

November 12, 2025

VIA ON-LINE SUBMISSION ONLY TO:

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Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

(by certified mail to RAC Acceptance East, LLC, Acima Digital, LLC, Upbound Group, Inc as follows)

RAC Acceptance East, LLC
5501 Headquarters Dr.
Plano, TX 75024
Certified Mail Tracking Number: 9414 8111 0549 5848 2509 42

CT Corporation System
Agent for Service of Process for RAC Acceptance East, LLC
330 N Brand Blvd., Ste 700
Glendale, CA 91203
Certified Mail Tracking Number: 9414 8111 0549 5848 2500 41

ACIMA Digital, LLC
5501 Headquarters Dr.
Plano, TX 75024
Certified Mail Tracking Number: 9414 8111 0549 5848 2505 08

CT Corporation System
Agent for Service of Process for ACIMA Digital, LLC
330 N Brand Blvd., Ste 700
Glendale, CA 91203
Certified Mail Tracking Number: 9414 8111 0549 5848 2589 48

Upbound Group, Inc.
5501 Headquarters Dr.
Plano, TX 75024
Certified Mail Tracking Number: 9414 8111 0549 5848 2581 15

CT Corporation System
Agent for Service of Process for Upbound Group, Inc
330 N Brand Blvd., Ste 700
Glendale, CA 91203
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**Re: Labor Code § 2698, et seq. Penalties - PAGA Notice Letter to LWDA
Anthony G Zarate v. RAC Acceptance East, LLC, Acima Digital, LLC, and Upbound
Group, Inc.
Superior Court for the County of Los Angeles**



Gentlepersons:

This office represents Plaintiff Anthony G Zarate (“Plaintiff”) and other similarly aggrieved employees employed as non-exempt, sales managers, salespersons, vendors and in similar and related positions in connection with the rent-to-own and retail services they provided to Defendants’ customers throughout California during the relevant period (collectively “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7, 510, 511, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff would like to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against RAC Acceptance East, LLC, Acima Digital, LLC, and Upbound Group, Inc.; and Does 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with Plaintiff’s Class Action Complaint, which is attached to this Notice letter. The Complaint is being filed concurrently in Los Angeles County Superior Court and will be assigned a local case number. The Complaint allegations and claims are incorporated into this Notice Letter.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiff and all of their Aggrieved Employees in California. The attached Class Action Complaint provides the details of Plaintiff’s class-wide claims and representative claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

Relevant Facts

Plaintiff and the Aggrieved Employees were employed by Defendants as sales managers, salespersons, vendors and other similar and related positions in connection with the rent-to-own and retail services they provided to Defendants’ customers in Long Beach, California and throughout California. Plaintiff and the other Aggrieved Employees worked at Defendants’ behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiff and the other Aggrieved Employees were employed by Defendants and shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at the hands of Defendants as the other Aggrieved Employees who served in similar and related positions.

Furthermore, Defendants failed to provide Plaintiff and the Aggrieved Employees with lawful meal and rest periods, as Employees were required to remain under Defendants’ control and were not



provided with the opportunity to take full uninterrupted, timely, and duty-free rest periods and meal breaks. Defendants also required Plaintiff and the Aggrieved Employees work off the clock and failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and provided Plaintiff and the Aggrieved Employees with inaccurate wage statements that prevented them from learning of these unlawful pay practices, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

Defendant ACIMA DIGITAL, LLC (“Acima”) is a Utah limited liability company lists its principal address with the California Secretary of State as 5501 Headquarters Dr., Plano, Texas 75024. Moreover, Acima lists its type of business as Rent-to-Own and Retail. Upon information and belief, Acima is a sub-entity of RAC and Upbound, or otherwise related to them in connection to its rent-to-own and retail businesses throughout California. Plaintiff was employed by Defendants and reported to work at Acima’s location in Long Beach, California and Los Angeles County. Defendants also employed other Aggrieved Employees in Los Angeles County and at other locations throughout California.

Defendant RAC ACCEPTANCE EAST, LLC (“RAC”) is a Delaware limited liability company that the same principal address as Acima with the California Secretary of State. RAC also describes its type of business as “Rent-to-Own and Retail.” Further, the wage statements issued to Plaintiff list “RAC ACCEPTANCE EAST LLC” as his employer with the same address as the principal address listed on the California Secretary of State website. Additionally, upon information and belief, RAC operates as a parent company of Acima. It is upon information and belief that RAC is an employer and/or joint employer of Plaintiff and the Aggrieved Employees in connection with its Rent-to-Own and Retail businesses and operations based out of its locations throughout California.

Defendant UPBOUND GROUP, INC. (“Upbound”) is a Delaware stock corporation that the same principal address as Acima with the California Secretary of State. Upbound also describes its type of business as “Rent-to-Own and Retail.” Additionally, the employee handbook provided to Plaintiff state that it applied to “the coworkers of Upbound Group, Inc. and its past, present, and future parents, subsidiaries, affiliate entities (including but not limited to...RAC Acceptance East, LLC,...,Acima Digital...) (all collectively referred to as “Upbound Group” or the “Company”). Additionally, upon information and belief, Upbound operates as a parent company of RAC and Acima. It is upon information and belief that Upbound is an employer and/or joint employer of Plaintiff and the Aggrieved Employees in connection with its Rent-to-Own and Retail businesses and operations based out of its locations throughout California.

The Aggrieved Employees, including Plaintiff, are non-exempt employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the relevant liability period, Plaintiff and the Aggrieved Employees were employed by Defendants, and either were not paid by Defendants for all hours worked despite being subject to Defendants control (resulting in “off-the-clock” work) or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay him and the Aggrieved Employees all wages due and owing,



including by miscalculating wages owed and by requiring off the clock work, failed to provide meal and rest breaks, and failed to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

Plaintiff was employed by Defendant as a Sales Manager, with duties that included providing sales and telemarketing services, processing sales and offering financing, monitoring cases and client accounts, and engaging in collections and sales delinquency efforts against Defendants' customers. Plaintiff generally worked about 40-50 hours per week, five shifts per week, Monday to Friday. Plaintiff's scheduled hours varied between 9:00AM to 9:00PM, 10:30AM to 8:00PM, and 10:00AM to 2:00PM. However, Plaintiff was required by Defendants to endure substantial off-the-clock work before and after his scheduled shift hours and was not paid for all his hours worked at the regular rate and at the correct overtime rates.

Defendants' policy and practice of requiring systematic off-the-clock work flowed in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to be inputted by Employees through an ADP app on their personal cellphones. Although Plaintiff could clock in for the start of his shift through his personal cellphone, Defendant did not allow him to clock in before his scheduled shift, even though Plaintiff was required to arrive at his assigned location early in order to be ready to work immediately upon clocking in for the start of his shift.

Moreover, Defendant required Plaintiff to maintain a company phone on him at all times, including during his meal and rest breaks, in order to promptly respond to work-related communications, such as responding to calls and texts from management regarding assisting customers with sales processing. Also, after clocking out for the end of his shift, Plaintiff would be required to remain on-duty and continue to assist customers before being allowed to leave the premises. Additionally, during Plaintiff's days off, he would sometimes be required work between 4 to 5 hours off-the-clock, such as processing sales from clients and responding to calls from management. When combined with the additional off the clock work addressed below, Plaintiff was compelled to perform required job duties without compensation for a significant portion of their weekly work shifts.

Defendants followed a similar unlawful practice, upon information and belief, in connection with other Employees in a concerted effort to limit and restrict regular and overtime hours earned by and owing to Plaintiff and the Aggrieved Employees. Time worked off the clock also caused Plaintiff and the other Aggrieved Employees to work beyond eight hours in a shift. As a result of the above-described off the clock work, Defendants failed to pay Plaintiff and the Aggrieved Employees overtime for several minutes to hours before and at the end of work shifts which Defendants did not record in any timekeeping or payroll records.

Plaintiff was therefore not paid for all his hours worked at the required minimum, overtime and double time wage rates due to Defendants' policy and practice of requiring them to work off the clock and without pay. With work shifts generally scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and the Aggrieved Employees working past eight hours on



a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and work policies Defendants required them to follow and endured similar violations as Plaintiff.

As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked, and the other wage violations they endured at Defendants' hands, Plaintiff and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and practices, Plaintiff and the Aggrieved Employees incurred overtime hours worked for which they were not adequately and completely compensated, in addition to the hours they were required to work off the clock at their regular rates.

Therefore, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, during the relevant liability period, Defendants had a consistent policy or practice of failing to pay the Aggrieved Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

Furthermore, overtime hours were generally not allowed, but Plaintiff was often compelled to work many hours off-the-clock and without compensation. Defendants also paid bonuses including incentives for hitting sales goals, which are entitled "Mthly Prft Bon" on Plaintiff's wage statements. However, To whatever extent Defendant paid bonuses and any other form of remuneration, besides their regular hourly rate to the Aggrieved Employees, Defendants failed to include bonus pay and any other form of remuneration Employees received in the regular rate used to calculate and pay the overtime that Defendants did pay. Plaintiff was therefore not paid for all his hours worked at the required minimum, overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy and practice of requiring him to work off the clock and without pay. Defendants systematically underpaid Plaintiff and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and timekeeping policies and endured similar violations at Defendants' hands as Plaintiff.

Defendants also required that Employees to participate in an on-call schedule without proper compensation. During on-call shifts, Plaintiff and the Aggrieved Employees remain under the control of Defendants while waiting for after-hours assignments to come in and are thus required to remain under Defendants' control while also refraining from engaging in personal activities.



While on-call, Plaintiff and the Aggrieved Employees must always keep their personal cell phone on their person, must remain proximate to their general work area, and must report to work within the hour after being contacted by management or they would face reprimand. During on-call time Employees cannot easily trade in their on-call responsibilities with another employee because there may not be another worker available. Plaintiff could not trade his on-call shift at all because the only available alternate worker was already working their shift. Plaintiff was also not permitted to decline the assignment because he was off the clock as doing so would result in a severe reprimand from his manager, including termination, if he failed to timely respond.

Additionally, by virtue of requiring Plaintiff to be on call daily without any relief, Defendants required that Plaintiff work seven days in a row without rest, and failed to pay him at the correct overtime and double time rates for the demanding schedule he was required to work. On information and belief, Defendants' policy and practice was to regularly schedule the Aggrieved Employees to work seven consecutive days despite the fact that such a schedule directly violates Labor Code §§ 551, 552.

