

09/15/2020

Sherri R. Carter, Executive Officer / Clerk of Court

By: L. Castillo Deputy

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)255-9047
Facsimile: (858) 404-9203

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)599-8292
Facsimile: (619) 599-8291

ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

ESTARA R. GOLD on behalf of herself and on
behalf of all persons similarly situated,

Plaintiff,

v.

F S HOTEL (L.A.) INC., a Corporation; FOUR
SEASONS HOTELS LIMITED; a Canada
Corporation; and DOES 1-50, Inclusive,

Case No. 20STCV17414

FIRST AMENDED COMPLAINT FOR:

**1. VIOLATIONS OF THE CALIFORNIA
PRIVATE ATTORNEY GENERAL
ACT AT LABOR CODE §§ 2698 *ET*
*SEQ.***

DEMAND FOR JURY TRIAL

1 Plaintiff ESTARA GOLD (“PLAINTIFF”) in his representative capacity on behalf of the State of
2 California and fellow Aggrieved Employees alleges based on information and belief, except for her own
3 acts and knowledge which are based on personal knowledge, the following:

4 **INTRODUCTION**

5 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys General
6 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
7 aggrieved employees of DEFENDANTS for engaging in a pattern and practice of wage and hour
8 violations under the California Labor Code.

9 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT decreased
10 their employment-related costs by systematically violating California wage and hour laws.

11 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order violations
12 toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- 13 a. Failure to provide compliant meal and rest periods;
- 14 b. Failure to pay all minimum, regular and overtime wages;
- 15 c. Failure to pay the correct rate of overtime pay;
- 16 d. Failure to maintain true and accurate records;
- 17 e. Failure to provide accurate itemized wage statements;
- 18 f. Failure to reimburse for required expenses; and
- 19 g. Failure to timely pay wages due during, and upon termination of employment.

20 4. PLAINTIFF brings this representative action against DEFENDANTS on behalf of the
21 State of California and aggrieved employees of DEFENDANTS in California seeking all civil penalties
22 permitted pursuant to California Labor Code § 2699, *et seq.*

23 5. PLAINTIFF reserves the right to name additional representatives throughout the State of
24 California.

25 6. PLAINTIFF does not seek to recover anything other than penalties as permitted by
26 California Labor Code § 2699. To the extent that statutory violations are mentioned for wage violations,
27 PLAINTIFF does not seek underlying general and/or special damages for those violations in this action,
28

1 but simply the civil penalties permitted by California Labor Code § 2699. Notwithstanding,
2 PLAINTIFF is not abandoning his right to pursue their individual claims for, *inter alia*, Defendants'
3 alleged wage violations, and/or general or special damages arising from those violations, and he fully
4 intends to, at a future date, pursue claims for those individual claims and damages.

5 **THE PARTIES**

6 7. Defendant F S HOTEL (L.A.) INC. is a corporation and at all relevant times mentioned
7 herein conducted and continues to conduct substantial and regular business throughout California.
8 Defendant FOUR SEASONS HOTELS LIMITED is a corporation and at all relevant times mentioned
9 herein conducted and continues to conduct substantial and regular business throughout California.
10 Defendants are collectively referred to herein as ("DEFENDANTS" or "Defendants")

11 8. DEFENDANTS, sometimes doing business as "Four Seasons Hotel," own and operate a
12 luxury hotels throughout the world, including hotels in California.

13 9. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt employee
14 entitled to minimum wages, overtime pay and meal and rest periods from 2013 to January of 2020.
15 PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANTS as a non-exempt
16 employee paid on an hourly basis, as well as piece-rate basis, plus non-discretionary incentive
17 compensation.

18 10. PLAINTIFF brings this action in her representative capacity on behalf of the State of
19 California and on behalf of all of DEFENDANTS' current and former non-exempt employees employed
20 in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et*
21 *seq.* (hereinafter "AGGRIEVED EMPLOYEES") and who worked for DEFENDANT between April 6,
22 2019 and the present ("PAGA PERIOD").

23 11. PLAINTIFF is an "AGGRIEVED EMPLOYEE" within the meaning of Labor Code §
24 2699(c) because she was employed by DEFENDANTS and suffered one or more of the alleged Labor
25 Code violations committed by DEFENDANTS.

26 12. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were,
27 employees of DEFENDANTS, within the meanings set forth in the California Labor Code and the
28 applicable Industrial Welfare Commission Wage Order.

14. DEFENDANTS, including DOES 1 THROUGH 50 (hereinafter collectively “DEFENDANTS”), were PLAINTIFF’s employers or persons acting on behalf of PLAINTIFF’s employer, within the meaning of California Labor Code § 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

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

JOINT EMPLOYER

16. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

17. Section 558 of the California Labor Code provides that “any employer *or other person* acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).);

18. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person* acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

1 19. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that
2 a corporate employer's owners, officers and directors, are subject to civil penalties for the employer's
3 failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1 does
4 not depend on a finding of an alter ego, no alter ego allegations or findings are necessary. *Atempa v.*
5 *Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v. Cjaders Food, Inc.* (2009
6 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4th 1112, 1145-1146.

7 20. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS, and each
8 of them, are subject to civil penalties for their failure to pay PLAINTIFF and the aggrieved employees
9 the appropriate wages as complained of herein and proximately caused the complaints, injuries, and
10 damages alleged herein.

11 21. At all relevant times, each Defendant, whether named or fictitious, was the agent,
12 employee or other person acting on behalf of each other Defendant, and, in participating in the acts
13 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts of
14 the other.

15 22. Each Defendant, whether named or fictitious, exercised control over PLAINTIFF's
16 wages, working hours, and/or working conditions.

17 23. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action
18 as the agent of the other DEFENDANTS, carried out a joint scheme, business plan or policy, and the
19 acts of each Defendant are legally attributable to the other DEFENDANTS.

20 **JURISDICTION AND VENUE**

21 24. This Court has jurisdiction over this Action pursuant to California Code of Civil
22 Procedure, Section 410.10. This Court has jurisdiction over PLAINTIFF's claims for civil penalties
23 under the Private Attorney General Act of 2004, California Labor Code §2698 *et seq.*

24 25. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
25 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, resides in this County,
26 and DEFENDANTS (i) currently maintains and at all relevant times maintained offices and facilities in
27 this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct
28 herein alleged in this County against members of the AGGRIEVED EMPLOYEES.

THE CONDUCT

26. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES 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. From time to time, DEFENDANTS required PLAINTIFF and AGGRIEVED EMPLOYEES to work without paying them for all the time they were under DEFENDANTS' control. Specifically, DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF'S off-duty meal break, as well as before her shift started and after his shift ended. PLAINTIFF was often interrupted by work assignments during her breaks. Indeed there were many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other AGGRIEVED EMPLOYEES, from time to time, forfeited minimum wage and overtime compensation by working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is evidenced by DEFENDANTS' business records.

27. During the PAGA PERIOD, DEFENDANTS did not have in place an immutable timekeeping system to accurately record and pay PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual time these employees worked each day, including overtime hours. As a result DEFENDANTS were able to and did in fact unlawfully, and unilaterally alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and the AGGRIEVED EMPLOYEES in order to avoid paying these employees the applicable overtime compensation for overtime worked and to avoid paying these employees for missed meal breaks. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES, from time to time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

28. The mutability of the timekeeping system also allowed DEFENDANTS to alter employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS' timekeeping system so as to create the appearance that PLAINTIFF and other AGGRIEVED EMPLOYEES clocked out for a thirty (30) minute meal break when in fact the employees were not at all times provided an off-

1 duty meal break. This practice is a direct result of DEFENDANTS' uniform policy and practice of
2 denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise
3 compensate them for missed meal breaks.

4 29. DEFENDANTS also failed to pay the time it took PLAINTIFF and other AGGRIEVED
5 EMPLOYEES to dress up and dress down at the start and end of each shift. DEFENDANTS' practice
6 and written policy was to only allow employees to clock in after they are fully dressed in their uniform
7 and prepared to begin work. DEFENDANTS' practice further required employees to clock out before
8 dressing down after their shift ended. This function took PLAINTIFF and other AGGRIEVED
9 EMPLOYEES some time before and after every shift, for which they did not receive compensation.

