

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF STANISLAUS

TYEISHA TRAVIS, ALEJANDRA NAVA, individuals, on
behalf of themselves and on behalf of all persons similarly
situated,

Plaintiff,

vs.

COMMUNITY HOSPICE, INC., a California Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. CV-23-001773

**SECOND AMENDED CONSOLIDATED CLASS AND
REPRESENTATIVE 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;
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 REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
10. CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699, *et seq.* FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11040, SUBDIVISION 5(A)-(B), CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1 1070(14) (FAILURE TO PROVIDE SEATING), AND THE APPLICABLE WAGE ORDER(S).
11. DISCRIMINATION AND RETALIATION IN VIOLATION OF FEHA; and,
12. CONSTRUCTIVE DISCHARGE AND OTHER ADVERSE EMPLOYMENT ACTIONS IN VIOLATION OF PUBLIC POLICY.

DEMAND FOR A JURY TRIAL

1 Plaintiffs Tyeisha Travis and Alejandra Nava (“PLAINTIFFS”), individuals, on behalf of
2 themselves and all other similarly situated current and former employees alleges on information and
3 belief, except for their own acts and knowledge which are based on personal knowledge, the following:

4
5 **THE PARTIES**

6 1. Community Hospice, Inc. (“DEFENDANT”) is a California Corporation that at all
7 relevant times mentioned herein conducted and continues to conduct substantial business in the state
8 of California.

9 2. DEFENDANT provides medical, nursing, emotional, spiritual and educational support
10 to individuals, their families, loved ones, and caregivers coping with grief or a life-threatening illness.

11 3. Plaintiff Tyeisha Travis was employed by DEFENDANT in California from September
12 of 2019 to April 13, 2022 and was at all times classified by DEFENDANT as a non-exempt employee,
13 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
14 minimum and overtime wages due for all time worked. Plaintiff Alejandra Nava was employed by
15 DEFENDANT in California from April 4, 2015 to August 29, 2023 and was at all times classified by
16 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally required
17 meal and rest periods and payment of minimum and overtime wages due for all time worked.

18 4. PLAINTIFFS bring this Class Action on behalf of themselves and a California class,
19 defined as all individuals who are or previously were employed by DEFENDANT in California,
20 including any employees staffed with DEFENDANT by a third party, and classified as non-exempt
21 employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior
22 to the filing of this Complaint and ending on the date as determined by the Court (the “CALIFORNIA
23 CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS
24 Members is under five million dollars (\$5,000,000.00).

25 5. PLAINTIFFS bring this Class Action on behalf of themselves and a CALIFORNIA
26 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the
27 CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which failed to
28 lawfully compensate these employees. DEFENDANT’s policy and practice alleged herein was an

unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

THE CONDUCT

8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all the time they are under DEFENDANT's control.

1 Among other things, DEFENDANT requires PLAINTIFFS to work while clocked out during what is
2 supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS was from time to time interrupted
3 by work assignments while clocked out for what should have been PLAINTIFFS' off-duty meal break.
4 DEFENDANT, as a matter of established company policy and procedure, administers a uniform practice
5 of rounding the actual time worked and recorded by PLAINTIFFS and CALIFORNIA CLASS
6 Members, always to the benefit of DEFENDANT, so that during the course of their employment,
7 PLAINTIFFS and CALIFORNIA CLASS Members are paid less than they would have been paid had
8 they been paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT
9 engages in the practice of requiring PLAINTIFFS and CALIFORNIA CLASS Members to perform
10 work off the clocking that DEFENDANT, as a condition of employment, required these employees to
11 submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening prior
12 to clocking into DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFFS and
13 other CALIFORNIA CLASS Members forfeit minimum wage, overtime wage compensation, and off-
14 duty meal breaks by working without their time being correctly recorded and without compensation at
15 the applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFFS and other
16 CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's business
17 records.

18 9. State and federal law provides that employees must be paid overtime and meal and rest
19 break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFFS and other
20 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to
21 specific elements of an employee's performance.

22 10. The second component of PLAINTIFFS' and other CALIFORNIA CLASS Members'
23 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFFS and
24 other CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANT.
25 The non-discretionary incentive program provided all employees paid on an hourly basis with incentive
26 compensation when the employees met the various performance goals set by DEFENDANT. However,
27 when calculating the regular rate of pay in order to pay overtime and meal and rest break premiums to
28 PLAINTIFFS and other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive

1 compensation as part of the employees' "regular rate of pay" for purposes of calculating overtime pay
2 and meal and rest break premium pay. Management and supervisors described the incentive program
3 to potential and new employees as part of the compensation package. As a matter of law, the incentive
4 compensation received by PLAINTIFFS and other CALIFORNIA CLASS Members must be included
5 in the "regular rate of pay." The failure to do so has resulted in a underpayment of overtime
6 compensation and meal and rest break premiums to PLAINTIFFS and other CALIFORNIA CLASS
7 Members by DEFENDANT.

8 11. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA
9 CLASS Members were from time to time unable to take thirty (30) minute off duty meal breaks and
10 were not fully relieved of duty for their meal periods. PLAINTIFFS and other CALIFORNIA CLASS
11 Members were required from time to time to perform work as ordered by DEFENDANT for more than
12 five (5) hours during some shifts without receiving a meal break. Further, DEFENDANT from time
13 to time failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty
14 meal period for some workdays in which these employees were required by DEFENDANT to work ten
15 (10) hours of work. DEFENDANT also engaged in the practice of rounding the meal period times to
16 avoid paying penalties to PLAINTIFFS and other CALIFORNIA CLASS Members. PLAINTIFFS and
17 other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
18 compensation and in accordance with DEFENDANT's corporate policy and practice.

19 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA
20 CLASS Members were also required from time to time to work in excess of four (4) hours without
21 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
22 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time
23 to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six
24 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10)
25 minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other
26 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
27 Additionally, the applicable California Wage Order requires employers to provide employees with off-
28 duty rest periods, which the California Supreme Court defined as time during which an employee is

1 relieved from all work related duties and free from employer control. In so doing, the Court held that
2 the requirement under California law that employers authorize and permit all employees to take rest
3 period means that employers must relieve employees of all duties and relinquish control over how
4 employees spend their time which includes control over the locations where employees may take their
5 rest period. Employers cannot impose controls that prohibit an employee from taking a brief walk - five
6 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFFS and other
7 CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's
8 rule which states PLAINTIFFS and other CALIFORNIA CLASS Members cannot leave the work
9 premises during their rest period.

10 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately record
11 and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount of time these
12 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
13 required to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked, meaning
14 the time during which an employee was subject to the control of an employer, including all the time the
15 employee was permitted or suffered to permit this work. DEFENDANT required these employees to
16 work off the clock without paying them for all the time they were under DEFENDANT's control. As
17 such, DEFENDANT knew or should have known that PLAINTIFFS and the other members of the
18 CALIFORNIA CLASS were under compensated for all time worked. As a result, PLAINTIFFS and
19 other CALIFORNIA CLASS Members forfeited time worked by working without their time being
20 accurately recorded and without compensation at the applicable minimum wage and overtime wage
21 rates. To the extent that the time worked off the clock does not qualify for overtime premium payment,
22 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of Cal. Lab.
23 Code §§ 1194, 1197, and 1197.1.

24 14. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
25 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
26 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that
27 every employer shall furnish each of his or her employees with an accurate itemized wage statement in
28 writing showing, among other things, gross wages earned and all applicable hourly rates in effect during

1 the pay period and the corresponding amount of time worked at each hourly rate. PLAINTIFFS and
2 CALIFORNIA CLASS Members were paid on an hourly basis. As such, the wage statements should
3 reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable
4 pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The
5 wage statements DEFENDANT provided to PLAINTIFFS and other CALIFORNIA CLASS Members
6 failed to identify such information. More specifically, the wage statements failed to identify the accurate
7 total hours worked each pay period. When the hours shown on the wage statements were added up, they
8 did not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code
9 226(a)(2). Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue to
10 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor Code
11 226 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFFS and the other members
12 of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

13 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be deemed
14 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid
15 not more than seven (7) calendar days following the close of the payroll period. Cal. Lab. Code § 210
16 provides:

17 [I]n addition to, and entirely independent and apart from, any other penalty provided in this
18 article, every person who fails to pay the wages of each employee as provided in Sections . . . 204,
19 shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100)
20 for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional
21 violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
22 amount unlawfully withheld.