Furthermore, Defendants' time records do not reflect those actual hours worked by Plaintiff despite Plaintiff recording the actual times for when he started and ended work. Furthermore, managers would oftentimes make modifications and adjustments to reflect Plaintiff's shift start and end times and legally compliant meal period beginning and end times. Upon submission of the time entries to managers, there were no other mechanisms in place for Plaintiff and the Aggrieved Employees to ensure that their time records were accurate or not modified or adjusted. Defendants had the capacity and systems in place to permit Defendants to pay Plaintiff and the Aggrieved Employees on an hourly basis as non-exempt employees and to record if and when they were taking their required meal and rest breaks, but they instead underpaid Plaintiff and the Aggrieved Employees under their undefined and confusing compensation system.

Defendants also failed to provide Plaintiff and the Aggrieved Employees with their required meal periods, and the at least two ten-minute rest breaks required for scheduled shifts of eight hours. Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and the Aggrieved Employees to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiff worked shifts that entitled him to at least one meal period, but Defendants' required Plaintiff and the Aggrieved Employees to prioritize work over taking proper meal periods. In fact, Defendants made no effort to even schedule or otherwise account for time for Plaintiff and the Aggrieved Employees to use for duty-free, net thirty minute meal periods. Further, Defendants would occasionally instruct Plaintiff to record a 30-minute meal break before his fifth hour regardless of whether Plaintiff was able to take a meal break during his shift. Moreover, when Plaintiff was able to take a meal break, he would be interrupted by Defendants who required him to prioritize meeting the demands of Defendants' customers. To the extent Defendants required Plaintiff to work over ten hours on a work shift, Defendants also failed to



provide second meal periods and Defendants have produced no evidence of premium payments for meal period violations under Labor Code § 226.7.

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five hours during a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work that would impact when the Aggrieved Employees were to receive meal periods and failed to accurately and contemporaneously record meal start and end times, thus leading to further systematic violations arising from uniformly applied and unlawful policies and practices.

Upon information and belief, Defendants' systems did not automatically generate a meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours into a work shift or in the event the time punch records reflected a meal period of less than thirty minutes. Defendants did not remedy this troublesome practice and upon information and belief failed to pay required premiums or failed to pay them based on an accurate regular rate.

As a result, Defendants' failure to provide Plaintiff and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, during the relevant liability period, Plaintiff and the Aggrieved Employees were unable to take off duty breaks or were otherwise not provided with the opportunity to take required breaks as required under the Labor Code and Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the Aggrieved Employees were provided with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

Similar violations resulted from Defendants' failure to authorize and permit Plaintiff and the Aggrieved Employees to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. Plaintiff and the other Aggrieved Employees were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' control and respond to instructions from management and job demands if and when they even attempted to take one. Upon information and belief, Defendants also failed to authorize and permit employees to leave the worksite during rest breaks, evidencing Defendants' policy and practice of requiring Plaintiff and the Aggrieved Employees to remain under their control during required off-duty rest break times.

Defendants thus failed to authorize and permit duty-free ten minute rest breaks as required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even schedule or otherwise account for time for Plaintiff and the Aggrieved Employees to use for duty-free, net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees during the relevant period, meaning Defendants' rest break policy was not to schedule or otherwise



authorize and permit them. Plaintiff and the Aggrieved Employees worked eight to twelve hours on an average shift, and were required to receive at least two rest breaks or three rest breaks on shifts over ten hours. Defendants have produced no evidence of any payments for rest break violations under Labor Code § 226.7. Defendants' uniformly applied policies and practices thus resulted in untimely and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Aggrieved Employees worked shifts of at least eight hours, which required at least two rest breaks, and often worked shifts over ten hours, which required at least three rest breaks.

During rest periods, employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiff and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks and remaining under Defendants' control. Also, when Defendants provided Plaintiff and the Aggrieved Employees with rest periods, the rest periods were either impermissibly shortened or untimely to. Plaintiff and the Aggrieved Employees were thus not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one hour's wages in lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the worksite and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly applied policies and practices.

Defendants have also consistently failed to provide the Aggrieved Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff and the Aggrieved Employees, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff and the Aggrieved Employees, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

Furthermore, Defendants have either failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the nature and extent of the off the clock work Defendants required and the actual hours Plaintiff worked. By failing to pay for all hours worked, Defendants have committed knowing and intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226 and 1174.



Defendants also provided Plaintiff and the Aggrieved Employees with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the same reasons as explained above, Plaintiff and the Aggrieved Employees were provided with unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Aggrieved Employees worked more total hours than were reflected on the wage statements, including overtime hours, and were underpaid by regular rate miscalculation. Plaintiff and the Aggrieved Employees were unable to discern from their wage statements alone the actual hours they worked in total during a pay period and the rates they were paid for those hours worked.

Defendants have thus willfully failed to comply with Labor Code § 226(a) by inaccurately reporting total hours worked and total wages earned by Plaintiff and the Aggrieved Employees, along with the appropriate applicable rates, among other requirements. Moreover, pursuant to paragraph 7 of the applicable California IWC Wage Orders, Defendants failed to show when the employee begins and ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked.

Defendants also required Plaintiff and the Aggrieved Employees to work hours off the clock for which they were not compensated. They were required to endure off the clock work addressed above, including during interrupted or otherwise on-duty meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have followed a uniform and consistent policy of failing to timely pay all wages owed to Plaintiff and the Aggrieved Employees as required by California wage-and-hour laws, including Labor Code § 204. Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiff and the other Aggrieved Employees at the time of their termination or within seventy-two hours of their resignation, as required by California wage-and-hour laws, including Labor Code § 201-203.

The failure to pay for all hours worked and underpayment of wages to Plaintiff and the Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which upon information and belief applied uniformly to the Aggrieved Employees working based out of Defendants' locations and facilities.

Therefore, during the relevant liability period, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Aggrieved Employees' earned wages, including by requiring off the clock work during breaks and before and after work shifts and by miscalculating the regular rate and accordingly underpaying overtime wages and meal and rest break premiums. By not compensating the Aggrieved Employees for all hours worked at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff and the



Aggrieved Employees, in violation of Labor Code § 221.

Additionally, during the relevant liability period, Defendants have regularly required Plaintiff and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included use of their personal cellphone, and personal internet when they worked from home, to conduct work-related activities. Plaintiff and the Aggrieved Employees were also required to personally maintain their work uniforms. The Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802, and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiff and the Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Plaintiff and the Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management. Defendants also failed to pay Aggrieved Employees at the required prevailing rates. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off the clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the



extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly caused Plaintiff and the Aggrieved Employees to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Additionally, to whatever extent Defendant paid bonuses and any other form of remuneration, besides their regular hourly rate to the Aggrieved Employees, Defendants failed to include it in the regular hourly rate used to calculate and pay the overtime that Defendants did pay.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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Failure To Provide On-Call Pay Under Labor Code §§ 204, 510, 1194, And 8 CCR § 11160(3)(4)

Wage Order 9-2001 provides that “hours worked means the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” (Internal quotations omitted, Cal. Code Regs., tit. 8, § 11160(2)(J)).

Defendants followed a common practice and policy of requiring Plaintiff and Employees to remain on-call after normal scheduled hours, without proper compensation. Defendants scheduled Employees for on-call shifts on the days employees were scheduled to not work (e.g., by tacking the on-call shift after working a full workweek). Plaintiff and Employees remain under the control of Defendants while they are under Defendant’s control and on-call waiting for management to schedule them to come in and thus were compelled to refrain from other personal activities and could not use their off-duty time for their own purposes. During this waiting time, Employees cannot easily trade in their on-call responsibilities with another employee because there may not be another worker available for coverage.

As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff and Aggrieved Employees have been damaged in that Plaintiff Aggrieved Employees have not been paid all required wages, including overtime pay, associated with their on-call work.

The foregoing uncompensated work caused Plaintiff and Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to overtime and double-time wages which were systemically denied. Defendants’ failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. Defendants have failed to pay all wages and overtime compensation earned by Employees. Each such failure to make a timely payment of compensation to Employees constitutes a separate violation of California Labor Code § 204. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation for all their hours worked, with interest, plus their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 204, 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

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Failure to Provide One Day's Rest in Seven Under Labor Code §§ 551, 552.

California Labor Code § 551 provides that “[e]very person employed in any occupation of labor is entitled to one day's rest therefrom in seven.” California Labor Code § 552 provides that “[n]o employer of labor shall cause his employees to work more than six days in seven.” Plaintiff alleges that he and other Aggrieved Employers were scheduled or directed to work seven days in a row in a workweek without a day of rest. Such schedule was not voluntary, and Plaintiff and other Aggrieved Employees worked more than six (6) hours of work during each shift.

Plaintiff and the Aggrieved Employees were scheduled or directed to work seven days in a row in a workweek without a day of rest. Such schedule was not voluntary and Plaintiff and the Aggrieved Employees worked more than six (6) hours of work during each shift. As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff and the Aggrieved Employees have been damaged in that Plaintiff and the Aggrieved Employees have not been paid all required wages, including overtime pay, associated with this work. The foregoing uncompensated work caused Plaintiff and the Aggrieved Employees to work in excess of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to overtime and double-time wages which were systemically denied.

Defendants' failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. Defendants have failed to pay all wages and overtime compensation earned by Employees. Each such failure to make a timely payment of compensation to Employees constitutes a separate violation of California Labor Code § 204. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission). In addition, under Labor Code §558, Aggrieved Employees are entitled to civil penalties of \$50 per employee for each pay period for the first violation and \$100/employee per pay period thereafter. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation for all their hours worked, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 204, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

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Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided, including by miscalculating any premium payments they did make. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants generally failed to authorize and permit any rest breaks, or provided rest periods untimely or for shortened durations, and Defendants' policies and procedures required Aggrieved Employees to remain under Defendants' control during breaks to respond job requirements or simply failed to authorize and permit them at all.

Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided, or miscalculated any premiums paid. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their correctly calculated regular rate of compensation for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants,



and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each rest break not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, reporting time, on-call time, premium pay for deficiently provided meal, rest, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium pay.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code



§226.3, which in addition to other penalties provided by law, subjects Defendants to “a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders.