10 30. As a result of their rigorous work schedules, and because they often worked single-staffed
11 shifts, PLAINTIFF and other AGGRIEVED EMPLOYEES were also from time to time unable to take
12 off duty meal breaks and were not fully relieved of duty for meal periods. PLAINTIFF and other
13 AGGRIEVED EMPLOYEES were required to perform work as ordered by DEFENDANTS for more
14 than five (5) hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS
15 failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second off-duty meal period
16 each workday in which these employees were required by DEFENDANTS to work ten (10) hours of
17 work. PLAINTIFF and the other AGGRIEVED EMPLOYEES therefore forfeited meal breaks without
18 additional compensation and in accordance with DEFENDANT's strict corporate policy and practice

19 31. During the PAGA PERIOD, from time to time, PLAINTIFF and other AGGRIEVED
20 EMPLOYEES were also required to work in excess of four (4) hours without being provided ten (10)
21 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10)
22 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at
23 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
24 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. When
25 they did have an opportunity to take their rest breaks, PLAINTIFF and the AGGRIEVED EMPLOYEES
26 were required to remain on the premises and subject to DEFENDANTS' control in accordance with
27 DEFENDANTS' written policy. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not
28 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF

1 and other AGGRIEVED EMPLOYEES were periodically denied their proper rest periods by
2 DEFENDANTS and DEFENDANTS' managers.

3 32. Under California law, every employer shall pay to each employee, on the established
4 payday for the period involved, not less than the applicable minimum wage for all hours worked in the
5 payroll period, whether the remuneration is measured by time, piece, commission, or otherwise. Hours
6 worked is defined in the applicable Wage Order as "the time during which an employee is subject to the
7 control of an employer and includes all the time the employee is suffered or permitted to work, whether
8 or not required to do so.

9 33. PLAINTIFF and AGGRIEVED EMPLOYEES were, from time to time, paid piece-rate
10 compensation. Notwithstanding, DEFENDANTS failed to separately compensate PLAINTIFF and
11 AGGRIEVED EMPLOYEES for all non-productive time, including but not limited to, paid off-duty
12 rest periods as required by the applicable Wage Order and Labor Code. DEFENDANTS do not have a
13 policy or practice which separately compensates PLAINTIFF or the AGGRIEVED EMPLOYEES for
14 non-productive time, including but not limited to, paid off-duty rest periods. As a result, PLAINTIFF
15 and the AGGRIEVED EMPLOYEES were deprived minimum wages and overtime wages for all non-
16 productive time, including but not limited to, all paid off-duty rest periods. DEFENDANTS' failure to
17 provide PLAINTIFF and the AGGRIEVED EMPLOYEES with separate compensation for all non-
18 productive time is evidenced by DEFENDANTS' business records.

19 34. During the PAGA PERIOD, DEFENDANTS failed and continue to fail to accurately
20 calculate and pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for their overtime worked.
21 DEFENDANTS unlawfully and unilaterally failed to accurately calculate wages for overtime worked
22 by PLAINTIFF and other members of the AGGRIEVED EMPLOYEES in order to avoid paying these
23 employees the correct overtime compensation. As a result, PLAINTIFF and the other AGGRIEVED
24 EMPLOYEES forfeited wages due them for working overtime without compensation at the correct
25 overtime rates. DEFENDANTS' uniform policy and practice to not pay the AGGRIEVED
26 EMPLOYEES the correct overtime rate for all overtime worked in accordance with applicable law is
27 evidenced by DEFENDANTS' business records.
28

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

36. The second component of PLAINTIFF’s and other AGGRIEVED EMPLOYEES’ compensation was DEFENDANTS’ non-discretionary incentive program that paid PLAINTIFF and other AGGRIEVED EMPLOYEES incentive wages based on their performance for DEFENDANTS. The non-discretionary incentive program provided all employees paid on an hourly basis with incentive compensation when the employees met the various performance goals set by DEFENDANTS. However, when calculating the regular rate of pay in order to pay overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES, DEFENDANTS failed to include the incentive compensation as part of the employees’ “regular rate of pay” for purposes of calculating overtime pay. Management and supervisors described the incentive program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must be included in the “regular rate of pay.” The failure to do so has resulted in a systematic underpayment of overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by DEFENDANTS.

37. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of company policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and the other AGGRIEVED EMPLOYEES at the correct rate of pay for all overtime worked. This uniform policy and practice of DEFENDANTS is intended to purposefully avoid the payment of the correct overtime compensation as required by California law which allowed DEFENDANTS to illegally profit and gain an unfair advantage over competitors who complied with the law. To the extent equitable tolling operates to toll claims by the AGGRIEVED EMPLOYEES against DEFENDANTS, the PAGA PERIOD should be adjusted accordingly.

38. At all times relevant that California Labor Code §246 has been in effect, DEFENDANTS have not complied with California Labor Code §246 in that it has not provided PLAINTIFF and the other AGGRIEVED EMPLOYEES with paid sick leave in conformance with California Labor Code

§246 because they have failed to properly compute the amount due for paid sick leave in conformance with the pay calculation under California Labor Code §246(l). Rather than calculating the amount of paid sick leave due when sick leave is used according to the requirements set forth in California Labor Code §246(l), Defendants have paid sick leave out at a different rate, in violation of the law.

39. During the relevant timeframe, including at times throughout the four-year period preceding the filing of this complaint, PLAINTIFF and the other AGGRIEVED EMPLOYEES were subject to an employer policy and/or contract of employment that provided for paid vacations not otherwise provided by a collective-bargaining agreement. Upon PLAINTIFF and the other members of the AGGRIEVED EMPLOYEES' separation of employment, they had not used all of their vested vacation and thus their unused, vested vacation was required to have been paid at their final rate upon separation of employment. DEFENDANTS however, in violation of California Labor Code §227.3, did not pay all unused, vested vacation time at the correct final rate upon separation of employment.

40. From time to time, when PLAINTIFF and other AGGRIEVED EMPLOYEES missed meal and rest breaks, when they earned non-discretionary incentive pay in the same period they worked overtime, when they worked during what was supposed to be their meal breaks, or when they were not separately compensated for all non-productive time, including but not limited to paid rest periods, DEFENDANTS also failed to provide PLAINTIFF and the other AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to show, among other things, the correct time and overtime worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek, the number of piece-rate units earned and any applicable piece-rate, the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period, and the correct penalty payments or missed meal and rest periods in violation of California Labor Code Sections 226 and 226.2.

41. California Labor Code Section 226 requires an employer to furnish its employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number

other than a social security number, (8) the name and address of the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

42. Further California Labor Code Section 226.2 requires an employer to furnish employees compensated on a piece-rate basis a written accurate itemized statement that separately state (A) the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period, (B) the total hours of other nonproductive time, the rate of compensation, and the gross wages paid for that time during the pay period.

43. Aside from the violations listed herein, DEFENDANTS also failed to list the legal name of PLAINTIFF's employer on the wage statements, and DEFENDANTS failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under California Labor Code 226 et seq. As a result, from time to time DEFENDANTS provided PLAINTIFF and the other AGGRIEVED EMPLOYEES with wage statements which violated Cal. Lab. Code § 226.

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

45. In the course of their employment, PLAINTIFF and other AGGRIEVED EMPLOYEES as a business expense, were required by DEFENDANTS to use their own personal cellular phones as a result of and in furtherance of their job duties as employees for DEFENDANTS but were not reimbursed or indemnified by DEFENDANTS for the cost associated with the use of their personal cellular phones for DEFENDANTS' benefit. Specifically, PLAINTIFF and other AGGRIEVED EMPLOYEES were

1 required by DEFENDANTS to use their personal cell phones to for work related issues. As a result, in
2 the course of their employment with DEFENDANTS the PLAINTIFF and other AGGRIEVED
3 EMPLOYEES incurred unreimbursed business expenses which included, but were not limited to, costs
4 related to the use of their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

5 46. In addition, when DEFENDANTS required PLAINTIFF and other AGGRIEVED
6 EMPLOYEES to engage in additional work, this sometimes resulted in a second reporting for work in
7 a single workday. In such a circumstance of a second reporting for work in a single workday,
8 DEFENDANTS failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8
9 § 11040. Subdivision 5(B) states: "If an employee is required to report for work a second time in any
10 one workday and is furnished less than two (2) hours of work on the second reporting, said employee
11 shall be paid for two (2) hours at the employee's regular rate of pay, which shall be not less than the
12 minimum wage." Cal. Code Regs., tit. 8 § 11040, subd. 5(B).