23 16. DEFENDANT from time to time failed to pay PLAINTIFFS and members of the
24 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll period
25 in accordance with Cal. Lab. Code § 204(d), including but not limited to for the “Hourly” regular wage
26 payments.

27 17. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other CALIFORNIA
28 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code
Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary
remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay
to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of pay.

18 18. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt

1 employees be calculated by dividing the employee's total wages, not including overtime premium pay,
2 by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

3 19. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
4 regular rate of pay. PLAINTIFFS and CALIFORNIA CLASS Members routinely earned non-
5 discretionary incentive wages which increased their regular rate of pay. However, when sick pay was
6 paid, it was paid at the base rate of pay for PLAINTIFFS and members of the CALIFORNIA CLASS,
7 as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code Section 246.

8 20. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and other
9 members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting time penalties
10 pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and believes and based
11 thereon alleges that such failure to pay sick pay at regular rate was willful, such that PLAINTIFFS and
12 members of the CALIFORNIA CLASS whose employment has separated are entitled to waiting time
13 penalties pursuant to Cal. Lab. Code Sections 201-203.

14 21. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to collect
15 or receive from an employee any part of wages theretofore paid by said employer to said employee."
16 DEFENDANT failed to pay all compensation due to PLAINTIFFS and other CALIFORNIA LABOR
17 SUB-CLASS Members, made unlawful deductions from compensation payable to PLAINTIFFS and
18 CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all aspects of the deductions from
19 compensation payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, and
20 thereby failed to pay these employees all wages due at each applicable pay period and upon termination.
21 PLAINTIFFS and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
22 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

23 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
24 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business expenses incurred
25 by the PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence of discharging
26 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are
27 required to indemnify employees for all expenses incurred in the course and scope of their employment.
28 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all

1 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
2 or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless
3 the employee, at the time of obeying the directions, believed them to be unlawful."

4 23. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS
5 Members as a business expense, were required by DEFENDANT to use their own personal cellular
6 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but are not
7 reimbursed or indemnified by DEFENDANT for the cost associated with the use of their personal
8 cellular phones and home offices for DEFENDANT's benefit. Specifically, PLAINTIFFS and other
9 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cellular phones
10 and home offices. As a result, in the course of their employment with DEFENDANT, PLAINTIFFS
11 and other members of the CALIFORNIA CLASS incurred unreimbursed business expenses which
12 included, but were not limited to, costs related to the use of their personal cellular phones and home
13 offices all on behalf of and for the benefit of DEFENDANT.

14 24. In violation of the applicable sections of the California Labor Code and the requirements
15 of the applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of
16 company policy, practice and procedure, intentionally, knowingly and systematically failed to provide
17 PLAINTIFFS and the other Aggrieved Employees suitable seating when the nature of these employees'
18 work reasonably permitted sitting.

19 25. DEFENDANT knew or should have known that PLAINTIFFS and other Aggrieved
20 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere with the
21 performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not
22 allow them to sit when it did not interfere with the performance of their duties.

23 26. By reason of this conduct applicable to PLAINTIFFS and all Aggrieved Employees,
24 DEFENDANT violated California Labor Code Section 1198 and California Code of Regulations, Title
25 8, Section 11070(14) (Failure to Provide Seating), Wage Order 4-2001, Section 14 by failing to provide
26 suitable seats. PLAINTIFFS seek penalties on behalf of PLAINTIFFS and other Aggrieved Employees
27 as provided herein. Providing suitable seating is the DEFENDANT's burden. As a result of
28

1 DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT violated the
2 California Labor Code and regulations promulgated thereunder as herein alleged.

3 27. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the legally required
4 off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage Order and Labor
5 Code and failed to pay PLAINTIFFS all minimum and overtime wages due to PLAINTIFF.
6 DEFENDANT did not have a policy or practice which provided timely off-duty meal and rest breaks
7 to PLAINTIFFS and also failed to compensate PLAINTIFFS for PLAINTIFFS' missed meal and rest
8 breaks. The nature of the work performed by the PLAINTIFFS did not prevent PLAINTIFFS from being
9 relieved of all of PLAINTIFFS' duties for the legally required off-duty meal periods. As a result,
10 DEFENDANT's failure to provide PLAINTIFFS with the legally required meal periods is evidenced
11 by DEFENDANT's business records.

12 28. Moreover in February of 2022, Plaintiff Tyeisha Travis reported numerous instances of
13 racial discrimination she was enduring at the work site to DEFENDANT's Director of Human
14 Resources, Adam Konrad. Plaintiff Tyeisha Travis was subjected to weekly acts of discrimination from
15 her managers, including but not limited to, comments about her African American style hair, skin color,
16 other aspects of her appearance, and being assigned duties and tasks that stunted her growth and
17 employment opportunities with DEFENDANT that other employees who were not African American
18 were given. As Plaintiff Tyeisha Travis was the only African American in her department at
19 DEFENDANT's Sypres building, Plaintiff Tyeisha Travis was plagued with ongoing work pressures,
20 obligations, and mistreatment by her supervisors as a result of Plaintiff Tyeisha Travis race and national
21 origin of being an African American. Furthermore, the continuous stress and discrimination at work
22 caused PLAINTIFFS to feel afraid of going into work each day.

23 29. DEFENDANT discriminated against Plaintiff Tyeisha Travis as a result of her being
24 African American and failed to remedy to discriminatory conduct at work. Plaintiff Tyeisha Travis
25 herein alleges that the actions taken by employees of DEFENDANT against Plaintiff Tyeisha Travis
26 occurred within the normal scope and course of these individuals' employment with DEFENDANT.
27 Plaintiff Tyeisha Travis further alleges that these employees were Plaintiff Tyeisha Travis' supervisors
28 while Plaintiff Tyeisha Travis was employed by DEFENDANT. However, Plaintiff Tyeisha Travis'

1 requests for help fell on deaf ears, as DEFENDANT failed to respond to Plaintiff Tyeisha Travis'
2 requests. Left with no other choice, on or around April 13, 2022, Plaintiff Tyeisha Travis made the
3 decision to resign from her employment due to the hostile and discriminatory environment described
4 above and DEFENDANT's failure to take her complaints regarding her racial and national origin
5 discrimination seriously. At all times hereto, the California Government Code Section 12940(a), was
6 in full force and effect and was binding upon DEFENDANT. This subsection precludes an employer
7 because of race and/or national origin (amongst other things), to refuse to hire or employ the person or
8 to refuse to select the person for a training program leading to employment, or to bar or discharge the
9 person from employment, or to discriminate against the person in compensation or in terms, conditions,
10 or privileges of employment.

11 30. Prior to filing this action, Plaintiff Tyeisha Travis exhausted her administrative remedies
12 by filing a timely administrative complaint with the Department of Fair Employment and Housing
13 ("DFEH") and received a DFEH right-to-sue letter on December 16, 2022.

14 **JURISDICTION AND VENUE**

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

19 32. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
20 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT and DEFENDANT
21 (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or
22 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged
23 in this County against members of the CALIFORNIA CLASS.

24 **THE CALIFORNIA CLASS**

25 33. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive
26 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action,
27 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who
28 are or previously were employed by DEFENDANT in California, including any employees staffed with

1 DEFENDANT by a third party, and classified as non-exempt employees (the “CALIFORNIA CLASS”)
2 at any time during the period beginning four (4) years prior to the filing of this Complaint and ending
3 on the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in
4 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
5 (\$5,000,000.00).