Defendants also required Aggrieved Employees to work hours off the clock for which they were not compensated, including during interrupted or otherwise on-duty meal and rest periods and by rounding. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or miscalculated these premiums by not including all forms of remuneration in the regular rate, as addressed above. Therefore, when Aggrieved Employees received wage statements and pay checks, they did not compensate all hours worked on a timely basis, resulting in Defendants’ systematic failure to pay all wages owed to Aggrieved Employees twice monthly in accordance with the requirements of Labor Code § 204.



In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties, interest, fees, and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal, rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to para. 20 of applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Under the PAGA, and following exhaustion of the notice period, Plaintiff asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. In addition, Defendants unlawfully deducted parking and other traffic tickets from Employees wages. By not compensating Employees for all



hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221.

In light of the foregoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and following exhaustion of the notice period, Plaintiff is seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included a use of their personal cellphone and maintenance of their work uniforms. Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

Accordingly, Plaintiff and Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiff seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 et seq.

Plaintiff's PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiff will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiff and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5, including the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7, 510, 511, 512, 551,



552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1199, 2802, and 2698 *et seq.*, including as follows:

(a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Failure To Provide On-Call Pay: For Defendants failure to provide Employees with all their on-call pay in violation of Labor Code §§ 510, 1194(a), 1197, and 1198, Wage Order 7-2001 and 8 § CCR 11160(2) and civil and statutory penalties available and applicable under Labor Code §§ 204, 510, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(c) Meal, Rest Period Claims: For failure to provide Plaintiff and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(d) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(e) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);



(f) Unlawful Deductions and Failure to Reimburse Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of this Complaint, alleging the causes of action discussed herein, without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

This letter and the attached Complaint therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against RAC Acceptance East, LLC, Acima Digital, LLC, Upbound Group, Inc. and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,
D.LAW, INC.

A handwritten signature in black ink, appearing to read 'Alvin B. Lindsay', written over a horizontal line.

Alvin B. Lindsay

a.lindsay@d.law

William Tran

w.tran@d.law

Cc: RAC Acceptance East, LLC, Acima Digital, LLC, Upbound Group, Inc by Certified Mail

D.LAW, INC.

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Attorneys for Plaintiff ANTHONY G ZARATE,
on behalf of himself and all others similarly situated

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

ANTHONY G ZARATE, an individual, on
behalf of himself and others similarly situated,

Plaintiff,

vs.

RAC ACCEPTANCE EAST, LLC, a Delaware
limited liability company; ACIMA DIGITAL,
LLC, a Utah limited liability company;
UPBOUND GROUP, INC., a Delaware stock
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.:

CLASS ACTION

Assigned for All Purposes To:

Hon.

Dept.:

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Failure to Pay for On-Call Time Under Labor Code §§ 204, 510, 1194;
4. Failure to Provide One Day's Rest from Seven Under Labor Code §§ 551 and 552;
5. Meal Period Liability Labor Code § 226.7;
6. Rest Period Liability Labor Code § 226.7;
7. Violation of Labor Code § 226(a);
8. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
9. Violation of Labor Code § 204;
10. Violation of Labor Code § 203;
11. Violation of Labor Code § 221;
12. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802;
13. Violation of Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff ANTHONY G ZARATE (hereinafter “Plaintiff”), on behalf of himself and all other
2 similarly situated non-exempt, hourly employees employed by Defendants in California during the
3 relevant period (collectively, “Employees”; individually, “Employee”), complains of Defendants as
4 follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all current and former Employees
7 within the State of California who, at any time during the four years prior to the filing of this lawsuit,
8 are or were employed as non-exempt, hourly employees by Defendants RAC ACCEPTANCE EAST,
9 LLC, a Delaware limited liability company; ACIMA DIGITAL, LLC, a Utah limited liability
10 company; UPBOUND GROUP, INC., a Delaware stock corporation; and DOES 1 through 50 (all
11 defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that Defendants
12 violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare
13 Commission (IWC), and California Business & Professions Code, and seeks redress for these
14 violations.

15 2. Plaintiff and other similarly situated Class members were employed by Defendants
16 as sales managers, salespersons, vendors and other similar and related positions in connection with
17 the rent-to-own and retail services they provided to Defendants’ customers in Long Beach, California
18 and throughout California. Plaintiff and the other similarly situated Class members worked at
19 Defendants’ behest without being paid all wages due and without being provided all required breaks.
20 More specifically, Plaintiff and the other similarly situated Class members were employed by
21 Defendants and shared similar job duties and responsibilities, were subjected to the same policies
22 and practices, and endured similar violations at the hands of Defendants as the other Employees who
23 served in similar and related positions.

24 3. Furthermore, Defendants failed to provide Plaintiff and the Class with lawful meal
25 and rest periods, as Employees were required to remain under Defendants’ control and were not
26 provided with the opportunity to take full uninterrupted, timely, and duty-free rest periods and meal
27 breaks. Defendants also required Plaintiff and the Employees in the Class to work off the clock and
28 failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates

1 for all hours worked, failed to pay all wages due and owing at termination or resignation, and
2 provided Plaintiff and the Class members with inaccurate wage statements that prevented them from
3 learning of these unlawful pay practices, as required by the Labor Code and the applicable paragraphs
4 of the IWC Wage Orders.

5 4. Defendant ACIMA DIGITAL, LLC (“Acima”) is a Utah limited liability company
6 lists its principal address with the California Secretary of State as 5501 Headquarters Dr., Plano,
7 Texas 75024. Moreover, Acima lists its type of business as Rent-to-Own and Retail. Upon
8 information and belief, Acima is a sub-entity of RAC and Upbound, or otherwise related to them in
9 connection to its rent-to-own and retail businesses throughout California. Plaintiff was employed by
10 Defendants and reported to work at Acima’s location in Long Beach, California and Los Angeles
11 County. Defendants also employed other Class Members in Los Angeles County and at other
12 locations throughout California.

13 5. Defendant RAC ACCEPTANCE EAST, LLC (“RAC”) is a Delaware limited liability
14 company that the same principal address as Acima with the California Secretary of State. RAC also
15 describes its type of business as “Rent-to-Own and Retail.” Further, the wage statements issued to
16 Plaintiff list “RAC ACCEPTANCE EAST LLC” as his employer with the same address as the
17 principal address listed on the California Secretary of State website. Additionally, upon information
18 and belief, RAC operates as a parent company of Acima. Upon information and belief, RAC is an
19 employer and/or joint employer of Plaintiff and the Class Members in connection with its Rent-to-
20 Own and Retail businesses and operations based out of its locations throughout California.

21 6. Defendant UPBOUND GROUP, INC. (“Upbound”) is a Delaware stock corporation
22 that the same principal address as Acima with the California Secretary of State. Upbound also
23 describes its type of business as “Rent-to-Own and Retail.” Additionally, the employee handbook
24 provided to Plaintiff state that it applied to “the coworkers of Upbound Group, Inc. and its past,
25 present, and future parents, subsidiaries, affiliate entities (including but not limited to...RAC
26 Acceptance East, LLC,...,Acima Digital...) (all collectively referred to as “Upbound Group” or the
27 “Company”). Additionally, upon information and belief, Upbound operates as a parent company of
28 RAC and Acima. It is upon information and belief that Upbound is an employer and/or joint employer

1 of Plaintiff and the Class Members in connection with its Rent-to-Own and Retail businesses and
2 operations based out of its locations throughout California.

3 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
4 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
5 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code
6 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
7 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
8 liabilities giving rise to this lawsuit occurred, at least in part, in Los Angeles County, where
9 Defendants maintain offices and facilities and where Plaintiff was employed.

10 8. The true names and capacities, whether individual, corporate, associate, or whatever
11 else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently unknown to
12 Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil
13 Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated
14 herein as Does 1 through 50, inclusive, and each of them, is legally responsible in some manner for
15 the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to
16 reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when
17 their identities become known.

18 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all
19 respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a
20 joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each
21 Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all
22 respects as the employers or joint employers of Employees. Defendants, and each of them, exercised
23 control over the wages, hours or working conditions of Employees, created and implemented the
24 policies and practices that governed the employment of Plaintiff and the Class members and dictated
25 their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other
26 Employee Class members to work, or engaged, thereby creating a common law employment
27 relationship, with the Employee Class members. Therefore, Defendants, and each of them, employed
28 or jointly employed the Employee Class members.

FACTUAL BACKGROUND

10. The Employees who comprise the Class, including Plaintiff, are non-exempt employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the period of four years prior to the filing of this action through its resolution, Plaintiff and the Class members were employed by Defendants and either were not paid by Defendants for all hours worked despite being subject to Defendants control (resulting in “off-the-clock” work) or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay him and the Class members all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failed to provide meal and rest breaks, and failed to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

11. Plaintiff was employed by Defendant as a Sales Manager, with duties that included providing sales and telemarketing services, processing sales and offering financing, monitoring cases and client accounts, and engaging in collections and sales delinquency efforts against Defendants’ customers. Plaintiff generally worked about 40-50 hours per week, five shifts per week, Monday to Friday. Plaintiff’s scheduled hours varied between 9:00AM to 9:00PM, 10:30AM to 8:00PM, and 10:00AM to 2:00PM. However, Plaintiff was required by Defendants to endure substantial off-the-clock work before and after his scheduled shift hours and was not paid for all his hours worked at the regular rate and at the correct overtime rates.

12. Defendants’ policy and practice of requiring systematic off-the-clock work flowed in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to be inputted by Employees through an ADP app on their personal cellphones. Although Plaintiff could clock in for the start of his shift through his personal cellphone, Defendant did not allow him to clock in before his scheduled shift, even though Plaintiff was required to arrive at his assigned location early in order to be ready to work immediately upon clocking in for the start of his shift.

13. Moreover, Defendant required Plaintiff to maintain a company phone on him at all times, including during his meal and rest breaks, in order to promptly respond to work-related

1 communications, such as responding to calls and texts from management regarding assisting
2 customers with sales processing. Also, after clocking out for the end of his shift, Plaintiff would be
3 required to remain on-duty and continue to assist customers before being allowed to leave the
4 premises. Additionally, during Plaintiff's days off, he would sometimes be required work between
5 4 to 5 hours off-the-clock, such as processing sales from clients and responding to calls from
6 management. When combined with the additional off the clock work addressed below, Plaintiff was
7 compelled to perform required job duties without compensation for a significant portion of their
8 weekly work shifts.