13 47. Specifically as to PLAINTIFF's pay, DEFENDANTS provided compensation to her in
14 the form of two components. One component of PLAINTIFF's compensation was a base hourly wage.
15 The second component of PLAINTIFF's compensation were non-discretionary incentive wages.
16 DEFENDANTS paid the incentive wages, so long as PLAINTIFF met certain predefined performance
17 requirements. PLAINTIFF met DEFENDANTS' predefined eligibility performance requirements in
18 various pay periods throughout his employment with DEFENDANTS and DEFENDANTS paid
19 PLAINTIFF the incentive wages. During these pay periods in which PLAINTIFF was paid the non-
20 discretionary incentive wages by DEFENDANTS, PLAINTIFF also worked overtime for
21 DEFENDANTS, but DEFENDANTS never included the incentive compensation in PLAINTIFF's
22 regular rate of pay for the purposes of calculating what should have been PLAINTIFF's accurate
23 overtime rate and thereby underpaid PLAINTIFF for overtime worked throughout her employment with
24 DEFENDANTS. The incentive compensation paid by DEFENDANTS constituted wages within the
25 meaning of the California Labor Code and thereby should have been part of PLAINTIFF's "regular rate
26 of pay." Further, specifically as to PLAINTIFF, she was from time to time unable to take off duty meal
27 and rest breaks and was not fully relieved of duty for his rest and meal periods. PLAINTIFF was required
28 to perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without

1 receiving an off-duty meal break. Further, DEFENDANTS failed to provide PLAINTIFF with a second
2 off-duty meal period each workday in which he was required by DEFENDANTS to work ten (10) hours
3 of work. When DEFENDANTS provided PLAINTIFF with a rest break, hey required PLAINTIFF to
4 remain on the premises for the rest break. PLAINTIFF therefore forfeited meal and rest breaks without
5 additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.
6 DEFENDANTS also provided PLAINTIFF with a paystub that failed to accurately display
7 PLAINTIFF's correct rates of overtime pay and payments for missed meal and rest periods for certain
8 pay periods in violation of Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid
9 PLAINTIFF the overtime compensation still owed to them or any penalty wages owed to them under
10 Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed the sum
11 or value of \$75,000.

12 **FIRST CAUSE OF ACTION**

13 **For Civil Penalties Pursuant to Private Attorneys General Act ("PAGA")**

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

15 **(By PLAINTIFF and AGGRIEVED EMPLOYEES and Against All DEFENDANTS)**

16 48. PLAINTIFF and the AGGRIEVED EMPLOYEES reallege and incorporate by this
17 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

18 49. PAGA is a mechanism by which the State of California itself can enforce state labor laws
19 through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law
20 enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law
21 enforcement action designed to protect the public and not to benefit private parties. The purpose of the
22 PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private
23 attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified
24 that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to
25 recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
26 claims cannot be subject to arbitration.

1 50. PLAINTIFF brings this Representative Action on behalf of the State of California with
2 respect to herself and all other current and former AGGRIEVED EMPLOYEES employed by
3 DEFENDANTS during the PAGA PERIOD.

4 51. At all relevant times, for the reasons described herein, and others, PLAINTIFF and
5 similarly situated employees were aggrieved employees of DEFENDANTS within the meaning of Labor
6 Code Section 2699(c).

7 52. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
8 PLAINTIFF, on behalf of himself and other current or former employees, to bring a civil action to
9 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

10 53. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
11 Section 2699.3. By certified letter, return receipt requested, dated April 17, 2020, PLAINTIFF gave
12 written notice to the Labor and Workforce Development Agency ("LWDA") and to DEENDANTS of
13 the specific provisions of the Labor Code alleged to have been violated, including the facts and theories
14 to support the alleged violations. See Exhibit #1, attached hereto and incorporated by this reference
15 herein.

16 54. As of August 24, 2020, more than sixty-five (65) days after serving the LWDA with notice
17 of DEFENDANTS' violations, the LWDA has not provided any notice by certified mail of its intent to
18 investigate the DEFENDANTS' alleged violations as mandated by Labor Code Section 2699.3(a)(2)(A).
19 Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may commence and is
20 authorized to pursue this cause of action.

21 55. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and similarly
22 AGGRIEVED EMPLOYEES are entitled to civil penalties for DEFENDANTS' violations of Labor
23 Code Section 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d),
24 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802 in the following amounts:

- 25 a. For violation of Labor Code Sections 201, 202, 203, and 204, one
26 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period
27 for the initial violation and two hundred dollars (\$200) for AGGIEVED
28 EMPLOYEE per pay period for each subsequent violation [penalty per

1 Labor Code Section 2699(f)(2)];

2 b. For violations of Labor Code Section 226(a), a civil penalty in the
3 amount of two hundred fifty dollars (\$250) for each AGGRIEVED
4 EMPLOYEE for any initial violation and one thousand dollars for each
5 subsequent violation [penalty per Labor Code Section 226.3];

6 c. For violations of Labor Code Sections 204, a civil penalty in the
7 amount of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE
8 for any initial violation and two hundred dollars (\$200) for AGGRIEVED
9 EMPLOYEE for each subsequent violation [penalty per Labor Code
10 Section 210];

11 d. For violations of Labor Code Sections 226.7, 510 and 512, a civil
12 penalty in the amount of fifty dollars (\$50) for each underpaid
13 AGGRIEVED EMPLOYEE for the initial violation and hundred dollars
14 (\$100) for each underpaid AGGRIEVED EMPLOYEE for each subsequent
15 violation [penalty per Labor Code Section 558];

16 e. For violations of Labor Code Section 2269(a), a civil penalty in the
17 amount of two hundred fifty dollars (\$250) per AGGRIEVED EMPLOYEE
18 per violation in an initial citation and one thousand dollars (\$1,000) per
19 AGGRIEVED EMPLOYEE for each subsequent violation [penalty per
20 Labor Code Section 226.3];

21 f. For violations of Labor Code Section 1174(d), a civil penalty in the
22 amount of five hundred (\$500) dollars for per AGGRIEVED EMPLOYEE
23 [penalty per Labor Code Section 1174.5].

24 g. For violations of Labor Code Sections 1194, 1194.2, 1197, 1198 and
25 1199, a civil penalty in the amount of one hundred dollars (\$100) per
26 AGGRIEVED EMPLOYEE per pay period for the initial violation and two
27 hundred dollars fifty (\$250) per AGGRIEVED EMPLOYEE per pay period
28 for each subsequent violation [penalty per Labor Code Section].

h. For violations of Labor Code Section 2802 a civil penalty in the amount of one hundred dollars (\$100) per AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars fifty (\$250) per AGGRIEVED EMPLOYEE per pay period for each subsequent violation [penalty per Labor Code Section].

2. For all provisions of the Labor Code for which civil penalty is not specifically provided, Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars (\$200) for each AGGRIEVED EMPLOYEE per pay period for each subsequent violation. PLAINTIFF and the AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney's fees and costs in connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

- (a) For reasonable attorney's fees and costs of suit to the extent permitted by law, including pursuant to Labor Code § 2699, *et seq.*;
- (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under the Private Attorneys General Act; and
- (c) For such other relief as the Court deems just and proper.

Dated: August 28, 2020

Respectfully Submitted,
ZAKAY LAW GROUP, APC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR JURY TRIAL

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

Dated: August 28, 2020

Respectfully Submitted,
ZAKAY LAW GROUP, APC

By: 
Shani O. Zakay
Attorney 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

EXHIBIT 1





ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

shani@zakaylaw.com

April 17, 2020

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGA@dir.ca.gov
Via Online Submission

FOUR SEASONS HOTELS LIMITED
Aka F S HOTEL (L.A.) INC.
c/o CSC - LAWYERS INCORPORATING SERVICE
2710 Gateway Oaks Drive
Suite 150N
Sacramento, CA 95833

Re: Notice of Violations of California Labor Code Sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802 and Applicable Industrial Welfare Commission Wage Orders, California Code or regulations, Title 8 Section 1 1070(14) (Failure to Provide Seating) and Pursuant to California Labor Code Section 2699.3.

Dear Sir/ Madam:

This office represents ESTAAR R. GOLD (“Plaintiff”) and other aggrieved employees in an action against FOUR SEASONS HOTELS LIMITED and F S HOTEL (L.A.) INC., (“Defendant”). This office intends to file the enclosed Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendant in California from 2013 to January 2020. Plaintiff was paid on an hourly basis and entitled to minimum wages, overtime wages, and legally required meal and rest periods. At all times during her employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods, with minimum and overtime wages for all time worked, and, overtime compensation at one-and-one-half times the regular rate of pay.

As a consequence, Plaintiff contends that Defendant failed to fully compensate her, and other similarly situated and aggrieved employees, for all earned wages and failed to provide accurate wage statements. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802 and applicable wage orders, Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3 and 2698 *et seq.*

A copy of the proposed Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii)

details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees and Class Members

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney at Law

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)255-9047
Facsimile: (858) 404-9203

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)599-8292
Facsimile: (619) 599-8291

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

ESTARA R. GOLD on behalf of herself and
on behalf of all persons similarly situated,

Plaintiff,

v.