6 34. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
7 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

8 35. DEFENDANT, as a matter of company policy, practice and procedure, and in violation
9 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements, and
10 the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice
11 whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFFS and other
12 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work,
13 required employees to perform this work and permits or suffers to permit this work.

14 36. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
15 CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws.
16 The DEFENDANT, however, as a matter of policy and procedure failed to have in place during the
17 CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each
18 and every CALIFORNIA CLASS Member is paid as required by law. This common business practice
19 is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide
20 basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.*
21 (the “UCL”) as causation, damages, and reliance are not elements of this claim.

22 37. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS
23 Members is impracticable.

24 38. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
25 by:

- 26 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
27 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having
28 in place company policies, practices and procedures that failed to record and pay

1 PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time
2 worked, including minimum wages owed and overtime wages owed for work
3 performed by these employees; and,

- 4 (b) Committing an act of unfair competition in violation of the UCL, by failing to
5 provide the PLAINTIFFS and the other members of the CALIFORNIA CLASS
6 with the legally required meal and rest periods.

7 39. This Class Action meets the statutory prerequisites for the maintenance of a Class
8 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 9 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the
10 joinder of all such persons is impracticable and the disposition of their claims
11 as a class will benefit the parties and the Court;
- 12 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
13 are raised in this Complaint are common to the CALIFORNIA CLASS will
14 apply to every member of the CALIFORNIA CLASS;
- 15 (c) The claims of the representative PLAINTIFFS are typical of the claims of each
16 member of the CALIFORNIA CLASS. PLAINTIFFS, like all the other
17 members of the CALIFORNIA CLASS, was classified as a non-exempt
18 employee paid on an hourly basis who was subjected to the DEFENDANT's
19 deceptive practice and policy which failed to provide the legally required meal
20 and rest periods to the CALIFORNIA CLASS and thereby underpaid
21 compensation to PLAINTIFFS and CALIFORNIA CLASS. PLAINTIFFS
22 sustained economic injury as a result of DEFENDANT's employment practices.
23 PLAINTIFFS and the members of the CALIFORNIA CLASS were and are
24 similarly or identically harmed by the same unlawful, deceptive and unfair
25 misconduct engaged in by DEFENDANT; and,
- 26 (d) The representative PLAINTIFFS will fairly and adequately represent and protect
27 the interest of the CALIFORNIA CLASS, and has retained counsel who are
28 competent and experienced in Class Action litigation. There are no material

1 conflicts between the claims of the representative PLAINTIFFS and the
2 members of the CALIFORNIA CLASS that would make class certification
3 inappropriate. Counsel for the CALIFORNIA CLASS will vigorously assert the
4 claims of all CALIFORNIA CLASS Members.

5 40. In addition to meeting the statutory prerequisites to a Class Action, this action is properly
6 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

7 (a) Without class certification and determination of declaratory, injunctive, statutory
8 and other legal questions within the class format, prosecution of separate actions
9 by individual members of the CALIFORNIA CLASS will create the risk of:

10 1) Inconsistent or varying adjudications with respect to individual members
11 of the CALIFORNIA CLASS which would establish incompatible
12 standards of conduct for the parties opposing the CALIFORNIA
13 CLASS; and/or,

14 2) Adjudication with respect to individual members of the CALIFORNIA
15 CLASS which would as a practical matter be dispositive of interests of
16 the other members not party to the adjudication or substantially impair
17 or impede their ability to protect their interests.

18 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on
19 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
20 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
21 DEFENDANT failed to pay all wages due to members of the CALIFORNIA
22 CLASS as required by law;

23 1) With respect to the First Cause of Action, the final relief on behalf of the
24 CALIFORNIA CLASS sought does not relate exclusively to restitution
25 because through this claim PLAINTIFFS seeks declaratory relief holding
26 that the DEFENDANT's policy and practices constitute unfair
27 competition, along with declaratory relief, injunctive relief, and
28

1 incidental equitable relief as may be necessary to prevent and remedy the
2 conduct declared to constitute unfair competition;

3 (c) Common questions of law and fact exist as to the members of the
4 CALIFORNIA CLASS, with respect to the practices and violations of California
5 law as listed above, and predominate over any question affecting only individual
6 CALIFORNIA CLASS Members, and a Class Action is superior to other
7 available methods for the fair and efficient adjudication of the controversy,
8 including consideration of:

9 1) The interests of the members of the CALIFORNIA CLASS in
10 individually controlling the prosecution or defense of separate actions in
11 that the substantial expense of individual actions will be avoided to
12 recover the relatively small amount of economic losses sustained by the
13 individual CALIFORNIA CLASS Members when compared to the
14 substantial expense and burden of individual prosecution of this
15 litigation;

16 2) Class certification will obviate the need for unduly duplicative litigation
17 that would create the risk of:

18 A. Inconsistent or varying adjudications with respect to individual
19 members of the CALIFORNIA CLASS, which would establish
20 incompatible standards of conduct for the DEFENDANT;
21 and/or,

22 B. Adjudications with respect to individual members of the
23 CALIFORNIA CLASS would as a practical matter be
24 dispositive of the interests of the other members not parties to
25 the adjudication or substantially impair or impede their ability to
26 protect their interests;

27 3) In the context of wage litigation because a substantial number of
28 individual CALIFORNIA CLASS Members will avoid asserting their

1 legal rights out of fear of retaliation by DEFENDANT, which may
2 adversely affect an individual's job with DEFENDANT or with a
3 subsequent employer, the Class Action is the only means to assert their
4 claims through a representative; and,

- 5 4) A class action is superior to other available methods for the fair and
6 efficient adjudication of this litigation because class treatment will
7 obviate the need for unduly and unnecessary duplicative litigation that
8 is likely to result in the absence of certification of this action pursuant
9 to Cal. Code of Civ. Proc. § 382.

10 41. This Court should permit this action to be maintained as a Class Action pursuant to Cal.
11 Code of Civ. Proc. § 382 because:

- 12 (a) The questions of law and fact common to the CALIFORNIA CLASS
13 predominate over any question affecting only individual CALIFORNIA CLASS
14 Members because the DEFENDANT's employment practices are applied with
15 respect to the CALIFORNIA CLASS;
- 16 (b) A Class Action is superior to any other available method for the fair and
17 efficient adjudication of the claims of the members of the CALIFORNIA
18 CLASS because in the context of employment litigation a substantial number
19 of individual CALIFORNIA CLASS Members will avoid asserting their rights
20 individually out of fear of retaliation or adverse impact on their employment;
- 21 (c) The members of the CALIFORNIA CLASS are so numerous that it is
22 impractical to bring all members of the CALIFORNIA CLASS before the Court;
- 23 (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able
24 to obtain effective and economic legal redress unless the action is maintained as
25 a Class Action;
- 26 (e) There is a community of interest in obtaining appropriate legal and equitable
27 relief for the acts of unfair competition, statutory violations and other
28 improprieties, and in obtaining adequate compensation for the damages and

1 injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA
2 CLASS;

3 (f) There is a community of interest in ensuring that the combined assets of
4 DEFENDANT are sufficient to adequately compensate the members of the
5 CALIFORNIA CLASS for the injuries sustained;

6 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
7 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
8 respect to the CALIFORNIA CLASS as a whole;

9 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the
10 business records of DEFENDANT; and,

11 (i) Class treatment provides manageable judicial treatment calculated to bring a
12 efficient and rapid conclusion to all litigation of all wage and hour related claims
13 arising out of the conduct of DEFENDANT as to the members of the
14 CALIFORNIA CLASS.

15 42. DEFENDANT maintains records from which the Court can ascertain and identify by job
16 title each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's
17 company policy, practices and procedures as herein alleged. PLAINTIFFS will seek leave to amend
18 the Complaint to include any additional job titles of similarly situated employees when they have been
19 identified.