9 14. Defendants followed a similar unlawful practice, upon information and belief, in
10 connection with other Employees in a concerted effort to limit and restrict regular and overtime hours
11 earned by and owing to Plaintiff and the other Class members. Time worked off the clock also caused
12 Plaintiff and other Class members to work beyond eight hours in a shift. As a result of the above-
13 described off the clock work, Defendants failed to pay Plaintiff and Class members overtime for
14 several minutes to hours before and at the end of work shifts which Defendants did not record in any
15 timekeeping or payroll records.

16 15. Plaintiff was therefore not paid for all his hours worked at the required minimum,
17 overtime and double time wage rates due to Defendants' policy and practice of requiring them to
18 work off the clock and without pay. With work shifts generally scheduled for eight hours or more,
19 this unpaid off the clock work resulted in Plaintiff and the Class members working past eight hours
20 on a shift, which required that they be paid at the correct overtime rate of 1.5 times their regular rate.
21 Defendants thus systematically underpaid Plaintiff and the Class members by failing to pay them at
22 the required overtime rates for all hours over eight in a work shift or over forty in a work week, and
23 all hours over twelve in a day at the required double time rate. Upon information and belief, the Class
24 members were bound by similar scheduling and work policies Defendants required them to follow
25 and endured similar violations as Plaintiff.

26 16. As a result of the above-described unlawful requirements to work off the clock, the
27 failure to accurately record all hours worked, and the other wage violations they endured at
28 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned and all

1 wages owed to them by Defendants, including when working more than eight hours in any given day
2 and/or more than forty hours in any given week. As a result of Defendants' unlawful policies and
3 practices, Plaintiff and Class members incurred overtime hours worked for which they were not
4 adequately and completely compensated, in addition to the hours they were required to work off the
5 clock at their regular rates.

6 17. Therefore, from at least four years prior to the filing of this lawsuit and continuing to
7 the present, Defendants had a consistent policy or practice of failing to pay Employees for all hours
8 worked and failing to pay minimum wages for all time worked, as required by California law. Also,
9 from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants
10 had a consistent policy or practice of failing to pay Employees overtime compensation at premium
11 overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week, and
12 double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code §
13 510 and the corresponding sections of IWC Wage Orders.

14 18. Furthermore, overtime hours were generally not allowed, but Plaintiff was often
15 compelled to work many hours off-the-clock and without compensation. Defendants also paid
16 bonuses including incentives for hitting sales goals, which are entitled "Mthly Prft Bon" on
17 Plaintiff's wage statements. However, To whatever extent Defendant paid bonuses and any other
18 form of remuneration, besides their regular hourly rate to Employees in the Class, Defendants failed
19 to include bonus pay and any other form of remuneration Employees received in the regular rate
20 used to calculate and pay the overtime that Defendants did pay. Plaintiff was therefore not paid for
21 all his hours worked at the required minimum, overtime, and double time wage rates due to
22 Defendants' uniformly applied and unlawful policy and practice of requiring him to work off the
23 clock and without pay. Defendants systematically underpaid Plaintiff and the Class Members by
24 failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty
25 in a work week, and all hours over twelve in a day at the required double time rate. Upon information
26 and belief, the Class Members were bound by similar scheduling and timekeeping policies and
27 endured similar violations at Defendants' hands as Plaintiff.

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1 19. Defendants also required that Employees to participate in an on-call schedule without
2 proper compensation. During on-call shifts, Plaintiff and Class members remain under the control of
3 Defendants while waiting for after-hours assignments to come in and are thus required to remain
4 under Defendants' control while also refraining from engaging in personal activities. While on-call,
5 Plaintiff and Class members must always keep their personal cell phone on their person, must remain
6 proximate to their general work area, and must report to work within the hour after being contacted
7 by management or they would face reprimand. During on-call time Employees cannot easily trade
8 in their on-call responsibilities with another employee because there may not be another worker
9 available. Plaintiff could not trade his on-call shift at all because the only available alternate worker
10 was already working their shift. Plaintiff was also not permitted to decline the assignment because
11 he was off the clock as doing so would result in a severe reprimand from his manager, including
12 termination, if he failed to timely respond.

13 20. Additionally, by virtue of requiring Plaintiff to be on call daily without any relief,
14 Defendants required that Plaintiff work seven days in a row without rest, and failed to pay him at the
15 correct overtime and double time rates for the demanding schedule he was required to work. On
16 information and belief, Defendants' policy and practice was to regularly schedule Class members to
17 work seven consecutive days despite the fact that such a schedule directly violates Labor Code §§
18 551, 552.

19 21. Furthermore, Defendants' time records do not reflect those actual hours worked by
20 Plaintiff despite Plaintiff recording the actual times for when he started and ended work.
21 Furthermore, managers would oftentimes make modifications and adjustments to reflect Plaintiff's
22 shift start and end times and legally compliant meal period beginning and end times. Upon
23 submission of the time entries to managers, there were no other mechanisms in place for Plaintiff
24 and the Class Members to ensure that their time records were accurate or not modified or adjusted.
25 Defendants had the capacity and systems in place to permit Defendants to pay Plaintiff and the Class
26 Members on an hourly basis as non-exempt employees and to record if and when they were taking
27 their required meal and rest breaks, but they instead underpaid Plaintiff and the Class Members
28 under their undefined and confusing compensation system.

1 22. Defendants also failed to provide Plaintiff and the Class members with their required
2 meal periods, and the at least two ten-minute rest breaks required for scheduled shifts of eight hours.
3 Demanding workloads contributed to Defendants' common policy of failing to provide lawful meal
4 periods to Plaintiff and the Class members, as required under the Labor Code and Paragraph 11 of
5 the IWC Wage Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff
6 and the employee Class Members to take all required 10-minute rest breaks, as required under the
7 Labor Code and Paragraph 12 of the IWC Wage Order(s).

8 23. More specifically, Plaintiff worked shifts that entitled him to at least one meal period,
9 but Defendants' required Plaintiff and the Class members to prioritize work over taking proper meal
10 periods. In fact, Defendants made no effort to even schedule or otherwise account for time for
11 Plaintiff and the Class members to use for duty-free, net thirty minute meal periods. Further,
12 Defendants would occasionally instruct Plaintiff to record a 30-minute meal break before his fifth
13 hour regardless of whether Plaintiff was able to take a meal break during his shift. Moreover, when
14 Plaintiff was able to take a meal break, he would be interrupted by Defendants who required him to
15 prioritize meeting the demands of Defendants' customers. To the extent Defendants required Plaintiff
16 to work over ten hours on a work shift, Defendants also failed to provide second meal periods and
17 Defendants have produced no evidence of premium payments for meal period violations under Labor
18 Code § 226.7.

19 24. Defendants thus failed to provide all the legally required unpaid, off-duty meal
20 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
21 members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
22 members were required to perform work as ordered by Defendants for more than five hours during
23 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
24 followed a practice of requiring off the clock work that would impact when Employees were to
25 receive meal periods and failed to accurately and contemporaneously record meal start and end times,
26 thus leading to further systematic violations arising from uniformly applied and unlawful policies
27 and practices.

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1 25. Upon information and belief, Defendants' systems did not automatically generate a
2 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
3 into a work shift or in the event the time punch records reflected a meal period of less than thirty
4 minutes. Defendants did not remedy this troublesome practice and upon information and belief failed
5 to pay required premiums or failed to pay them based on an accurate regular rate.

6 26. As a result, Defendants' failure to provide Plaintiff and the Class members with all
7 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods
8 is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at least four
9 years prior to the filing of this action and through to the present, Plaintiff and the Class members
10 were unable to take off duty breaks or were otherwise not provided with the opportunity to take
11 required breaks as required under the Labor Code and Wage Orders due to Defendants' policies and
12 practices. On the occasions when Plaintiff and the Class members were provided with a meal period,
13 it was often untimely or interrupted, or was impermissibly shortened, and Employees were not
14 provided with one hour's wages in lieu thereof. Meal period violations thus occurred in one or more
15 of the following manners:

- 16 (a) Class members were not provided full thirty-minute duty free meal periods
17 for work days in excess of five hours and were not compensated one hour's
18 wages in lieu thereof, all in violation of, among others, Labor Code §§ 226.7,
19 512, and the applicable Industrial Welfare Commission Wage Order(s);
20 (b) Class members were required to work through at least part of their daily meal
21 period(s);
22 (c) Meal periods were provided after five hours of continuous work during a shift;
23 (d) Class members were restricted in their ability to take a full thirty-minute meal
24 period and/or were otherwise required to remain under Defendants' control
25 during meal periods; and
26 (e) Class members were not provided second full thirty-minute duty free meal
27 periods for work days in excess of ten hours.

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1 27. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff
2 and the Class members to take duty-free, net ten minute rest breaks for every four hours of shift
3 work, or major fraction thereof. Plaintiff and the other similarly situated Class members were either
4 not authorized permitted the opportunity to take a rest break, or were required to remain under
5 Defendants' control and respond to instructions from management and job demands if and when they
6 even attempted to take one. Upon information and belief, Defendants also failed to authorize and
7 permit employees to leave the worksite during rest breaks, evidencing Defendants' policy and
8 practice of requiring Plaintiff and the Class members to remain under their control during required
9 off-duty rest break times.

10 28. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
11 required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even
12 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free, net
13 ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees during
14 the relevant period, meaning Defendants' rest break policy was not to schedule or otherwise
15 authorize and permit them. Plaintiff and the Class members worked eight to twelve hours on an
16 average shift, and were required to receive at least two rest breaks or three rest breaks on shifts over
17 ten hours. Defendants have produced no evidence of any payments for rest break violations under
18 Labor Code § 226.7. Defendants' uniformly applied policies and practices thus resulted in untimely
19 and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the
20 Class members worked shifts of at least eight hours, which required at least two rest breaks, and
21 often worked shifts over ten hours, which required at least three rest breaks.