F S HOTEL (L.A.) INC., a Corporation;
FOUR SEASONS HOTELS LIMITED; a
Canada Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§226 and 226.2;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;

DEMAND FOR A JURY TRIAL

1 Plaintiff Estara R. Gold, an individual, (“PLAINTIFF”), on behalf of herself and all other
2 similarly situated current and former employees, alleges on information and belief, except for
3 her own acts and knowledge which are based on personal knowledge, the following:

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant F S HOTEL (L.A.) INC. is a corporation and at all relevant times
6 mentioned herein conducted and continues to conduct substantial and regular business throughout
7 California. Defendant FOUR SEASONS HOTELS LIMITED is a corporation and at all relevant
8 times mentioned herein conducted and continues to conduct substantial and regular business
9 throughout California. Defendants are collectively referred to herein as (“DEFENDANTS” or
10 “Defendants”)

11 2. DEFENDANTS, sometimes doing business as “Four Seasons Hotel,” own and
12 operate a luxury hotels throughout the world, including hotels in California.

13 3. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt
14 employee entitled to minimum wages, overtime pay and meal and rest periods from 2013 to
15 January of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
16 DEFENDANTS as a non-exempt employee paid on an hourly basis, as well as piece-rate basis,
17 plus non-discretionary incentive compensation.

18 4. PLAINTIFF bring this Class Action on behalf of herself and a California class,
19 defined as all individuals who are or previously were employed by DEFENDANT F S HOTEL
20 (L.A.) INC and/or DEFENDANT FOUR SEASONS HOTELS LIMITED in California and
21 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
22 beginning four (4) years prior to the filing of the Complaint and ending on the date as determined
23 by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the
24 aggregate claim of CALIFORNIA CLASS Members is under five million dollars
25 (\$5,000,000.00).

26 5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
27 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
28 the CALIFORNIA CLASS PERIOD caused by DEFENDANTS’ uniform policy and practice
which failed to lawfully compensate these employees for all their time worked. DEFENDANTS’

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

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

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

25 **THE CONDUCT**

26 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
27 were required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time
28 worked, meaning the time during which an employee is subject to the control of an employer,

1 including all the time the employee is suffered or permitted to work. From time to time,
2 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without
3 paying them for all the time they were under DEFENDANTS' control. Specifically,
4 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
5 be PLAINTIFF'S off-duty meal break, as well as before her shift started and after his shift ended.
6 PLAINTIFF was often interrupted by work assignments during her breaks. Indeed there were
7 many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF
8 and other CALIFORNIA CLASS Members, from time to time, forfeited minimum wage and
9 overtime compensation by working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
11 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
12 time worked is evidenced by DEFENDANTS' business records.

13 9. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in
14 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other
15 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
16 overtime hours. As a result DEFENDANTS were able to and did in fact unlawfully, and
17 unilaterally alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and
18 the members of the CALIFORNIA CLASS in order to avoid paying these employees the
19 applicable overtime compensation for overtime worked and to avoid paying these employees for
20 missed meal breaks. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from
21 time to time, forfeited time worked by working without their time being accurately recorded and
22 without compensation at the applicable overtime rates.

23 10. The mutability of the timekeeping system also allowed DEFENDANTS to alter
24 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
25 timekeeping system so as to create the appearance that PLAINTIFF and other CALIFORNIA
26 CLASS Members clocked out for a thirty (30) minute meal break when in fact the employees
27 were not at all times provided an off-duty meal break. This practice is a direct result of
28

1 DEFENDANTS' uniform policy and practice of denying employees uninterrupted thirty (30)
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

3 11. DEFENDANTS also failed to pay the time it took PLAINTIFF and other
4 CALIFORNIA CLASS Members to dress up and dress down at the start and end of each shift.
5 DEFENDANTS' practice and written policy was to only allow employees to clock in after they
6 are fully dressed in their uniform and prepared to begin work. DEFENDANTS' practice further
7 required employees to clock out before dressing down after their shift ended. This function took
8 PLAINTIFF and other CALIFORNIA CLASS Members some time before and after every shift,
9 for which they did not receive compensation.

10 12. As a result of their rigorous work schedules, and because they often worked single-
11 staffed shifts, PLAINTIFF and other CALIFORNIA CLASS Members were also from time to
12 time unable to take off duty meal breaks and were not fully relieved of duty for meal periods.
13 PLAINTIFF and other CALIFORNIA CLASS Members were required to perform work as
14 ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an off-
15 duty meal break. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA
16 CLASS Members with a second off-duty meal period each workday in which these employees
17 were required by DEFENDANTS to work ten (10) hours of work. PLAINTIFF and the other
18 CALIFORNIA CLASS Members therefore forfeited meal breaks without additional
19 compensation and in accordance with DEFENDANT's strict corporate policy and practice

20 13. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and
21 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours
22 without being provided ten (10) minute rest periods. Further, these employees were denied their
23 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
24 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between
25 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for
26 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their
27 rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to remain on the
28 premises and subject to DEFENDANTS' control in accordance with DEFENDANTS' written

1 policy. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one
2 hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
3 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
4 DEFENDANTS and DEFENDANTS' managers.

5 14. Under California law, every employer shall pay to each employee, on the
6 established payday for the period involved, not less than the applicable minimum wage for all
7 hours worked in the payroll period, whether the remuneration is measured by time, piece,
8 commission, or otherwise. Hours worked is defined in the applicable Wage Order as "the time
9 during which an employee is subject to the control of an employer and includes all the time the
10 employee is suffered or permitted to work, whether or not required to do so.

11 15. PLAINTIFF and CALIFORNIA CLASS members were, from time to time, paid
12 piece-rate compensation. Notwithstanding, DEFENDANTS failed to separately compensate
13 PLAINTIFF and CALIFORNIA CLASS members for all non-productive time, including but not
14 limited to, paid off-duty rest periods as required by the applicable Wage Order and Labor Code.
15 DEFENDANTS do not have a policy or practice which separately compensates PLAINTIFF or
16 the members of the CALIFORNIA CLASS for non-productive time, including but not limited to,
17 paid off-duty rest periods. As a result, PLAINTIFF and the members of the CALIFORNIA
18 CLASS were deprived minimum wages and overtime wages for all non-productive time,
19 including but not limited to, all paid off-duty rest periods. DEFENDANTS' failure to provide
20 PLAINTIFF and the members of the CALIFORNIA CLASS with separate compensation for all
21 non-productive time is evidenced by DEFENDANTS' business records.

22
23 16. During the CALIFORNIA CLASS PERIOD, DEFENDANTS failed and continue
24 to fail to accurately calculate and pay PLAINTIFF and the other members of the CALIFORNIA
25 CLASS for their overtime worked. DEFENDANTS unlawfully and unilaterally failed to
26 accurately calculate wages for overtime worked by PLAINTIFF and other members of the
27 CALIFORNIA CLASS in order to avoid paying these employees the correct overtime
28 compensation. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS

1 forfeited wages due them for working overtime without compensation at the correct overtime
2 rates. DEFENDANTS' uniform policy and practice to not pay the members of the CALIFORNIA
3 CLASS the correct overtime rate for all overtime worked in accordance with applicable law is
4 evidenced by DEFENDANTS' business records.

5 17. State law provides that employees must be paid overtime at one-and-one-halftimes
6 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
7 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
8 employee's performance.

9 18. The second component of PLAINTIFF's and other CALIFORNIA CLASS
10 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
11 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
12 performance for DEFENDANTS. The non-discretionary incentive program provided all
13 employees paid on an hourly basis with incentive compensation when the employees met the
14 various performance goals set by DEFENDANTS. However, when calculating the regular rate of
15 pay in order to pay overtime to PLAINTIFF and other CALIFORNIA CLASS Members,
16 DEFENDANTS failed to include the incentive compensation as part of the employees' "regular
17 rate of pay" for purposes of calculating overtime pay. Management and supervisors described the
18 incentive program to potential and new employees as part of the compensation package. As a
19 matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
20 CLASS Members must be included in the "regular rate of pay." The failure to do so has resulted
21 in a systematic underpayment of overtime compensation to PLAINTIFF and other CALIFORNIA
22 CLASS Members by DEFENDANTS.