20
21 **THE CALIFORNIA LABOR SUB-CLASS**

22 43. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and
23 Ninth causes Action on behalf of a California sub-class, defined as all members of the CALIFORNIA
24 CLASS who are or previously were employed by DEFENDANT in California, including any employees
25 staffed with DEFENDANT by a third party, and classified as non-exempt employees (the
26 "CALIFORNIA LABOR SUB-CLASS") at any time during the period three (3) years prior to the filing
27 of the complaint and ending on the date as determined by the Court (the "CALIFORNIA LABOR
28 SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the

1 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
2 (\$5,000,000.00).

3 44. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
4 Commission (“IWC”) Wage Order requirements, and the applicable provisions of California law,
5 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to correctly
6 calculate compensation for the time worked by PLAINTIFFS and the other members of the
7 CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though
8 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted
9 or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS
10 Members wages to which these employees are entitled in order to unfairly cheat the competition and
11 unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
12 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be
13 adjusted accordingly.

14 45. DEFENDANT maintains records from which the Court can ascertain and identify by
15 name and job title, each of DEFENDANT’s employees who have been intentionally subjected to
16 DEFENDANT’s company policy, practices and procedures as herein alleged. PLAINTIFFS will seek
17 leave to amend the complaint to include any additional job titles of similarly situated employees when
18 they have been identified.

19 46. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

21 47. Common questions of law and fact exist as to members of the CALIFORNIA LABOR
22 SUB-CLASS, including, but not limited, to the following:

- 23 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
24 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for
25 missed meal and rest breaks in violation of the California Labor Code and
26 California regulations and the applicable California Wage Order;
27
28

- 1 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other
2 members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized
3 wage statements;
4 (c) Whether DEFENDANT has engaged in unfair competition by the above-listed
5 conduct;
6 (d) The proper measure of damages and penalties owed to the members of the
7 CALIFORNIA LABOR SUB-CLASS; and,
8 (e) Whether DEFENDANT's conduct was willful.

9 48. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under
10 California law by:

- 11 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFFS and
12 the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
13 overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code
14 § 1194;
15 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
16 accurately pay PLAINTIFFS and the members of the CALIFORNIA LABOR
17 SUB-CLASS the correct minimum wage pay for which DEFENDANT is liable
18 pursuant to Cal. Lab. Code §§ 1194 and 1197;
19 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the
20 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
21 statement in writing showing the corresponding correct amount of wages earned
22 by the employee;
23 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS
24 and the other members of the CALIFORNIA LABOR SUB-CLASS with all
25 legally required off-duty, uninterrupted thirty (30) minute meal breaks and the
26 legally required off-duty rest breaks;
27 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
28 employee is discharged or quits from employment, the employer must pay the

1 employee all wages due without abatement, by failing to tender full payment
2 and/or restitution of wages owed or in the manner required by California law to
3 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
4 their employment; and,

- 5 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the
6 CALIFORNIA LABOR SUB-CLASS members with necessary expenses
7 incurred in the discharge of their job duties.

8 49. This Class Action meets the statutory prerequisites for the maintenance of a Class Action
9 as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 10 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
11 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
12 is impracticable and the disposition of their claims as a class will benefit the
13 parties and the Court;
- 14 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
15 are raised in this Complaint are common to the CALIFORNIA LABOR SUB-
16 CLASS and will apply to every member of the CALIFORNIA LABOR SUB-
17 CLASS;
- 18 (c) The claims of the representative PLAINTIFFS are typical of the claims of each
19 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the
20 other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt
21 employee paid on an hourly basis who was subjected to the DEFENDANT's
22 practice and policy which failed to pay the correct amount of wages due to the
23 CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury
24 as a result of DEFENDANT's employment practices. PLAINTIFFS and the
25 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
26 identically harmed by the same unlawful, deceptive, and unfair misconduct
27 engaged in by DEFENDANT; and,
- 28

1 (d) The representative PLAINTIFFS will fairly and adequately represent and protect
2 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained
3 counsel who are competent and experienced in Class Action litigation. There
4 are no material conflicts between the claims of the representative PLAINTIFFS
5 and the members of the CALIFORNIA LABOR SUB-CLASS that would make
6 class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-
7 CLASS will vigorously assert the claims of all CALIFORNIA LABOR SUB-
8 CLASS Members.

9 50. In addition to meeting the statutory prerequisites to a Class Action, this action is properly
10 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

11 (a) Without class certification and determination of declaratory, injunctive, statutory
12 and other legal questions within the class format, prosecution of separate actions
13 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
14 the risk of:

15 1) Inconsistent or varying adjudications with respect to individual members
16 of the CALIFORNIA LABOR SUB-CLASS which would establish
17 incompatible standards of conduct for the parties opposing the
18 CALIFORNIA LABOR SUB-CLASS; or,

19 2) Adjudication with respect to individual members of the CALIFORNIA
20 LABOR SUB-CLASS which would as a practical matter be dispositive
21 of interests of the other members not party to the adjudication or
22 substantially impair or impede their ability to protect their interests.

23 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
24 refused to act on grounds generally applicable to the CALIFORNIA LABOR
25 SUB-CLASS, making appropriate class-wide relief with respect to the
26 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT fails to
27 pay all wages due. Including the correct wages for all time worked by the
28 members of the CALIFORNIA LABOR SUB-CLASS as required by law;

1 (c) Common questions of law and fact predominate as to the members of the
2 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
3 violations of California Law as listed above, and predominate over any question
4 affecting only individual CALIFORNIA LABOR SUB-CLASS Members, and
5 a Class Action is superior to other available methods for the fair and efficient
6 adjudication of the controversy, including consideration of:

7 1) The interests of the members of the CALIFORNIA LABOR SUB-
8 CLASS in individually controlling the prosecution or defense of separate
9 actions in that the substantial expense of individual actions will be
10 avoided to recover the relatively small amount of economic losses
11 sustained by the individual CALIFORNIA LABOR SUB-CLASS
12 Members when compared to the substantial expense and burden of
13 individual prosecution of this litigation;

14 2) Class certification will obviate the need for unduly duplicative litigation
15 that would create the risk of:

16 A. Inconsistent or varying adjudications with respect to individual
17 members of the CALIFORNIA LABOR SUB-CLASS, which
18 would establish incompatible standards of conduct for the
19 DEFENDANT; and/or,

20 B. Adjudications with respect to individual members of the
21 CALIFORNIA LABOR SUB-CLASS would as a practical
22 matter be dispositive of the interests of the other members not
23 parties to the adjudication or substantially impair or impede their
24 ability to protect their interests;

25 3) In the context of wage litigation because a substantial number of
26 individual CALIFORNIA LABOR SUB-CLASS Members will avoid
27 asserting their legal rights out of fear of retaliation by DEFENDANT,
28 which may adversely affect an individual's job with DEFENDANT or

1 with a subsequent employer, the Class Action is the only means to assert
2 their claims through a representative; and,

- 3 4) A class action is superior to other available methods for the fair and
4 efficient adjudication of this litigation because class treatment will
5 obviate the need for unduly and unnecessary duplicative litigation that
6 is likely to result in the absence of certification of this action pursuant
7 to Cal. Code of Civ. Proc. § 382.

