behalf of the State, other Aggrieved
31 Employees, and themselves as set forth in Labor Code § 2699.

161. Defendants are liable to Plaintiffs, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs as set forth below.

162. Wherefore, Plaintiffs request relief as hereinafter provided.

TENTH CAUSE OF ACTION
PENALTIES PURSUANT TO § 2699(f) OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Brought by Plaintiffs on Behalf of Themselves and Aggrieved Employees
Against Defendant and Does 1 – 50, inclusive)

163. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

164. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

165. Labor Code § 200 defines wages as “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or method of calculation.”

166. IWC Wage Orders 4-2001(2)(K) defines “hours worked” as “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

167. Labor Code § 1198 makes it unlawful for employers to employ employees under conditions that violate the Wage Order.

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1 168. Labor Code § 510 provides, in relevant part:

2 Eight hours of labor constitutes a day's work. Any work in excess of eight
3 hours in one workday and any work in excess of 40 hours in any one
4 workweek and the first eight hours worked on the seventh day of work in
5 any one workweek shall be compensated at the rate of no less than one and
6 one-half times the regular rate of pay for an employee. Any work in excess
7 of 12 hours in one day shall be compensated at the rate of no less than twice
8 the regular rate of pay for an employee. In addition, any work in excess of
9 eight hours on any seventh day of a workweek shall be compensated at the
10 rate of no less than twice the regular rate of pay of an employee. Nothing
11 in this section requires an employer to combine more than one rate of overtime
12 compensation in order to calculate the amount to be paid to an employee
13 for any hour of overtime work.

14 169. Labor Code § 1197 provides:

15 The minimum wage for employees fixed by the commission or by any
16 applicable state or local law, is the minimum wage to be paid to employees,
17 and the payment of a lower wage than the minimum so fixed is unlawful.
18 This section does not change the applicability of local minimum wage laws
19 to any entity.

20 170. Labor Code § 1194(a) provides, in relevant part:

21 Notwithstanding any agreement to work for a lesser wage, any employee
22 receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil
24 action the unpaid balance of the full amount of this minimum wage or
25 overtime compensation, including interest thereon, reasonable attorney's
26 fees, and costs of suit.

27 171. Labor Code § 1198 makes it unlawful for employers to employ employees under
28 conditions that violate the Wage Order.

1 172. California law further requires that employers pay their employees for all hours worked
2 at the statutory or agreed upon rate. No part of the rate may be used as a credit against a minimum
3 wage obligation.

4 173. By failing to maintain adequate time records as required by Labor Code §1174(d) and
5 IWC Wage Order 4-2001(7), Defendants have made it difficult to calculate the minimum wage
6 compensation due to Plaintiffs and Aggrieved Employees.

7 174. Labor Code §§ 226.7 and 512 and IWC Wage Orders 4-2001 require Defendants to
8 authorize, permit, and/or make available timely and compliant meal and rest periods to its employees.
9 Labor Code §§ 226.7 and 512 and IWC Wage Orders 4-2001 prohibit employers from employing an

1 employee for more than five hours without a meal period of not less than thirty minutes, and from
2 employing an employee more than ten hours per day without providing the employee with a second
3 meal period of not less than thirty minutes. Unless the employee is relieved of all duty during the
4 thirty-minute meal period and ten-minute rest period, the employee is considered “on duty” and the
5 meal period is counted as time worked under the applicable wage orders.

6 175. Labor Code § 2802 requires Defendants to indemnify their employees for all necessary
7 expenditures or losses incurred in direct consequence of the discharge of their duties.

8 176. To the extent that any violation alleged herein does not carry penalties under Labor
9 Code § 2699(a), Plaintiffs seek civil penalties pursuant to Labor Code § 2699(f) for Plaintiffs and
10 Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established
11 by Labor Code § 2699(f). Plaintiffs seek penalties pursuant to Labor Code § 2699(f) for Plaintiffs and
12 Aggrieved Employees for violations of Labor Code provisions including but not limited to Labor Code
13 §§ 201-203, 226, 226.3, 226.6, 226.7, 510, 512, 1182.11, 1182.12, 1194, 1197, 1197.1, 1198, 2800,
14 2802, and IWC Wage Orders 1-2001, 4-2001, and 7-2001, and any other violation alleged herein
15 which does not carry penalties under Labor Code § 2699(a).