23 19. In violation of the applicable sections of the California Labor Code and the
24 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
25 matter of company policy, practice and procedure, intentionally and knowingly failed to
26 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
27 of pay for all overtime worked. This uniform policy and practice of DEFENDANTS is intended
28 to purposefully avoid the payment of the correct overtime compensation as required by California

1 law which allowed DEFENDANTS to illegally profit and gain an unfair advantage over
2 competitors who complied with the law. To the extent equitable tolling operates to toll claims by
3 the CALIFORNIA CLASS against DEFENDANTS, the CALIFORNIA CLASS PERIOD should
4 be adjusted accordingly.

5 20. At all times relevant that California Labor Code §246 has been in effect,
6 DEFENDANTS have not complied with California Labor Code §246 in that it has not provided
7 PLAINTIFF and the other members of the CALIFORNIA CLASS with paid sick leave in
8 conformance with California Labor Code §246 because they have failed to properly compute the
9 amount due for paid sick leave in conformance with the pay calculation under California Labor
10 Code §246(l). Rather than calculating the amount of paid sick leave due when sick leave is used
11 according to the requirements set forth in California Labor Code §246(l), Defendants have paid
12 sick leave out at a different rate, in violation of the law.

13 21. During the relevant timeframe, including at times throughout the four-year period
14 preceding the filing of this complaint, PLAINTIFF and the other members of the CALIFORNIA
15 CLASS were subject to an employer policy and/or contract of employment that provided for paid
16 vacations not otherwise provided by a collective-bargaining agreement. Upon PLAINTIFF and
17 the other members of the CALIFORNIA CLASS' separation of employment, they had not used
18 all of their vested vacation and thus their unused, vested vacation was required to have been paid
19 at their final rate upon separation of employment. DEFENDANTS however, in violation of
20 California Labor Code §227.3, did not pay all unused, vested vacation time at the correct final
21 rate upon separation of employment.

22 22. From time to time, when PLAINTIFF and other CALIFORNIA CLASS Members
23 missed meal and rest breaks, when they earned non-discretionary incentive pay in the same period
24 they worked overtime, when they worked during what was supposed to be their meal breaks, or
25 when they were not separately compensated for all non-productive time, including but not limited
26 to paid rest periods, DEFENDANTS also failed to provide PLAINTIFF and the other members
27 of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
28 among other things, the correct time and overtime worked, including, work performed in excess

1 of eight (8) hours in a workday and/or forty (40) hours in any workweek, the number of piece-
2 rate units earned and any applicable piece-rate, the total hours of compensable rest and recovery
3 periods, the rate of compensation, and the gross wages paid for those periods during the pay
4 period, and the correct penalty payments or missed meal and rest periods in violation of California
5 Labor Code Sections 226 and 226.2.

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

14 24. Further California Labor Code Section 226.2 requires an employer to furnish
15 employees compensated on a piece-rate basis a written accurate itemized statement that separately
16 state (A) the total hours of compensable rest and recovery periods, the rate of compensation, and
17 the gross wages paid for those periods during the pay period, (B) the total hours of other
18 nonproductive time, the rate of compensation, and the gross wages paid for that time during the
19 pay period.

20 25.

21 26. Aside from the violations listed herein, DEFENDANTS also failed to list the legal
22 name of PLAINTIFF's employer on the wage statements, and DEFENDANTS failed to issue to
23 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor
24 Code 226 *et seq.* As a result, from time to time DEFENDANTS provided PLAINTIFF and the
25 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.
26 Code § 226.

27 27. DEFENDANTS as a matter of corporate policy, practice and procedure,
28 intentionally, knowingly and systematically failed to reimburse and indemnify the PLAINTIFF

1 and the other CALIFORNIA CLASS Members for required business expenses incurred by the
2 PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging
3 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers
4 are required to indemnify employees for all expenses incurred in the course and scope of their
5 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her
6 employee for all necessary expenditures or losses incurred by the employee in direct consequence
7 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,
8 even though unlawful, unless the employee, at the time of obeying the directions, believed them
9 to be unlawful."

10 28. In the course of their employment, PLAINTIFF and other CALIFORNIA CLASS
11 Members as a business expense, were required by DEFENDANTS to use their own personal
12 cellular phones as a result of and in furtherance of their job duties as employees for
13 DEFENDANTS but were not reimbursed or indemnified by DEFENDANTS for the cost
14 associated with the use of their personal cellular phones for DEFENDANTS' benefit. Specifically,
15 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANTS to use
16 their personal cell phones to for work related issues. As a result, in the course of their employment
17 with DEFENDANTS the PLAINTIFF and other members of the CALIFORNIA CLASS incurred
18 unreimbursed business expenses which included, but were not limited to, costs related to the use
19 of their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

20 29. In addition, when DEFENDANTS required PLAINTIFF and other CALIFORNIA
21 CLASS Members to engage in additional work, this sometimes resulted in a second reporting for
22 work in a single workday. In such a circumstance of a second reporting for work in a single
23 workday, DEFENDANTS failed to pay these employees reporting time pay as required by Cal.
24 Code Regs., tit. 8 § 11040. Subdivision 5(B) states: "If an employee is required to report for work
25 a second time in any one workday and is furnished less than two (2) hours of work on the second
26 reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay,
27 which shall be not less than the minimum wage." Cal. Code Regs., tit. 8 § 11040, subd. 5(B).

1 30. By reason of this uniform conduct applicable to PLAINTIFF and all
2 CALIFORNIA CLASS Members, DEFENDANTS committed acts of unfair competition in
3 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
4 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately
5 calculate and record all missed meal and rest periods by PLAINTIFF and other CALIFORNIA
6 CLASS Members, and failed to pay PLAINTIFF and other CALIFORNIA CLASS Members the
7 correct overtime rate. The proper recording of these employees’ missed meal and rest breaks, and
8 proper calculation of the regular rate for purposes of payment of overtime, is the DEFENDANTS’
9 burden. As a result of DEFENDANTS’ intentional disregard of the obligation to meet this burden,
10 DEFENDANTS failed to properly calculate and/or pay all required compensation for work
11 performed by the members of the CALIFORNIA CLASS and violated the California Labor Code
12 and regulations promulgated thereunder as herein alleged.

13 31. Specifically as to PLAINTIFF’s pay, DEFENDANTS provided compensation to
14 her in the form of two components. One component of PLAINTIFF’s compensation was a base
15 hourly wage. The second component of PLAINTIFF’s compensation were non-discretionary
16 incentive wages. DEFENDANTS paid the incentive wages, so long as PLAINTIFF met certain
17 predefined performance requirements. PLAINTIFF met DEFENDANTS’ predefined eligibility
18 performance requirements in various pay periods throughout his employment with
19 DEFENDANTS and DEFENDANTS paid PLAINTIFF the incentive wages. During these pay
20 periods in which PLAINTIFF was paid the non-discretionary incentive wages by
21 DEFENDANTS, PLAINTIFF also worked overtime for DEFENDANTS, but DEFENDANTS
22 never included the incentive compensation in PLAINTIFF’s regular rate of pay for the purposes
23 of calculating what should have been PLAINTIFF’s accurate overtime rate and thereby underpaid
24 PLAINTIFF for overtime worked throughout her employment with DEFENDANTS. The
25 incentive compensation paid by DEFENDANTS constituted wages within the meaning of the
26 California Labor Code and thereby should have been part of PLAINTIFF’s “regular rate of pay.”
27 Further, specifically as to PLAINTIFF, she was from time to time unable to take off duty meal
28 and rest breaks and was not fully relieved of duty for his rest and meal periods. PLAINTIFF was

1 required to perform work as ordered by DEFENDANTS for more than five (5) hours during a
2 shift without receiving an off-duty meal break. Further, DEFENDANTS failed to provide
3 PLAINTIFF with a second off-duty meal period each workday in which he was required by
4 DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
5 with a rest break, hey required PLAINTIFF to remain on the premises for the rest break.
6 PLAINTIFF therefore forfeited meal and rest breaks without additional compensation and in
7 accordance with DEFENDANTS' strict corporate policy and practice. DEFENDANTS also
8 provided PLAINTIFF with a paystub that failed to accurately display PLAINTIFF's correct rates
9 of overtime pay and payments for missed meal and rest periods for certain pay periods in violation
10 of Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid PLAINTIFF the overtime
11 compensation still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203.
12 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of
13 \$75,000.