22 29. During rest periods, employers must relieve employees of all duties and relinquish
23 control over how employees spend their time. Plaintiff and the Class members were and are under
24 Defendants' control when they are working through rest breaks and remaining under Defendants'
25 control. Also, when Defendants provided Plaintiff and the Class members with rest periods, the rest
26 periods were either impermissibly shortened or untimely to. Plaintiff and the Employees in the Class
27 were thus not authorized and permitted to take lawful rest periods, were systematically required by
28 Defendants to work through or during breaks, and were not provided with one hour's wages in lieu

1 thereof. They were required to remain on-duty during breaks or portions of their breaks, thus making
2 them either untimely or shortened and on-duty, and they were also prevented from leaving the
3 worksite and otherwise remain under Defendants' control during rest breaks under Defendants'
4 uniformly applied policies and practices. Rest period violations therefore arose in one or more of the
5 following manners:

- 6 (a) Class members were required to work without being provided a minimum ten
7 minute rest period for every four hours or major fraction thereof worked and
8 were not compensated one hour of pay at their regular rate of compensation
9 for each workday that a rest period was not provided;
- 10 (b) Class members were not authorized and permitted to take timely rest periods
11 for every four hours worked, or major fraction thereof;
- 12 (c) Class members were required to remain on duty and under Defendants'
13 control during rest periods or otherwise had their rest periods interrupted by
14 work demands.

15 30. Defendants have also consistently failed to provide Class members with timely,
16 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
17 including by the above-described requirement of off the clock work, failure to pay all overtime and
18 double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay
19 premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any
20 overtime or meal period or rest break premium wages and by the systematic and unlawful deductions
21 Defendants took from Employee wages. Defendants have also made it difficult to account with
22 precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiff
23 and the Class, during the liability period, including because they did not calculate the regular rate of
24 pay correctly when paying overtime or meal period premiums and because they did not implement
25 and preserve a record-keeping method as required for non-exempt employees by California Labor
26 Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information
27 and belief, time clock punches were not maintained or were not accurately maintained for work shifts
28 and meal periods. Defendants also failed to accurately record and pay for all regular and overtime

1 hours worked and submitted by Plaintiff and the Class members, including by failing to pay all
2 overtime hours at the correctly calculated overtime premium rate.

3 31. Furthermore, Defendants have either failed to maintain timekeeping records for
4 Plaintiff that would permit Plaintiff to discover the nature and extent of the off the clock work
5 Defendants required and the actual hours Plaintiff worked. By failing to pay for all hours worked,
6 Defendants have committed knowing and intentional ongoing violations of the record keeping
7 requirements under the Labor Code §§ 226 and 1174.

8 32. Defendants also provided Plaintiff and the Class members with wage statements that
9 failed to accurately report all hours worked and applicable hourly rates for all hours worked. For the
10 same reasons as explained above, Plaintiff and the Class members were provided with unlawful wage
11 statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed to
12 pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and
13 rest break premiums, and sick time if and when they did pay them. Defendants followed this unlawful
14 policy and practice even though both Plaintiff and Defendants were aware that Plaintiff and the Class
15 members worked more total hours than were reflected on the wage statements, including overtime
16 hours, and were underpaid by regular rate miscalculation. Plaintiff and the Employees in the Class
17 were unable to discern from their wage statements alone the actual hours they worked in total during
18 a pay period and the rates they were paid for those hours worked.

19 33. Defendants have thus willfully failed to comply with Labor Code § 226(a) by
20 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class members,
21 along with the appropriate applicable rates, among other requirements. Moreover, pursuant to
22 paragraph 7 of the applicable California IWC Wage Orders, Defendants failed to show when the
23 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor Code
24 § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment
25 of wages and accurately reporting total hours worked.

26 34. Defendants also required Plaintiff and the Class members to work hours off the clock
27 for which they were not compensated. They were required to endure off the clock work addressed
28 above, including during interrupted or otherwise on-duty meal and rest periods. Defendants also

1 failed to pay all overtime premium wages owed for work conducted on a work shift and a workday
2 or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have followed a
3 uniform and consistent policy of failing to timely pay all wages owed to Plaintiff and other similarly
4 situated Employees as required by California wage-and-hour laws, including Labor Code § 204.
5 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
6 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
7 two hours of their resignation, as required by California wage-and-hour laws, including Labor Code
8 § 201-203.

9 35. As a result of these illegal policies and practices, Defendants also engaged in and
10 enforced the following additional unlawful practices and policies against Plaintiff and the Class
11 members he seeks to represent:

- 12 (a) failing to pay Class members all wages owed, including all meal and rest
13 period premium wages, and failing to pay them at the regular rate of
14 compensation.
- 15 (b) failing to maintain accurate records of Class members' hours worked and
16 earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d)
17 and section 7 of the applicable IWC Wage Orders;
- 18 (c) failing to pay all wages owed to the Class members twice monthly in
19 accordance with the requirements of Labor Code § 204; and
- 20 (d) failing to pay all wages owed to Class members who either were discharged,
21 laid off, or resigned in accordance with the requirements of Labor Code §§
22 201 – 203.

23 36. The failure to pay for all hours worked and underpayment of wages to Plaintiff and
24 the Class members is and has been a direct consequence of Defendants' unlawful compensation
25 policies and practices, which upon information and belief applied uniformly to the Class members
26 working based out of Defendants' locations and facilities.

27 37. Therefore, from at least four years prior to the filing of this lawsuit and continuing to
28 the present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting

1 or deducting the Employees' earned wages, including by requiring off the clock work during breaks
2 and before and after work shifts and by miscalculating the regular rate and accordingly underpaying
3 overtime wages and meal and rest break premiums. By not compensating Employees for all hours
4 worked at the correct rates, Defendants unlawfully deducted wages earned by and owed to Plaintiff
5 and the Class members, in violation of Labor Code § 221.

6 38. Additionally, from at least four years prior to the filing of this lawsuit and continuing
7 to the present, Defendants have regularly required Plaintiff and the Class members to incur necessary
8 business expenses in the course of performing their required job duties without reimbursement. These
9 included use of their personal cellphone, and personal internet when they worked from home, to
10 conduct work-related activities. Plaintiff and the Class members were also required to personally
11 maintain their work uniforms. Class members must be reimbursed for these necessary business
12 expenses under Labor Code § 2802, and Defendants systematically failed to do so.

13 39. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
14 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4, 226.7,
15 510, 511, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2 1197, 1198, 1199,
16 2802, and California Code of Regulations, Title 8, section 11000 *et seq.*

17 40. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
18 and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants
19 have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent
20 practices alleged in this Complaint.

21 **CLASS ALLEGATIONS**

22 41. Plaintiff brings this class action on behalf of himself, and all others similarly situated
23 pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or "the Class" or
24 "Class members") defined as follows: "All individuals employed by Defendants at any time during
25 the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by
26 the Court ("the Class Period"), and who have been employed as non-exempt, hourly employees
27 within the State of California." This includes welders, fabricators, engineers, and those employed in
28 similar and related positions in connection to various biotech industry engineering and

1 manufacturing services provided to Defendants' customers throughout California. Further, Plaintiff
2 seeks to represent the Subclasses composed of and defined as follows:

3 a. Subclass 1. Minimum Wages Subclass. All Class members who were not
4 compensated for all hours worked for Defendants at the applicable minimum wage.

5 b. Subclass 2. Wages and Overtime Subclass. All Class members who were
6 not compensated for all hours worked for Defendants at the required rates of pay, including for all
7 hours worked in excess of eight in a day and/or forty in a week.

8 c. Subclass 3. On-Call Subclass: All Class members who were not
9 compensated for all hours worked for Defendants at the required rates of pay, including for all hours
10 worked in excess of eight in a day and/or forty in a week while they were on-call.

11 d. Subclass 4. Day of Rest Subclass. All Class members who, within the
12 applicable limitations period, were not provided one day's rest from seven under Labor Code §§551
13 and 552.

14 e. Subclass 5. Meal Period Subclass. All Class members who were subject to
15 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
16 free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.

17 f. Subclass 6. Rest Break Subclass. All Class members who were subject to
18 Defendants' policy and/or practice of failing to authorize and permit Employees to take
19 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
20 thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

21 g. Subclass 7. Wage Statement Subclass. All Class members who, within the
22 applicable limitations period, were not provided with accurate itemized wage statements.

23 h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All
24 Class members who were subject to Defendants' policy and practice of not timely paying all wages
25 earned when they were due and payable at least twice monthly.

26 i. Subclass 9. Termination Pay Subclass. All Class members who, within the
27 applicable limitations period, either voluntarily or involuntarily separated from their employment
28 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon

1 termination.

2 j. Subclass 10. Payroll Records Subclass. All Class members who were
3 subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as
4 required by California wage-and-hour laws.

5 k. Subclass 11. Unauthorized Deductions from Wages Subclass. All Class
6 members who were subject to Defendants' policy and/or practice of deducting wages earned from
7 their pay, including by requiring off the clock work.

8 l. Subclass 12. Expense Reimbursement Subclass. All Class members who
9 incurred necessary and reasonable expenses in connection with performing their job duties for
10 Defendants and who were subject to a policy and/or practice under which such expenses were not
11 reimbursed.

12 m. Subclass 13. UCL Subclass. All Class members who are owed restitution as
13 a result of Defendants' business acts and practices, to the extent such acts and practices are found to
14 be unlawful, deceptive, and/or unfair.

15 42. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify
16 the class description with greater particularity or to provide further division into subclasses or
17 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
18 against Defendants, the Class Period should be adjusted accordingly.

19 43. Defendants, as a matter of company policy, practice and procedure, and in violation
20 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
21 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in
22 a practice whereby Defendants failed to correctly calculate and pay compensation for the time
23 worked by Plaintiff and the other members of the Class, even though Defendants enjoyed the benefit
24 of this work, required Employees to perform this work and permitted or suffered to permit this work.
25 Defendants have uniformly denied these Class members wages to which these employees are
26 entitled, and failed to provide meal periods or authorize and permit rest periods, in order to unfairly
27 cheat the competition and unlawfully profit.

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1 44. This action has been brought and may properly be maintained as a class action under
2 the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest
3 in this litigation and the proposed Class is easily ascertainable from the employment records for
4 Plaintiff and the Class members that Defendants are required to maintain under California law.

5 **A. Numerosity**

6 45. The potential members of the Class as defined are so numerous that joinder of all the
7 Class members is impracticable. While the precise number of Class member has not been determined
8 at this time, Plaintiff is informed and believes that Defendants employ or, during the time period
9 relevant to this lawsuit employed, hundreds of Employees who satisfy the Class definition within the
10 State of California. Plaintiff alleges that Defendants' employment records will provide information
11 as to the number and location of all Class members.