16 177. Pursuant to Labor Code § 2699.3(a)(1) and (2), on August 31, 2022, Plaintiffs Lilia
17 Hernandez, Lauren Licas, Ida Luna, Jennifer Bursack, Michelle Manesse, Natasha Gilman, Curtis
18 Allen, and Joshua Pavelko provided notice to LWDA of their intention to file these claims, and 65
19 calendar days have passed without response from the LWDA. These plaintiffs have satisfied the
20 administrative prerequisites to commence this civil action in compliance with Labor Code § 2699.3(a).

21 178. Pursuant to Labor Code § 2699.3(a)(1) and (2), on December 22, 2022, Plaintiffs Dana
22 Collins, Kenneth Eala, Nasim Edrakian, Erin Brigance, Constance Gorman, Melinda Guerrero, Jackie
23 Hollis, Kenneth Chung, Lisa Flower, Edward Liu, Lorina Wilson, Lupita Chinn a/k/a Natalia Chinn,
24 Arlene McGee, Marvin Menefee, Dean Mosallam a/k/a Nordiean Mosallam, April Ponce, Heather
25 Randrup, Jung Seo, Jason Shumski, Jennifer Talley, and Jennifer Venegas provided notice to the
26 LWDA of their intention to file these claims. Once the 65-day administrative exhaustion period
27 provided in Labor Code § 2699.3(a) has passed, these plaintiffs will amend this Complaint to allege
28 the same.

179. Plaintiffs seek the aforementioned penalties on behalf of the State, other Aggrieved Employees, and themselves as set forth in Labor Code § 2699(g)(1).

180. Defendants are jointly liable to Plaintiffs, the Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs as set forth below.

181. Wherefore, Plaintiffs request relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

1. Appropriate equitable relief to remedy Defendants' violations of California law including, but not necessarily limited to, an order enjoining Defendants from continuing their unlawful practices;

2. For an award of unpaid wages for all labor performed and liquidated damages in an amount equal to the amount unlawfully unpaid pursuant to Labor Code §§ 200, 218, 1194 and 1194.2;

3. For an award of unpaid overtime wages pursuant to Labor Code §§ 510 and 1194;

4. All appropriate California statutory penalties;

5. Compensation at the rate of one hour of regular pay for each instance in Plaintiffs were not provided a first or second meal period;

6. Compensation at the rate of one hour of regular pay for each instance in which Plaintiffs worked through a rest break or was not provided a proper rest break for every four hours worked or major fraction thereof;

7. Labor Code § 203 penalties;

8. Damages and penalties pursuant to Labor Code §§ 226(a) and 226.3 and 210;

9. Reimbursement of the necessary expenses incurred by Plaintiffs in the discharge of their duties;

10. An award of civil penalties to the full extent allowed by PAGA to the State of California, Plaintiffs and Aggrieved Employees;

11. Pre-judgment and post-judgment interest, as provided by law;

12. Such other equitable relief as the Court may deem just and proper; and

1 13. Attorneys' fees and costs of suit, including expert fees and fees pursuant to California
2 Labor Code §§ 218.5, 226, 1194, Code of Civil Procedure § 1021.5, and other applicable California
3 laws.

4 Dated: December 23, 2022

Respectfully Submitted,

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6 

7
8 Carolyn H. Cottrell
Samantha A. Smith
Andrew T. Cooledge
9 **SCHNEIDER WALLACE**
COTTRELL KONECKY LLP

10 *Attorneys for Plaintiffs on behalf of the State of*
11 *California and Aggrieved Employees*

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13 **DEMAND FOR JURY TRIAL**

14 Plaintiffs hereby demand a trial by jury on all claims and issues for which Plaintiffs are
15 entitled to a jury.

16 Dated: December 23, 2022

Respectfully Submitted,

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18 

19
20 Carolyn H. Cottrell
Samantha A. Smith
Andrew T. Cooledge
21 **SCHNEIDER WALLACE**
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22 *Attorneys for Plaintiffs on behalf of the State of*
23 *California and Aggrieved Employees*