14 **JURISDICTION AND VENUE**

15 32. 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
17 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
18 DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

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

24 **THE CALIFORNIA CLASS**

25 34. PLAINTIFF brings 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
27 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
28 individuals who are or previously were employed by DEFENDANT F S HOTEL (L.A.) INC

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

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

9 36. DEFENDANTS, as a matter of company policy, practice and procedure, and in
10 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
11 requirements, and the applicable provisions of California law, intentionally, knowingly, and
12 willfully, engaged in a practice whereby DEFENDANTS systematically failed to correctly
13 calculate the overtime rate, and record all meal and rest breaks missed by PLAINTIFF and the
14 other members of the CALIFORNIA CLASS, even though DEFENDANTS enjoyed the benefit
15 of this work, required employees to perform this work and permitted or suffered to permit this
16 work.

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

27 38. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA
28 CLASS Members is impracticable.

1 39. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS under
2 California law by:

- 3 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
4 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company
5 policies, practices and procedures that failed to pay all wages due the
6 CALIFORNIA CLASS for all time worked;
- 7 b. Committing an act of unfair competition in violation of the California Unfair
8 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by unlawfully,
9 unfairly, and/or deceptively having in place a company policy, practice and
10 procedure that failed to correctly calculate overtime compensation due to
11 PLAINTIFF and the members of the CALIFORNIA CLASS;
- 12 c. Committing an act of unfair competition in violation of the California Unfair
13 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide
14 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA
15 CLASS members;
- 16 d. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
17 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
18 company policies, practices and procedures that uniformly and systematically
19 failed to record and pay PLAINTIFF and other members of the CALIFORNIA
20 CLASS for all time worked, including minimum wages owed and overtime wages
21 owed for work performed by these employees; and
- 22 e. Violating the UCL by unlawfully, unfairly and/or deceptively having in place
23 company policies, practices and procedures that failed to pay all reporting time
24 wages due to PLAINTIFF and the CALIFORNIA CLASS.
- 25 f. Committing an act of unfair competition in violation of the California Unfair
26 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.
27 Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA CLASS
28 members with necessary expenses incurred in the discharge of their job duties.

1 40. The Class Action meets the statutory prerequisites for the maintenance of a Class
2 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

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

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

- 1 a. Without class certification and determination of declaratory, injunctive, statutory
2 and other legal questions within the class format, prosecution of separate actions
3 by individual members of the CALIFORNIA CLASS will create the risk of:
- 4 i. Inconsistent or varying adjudications with respect to individual members
5 of the CALIFORNIA CLASS which would establish incompatible
6 standards of conduct for the parties opposing the CALIFORNIA CLASS;
7 and/or;
- 8 ii. Adjudication with respect to individual members of the CALIFORNIA
9 CLASS which would as a practical matter be dispositive of interests of the
10 other members not party to the adjudication or substantially impair or
11 impede their ability to protect their interests.
- 12 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on
13 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
14 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
15 DEFENDANTS uniformly failed to pay all wages due for all time worked by the
16 members of the CALIFORNIA CLASS as required by law;
- 17 i. With respect to the First Cause of Action, the final relief on behalf of the
18 CALIFORNIA CLASS sought does not relate exclusively to restitution
19 because through this claim PLAINTIFF seeks declaratory relief holding
20 that the DEFENDANTS' policy and practices constitute unfair
21 competition, along with declaratory relief, injunctive relief, and incidental
22 equitable relief as may be necessary to prevent and remedy the conduct
23 declared to constitute unfair competition;
- 24 c. Common questions of law and fact exist as to the members of the CALIFORNIA
25 CLASS, with respect to the practices and violations of California law as listed
26 above, and predominate over any question affecting only individual
27 CALIFORNIA CLASS Members, and a Class Action is superior to other available
28

1 methods for the fair and efficient adjudication of the controversy, including
2 consideration of:

3 i. The interests of the members of the CALIFORNIA CLASS in individually
4 controlling the prosecution or defense of separate actions in that the
5 substantial expense of individual actions will be avoided to recover the
6 relatively small amount of economic losses sustained by the individual
7 CALIFORNIA CLASS Members when compared to the substantial
8 expense and burden of individual prosecution of this litigation;

9 ii. Class certification will obviate the need for unduly duplicative litigation
10 that would create the risk of:

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

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

19 iii. In the context of wage litigation, because a substantial number of
20 individual CALIFORNIA CLASS Members will avoid asserting their legal
21 rights out of fear of retaliation by DEFENDANTS, which may adversely
22 affect an individual's job with DEFENDANTS or with a subsequent
23 employer, the Class Action is the only means to assert their claims through
24 a representative; and

25 iv. A class action is superior to other available methods for the fair and
26 efficient adjudication of this litigation because class treatment will obviate
27 the need for unduly and unnecessary duplicative litigation that is likely to
28

1 result in the absence of certification of this action pursuant to Cal. Code of
2 Civ. Proc. § 382.

3 42. The Court should permit this action to be maintained as a Class Action pursuant
4 to Cal. Code of Civ. Proc. § 382 because:

- 5 a. The questions of law and fact common to the CALIFORNIA CLASS predominate
6 over any question affecting only individual CALIFORNIA CLASS Members
7 because the DEFENDANTS' employment practices are uniform and
8 systematically applied with respect to the CALIFORNIA CLASS.
- 9 b. A Class Action is superior to any other available method for the fair and efficient
10 adjudication of the claims of the members of the CALIFORNIA CLASS because
11 in the context of employment litigation a substantial number of individual
12 CALIFORNIA CLASS Members will avoid asserting their rights individually out
13 of fear of retaliation or adverse impact on their employment;
- 14 c. The members of the CALIFORNIA CLASS are so numerous that it is impractical
15 to bring all members of the CALIFORNIA CLASS before the Court;
- 16 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to
17 obtain effective and economic legal redress unless the action is maintained as a
18 Class Action;
- 19 e. There is a community of interest in obtaining appropriate legal and equitable relief
20 for the acts of unfair competition, statutory violations and other improprieties, and
21 in obtaining adequate compensation for the damages and injuries which
22 DEFENDANT's actions have inflicted upon the CALIFORNIA CLASS;
- 23 f. There is a community of interest in ensuring that the combined assets of
24 DEFENDANT are sufficient to adequately compensate the members of the
25 CALIFORNIA CLASS for the injuries sustained;
- 26 g. DEFENDANTS have acted or refused to act on grounds generally applicable to
27 the CALIFORNIA CLASS, thereby making final class-wide relief appropriate
28 with respect to the CALIFORNIA CLASS as a whole;

1 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
2 business records of DEFENDANT; and

3 i. Class treatment provides manageable judicial treatment calculated to bring an
4 efficient and rapid conclusion to all litigation of all wage and hour related claims
5 arising out of the conduct of DEFENDANTS as to the members of the
6 CALIFORNIA CLASS.

7 43. DEFENDANTS maintain records from which the Court can ascertain and identify
8 by job title each of DEFENDANTS' employees who as have been systematically, intentionally
9 and uniformly subjected to DEFENDANTS' company policy, practices and procedures as herein
10 alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles
11 of similarly situated employees when they have been identified.

12 **THE CALIFORNIA LABOR SUB-CLASS**

13 44. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, and
14 Eighth causes of Action on behalf of a California sub-class, defined as all members of the
15 CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA LABOR SUB-
16 CLASS") at any time during the period three (3) years prior to the filing of the original complaint
17 and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-CLASS
18 PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the
19 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
20 (\$5,000,000.00).

21 45. DEFENDANTS, as a matter of company policy, practice and procedure, and in
22 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
23 requirements, and the applicable provisions of California law, intentionally, knowingly, and
24 willfully, engaged in a practice whereby DEFENDANTS failed to correctly calculate overtime
25 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA
26 LABOR SUB-CLASS, and other wages and premiums owed to these employees, even though
27 DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and
28 permitted or suffered to permit this overtime work. DEFENDANTS has uniformly denied these

1 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in
2 order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
3 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANTS, the
4 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

5 46. DEFENDANTS maintain records from which the Court can ascertain and identify
6 by name and job title, each of DEFENDANTS' employees who have been systematically,
7 intentionally and uniformly subjected to DEFENDANTS' company policy, practices and
8 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include any
9 additional job titles of similarly situated employees when they have been identified.

10 47. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
11 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 14 a. Whether DEFENDANTS unlawfully failed to correctly calculate and pay
15 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for
16 missed meal and rest breaks in violation of the California Labor Code and
17 California regulations and the applicable California Wage Order;
- 18 b. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of
19 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted
20 thirty (30) minute meal breaks and rest periods;
- 21 c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of
22 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
23 statements;
- 24 d. Whether DEFENDANT unlawfully failed to correctly calculate and pay overtime
25 compensation to members of the CALIFORNIA LABOR SUB-CLASS in
26 violation of the California Labor Code and California regulations and the
27 applicable California Wage Order;

- e. Whether DEFENDANTS have engaged in unfair competition by the above-listed conduct;
- f. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- g. Whether DEFENDANT's conduct was willful.