8 51. This Court should permit this action to be maintained as a Class Action pursuant to Cal.
9 Code of Civ. Proc. § 382 because:

- 10 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-
11 CLASS predominate over any question affecting only individual CALIFORNIA
12 LABOR SUB-CLASS Members;
- 13 (b) A Class Action is superior to any other available method for the fair and
14 efficient adjudication of the claims of the members of the CALIFORNIA
15 LABOR SUB-CLASS because in the context of employment litigation a
16 substantial number of individual CALIFORNIA LABOR SUB-CLASS
17 Members will avoid asserting their rights individually out of fear of retaliation
18 or adverse impact on their employment;
- 19 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
20 it is impractical to bring all members of the CALIFORNIA LABOR SUB-
21 CLASS before the Court;
- 22 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members,
23 will not be able to obtain effective and economic legal redress unless the action
24 is maintained as a Class Action;
- 25 (e) There is a community of interest in obtaining appropriate legal and equitable
26 relief for the acts of unfair competition, statutory violations and other
27 improprieties, and in obtaining adequate compensation for the damages and
28

injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who worked for DEFENDANT in California at any time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

FIRST CAUSE OF ACTION

For Unlawful Business Practices

[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]

(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)

52. PLAINTIFFS, 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.

53. DEFENDANT is a "person" as that term is defined under Cal. Bus. and Prof. Code § 17021.

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

4 Any person who engages, has engaged, or proposes to engage in unfair competition may
5 be enjoined in any court of competent jurisdiction. The court may make such orders or
6 judgments, including the appointment of a receiver, as may be necessary to prevent the
use or employment by any person of any practice which constitutes unfair competition,
as defined in this chapter, or as may be necessary to restore to any person in interest any
money or property, real or personal, which may have been acquired by means of such
unfair competition.

7 Cal. Bus. & Prof. Code § 17203.

8 55. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in
9 a business practice which violates California law, including but not limited to, the applicable Industrial
10 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections
11 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act
12 and federal regulations promulgated thereunder, for which this Court should issue declaratory and other
13 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
14 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

15 56. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair in
16 that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous or
17 substantially injurious to employees, and were without valid justification or utility for which this Court
18 should issue equitable and injunctive relief pursuant to Section 17203 of the California Business &
19 Professions Code, including restitution of wages wrongfully withheld.

20 57. By the conduct alleged herein, DEFENDANT’s practices were deceptive and fraudulent
21 in that DEFENDANT’s policy and practice failed to provide the legally mandated meal and rest periods,
22 the required amount of compensation for missed meal and rest periods and overtime and minimum
23 wages owed, failed to timely pay wages, and failed to reimburse all necessary business expenses
24 incurred, and failed to provide Fair Labor Standards Act overtime wages due for overtime worked as
25 a result of failing to include non-discretionary incentive compensation into their regular rates of pay for
26 purposes of computing the proper overtime pay due to a business practice that cannot be justified,
27 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation
28 of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable
relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

1 58. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
2 deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and the other members
3 of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

4 59. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
5 deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally
6 required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA CLASS as required
7 by Cal. Lab. Code §§ 226.7 and 512.

8 60. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
9 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
10 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
11 workday in which a second off-duty meal period was not timely provided for each ten (10) hours of
12 work.

13 61. PLAINTIFFS further demand on behalf of themselves and each member of the
14 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty paid
15 rest period was not timely provided as required by law.

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

22 63. All the acts described herein as violations of, among other things, the Industrial Welfare
23 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were
24 unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were
25 deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal.
26 Bus. & Prof. Code §§ 17200, *et seq.*

27 64. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled to, and
28 do, seek such relief as may be necessary to restore to them the money and property which

1 DEFENDANT has acquired, or of which PLAINTIFFS and the other members of the CALIFORNIA
2 CLASS have been deprived, by means of the above described unlawful and unfair business practices,
3 including earned but unpaid wages for all time worked.

4 65. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further entitled
5 to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive,
6 and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful
7 and unfair business practices in the future.

8 66. PLAINTIFFS and the other members of the CALIFORNIA CLASS have no plain,
9 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
10 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result
11 of the unlawful and unfair business practices described herein, PLAINTIFFS and the other members
12 of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic
13 harm unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair
14 business practices.

15
16 **SECOND CAUSE OF ACTION**

17 **For Failure To Pay Minimum Wages**

18 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

19 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

20 **and Against All Defendants)**

21 67. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB- CLASS,
22 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
23 Complaint.

24 68. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS bring
25 a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the
26 Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate and
27 pay minimum wages to PLAINTIFFS and CALIFORNIA CLASS Members.

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

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

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

8 72. DEFENDANT maintained a wage practice of paying PLAINTIFFS and the other
9 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they
10 work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and intentionally
11 deny timely payment of wages due to PLAINTIFFS and the other members of the CALIFORNIA
12 LABOR SUB-CLASS.

13 73. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
14 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy
15 and practice that denies accurate compensation to PLAINTIFFS and the other members of the
16 CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

17 74. In committing these violations of the California Labor Code, DEFENDANT inaccurately
18 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFFS
19 and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal
20 attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor
21 Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

22 75. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
23 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the
24 correct minimum wage compensation for their time worked for DEFENDANT.

25 76. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required,
26 permitted or suffered PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members to work
27 without paying them for all the time they were under DEFENDANT's control. During the
28 CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the other members of the

1 CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were entitled to,
2 constituting a failure to pay all earned wages.

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

8 78. DEFENDANT knew or should have known that PLAINTIFFS and the other
9 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked.
10 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
11 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
12 perpetrated this scheme by refusing to pay PLAINTIFFS and the other members of the CALIFORNIA
13 LABOR SUB-CLASS the correct minimum wages for their time worked.

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

22 80. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
23 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as
24 the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the California
25 Labor Code and/or other applicable statutes. To the extent minimum wage compensation is determined
26 to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated their
27 employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore these
28 individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties

are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

THIRD CAUSE OF ACTION

For Failure To Pay Overtime Compensation

[Cal. Lab. Code § 510]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

81. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this Complaint.

82. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

86. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by DEFENDANT to work for DEFENDANT and were not paid for all the time they worked, including overtime work.

1 87. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
2 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy
3 and practice that failed to accurately record overtime worked by PLAINTIFFS and other CALIFORNIA
4 LABOR SUB-CLASS Members and denied accurate compensation to PLAINTIFFS and the other
5 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, the overtime
6 work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,
7 and/or forty (40) hours in any workweek.

8 88. In committing these violations of the California Labor Code, DEFENDANT inaccurately
9 recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFFS and other
10 CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an illegal attempt to avoid
11 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
12 Industrial Welfare Commission requirements and other applicable laws and regulations. As a direct
13 result of DEFENDANT's unlawful wage practices as alleged herein, the PLAINTIFFS and the other
14 members of the CALIFORNIA LABOR SUB-CLASS did not receive full compensation for overtime
15 worked.

16 89. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the
17 overtime requirements of the law. None of these exemptions are applicable to the PLAINTIFFS and
18 the other members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFFS and the other
19 members of the CALIFORNIA LABOR SUB-CLASS were not subject to a valid collective bargaining
20 agreement that would preclude the causes of action contained herein this Complaint. Rather,
21 PLAINTIFFS bring this Action on behalf of themselves and the CALIFORNIA LABOR SUB-CLASS
22 based on DEFENDANT's violations of non-negotiable, non-waiveable rights provided by the State of
23 California.

24 90. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the other
25 members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime worked that
26 they are entitled to, constituting a failure to pay all earned wages..

27 91. DEFENDANT failed to accurately pay the PLAINTIFFS and the other members of the
28 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in excess

1 of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
2 though PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were required
3 to work, and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay
4 as evidenced by DEFENDANT's business records and witnessed by employees.

5 92. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation
6 to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for the true
7 amount of time they worked, PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
8 CLASS have suffered and will continue to suffer an economic injury in amounts which are presently
9 unknown to them and which will be ascertained according to proof at trial.

10 93. DEFENDANT knew or should have known that PLAINTIFFS and the other members
11 of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.
12 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
13 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
14 perpetrated this scheme by refusing to pay PLAINTIFFS and the other members of the CALIFORNIA
15 LABOR SUB-CLASS for overtime worked.

16 94. In performing the acts and practices herein alleged in violation of California labor laws,
17 and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime
18 worked and provide them with the requisite overtime compensation, DEFENDANT acted and continues
19 to act intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of the
20 CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or
21 the 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 these
23 employees.

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

1 have terminated their employment, DEFENDANT's 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. Code
3 § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS
4 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
5 Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek
6 and recover statutory costs.

7
8 **FOURTH CAUSE OF ACTION**

9 **For Failure to Provide Required Meal Periods**

10 **[Cal. Lab. Code §§ 226.7 & 512]**

11 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

12 96. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
13 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
14 Complaint.