12 **B. Commonality**

13 46. There are questions of law and fact common to the Class that predominate over any
14 questions affecting only individual Class members. The common questions are numerous and
15 substantial and flow from Defendants' uniform policies and/or practices of violating the California
16 Labor Code addressed above. As such, these common questions predominate over individual
17 questions concerning each individual Class Member's showing as to his or her eligibility for recovery
18 or as to the amount of damages. These common questions of law and fact include:

- 19 a. Whether Defendants failed to pay Employees minimum wages;
20 b. Whether Defendants failed to pay Employees wages for all hours worked;
21 c. Whether Defendants failed to pay Employees overtime as required under Labor Code
22 § 510;
23 d. Whether Defendants violated Labor Code § 1194 by failing to compensate all
24 Employees during the relevant time period for all hours worked, whether regular or
25 overtime;
26 e. Whether Defendants failed to compensate Employees for on-call time under Labor
27 Code §§ 204, 510, 1194, and 8 CCR § 11160(3)(4);
28 f. Whether Defendants failed to provide one day's rest from seven under Labor Code

1 §§ 551 and 552;

- 2 g. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC
3 Wage Orders, by failing to provide Employees with requisite meal periods or
4 premium pay in lieu thereof;
- 5 h. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
6 Orders, by failing to authorize and permit Employees to take requisite rest breaks, or
7 provide premium pay in lieu thereof;
- 8 i. Whether Defendants' conduct was willful;
- 9 j. Whether Defendants violated Labor Code § 226(a) by providing Employees with
10 inaccurate wage statements and wage statements that omitted many of the Section
11 226(a) requirements;
- 12 k. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the IWC
13 Wage Orders by failing to maintain accurate records of Class members' earned wages
14 and work periods;
- 15 l. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 16 m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
17 wages earned at least twice monthly;
- 18 n. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
19 wages and compensation due and owing at the time of termination of employment;
- 20 o. Whether Defendants violated Labor Code § 221;
- 21 p. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary
22 business expenses incurred by Employees;
- 23 q. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 24 r. Whether Employees are entitled to equitable relief pursuant to Business and
25 Professions Code § 17200 *et seq.*

26 **C. Typicality**

27 47. The claims of the named Plaintiff are typical of those of the other Employees. The
28 Employee Class members all sustained injuries and damages arising out of and caused by

1 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
2 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the
3 off the clock work and meal and rest violations he was required to endure are typical of those of the
4 other Class members.

5 **D. Adequacy of Representation**

6 48. Plaintiff will fairly and adequately represent and protect the interest of the Employee
7 Class members. Counsel who represents Plaintiff and the Employees in the Class are experienced
8 and competent in litigating employment class actions.

9 **E. Superiority of Class Action**

10 49. A class action is superior to other available means for the fair and efficient
11 adjudication of this controversy. Individual joinder of all Employees is not practicable, and questions
12 of law and fact common to all Employees predominate over any questions affecting only individual
13 Employees. Each Employee in the Class has been damaged and is entitled to recovery by reason of
14 Defendants' illegal policies or practices of failing to compensate Employees properly.

15 50. As to the issues raised in this case, a class action is superior to all other methods for
16 the fair and efficient adjudication of this controversy, as joinder of all Class members is impracticable
17 and many legal and factual questions to be adjudicated apply uniformly to all Class members.
18 Further, as the economic or other loss suffered by vast numbers of Class members may be relatively
19 small, the expense and burden of individual actions makes it difficult for the Class members to
20 individually redress the wrongs they have suffered. Moreover, in the event disgorgement is ordered,
21 a class action is the only mechanism that will permit the employment of a fluid fund recovery to
22 ensure that equity is achieved. There will be relatively little difficulty in managing this case as a class
23 action, and proceeding on a class-wide basis will permit Employees to vindicate their rights for
24 violations they endured which they would otherwise be foreclosed from receiving in a multiplicity
25 of individual lawsuits that would be cost prohibitive to them.

26 51. Class action treatment will allow those persons similarly situated to litigate their
27 claims in the manner that is most efficient and economical for the parties and the judicial system.
28 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.

1 Plaintiff contemplates the eventual issuance of notice to the proposed Class members that would set
2 forth the subject and nature of the instant action. The Defendants' own business records can be
3 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that
4 any further notice is required additional media and/or mailings can be used.

5 52. Defendants, as prospective and actual employers of the Employees in the Class, had
6 a special fiduciary duty to disclose to prospective Class members the true facts surrounding
7 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
8 Employees as well as the effect of any alleged arbitration agreements that may have been forced
9 upon them. In addition, Defendants knew they possessed special knowledge about pay practices and
10 policies, most notably intentionally refusing to pay for all hours actually worked which should have
11 been recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
12 and policies and practices on the Employees and Class as a whole.

13 53. Plaintiff and the Employees in the Class did not discover the fact that they were
14 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
15 any discussion about Plaintiff's and the Class members' waiver of their Constitutional rights of trial
16 by jury, to collectively organize and oppose unlawful pay practices under California law as well as
17 obtain injunctive relief preventing such practices from continuing. As a result, the applicable statutes
18 of limitation tolled until such time as Plaintiff and the Class members discovered their claims.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY MINIMUM WAGES**

21 **(Against All Defendants)**

22 54. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
23 full herein.

24 55. Defendants failed to pay Employees minimum wages for all hours worked.
25 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
26 would work hours and not receive wages, including as alleged above in connection with off the clock
27 work, including all the time required to remain on duty and under Defendants' control during breaks
28 and due to the work demands placed upon them by Defendants' management and by paying what

1 should have been overtime hours as regular hours. Defendants' uniformly applied policies required
2 systematic off the clock work and underpayment of all wages owed to Employees over a period of
3 time, while benefiting Defendants.

4 56. During the relevant time period, Defendants thus regularly failed to pay minimum
5 wages to Plaintiff and the Class members, including by requiring systematic off the clock work. To
6 the extent any local wage ordinances were also applicable to paying the employees an hourly rate
7 above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
8 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
9 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
10 denied accurate compensation to Plaintiff and the other Class members as to minimum wage pay.

11 57. In California, employees must be paid at least the applicable state minimum wage for
12 all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and paragraphs
13 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to California Labor
14 Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay
15 its employees for all hours worked. Defendants failed to do so.

16 58. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:
17 "The minimum wage for employees fixed by the commission is the minimum wage to be paid to
18 employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable
19 minimum wage rate fixed by the commission for work during the relevant period is found in the
20 Wage Orders.

21 59. The minimum wage provisions of California Labor Code are enforceable by private
22 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to work
23 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
24 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of
25 the full amount of this minimum wage or overtime compensation, including interest thereon,
26 reasonable attorney's fees and costs of suit."

27 60. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
28 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,

1 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
2 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
3 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
4 the absence of a contractually agreed upon one.

5 61. In committing these violations of the California Labor Code, Defendants inaccurately
6 recorded, or required Plaintiff and the Class members to input times that did not reflect their actual
7 hours worked, or miscalculated hours or rates or otherwise underpaid the actual time worked by
8 Plaintiff and other members of the Class, including by requiring off the clock work as addressed in
9 detail above. Defendants acted in an illegal attempt to avoid the payment of all earned wages in
10 violation of the California Labor Code, the Industrial Welfare Commission requirements and other
11 applicable laws and regulations. As a result of these violations, Defendants also failed to timely pay
12 all wages earned in accordance with California Labor Code § 1194.

13 62. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are also
14 entitled to the following remedies: “In any action under Section 1194 . . . to recover wages because
15 of the payment of a wage less than the minimum wages fixed by an order of the commission, an
16 employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully
17 unpaid and interest thereon.”

18 63. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
19 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial failure
20 to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
21 employee minimum wages.

22 64. Defendants have the ability to pay minimum wages for all time worked and have
23 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
24 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

25 65. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
26 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
27 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
28 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members

1 of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs,
2 as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the
3 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation
4 is determined to be owed to the Class members who have terminated their employment, Defendants'
5 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be
6 entitled to waiting time penalties under California Labor Code § 203, which penalties are sought
7 herein on behalf of these Class members. Defendants' failure to timely pay all wages owed also
8 violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in
9 the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful,
10 intentional, and not in good faith. Further, Plaintiff and other Class members are entitled to seek and
11 recover statutory costs.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

14 **(Against All Defendants)**

15 66. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 67. California Labor Code § 1194 provides that "any employee receiving less than the
18 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
19 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
20 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
21 may be maintained directly against the employer in an employee's name without first filing a claim
22 with the Division of Labor Standards and Enforcement.

23 68. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
24 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
25 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
26 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
27 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one
28 workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in

1 any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a
2 workweek.

3 69. Defendants had a consistent policy of not paying Employees wages for all hours
4 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
5 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants have
6 also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay
7 overtime, and failed to begin paying overtime when it was incurred due to the off the clock work, as
8 detailed above.

9 70. Defendants thus had a consistent policy of not paying Employees wages for all hours
10 worked, including hours at their required regular, overtime, and double-time rates. Defendants, and
11 each of them, have intentionally and improperly caused Employees to work off the clock to avoid
12 paying Plaintiff and the Class members all earned and owed straight time and overtime wages and
13 other benefits, in violation of the California Labor Code, the California Code of Regulations and the
14 IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement.
15 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
16 non-exempt employees to work through meal periods or remain under Defendants' control when
17 they were required to be clocked out or to otherwise work off the clock to complete their daily job
18 duties and respond to demands from customers and managers.

19 71. Therefore, Employees were not properly compensated, nor were they paid overtime
20 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
21 Based on information and belief, Defendants did not make available to Employees a reasonable
22 protocol for correcting time records when Employees worked overtime hours or to fix incorrect time
23 entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants
24 have also violated these provisions by requiring Plaintiff and other similarly situated Class members
25 to work through meal periods when they were required to be clocked out or to otherwise work off
26 the clock to complete their daily job duties.

27 72. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
28 regular wages owed and overtime compensation for all hours worked, as required by California law,

1 violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable IWC
2 Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the regular rate
3 used to calculate and pay overtime, and meal and rest premiums, as addressed above.

4 73. To whatever extent Defendant paid bonuses and any other form of remuneration,
5 besides their regular hourly rate to the Aggrieved Employees, Defendants failed to include it in the
6 regular hourly rate used to calculate and pay the overtime that Defendants did pay.

7 74. Additionally, Labor Code § 558(a) provides “any employer or other person acting on
8 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
9 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
10 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
11 pay period for which the employee was underpaid in addition to an amount sufficient to recover
12 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
13 employee for each pay period for which the employee was underpaid in addition to an amount
14 sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to
15 the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in this section
16 are in addition to any other civil or criminal penalty provided by law.” Defendants have violated
17 provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders.
18 Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor Code § 558.