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

- a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code § 1194;
- b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing all accurate and applicable overtime rates in effect during the pay period and the corresponding amount of time worked at each overtime rate by the employee;
- e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA CLASS members with necessary expenses incurred in the discharge of their job duties; and
- f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an 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.

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

- 7 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
8 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
9 is impracticable and the disposition of their claims as a class will benefit the parties
10 and the Court;
- 11 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
12 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS
13 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-
14 CLASS;
- 15 c. The claims of the representative PLAINTIFF are typical of the claims of each
16 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the
17 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt
18 employee paid on an hourly basis who was subjected to the DEFENDANTS'
19 practice and policy which failed to pay the correct amount of wages due to the
20 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as
21 a result of DEFENDANTS' employment practices. PLAINTIFF and the members
22 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically
23 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
24 misconduct engaged in by DEFENDANTS; and
- 25 d. The representative PLAINTIFF will fairly and adequately represent and protect
26 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel
27 who are competent and experienced in Class Action litigation. There are no
28 material conflicts between the claims of the representative PLAINTIFF and the

1 members of the CALIFORNIA LABOR SUB-CLASS that would make class
2 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
3 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS
4 Members.

5 51. In addition to meeting the statutory prerequisites to a Class Action, this action is
6 properly 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 LABOR SUB-CLASS will create
10 the risk of:
- 11 i. Inconsistent or varying adjudications with respect to individual members
12 of the CALIFORNIA LABOR SUB-CLASS which would establish
13 incompatible standards of conduct for the parties opposing the
14 CALIFORNIA LABOR SUB-CLASS; or
 - 15 ii. Adjudication with respect to individual members of the CALIFORNIA
16 LABOR SUB-CLASS which would as a practical matter be dispositive of
17 interests of the other members not party to the adjudication or substantially
18 impair or impede their ability to protect their interests.
- 19 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
20 refused to act on grounds generally applicable to the CALIFORNIA LABOR
21 SUB-CLASS, making appropriate class-wide relief with respect to the
22 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS
23 uniformly failed to pay all wages due for all time worked by the members of the
24 CALIFORNIA LABOR SUB-CLASS as required by law;
- 25 c. Common questions of law and fact predominate as to the members of the
26 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations
27 of California Law as listed above, and predominate over any question affecting
28 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class

1 Action is superior to other available methods for the fair and efficient adjudication
2 of the controversy, including consideration of:

- 3 i. The interests of the members of the CALIFORNIA LABOR SUB-CLASS
4 in individually controlling the prosecution or defense of separate actions in
5 that the substantial expense of individual actions will be avoided to recover
6 the relatively small amount of economic losses sustained by the individual
7 CALIFORNIA LABOR SUB-CLASS Members when compared to the
8 substantial expense and burden of individual prosecution of this litigation;
9 ii. Class certification will obviate the need for unduly duplicative litigation
10 that would create the risk of:

- 11 1. Inconsistent or varying adjudications with respect to individual
12 members of the CALIFORNIA LABOR SUB-CLASS, which
13 would establish incompatible standards of conduct for the
14 DEFENDANTS; and/or,
15 2. Adjudications with respect to individual members of the
16 CALIFORNIA LABOR SUB-CLASS would as a practical matter
17 be dispositive of the interests of the other members not parties to
18 the adjudication or substantially impair or impede their ability to
19 protect their interests;
20 iii. In the context of wage litigation because a substantial number of individual
21 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their
22 legal rights out of fear of retaliation by DEFENDANTS, which may
23 adversely affect an individual's job with DEFENDANTS or with a
24 subsequent employer, the Class Action is the only means to assert their
25 claims through a representative; and,
26 iv. A class action is superior to other available methods for the fair and
27 efficient adjudication of this litigation because class treatment will obviate
28 the need for unduly and unnecessary duplicative litigation that is likely to

1 result in the absence of certification of this action pursuant to Cal. Code of
2 Civ. Proc. § 382.

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

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

- 1 g. DEFENDANTS has acted or refused to act on grounds generally applicable to the
2 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
3 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 4 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily
5 ascertainable from the business records of DEFENDANT. The CALIFORNIA
6 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified
7 as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS
8 PERIOD; and
- 9 i. Class treatment provides manageable judicial treatment calculated to bring an
10 efficient and rapid conclusion to all litigation of all wage and hour related claims
11 arising out of the conduct of DEFENDANTS as to the members of the
12 CALIFORNIA LABOR SUB-CLASS.

13 **FIRST CAUSE OF ACTION**

14 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

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

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

26 Any person who engages, has engaged, or proposes to engage in unfair competition may
27 be enjoined in any court of competent jurisdiction. The court may make such orders or
28 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

1 money or property, real or personal, which may have been acquired by means of such
2 unfair competition. (Cal. Bus. & Prof. Code § 17203).

3 56. By the conduct alleged herein, DEFENDANTS has engaged and continues to
4 engage in a business practice which violates California law, including but not limited to, the
5 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
6 including Sections 201, 202, 203, 204, 206.5, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198,
7 and 2802 for which this Court should issue declaratory and other equitable relief pursuant to Cal.
8 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
9 constitute unfair competition, including restitution of wages wrongfully withheld.

10 57. By the conduct alleged herein, DEFENDANTS' practices were unlawful and
11 unfair in that these practices violated public policy, were immoral, unethical, oppressive
12 unscrupulous or substantially injurious to employees, and were without valid justification or
13 utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203
14 of the California Business & Professions Code, including restitution of wages wrongfully
15 withheld.

16 58. By the conduct alleged herein, DEFENDANTS' practices were deceptive and
17 fraudulent in that DEFENDANTS' uniform policy and practice failed to pay PLAINTIFF, and
18 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time
19 worked, failed to pay reporting time pay, and failed to reimburse for expenses due to a systematic
20 practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
21 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
22 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
23 including restitution of wages wrongfully withheld.

24 59. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
25 unfair and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the
26 other members of the CALIFORNIA CLASS to be underpaid during their employment with
27 DEFENDANTS.
28

1 60. By the conduct alleged herein, DEFENDANTS' practices were also unfair and
2 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to provide
3 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

12 63. By and through the unlawful and unfair business practices described herein,
13 DEFENDANTS have obtained valuable property, money and services from PLAINTIFF and the
14 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them of
15 valuable rights and benefits guaranteed by law and contract, all to the detriment of these
16 employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly
17 compete against competitors who comply with the law.

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

23 65. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
24 and do, seek such relief as may be necessary to restore to them the money and property which
25 DEFENDANTS have acquired, or of which PLAINTIFF and the other members of the
26 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
27 business practices, including earned but unpaid wages.
28

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

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

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES (Cal. Lab. Code §§ 1194, 1197 and 1197.1)

(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL Defendants)

68. PLAINTIFF, 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.

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

70. 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.

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

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

3 73. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and
4 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
5 amount of time they work. As set forth herein, DEFENDANTS' uniform policy and practice was
6 to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other
7 members of the CALIFORNIA LABOR SUB-CLASS.

8 74. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
9 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
10 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
11 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage
12 pay.

13 75. In committing these violations of the California Labor Code, DEFENDANTS
14 inaccurately calculated the correct time worked and consequently underpaid the actual time
15 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
16 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other
17 benefits in violation of the California Labor Code, the Industrial Welfare Commission
18 requirements and other applicable laws and regulations.

19 76. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
20 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
21 the correct minimum wage compensation for their time worked for DEFENDANTS.

22 77. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
23 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
24 they were entitled to, constituting a failure to pay all earned wages.

25 78. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
26 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
27 for the true time they worked, PLAINTIFF and the other members of the CALIFORNIA LABOR
28 SUB-CLASS have suffered and will continue to suffer an economic injury in amounts which are
presently unknown to them and which will be ascertained according to proof at trial.

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

80. In performing the acts and practices herein alleged in violation of California labor laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all time worked and provide them with requisite compensation, DEFENDANTS acted and continue to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal rights, or the consequences to them, and with the despicable intent of depriving them of their property and legal rights, and otherwise causing them injury in order to increase company profits at the expense of these employees.

81. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also entitled to waiting time penalties under Cal. Lab. Code §203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME COMPENSATION
(Cal. Lab. Code §§ 204, 510, 1194 and 1198)

(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL Defendants)

82. PLAINTIFF, 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.

83. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate the applicable rates for all overtime worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS and DEFENDANTS' failure to properly compensate the members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

84. 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.