15 97. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time failed
16 to provide all the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA
17 LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature
18 of the work performed by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS MEMBERS did not
19 prevent these employees from being relieved of all of their duties for the legally required off-duty meal
20 periods. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR
21 SUB-CLASS Members were from time to time not fully relieved of duty by DEFENDANT for their
22 meal periods. Additionally, DEFENDANT's failure to provide PLAINTIFFS and the CALIFORNIA
23 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th) hour of work
24 is evidenced by DEFENDANT's business records from time to time. Further, DEFENDANT failed
25 to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty meal period in
26 some workdays in which these employees were required by DEFENDANT to work ten (10) hours of
27 work from time to time. As a result, PLAINTIFFS and other members of the CALIFORNIA LABOR
28 SUB-CLASS therefore forfeited meal breaks without additional compensation and in accordance with
DEFENDANT's strict corporate policy and practice.

98. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members who were not provided a meal period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided.

99. As a proximate result of the aforementioned violations, PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

100. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

101. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from time to time required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees from time to time were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

102. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS

1 Members who were not provided a rest period, in accordance with the applicable Wage Order, one
2 additional hour of compensation at each employee's regular rate of pay for each workday that rest
3 period was not provided.

4 103. As a proximate result of the aforementioned violations, PLAINTIFFS and
5 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof
6 at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

7 8 **SIXTH CAUSE OF ACTION**

9 **For Failure to Provide Accurate Itemized Statements**

10 **[Cal. Lab. Code § 226]**

11 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

12 104. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
13 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
14 Complaint.

15 105. Cal. Labor Code § 226 provides that an employer must furnish employees with
16 an "accurate itemized" statement in writing showing:

- 17 (1) gross wages earned,
18 (2) total hours worked by the employee, except for any employee whose compensation is solely
19 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
20 515 or any applicable order of the Industrial Welfare Commission,
21 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
22 on a piece-rate basis,
23 (4) all deductions, provided that all deductions made on written orders of the employee may be
24 aggregated and shown as one item,
25 (5) net wages earned,
26 (6) the inclusive dates of the period for which the employee is paid,
27 (7) the name of the employee and his or her social security number, except that by January 1,
28 2008, only the last four digits of his or her social security number or an employee identification
number other than a social security number may be shown on the itemized statement,
(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.

106. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements
which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
226 provides that every employer shall furnish each of his or her employees with an accurate itemized
wage statement in writing showing, among other things, gross wages earned and all applicable hourly
rates in effect during the pay period and the corresponding amount of time worked at each hourly rate.

1 PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As
2 such, the wage statements should reflect all applicable hourly rates during the pay period and the total
3 hours worked, and the applicable pay period in which the wages were earned pursuant to California
4 Labor Code Section 226(a). The wage statements DEFENDANT provided to PLAINTIFFS and other
5 CALIFORNIA LABOR SUB-CLASS Members failed to identify such information. More specifically,
6 the wage statements failed to identify the accurate total hours worked each pay period. When the hours
7 shown on the wage statements were added up, they did not equal the actual total hours worked during
8 the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this
9 paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the
10 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time
11 provided PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with wage
12 statements which violated Cal. Lab. Code § 226.

13 107. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226,
14 causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA LABOR
15 SUB-CLASS. These damages include, but are not limited to, costs expended calculating the correct
16 wages for all missed meal and rest breaks and the amount of employment taxes which were not properly
17 paid to state and federal tax authorities. These damages are difficult to estimate. Therefore,
18 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS may elect to recover
19 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred,
20 and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab.
21 Code § 226, in an amount according to proof at the time of trial (but in no event more than four
22 thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA
23 LABOR SUB-CLASS herein).

24 ///

25 ///

26 ///

27 ///

28 ///

1 **SEVENTH CAUSE OF ACTION**

2 **For Failure to Reimburse Employees for Required Expenses**

3 **[Cal. Lab. Code § 2802]**

4 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

5 108. PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS members reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7
8 109. Cal. Lab. Code § 2802 provides, in relevant part, that:

9 An employer shall indemnify his or her employee for all necessary expenditures or
10 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.

11 110. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing
12 to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for
13 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.
14 DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
15 members for expenses which included, but were not limited to, costs related to using their personal
16 cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFFS and other
17 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal
18 cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy
19 and practice was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
20 members for expenses resulting from using their personal cellular phones and home offices for
21 DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses
22 were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's
23 conduct to assert any waiver of this expectation. Although these expenses were necessary expenses
24 incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT
25 failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
26 members for these expenses as an employer is required to do under the laws and regulations of
27 California.
28

1 111. PLAINTIFFS therefore demand reimbursement for expenditures or losses incurred
2 bythemselves and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job
3 duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
4 statutory rate and costs under Cal. Lab. Code § 2802.

5
6 **EIGHTH CAUSE OF ACTION**

7 **For Failure to Pay Wages When Due**

8 **[Cal. Lab. Code §§ 201, 202, 203]**

9 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**
10 **and Against All Defendants)**

11 112. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
12 reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this
13 Complaint.

14 113. Cal. Lab. Code § 200 provides, in relevant part, that:

15 As used in this article:

16 (a) "Wages" includes all amounts for labor performed by employees of every
17 description, whether the amount is fixed or ascertained by the standard of time,
18 task, piece, Commission basis, or other method of calculation.

19 (b) "Labor" includes labor, work, or service whether rendered or performed under
20 contract, subcontract, partnership, station plan, or other agreement if the labor to
21 be paid for is performed personally by the person demanding payment.

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

24 115. Cal. Lab. Code § 202 provides, in relevant part, that:

25 If an employee not having a written contract for a definite period quits his or her
26 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
28 intention to quit, in which case the employee is entitled to his or her wages at the
time of quitting. 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.

116. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR SUB-
CLASS Members' employment contract.

117. Cal. Lab. Code § 203 provides, in relevant part, that:

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.

118. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-CLASS Members has terminated and DEFENDANT has not tendered payment of all wages owed as required by law. Additionally, at all times during the term of PLAINTIFFS' employment with DEFENDANT, PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members earned and accrued vested vacation and holiday time on the date of their termination pursuant to DEFENDANT's uniform vacation policies and applicable California law. The amount of vacation pay PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS Members earned and accumulated is evidenced by DEFENDANT's business records. Additionally, DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS MEMBERS by failing to pay such wages at the regular rate of pay and more specifically the final rate of pay that included all non-discretionary incentive compensation. Rather than pay vacation wages at the regular rate of pay, DEFENDANT underpaid vacation wages to PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of including all of PLAINTIFFS' and CALIFORNIA LABOR SUB-CLASS Members' non-discretionary incentive compensation into the vacation wage payment calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy the rate at which PLAINTIFFS and other CALIFORNIA LABOR CLASS Members would be paid vacation upon leaving employment with DEFENDANT. As a result of DEFENDANT's unlawful practice, policy and procedure to deny paying the PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS all of their vested vacation and holiday time, DEFENDANT failed to pay the PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all vested vacation time as wages due upon employment termination, in violation of the California Labor Code, Sections 201, 202, 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of including all of PLAINTIFF's' and CALIFORNIA LABOR SUB-CLASS Members' non-discretionary compensation into the waiting time penalty calculations. This failure by DEFENDANT is believed to be the result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for earned, accrued and vested vacation and holiday time, as well as the corresponding waiting time penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and deceptive practice to the detriment of the

1 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS . DEFENDANT's uniform
2 practice and policy of failing to pay the LABOR SUB-CLASS Members for all vested vacation and
3 holiday time accumulated at employment termination violated and continues to violate Section 227.3
4 of the California Labor Code.

5 119. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
6 members of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated and who have
7 not been fully paid their wages due to them, PLAINTIFFS demand thirty days of pay as penalty for not
8 paying all wages due at time of termination for all employees who terminated employment during the
9 CALIFORNIA LABOR SUB-CLASS PERIOD and demands an accounting and payment of all wages
10 due, plus interest and statutory costs as allowed by law.