19 75. Defendants’ failure to pay compensation in a timely fashion also constituted a
20 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
21 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision
22 of the California Labor Code, Defendants have failed to pay all wages and overtime compensation
23 earned by Employees. Each such failure to make a timely payment of compensation to Employees
24 constitutes a separate violation of California Labor Code § 204.

25 76. Employees have been damaged by these violations of California Labor Code §§ 204
26 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under Labor
27 Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100
28 for causing Employees “to work for longer hours than those fixed, or under conditions of labor

1 prohibited by an order of the commission” or if the employer pays “a wage less than the minimum
2 fixed by an order of the commission” or “violates...any provision of this chapter or any order or
3 ruling of the commission.”

4 77. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
5 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
6 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
7 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
8 reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties against
9 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
10 statutes.

11 **THIRD CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ON-CALL PAY UNDER LABOR CODE §§ 204, 510, 1194,**
13 **and 8 CCR § 11160(3)(4)**
14 **(Against All Defendants)**

15 78. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
16 full herein.

17 79. Wage Order 7-2001 provides that “hours worked means the time during which an
18 employee is subject to the control of an employer and includes all the time the employee is suffered
19 or permitted to work, whether or not required to do so.” (*Internal quotations omitted*, Cal. Code
20 Regs., tit, 8, § 11160(2)(J)).

21 80. As set forth herein, Defendants followed a common practice and policy of requiring
22 Plaintiff and Employees to remain on-call after normal scheduled hours, without proper
23 compensation. Defendants scheduled Employees for on-call shifts on the days employees were
24 scheduled to not work (e.g., by tacking the on-call shift after working a full workweek). Plaintiff and
25 Employees remain under the control of Defendants while they are under Defendant’s control and on-
26 call waiting for management to schedule them to come in and thus were compelled to refrain from
27 other personal activities and could not use their off-duty time for their own purposes. During this
28 waiting time, Employees cannot easily trade in their on-call responsibilities with another employee

1 because there may not be another worker available for coverage.

2 81. As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff
3 and the Class have been damaged in that Plaintiff and the Class have not been paid all required
4 wages, including overtime pay, associated with their on-call work.

5 82. The forgoing uncompensated work caused Plaintiff and Employees to work in excess
6 of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to
7 overtime and double-time wages which were systemically denied.

8 83. Defendants' failure to pay compensation in a timely fashion also constituted a
9 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
10 From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision
11 of the California Labor Code, Defendants have failed to pay all wages and overtime compensation
12 earned by Employees. Each such failure to make a timely payment of compensation to Employees
13 constitutes a separate violation of California Labor Code § 204.

14 84. Employees have been damaged by these violations of California Labor Code §§ 204
15 and 510 (and the relevant orders of the Industrial Welfare Commission).

16 85. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
17 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
18 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
19 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
20 reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against
21 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
22 statutes.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN - LABOR CODE § § 551, 552**

3 **(Against All Defendants)**

4 86. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 87. California Labor Code § 551 provides that "[e]very person employed in any
7 occupation of labor is entitled to one day's rest therefrom in seven." California Labor Code §
8 552 provides that "[n]o employer of labor shall cause his employees to work more than six days
9 in seven."

10 88. Plaintiff alleges that he and certain other Class members were scheduled or directed
11 to work seven days in a row in a workweek without a day of rest. Such schedule was not voluntary
12 and Plaintiff and the members of the Class worked more than six (6) hours of work during each shift.

13 89. As a direct and proximate results of Defendants' actions as set forth herein, Plaintiff
14 and the Class have been damaged in that Plaintiff and the Class have not been paid all required
15 wages, including overtime pay, associated with this work.

16 90. The foregoing uncompensated work caused Plaintiff and Employees to work in excess
17 of eight (8), ten (10), and twelve (12) hours a day, and/or forty (40) hours a week, entitling them to
18 overtime and double-time wages which were systemically denied.

19 91. Defendants' failure to pay compensation in a timely fashion also constituted a
20 violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly.
21 Defendants have failed to pay all wages and overtime compensation earned by Employees. Each
22 such failure to make a timely payment of compensation to Employees constitutes a separate violation
23 of California Labor Code § 204. Employees have been damaged by these violations of California
24 Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission). In
25 addition, under Labor Code §558, Aggrieved Employees are entitled to civil penalties of \$50 per
26 employee for each pay period for the first violation and \$100/employee per pay period thereafter.

27 92. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204,
28 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including

1 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
2 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
3 reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against
4 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
5 statutes.

6 93. Employees have been damaged by these violations of California Labor Code §§ 551
7 and 552 (and the relevant orders of the Industrial Welfare Commission).

8 94. Accordingly, pursuant to the California Labor Code, including Labor Code §§ 204,
9 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
10 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all
11 their unpaid wages and overtime compensation for all their hours worked, with interest, plus their
12 reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against
13 Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other
14 statutes.

15 **FIFTH CAUSE OF ACTION**

16 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

17 **(Against All Defendants)**

18 95. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 96. Employees regularly worked shifts greater than five (5) hours and in some instances,
21 greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
22 Wage Order, an employer may not employ someone for a shift of more than five (5) hours without
23 providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more
24 than ten (10) hours without providing him or her with a second meal period of not less than thirty
25 (30) minutes.

26 97. Defendants failed to provide Employees with meal periods as required under the
27 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
28 to work or to otherwise remain under Defendants' control during meal periods, or Defendants

1 provided them after Employees worked beyond the fifth hour of their shifts or Employees otherwise
2 had them shortened and interrupted by work demands and requirements to perform off the clock
3 work and remain under Defendants' control. Furthermore, upon information and belief, on the
4 occasions when Employees worked more than ten hours in a given shift, they did so without receiving
5 a second uninterrupted thirty-minute meal period as required by law.

6 98. Defendants thus failed to provide Plaintiff and the Class members with meal periods
7 as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order, including by
8 not providing them with the opportunity to take meal breaks, by providing them late or for less than
9 thirty minutes, or by requiring them to perform work during breaks.

10 99. Moreover, Defendants failed to compensate Employees for each meal period not
11 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20
12 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
13 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
14 pay at the employee's regular rate of compensation for each workday that the meal period is not
15 provided. As detailed above, on the occasions when Defendants did pay any meal period premiums,
16 they upon information and belief underpaid them by miscalculating the regular rate of compensation
17 by not including all forms of remuneration in it. Defendants thus failed to compensate the Employees
18 in the Class for each meal period not provided or inadequately provided, as required under Labor
19 Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

20 100. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable
21 IWC Wage Order, Employees in the Class are entitled to damages in an amount equal to one (1) hour
22 of wages at their effective hourly rates of pay for each meal period not provided or deficiently
23 provided, a sum to be proven at trial, as well as the assessment of any statutory penalties against the
24 Defendants, and each of them, in a sum as provided by the Labor Code and other statutes and
25 applicable IWC Wage Order paragraphs.

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1 **SIXTH CAUSE OF ACTION**

2 **REST-BREAK PERIOD LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 101. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 102. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide
7 that employers must authorize and permit all employees to take rest periods at the rate of ten minutes
8 net rest time per four (4) work hours.

9 103. Employees consistently worked consecutive four hour shifts and were generally
10 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit
11 them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable IWC Wage
12 Order, Employees were entitled to paid rest breaks of not less than ten minutes for each consecutive
13 four hour shift, and Defendants failed to provide Employees with timely rest breaks of not less than
14 ten minutes for each consecutive four hour shifts. Defendants made no effort to authorize and permit
15 Plaintiff and the Class members to take lawful rest breaks. Employees were often required to work
16 or to otherwise remain under Defendants' control during rest periods, including by responding to
17 work requirements, being prohibited from leaving the worksites, and receiving them untimely.

18 104. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders
19 provide that if an employer fails to provide an employee rest period in accordance with this section,
20 the employer shall pay the employee one hour of pay at the employee's regular rate of compensation
21 for each workday that the rest period is not provided. Defendants failed to do so.

22 105. Defendants, and each of them, have therefore intentionally and improperly denied rest
23 periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
24 paragraph 12 of the applicable IWC Wage Orders.

25 106. Defendants failed to authorize and permit Plaintiff and the Class members to take rest
26 periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees with
27 an additional hour of pay at each Employee's hourly rate for each day that Defendants failed to
28 provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs 12

1 and 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break premiums,
2 they upon information and belief, underpaid them by miscalculating the regular rate of compensation
3 by not including all forms of remuneration in it. Defendants thus failed to compensate the Employees
4 in the Class for each rest period not provided or inadequately provided, as required under Labor Code
5 § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

6 107. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable
7 IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour of wages at
8 their effective hourly rates of pay for each day worked without the required rest breaks, a sum to be
9 proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of
10 them, in a sum as provided by the Labor Code and/or other statutes.

11 **SEVENTH CAUSE OF ACTION**
12 **VIOLATION OF LABOR CODE § 226**
13 **(Against All Defendants)**

14 108. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
15 full herein.

16 109. California Labor Code § 226(a) requires an employer to furnish each of his or her
17 employees with an accurate, itemized statement in writing showing the gross and net earnings, total
18 hours worked, and the corresponding number of hours worked at each hourly rate; these statements
19 must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay
20 the employee's wages; or, if wages are paid by cash or personal check, these statements may be given
21 to the employee separately from the payment of wages; in either case the employer must give the
22 employee these statements twice a month or each time wages are paid.

23 110. Defendants failed to provide Plaintiff and the similarly situated Employee Class
24 members with accurate itemized wage statements in writing, as required by the Labor Code and
25 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
26 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
27 including for all overtime and double time hours worked and for deficient meal periods and rest
28 breaks, all of which Defendants knew or reasonably should have known were owed to the

1 Employees, as alleged above.

2 111. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff
3 and the Class members, upon each payment of wages, itemized statements accurately showing: (1)
4 gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned
5 and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6)
6 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and
7 only the last four digits of his or her social security number or an employee identification number
8 other than a social security number, (8) the name and address of the legal entity that is the employer
9 and (9) all applicable hourly rates in effect during the pay period and the corresponding number of
10 hours worked at each hourly rate by the employee pursuant to Labor Code § 226 and paragraph 7 of
11 the applicable IWC Wage Orders, amongst other statutory requirements. Defendants knowingly and
12 intentionally failed to provide Plaintiff and the Class members with such timely and accurate wage
13 and hour statements.