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

86. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including 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.

87. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of overtime worked and correct applicable overtime rate for the amount of overtime they worked. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny timely payment of wages due for the overtime worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANTS in fact failed to pay these employees the correct applicable overtime wages for all overtime worked.

1 88. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
3 of implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
4 and the other members of the CALIFORNIA LABOR SUB-CLASS for all overtime worked,
5 including, the work performed in excess of eight (8) hours in a workday and/or forty (40) hours
6 in any workweek.

7 89. In committing these violations of the California Labor Code, DEFENDANTS
8 inaccurately calculated the amount of overtime worked and the applicable overtime rates and
9 consequently underpaid the actual time worked by PLAINTIFF and other members of the
10 CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal attempt to avoid the
11 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.

13 90. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
14 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
15 full compensation for all overtime worked.

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

24 92. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
25 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
26 they were entitled to, constituting a failure to pay all earned wages.

27 93. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
28 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-

1 CLASS were required to work, and did in fact work, overtime as to which DEFENDANTS failed
2 to accurately record and pay using the applicable overtime rate as evidenced by DEFENDANTS'
3 business records and witnessed by employees.

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

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

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

23 97. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
24 therefore request recovery of all unpaid wages, including overtime wages, according to proof,
25 interest, statutory costs, as well as the assessment of any statutory penalties against
26 DEFENDANTS, in a sum as provided by the California Labor Code and/or other applicable
27 statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA
28 LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT'S
conduct also violates Labor Code §§ 201 and/or 202, and therefore these 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. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE REQUIRED MEAL PERIODS

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all Defendants)

98. PLAINTIFF 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.

99. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records. As a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

100. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who were not provided a meal period, in accordance with the applicable

1 Wage Order, one additional hour of compensation at each employee's regular rate of pay for each
2 workday that a meal period was not provided.

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

6
7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

10 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**
11 **Defendants)**

12 102. PLAINTIFF, 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
14 this Complaint.

15 103. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
16 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
17 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
18 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
19 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
20 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
21 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not provided
22 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF
23 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper
24 rest periods by DEFENDANTS and DEFENDANTS' managers. When DEFENDANTS provide
25 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they
26 required PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members to stay on
27 DEFENDANTS' premises for those rest breaks.

28 104. DEFENDANTS further violated California Labor Code §§ 226.7 and the
applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR

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

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

7
8 **SIXTH CAUSE OF ACTION**

9 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES**

10 **(Cal. Lab. Code §§ 2802)**

11 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**
12 **Defendants)**

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

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

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

22 108. At all relevant times herein, DEFENDANTS violated Cal. Lab. Code § 2802, by
23 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
24 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
25 benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
26 CLASS members for expenses which included, but were not limited to, costs related to using their
27 personal cellular phones all on behalf of and for the benefit of DEFENDANTS. Specifically,
28 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANTS to use
their personal cell phones to respond to work related issues. DEFENDANTS' uniform policy,
practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-

1 CLASS members for expenses resulting from using their personal cellular phones for
2 DEFENDANTS within the course and scope of their employment for DEFENDANTS. These
3 expenses were necessary to complete their principal job duties. DEFENDANTS is estopped by
4 DEFENDANTS' conduct to assert any waiver of this expectation. Although these expenses were
5 necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
6 members, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the
7 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to
8 do under the laws and regulations of California.

9 109. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
10 by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job
11 duties for DEFENDANTS, or their obedience to the directions of DEFENDANT, with interest at
12 the statutory rate and costs under Cal. Lab. Code § 2802.

13
14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

16 **(Cal. Lab. Code §§ 226 and 226.2)**

17 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and
18 against all Defendants)**

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

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

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

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

112. Cal. Labor Code § 226.2 provides that an employer must furnish piece-rate employees with an “accurate itemized” statement in writing showing:

- a. The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period; and
- b. The total hours of other nonproductive time, the rate of compensation, and the gross wages paid for that time during the pay period.

113. When DEFENDANTS did not accurately record PLAINTIFF’s and other CALIFORNIA CLASS Members’ missed meal and rest breaks and wages, including overtime wages, owed, DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other things, the correct overtime rate, missed meal and rest periods and reporting time wages owed to PLAINTIFF and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage

1 statement in writing showing, among other things, gross wages earned and all applicable hourly
2 rates in effect during the pay period and the corresponding amount of time worked at each hourly
3 rate. Aside from the violations listed above in this paragraph, DEFENDANTS failed to issue to
4 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor
5 Code 226 *et seq.*, including the legal name of PLAINTIFF's employer. As a result, from time to
6 time DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA CLASS
7 with wage statements which violated Cal. Lab. Code § 226.

8 114. Further, from time-to-time during the LABOR SUB-CLASS PERIOD,
9 DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA
10 LABOR SUB-CLASS with complete and accurate wage statements which failed to show, among
11 other things, (1) the number of piece-rate units earned and any applicable piece-rate earned by
12 PLAINTIT and the members of the CALIFORNIA CLASS, (2) the total hours of compensable
13 rest and recovery periods, the rate of compensation, and the gross wages paid for those periods
14 during the pay period, (3) the total hours of other nonproductive time, the rate of compensation,
15 and the gross wages paid for that time during the pay period, (4) total hours worked, (5) net wages
16 earned, and (6) all applicable hourly rates in effect during the pay period and the corresponding
17 number of hours worked at each hourly rate by the employee in violation of California Labor
18 Code Section 226 and 226.2.

19
20 115. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor
21 Code § 226, causing injury and damages to the PLAINTIFF and the other members of the
22 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
23 expended calculating the correct rates for the overtime worked and the amount of employment
24 taxes which were not properly paid to state and federal tax authorities. These damages are difficult
25 to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
26 CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period
27 in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a
28 subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the

1 time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and
2 each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

3
4 **EIGHTH CAUSE OF ACTION**
5 **FAILURE TO PAY WAGES WHEN DUE**
6 **(Cal. Lab. Code §§201, 202, 203)**

7 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**
8 **Defendants)**

9 116. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
10 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
11 this Complaint.

12 117. Cal. Lab. Code § 200 provides that:

13 As used in this article:(a) "Wages" includes all amounts for labor performed by
14 employees of every description, whether the amount is fixed or ascertained by the
15 standard of time, task, piece, Commission basis, or other method of calculation. (b)
16 "Labor" includes labor, work, or service whether rendered or performed under
contract, subcontract, partnership, station plan, or other agreement if the labor to be
paid for is performed personally by the person demanding payment.

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

20 119. Cal. Lab. Code § 202 provides, in relevant part, that:

21 If an employee not having a written contract for a definite period quits his or her
22 employment, his or her wages shall become due and payable not later than 72 hours
23 thereafter, unless the employee has given 72 hours previous notice of his or her
24 intention to quit, in which case the employee is entitled to his or her wages at the
25 time of quitting. Notwithstanding any other provision of law, an employee who
26 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.

27 120. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-
28 CLASS Members' employment contract.

121. Cal. Lab. Code § 203 provides:

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

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

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

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for a judgment against each Defendants, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- c. An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
- d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

- 2 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
- 3 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class
- 4 action pursuant to Cal. Code of Civ. Proc. § 382;
- 5 b. Compensatory damages, according to proof at trial, including compensatory
- 6 damages for minimum wages, overtime wages, reporting time wages, unreimbursed
- 7 expenses, and other compensation due to PLAINTIFF and the other members of the
- 8 CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA
- 9 LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 10 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
- 11 the applicable IWC Wage Order;
- 12 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
- 13 which a violation occurs and one hundred dollars (\$100) per member of the
- 14 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
- 15 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
- 16 an award of costs for violation of Cal. Lab. Code § 226; and
- 17 e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-
- 18 CLASS as a penalty from the due date thereof at the same rate until paid or until an
- 19 action therefore is commenced, in accordance with Cal. Lab. Code § 203.

20 3. On all claims:

- 21 a. An award of interest, including prejudgment interest at the legal rate;
- 22 b. Such other and further relief as the Court deems just and equitable; and
- 23 c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law,
- 24 including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or
- 25 §1197.

26

27 DATED: _____, 2020

28

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

ZAKAY LAW GROUP, APLC

By: _____

Shani O. Zakay
Attorney for Plaintiff

DEMAND FOR A JURY TRIAL

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

DATED: _____, 2020

ZAKAY LAW GROUP, APLC

By: _____

Shani O. Zakay
Attorney for Plaintiff