11 **NINTH CAUSE OF ACTION**

12 **For Failure to Pay Sick Pay Wages**

13 **[Cal. Lab. Code §§ 201-204, 210, 233, 246]**

14 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

15 **and Against All Defendants)**

16 120. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
17 reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this
18 Complaint.

19 121. Cal Lab. Code § 233 provides that an employer must permit an employee to use accrued
20 sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate of entitlement.
21 Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick
22 leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is used as paid sick
23 time, an employee has a vested right to sick pay wages, which an employer must calculate and
24 compensate based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be
25 calculated in the same manner as the regular rate of pay for the workweek in which the employee uses
26 paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid
27 sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not
28 including overtime premium pay, by the employee's total hours worked in the full pay periods of the

1 prior 90 days of employment.” Under Cal Lab. Code §§ 218 and 233, employees may sue to recover
2 underpaid sick pay wages as damages.

3 122. As a matter of policy and practice, DEFENDANT pays sick pay wages to PLAINTIFFS
4 and the other members of the CALIFORNIA LABOR SUB-CLASS at the incorrect rate of pay.
5 PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS regularly use accrued
6 sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter of policy
7 and practice, DEFENDANT pays sick pay wages to PLAINTIFFS and the other members of the
8 CALIFORNIA LABOR-SUB-CLASS at the base hourly pay, as opposed to the regular rate of pay,
9 which would consider all non-hourly remuneration in addition to base hourly wages, or the rate
10 resulting from dividing the employee’s total wages, not including overtime premium pay, by the
11 employee’s total hours worked in the full pay periods of the prior 90 days of employment. As a result,
12 DEFENDANT underpaid sick pay wages to PLAINTIFFS and the other members of the CALIFORNIA
13 LABOR-SUB-CLASS.

14 123. Cal. Lab. Code § 204 provides that wages generally are due and payable twice during
15 each calendar month and are to be paid no later than the payday for the next regular payroll period.
16 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of
17 accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for the next
18 regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code §
19 201 provides that if an employer discharges an employee, wages earned and unpaid at the time of
20 discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled
21 to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless
22 the employee has given 72-hour notice of his or her intention to quit, in which case the employee is
23 entitled to his or her wages at the time of quitting. The Labor Code penalizes untimely payments. For
24 example, Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in
25 accordance with Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a penalty
26 from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty
27 (30) days. Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204 and
28

1 untimely payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218, employees may
2 sue to recover applicable penalties.

3 124. As alleged herein and as a matter of policy and practice, DEFENDANT routinely
4 underpays sick pay wages and thus did not timely pay PLAINTIFFS and the other members of the
5 CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result,
6 DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246, among other Labor Code
7 provisions. PLAINTIFFS is informed and believes that DEFENDANT was advised by skilled lawyers
8 and knew, or should have known, of the mandates of the Labor Code as it relates to PLAINTIFFS'
9 allegations, especially since the California Supreme Court has explained that "[c]ourts have recognized
10 that 'wages' also include those benefits to which an employee is entitled as a part of his or her
11 compensation, including money, room, board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth*
12 *Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT willfully
13 fails to timely pay PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS
14 all sick pay wages due, DEFENDANT is subject to applicable penalties.

15 125. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
16 entitles PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS to underpaid
17 sick pay wages, including interest.

18
19 **TENTH CAUSE OF ACTION**

20 **For Violation of the Private Attorneys General Act**

21 **[Cal. Lab. Code §§ 2698, *et seq.*]**

22 **(By Plaintiff Tyeisha Travis and Against All Defendants)**

23 126. Plaintiff Tyeisha Travis realleges and incorporates by this reference, as though fully set
24 forth herein, the prior paragraphs of this Complaint.

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

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

6 128. Plaintiff Tyeisha Travis, and such persons that may be added from time to time who
7 satisfy the requirements and exhaust the administrative procedures under the Private Attorney General
8 Act, brings this Representative Action on behalf of the State of California with respect to herself and
9 all individuals who are or previously were employed by DEFENDANT in California, including any
10 employees staffed with DEFENDANT by a third party, and classified as non-exempt employees
11 ("AGGRIEVED EMPLOYEES") during the time period of December 16, 2021 until a date as
12 determined by the Court (the "PAGA PERIOD").

13 129. On December 16, 2022, Plaintiff Tyeisha Travis gave written notice by electronic mail
14 to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the employer
15 of the specific provisions of this code alleged to have been violated as required by Labor Code §
16 2699.3. *See Exhibit #1*, attached hereto and incorporated by this reference herein (*PAGA Notice only*
17 *without draft complaint*). The statutory waiting period for Plaintiff Tyeisha Travis to add these
18 allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, Plaintiff Tyeisha
19 Travis may now commence a representative civil action under PAGA pursuant to Section 2699 as the
20 proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

21 130. The policies, acts and practices heretofore described were and are an unlawful business
22 act or practice because DEFENDANT (a) failed to provide Plaintiff Tyeisha Travis and the
23 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and
24 provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay
25 overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses, (f) failed
26 to provide wages when due, and (g) failed to provide suitable seating, all in violation of the applicable
27 Labor Code sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3,
28 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,

1 Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1
2 1070(14) (Failure to Provide Seating), and the applicable Wage Order(s), and thereby gives rise to civil
3 penalties as a result of such conduct.¹ Plaintiff Tyeisha Travis hereby seeks recovery of only civil
4 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative
5 of the State of California for the illegal conduct perpetrated on Plaintiff Tyeisha Travis and the
6 AGGRIEVED EMPLOYEES.

7 131. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To
8 the extent that any of the conduct and violations alleged herein did not affect Plaintiff Tyeisha Travis
9 during the PAGA PERIOD, Plaintiff Tyeisha Travis seeks penalties for those violations that affected
10 the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 30 Cal.App.5th 504
11 (2018).

12 13 **ELEVENTH CAUSE OF ACTION**

14 **Violation of FEHA Government Section 12900, *et. seq.***

15 **(By Plaintiff Tyeisha Travis Against All Defendants)**

16 132. Plaintiff Tyeisha Travis (“Plaintiff Travis”) realleges and incorporates by reference, as
17 though fully set forth herein, the prior paragraphs of this Complaint.

18 133. Moreover in February of 2022, Plaintiff Travis reported numerous instances of racial
19 discrimination she was enduring at the work site to DEFENDANT’s Director of Human Resources,
20 Adam Konrad. Plaintiff Travis was subjected to weekly acts of discrimination from her managers,
21 including but not limited to, comments about her African American style hair, skin color, other aspects
22 of her appearance, and being assigned duties and tasks that stunted her growth and employment
23 opportunities with DEFENDANT that other employees who were not African American were given.
24 As PLAINTIFFS was the only African American in her department at DEFENDANT’s Spyres building,
25 Plaintiff Travis was plagued with ongoing work pressures, obligations, and mistreatment by her
26 supervisors as a result of Plaintiff Travis’ race and national origin of being an African American.

27
28 ¹PLAINTIFFS specifically excludes and/or does not allege any claims under California
Labor Code §558(a)(3).

1 Furthermore, the continuous stress and discrimination at work caused Plaintiff Travis to feel afraid of
2 going into work each day.