14 112. Plaintiff and the Class members suffered injury as a result of Defendants' knowing
15 and intentional failure to provide them with the wage and hour statements as required by law and are
16 presumed to have suffered injury and entitled to penalties under Labor Code § 226(e), as the
17 Defendants have failed to provide an accurate wage statement, failed to provide accurate and
18 complete information as required by any one or more of items Labor Code § 226 (a)(1) to (9),
19 inclusive, and the Plaintiff and Class members cannot promptly and easily determine from the wage
20 statement alone one or more of the following: (i) The amount of the gross wages or net wages paid
21 to the employee during the pay period or any of the other information required to be provided on the
22 itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii)
23 Which deductions the employer made from gross wages to determine the net wages paid to the
24 employee during the pay period, (iii) The name and address of the employer and, (iv) The name of
25 the employee and only the last four digits of his or her social security number or an employee
26 identification number other than a social security number. For purposes of Labor Code § 226(e)
27 "promptly and easily determine" means a reasonable person [i.e. an objective standard] would be
28 able to readily ascertain the information without reference to other documents or information.

113. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required “to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders.

114. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the Class suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

115. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to an award of costs and reasonable attorneys’ fees.

EIGHTH CAUSE OF ACTION

FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5

(Against All Defendants)

116. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

117. California Labor Code § 1174 requires that all employers shall keep accurate time and wage records for all employees. California Labor Code § 1174.5 further requires that any employee suffering injury due to a willful violation of the aforementioned obligations may seek

1 damages, including civil penalties, from the employer.

2 118. During the course of Plaintiff's and Employees' employment, Defendants
3 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
4 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
5 premium pay as discussed above and failing to document and pay for actual hours worked.

6 119. Defendants are also required by the California Labor Code § 1198 and the applicable
7 Wage Order to maintain a tracking system that accurately records the times during which Employees
8 work.

9 120. Defendants have maintained a common unlawful policy and practice of failing to
10 accurately record all hours worked and all meal period start and end times.

11 121. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
12 knew wages to be due but failed to pay them.

13 122. Accordingly, Defendants are liable for civil penalties pursuant to the California Labor
14 Code including § 1174.5, for the three years prior to the filing of this Complaint.

15 **NINTH CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 204**

17 **(Against All Defendants)**

18 123. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
19 full herein.

20 124. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
21 employment are due and payable twice during each calendar month, on days designated in advance
22 by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive,
23 of any calendar month shall be paid for between the 16th and the 26th day of the month during which
24 the labor was performed, and labor performed between the 16th and the last day, inclusive, of any
25 calendar month, shall be paid for between the 1st and 10th day of the following month."
26 Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for
27 weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days
28 following the close of the payroll period." As detailed above, Defendants maintained a consistently

1 applied policy and practice of not paying all wages earned between the 1st and 15th days of a month
2 between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of
3 the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all
4 wages earned by not more than seven calendar days following the close of the payroll period.

5 125. All wages due and owing to Plaintiff and the Class members, including as required
6 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages required
7 by Labor Code § 1194 and other sections became due and payable to each employee in each pay
8 period that he or she was not provided with a meal period or rest period or paid straight or overtime
9 wages to which he or she was entitled.

10 126. Defendants violated Labor Code § 204 by systematically refusing to timely pay wages
11 due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the applicable
12 IWC Wage Orders, employers are required “to pay each employee, on the established payday for the
13 period involved, not less than the applicable minimum wage for all hours worked in the payroll
14 period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than
15 those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff
16 and the Class members may therefore pursue damages and penalties for violations of Labor Code §
17 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20
18 of the applicable IWC Wage Orders.

19 127. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
20 represent have been deprived of wages in amounts to be determined at trial, and they are entitled to
21 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs, pursuant to
22 Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the applicable IWC
23 Wage Orders.

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TENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

128. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

129. Plaintiff and numerous Class members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

130. Defendants failed to pay these Employees all wages due and certain at the time of termination or within seventy-two hours of resignation.

131. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment.

132. Defendants thus failed to pay Plaintiff and the Class members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or requiring off the clock work or by unlawfully under-recording time entries to the detriment of Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

133. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers are required "to pay each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission" or if the employer pays

1 “a wage less than the minimum fixed by an order of the commission” or “violates...any provision of
2 this chapter or any order or ruling of the commission.”

3 134. Defendants’ failure to pay wages, as alleged, entitles Plaintiff and these former
4 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of the
5 IWC Wage Orders as addressed above, including the requirement that an employee’s wages shall
6 continue until paid for up to thirty (30) days from the date they were due.

7 **ELEVENTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE § 221**
9 **(Against All Defendants)**

10 135. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 136. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
13 receive from an employee any part of wages theretofore paid by said employer to said employee.”
14 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
15 public policy, an employer must timely pay its employees for all hours worked. Defendants failed to
16 do so.

17 137. Defendants unlawfully received and/or collected wages from the Employees in the
18 Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of
19 pay at the regular rate of compensation for every meal and rest period violation endured by Plaintiff
20 and the other Class members, as alleged above. By not compensating Employees for all hours worked
21 and meal and rest period premiums, Defendants unlawfully deducted wages earned in violation of
22 Labor Code § 221.

23 138. As a direct and proximate cause of the unauthorized deductions, Employees have been
24 damaged, in an amount to be determined at trial.

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1 **TWELFTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**

3 **(Against All Defendants)**

4 139. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
5 full herein.

6 140. Plaintiff is informed and believes and based thereon alleges that throughout the period
7 applicable, Defendants required Plaintiff and the Class members to pay for necessary work related
8 expenses they incurred. These included use of their personal cellphone and maintenance of their
9 work uniforms. Plaintiff and the Class members must be reimbursed for these necessary business
10 expenses under Labor Code § 2802 and Defendants systematically failed to do so.

11 141. Defendants thus followed a uniform policy and practice of failing to reimburse
12 Employees for these necessary work related expenses or losses incurred in direct discharge of their
13 job duties during employment with Defendants and at the direction of the Defendants pursuant to
14 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

15 142. Defendants' knowing and willful failure to reimburse lawful necessary work related
16 expenses and losses to Plaintiff and the Class members resulted in damages because, among other
17 things, Defendants did not inform employees of their right to be reimbursed for those work related
18 expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to
19 their rights, Plaintiff and the Class members were led to believe that incurring those lawful and
20 necessary expenses was an expected and essential function of their employment with Defendants and
21 that failure to incur those expenses would have adverse consequences on their employment.

22 143. Therefore, Plaintiff and the Class members are entitled to reimbursement for any and
23 all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9 of the
24 applicable IWC Wage Orders, incurred during the direct discharge of their duties while employed
25 by Defendants, as well as accrued interest on those expenses that were not reimbursed from the date
26 Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the Class members
27 are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

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THIRTEENTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*
(Against All Defendants)

144. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

145. Plaintiff, on behalf of himself, the Employees in the Class, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

146. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, have suffered injury, and therefore have standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

147. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices. By the conduct alleged herein, Defendants’ practices were deceptive and fraudulent in that Defendants’ policy and practice failed to provide the required amount of compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and Class members for all hours worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

148. Wage-and-hour laws express fundamental public policies. Paying employees their wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of this State vigorously to enforce minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and their employees from competitors who lower costs to themselves by failing to comply with minimum

1 labor standards.

2 149. Defendants have violated statutes and public policies. Through the conduct alleged in
3 this Complaint Defendants have acted contrary to these public policies, have violated specific
4 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
5 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff, and
6 all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
7 guaranteed to all employees under the law.

8 150. Defendants' conduct, as alleged above, constitutes unfair competition in violation of
9 the Business & Professions Code § 17200 *et seq.*

10 151. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
11 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
12 reasonable care should have known that their conduct was unlawful; therefore, their conduct violates
13 the Business & Professions Code § 17200 *et seq.*

14 152. By the conduct alleged herein, Defendants have engaged and continue to engage in a
15 business practice which violates California and federal law, including but not limited to, the
16 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
17 Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this Court should
18 issue declaratory and other equitable relief pursuant to California Business & Professions Code §
19 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair competition,
20 including restitution of wages wrongfully withheld.

21 153. As a proximate result of the above-mentioned acts of Defendants, Employees have
22 been damaged, in a sum to be proven at trial.

23 154. Unless restrained by this Court Defendants will continue to engage in such unlawful
24 conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make such
25 orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use
26 by Defendants or their agents or employees of any unlawful or deceptive practice prohibited by the
27 Business & Professions Code, including but not limited to the disgorgement of such profits as may
28 be necessary to restore Employees' money Defendants have unlawfully failed to pay.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of all unpaid wages for on-call pay, as may be proven;
6. For penalties pursuant to Labor Code §§ 551 and 552, as may be proven;
7. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
8. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
9. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
10. For penalties pursuant to Labor Code § 1174.5, as may be proven;
11. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
12. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;

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1 14. For damages and restitution for failure to reimburse all reasonable and necessary
2 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

3 15. For restitution for unfair competition pursuant to Business & Professions Code
4 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

5 16. For an order enjoining Defendants and their agents, servants, and employees, and all
6 persons acting under, in concert with, or for them, from acting in derogation of any rights or duties
7 adumbrated in this Complaint;

8 17. For other wages and penalties under the Labor Code as may be proven;

9 18. For all general, special, and incidental damages as may be proven;

10 19. For an award of pre-judgment and post-judgment interest;

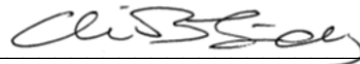
11 20. For an award providing for the payment of the costs of this suit;

12 21. For an award of attorneys' fees; and

13 22. For such other and further relief as this Court may deem proper and just.

14
15 DATED: November 12, 2025

D.LAW, INC.

16
17 By 
18 Alvin B. Lindsay
19 William Tran
20 Attorneys for Plaintiff Anthony G. Zarate
21 and the putative class
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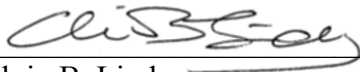
DEMAND FOR JURY TRIAL

Plaintiff Anthony G. Zarate hereby demands trial of his claims by jury to the extent authorized by law.

DATED: November 12, 2025

D.LAW, INC.

By



Alvin B. Lindsay

William Tran

Attorneys for Plaintiff Anthony G. Zarate
and the putative class