3 134. DEFENDANT discriminated against Plaintiff Travis as a result of her being African
4 American and failed to remedy to discriminatory conduct at work. Plaintiff Travis herein alleges that
5 the actions taken by employees of DEFENDANT against Plaintiff Travis occurred within the normal
6 scope and course of these individuals' employment with DEFENDANT. Plaintiff Travis further alleges
7 that these employees were Plaintiff Travis' supervisors while Plaintiff Travis was employed by
8 DEFENDANT. However, Plaintiff Travis' requests for help fell on deaf ears, as DEFENDANT failed
9 to respond to Plaintiff Travis' requests. Left with no other choice, on or around April 13, 2022, Plaintiff
10 Travis made the decision to resign from her employment due to the hostile and discriminatory
11 environment described above and DEFENDANT's failure to take her complaints regarding her racial
12 and national origin discrimination seriously. At all times hereto, the California Government Code
13 Section 12940(a), was in full force and effect and was binding upon DEFENDANT. This subsection
14 precludes an employer because of race and/or national origin (amongst other things), to refuse to hire
15 or employ the person or to refuse to select the person for a training program leading to employment,
16 or to bar or discharge the person from employment, or to discriminate against the person in
17 compensation or in terms, conditions, or privileges of employment.

18 135. DEFENDANT's conduct, as alleged, violated FEHA, Government Code Section 12900,
19 *et seq.*, and DEFENDANT committed unlawful employment practices, including the following bases
20 for liability:

21 136. Taking adverse employment actions against Plaintiff Travis, including discharging,
22 barring, refusing to transfer, retain, hire, select, and/or employ, and/or otherwise discriminating against
23 Plaintiff Travis, in whole or in part on the basis of Plaintiff Travis' disability in violation of
24 Government Code Section 12940(a);

25 137. Harassing Plaintiff Travis and/or creating a hostile work environment, in whole or in part
26 on the basis of Plaintiff Travis' race and/or national origin in violation of Government Code Section
27 12940 *et. seq.*
28

1 138. Failing to take all reasonable steps to prevent discrimination and harassment based on
2 race and/or national origin in violation of Government Code section 12940 et seq.

3 139. As a proximate result of DEFENDANT's willful, knowing, and intentional
4 discrimination against Plaintiff Travis, Plaintiff Travis has sustained and continues to sustain substantial
5 losses of earnings and other employment benefits.

6 140. As a proximate result of DEFENDANT's willful, knowing, and intentional
7 discrimination against Plaintiff Travis, Plaintiff Travis has suffered and continues to suffer humiliation,
8 emotional distress, and physical and mental pain and anguish, all to Plaintiff Travis damage in a sum
9 according to proof.

10 141. Plaintiff Travis has incurred and continues to incur legal expenses and attorneys' fees.
11 Pursuant to Government Code Section 12965(b), Plaintiff Travis is entitled to recover reasonable
12 attorneys' fees and costs (including expert costs) in an amount according to proof.

13 142. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive
14 manner, and fraudulent manner entitling Plaintiff Travis to punitive damages against DEFENDANT.

15 **TWELFTH CAUSE OF ACTION**

16 **Constructive Discharge and Other Adverse Employment Actions**
17 **(By Plaintiff Tyeisha Travis Against All Defendants)**

18 143. Plaintiff Travis realleges and incorporates by reference, as though fully set forth herein,
19 the prior paragraphs of this Complaint.

20 144. Moreover in February of 2022, Plaintiff Travis reported numerous instances of racial
21 discrimination she was enduring at the work site to DEFENDANT's Director of Human Resources,
22 Adam Konrad. Plaintiff Travis was subjected to weekly acts of discrimination from her managers,
23 including but not limited to, comments about her African American style hair, skin color, other aspects
24 of her appearance, and being assigned duties and tasks that stunted her growth and employment
25 opportunities with DEFENDANT that other employees who were not African American were given.
26 As Plaintiff Travis was the only African American in her department at DEFENDANT's Spyres
27 building, Plaintiff Travis was plagued with ongoing work pressures, obligations, and mistreatment by
28 her supervisors as a result of Plaintiff Travis' race and national origin of being an African American.

1 Furthermore, the continuous stress and discrimination at work caused Plaintiff Travis to feel afraid of
2 going into work each day.

3 145. DEFENDANT discriminated against Plaintiff Travis as a result of her being African
4 American and failed to remedy to discriminatory conduct at work. Plaintiff Travis herein alleges that
5 the actions taken by employees of DEFENDANT against Plaintiff Travis occurred within the normal
6 scope and course of these individuals' employment with DEFENDANT. Plaintiff Travis further alleges
7 that these employees were Plaintiff Travis' supervisors while Plaintiff Travis was employed by
8 DEFENDANT. However, Plaintiff Travis' requests for help fell on deaf ears, as DEFENDANT failed
9 to respond to Plaintiff Travis' requests. Left with no other choice, on or around April 13, 2022, Plaintiff
10 Travis made the decision to resign from her employment due to the hostile and discriminatory
11 environment described above and DEFENDANT's failure to take her complaints regarding her racial
12 and national origin discrimination seriously. At all times hereto, the California Government Code
13 Section 12940(a), was in full force and effect and was binding upon DEFENDANT. This subsection
14 precludes an employer because of race and/or national origin (amongst other things), to refuse to hire
15 or employ the person or to refuse to select the person for a training program leading to employment,
16 or to bar or discharge the person from employment, or to discriminate against the person in
17 compensation or in terms, conditions, or privileges of employment.

18
19 146. As a proximate result of DEFENDANT'S willful, knowing, and intentional, conduct,
20 Plaintiff Travis has suffered and continues to suffer humiliation, emotional distress, and mental and
21 physical pain and anguish, all to Plaintiff Travis' damage in a sum according to proof.

22 147. As a result of DEFENDANT'S adverse employment actions against Plaintiff Travis,
23 Plaintiff Travis has suffered general and special damages in sums according to proof.

24 148. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive
25 manner, and fraudulent manner entitling Plaintiff Travis to punitive damages against DEFENDANT.

26
27 ///

28 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFFS prays for judgment against each Defendant, jointly and severally,
3 as follows:
4

5 1. On behalf of the CALIFORNIA CLASS:

- 6 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
7 as a class action pursuant to Cal. Code of Civ. Proc. § 382;
8
9 B) An order temporarily, preliminarily and permanently enjoining and restraining
10 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
11
12 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
13 from compensation due to PLAINTIFFS and the other members of the CALIFORNIA
14 CLASS; and,
15
16 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
17 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and
18 to the other members of the CALIFORNIA CLASS.

19 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 20 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth
21 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
22 pursuant to Cal. Code of Civ. Proc. § 382;
23
24 B) Compensatory damages, according to proof at trial, including compensatory damages
25 for minimum and overtime compensation due PLAINTIFFS and the other members of
26 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR
27 SUB-CLASS PERIOD plus interest thereon at the statutory rate;
28
29 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
30 a violation occurs and one hundred dollars (\$100) per each member of the
31 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not

1 exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs
2 for violation of Cal. Lab. Code § 226;

3 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
4 applicable IWC Wage Order;

5 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

6 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
7 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs
8 of suit.; and,
9

10 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as
11 a penalty from the due date thereof at the same rate until paid or until an action therefore
12 is commenced, in accordance with Cal. Lab. Code § 203.

13
14 3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

15 A) Recovery of civil penalties as prescribed by the Labor Code Private
16 Attorneys General Act of 2004; and,

17 B) An award of attorneys' fees and cost of suit, as allowable under the
18 law, including, but not limited to, pursuant to Labor Code §2699.
19

20 4. On behalf of Plaintiff Tyeisha Travis for the Eleventh and Twelfth causes of action:

21 A) Compensatory damages, according to proof at trial, but in excess of \$25,000.

22 B) Special and General damages according to proof;

23 C) Statutory damages, penalties and attorney's fees;

24 D) For punitive damages in an amount necessary to make an example of and to punish
25 DEFENDANT and deter DEFENDANT from engaging in future similar conduct;

26 E) For loss of earnings (both past and future); and,
27
28

F) For interest at the legal rate in an amount according to proof.

5. On all claims:

A) An award of interest, including prejudgment interest at the legal rate;

B) Such other and further relief as the Court deems just and equitable; and,

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or §2802.

Dated: August 9, 2024

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw

Nicholas J. De Blouw

Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

PLAINTIFFS demands a jury trial on issues triable to a jury.

Dated: August 9, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw
Nicholas J. De Blouw
Attorneys for Plaintiff