

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

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Attorneys for Plaintiff

[Additional Counsel Listed on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ROGEBERTO BENITEZ, an individual, on behalf of
himself and on behalf of all persons similarly situated,

Plaintiff,

vs.

HYATT CORPORATION, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 37-2023-00028524-CU-OE-CTL

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
10. FAILURE TO PROVIDE GRATUITIES IN VIOLATION OF CAL. LAB. CODE § 351; *and*
11. CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699 ET. SEQ. FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 203, 204, ET. SEQ., 210, 218, 221, 226(a), 226.7, 227.3, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11040, SUBDIVISION 5(A)-(B). CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1 1070(14) (FAILURE TO PROVIDE SEATING), AND THE APPLICABLE WAGE ORDER(S).

DEMAND FOR A JURY TRIAL

1 **GOMEZ TRIAL ATTORNEYS, APLC**

2 John Gomez (State Bar #171485)

3 Emilia Arutunian (State Bar #305824)

4 655 Broadway, 17th Floor

5 San Diego, CA 92101

6 Telephone: (619) 237-3490

7 Website: <https://www.thegomezfirm.com/>

8 *Attorneys for Plaintiff*

Rogeberto Benitez (“PLAINTIFF”), an individual, on behalf of himself and all other similarly situated current and former employees alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following.

THE PARTIES

1. Hyatt Corporation (“DEFENDANT”) is a Corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in California.

2. DEFENDANT owns and operates hotels in California.

3. PLAINTIFF was employed by DEFENDANT in California from March of 2022 to May of 2023. PLAINTIFF was at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all current and former non-exempt employees of DEFENDANT who worked in the State of California at the La Jolla Hyatt location (the “CALIFORNIA CLASS”) from July 7, 2019 through the date of preliminary approval of this settlement, or July 5, 2024, whichever is earlier (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable relief.

6. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues

1 these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to
2 amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
3 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the
4 Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for
5 one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

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

12 13 **THE CONDUCT**

14 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay
15 PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an
16 employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work.
17 DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the
18 time they are under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to work while
19 clocked out during what is supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time
20 interrupted by work assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
21 DEFENDANT, as a matter of established company policy and procedure, administers a uniform practice of rounding
22 the actual time worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members, always to the benefit of
23 DEFENDANT, so that during the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are
24 paid less than they would have been paid had they been paid for actual recorded time rather than "rounded" time.
25 Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and CALIFORNIA CLASS Members
26 to perform work off the clocking that DEFENDANT, as a condition of employment, required these employees to
27 submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to clocking into
28 DEFENDANT's timekeeping system for the workday. As a result, PLAINTIFF and other CALIFORNIA CLASS

1 Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working without their
2 time being correctly recorded and without compensation at the applicable rates. DEFENDANT's policy and practice
3 not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is evidenced by
4 DEFENDANT's business records.

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

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

21 11. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members
22 were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for
23 their meal periods. PLAINTIFF and other CALIFORNIA CLASS Members were required from time to time to
24 perform work as ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a meal
25 break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and CALIFORNIA CLASS Members
26 with a second off-duty meal period for some workdays in which these employees were required by DEFENDANT
27 to work ten (10) hours of work. DEFENDANT also engaged in the practice of rounding the meal period times to
28 avoid paying penalties to PLAINTIFF and other CALIFORNIA CLASS Members. PLAINTIFF and other members

1 of the CALIFORNIA CLASS therefore forfeit meal breaks without additional compensation and in accordance with
2 DEFENDANT's corporate policy and practice.

3 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS
4 Members were also required from time to time to work in excess of four (4) hours without being provided ten (10)
5 minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some
6 shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10)
7 minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third
8 rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
9 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
10 Additionally, the applicable California Wage Order requires employers to provide employees with off-duty rest
11 periods, which the California Supreme Court defined as time during which an employee is relieved from all work
12 related duties and free from employer control. In so doing, the Court held that the requirement under California law
13 that employers authorize and permit all employees to take rest period means that employers must relieve employees
14 of all duties and relinquish control over how employees spend their time which includes control over the locations
15 where employees may take their rest period. Employers cannot impose controls that prohibit an employee from taking
16 a brief walk - five minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
17 CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's rule which
18 states PLAINTIFF and other CALIFORNIA CLASS Members cannot leave the work premises during their rest period.

19 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately record and pay
20 PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount of time these employees worked.
21 Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and
22 other CALIFORNIA CLASS Members for all time worked, meaning the time during which an employee was subject
23 to the control of an employer, including all the time the employee was permitted or suffered to permit this work.
24 DEFENDANT required these employees to work off the clock without paying them for all the time they were under
25 DEFENDANT's control. As such, DEFENDANT knew or should have known that PLAINTIFF and the other
26 members of the CALIFORNIA CLASS were under compensated for all time worked. As a result, PLAINTIFF and
27 other CALIFORNIA CLASS Members forfeited time worked by working without their time being accurately recorded
28 and without compensation at the applicable minimum wage and overtime wage rates. To the extent that the time

1 worked off the clock does not qualify for overtime premium payment, DEFENDANT fails to pay minimum wages
2 for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

3 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other members of the
4 CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other things, the
5 correct gross and net wages earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or
6 her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned
7 and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each
8 hourly rate. PLAINTIFF and CALIFORNIA CLASS Members were paid on an hourly basis. As such, the wage
9 statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the
10 applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage
11 statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA CLASS Members failed to identify such
12 information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period.
13 When the hours shown on the wage statements were added up, they did not equal the actual total hours worked during
14 the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
15 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under
16 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFF and the other
17 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

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

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

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

27 17. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA CLASS Members
28 by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code Section 246. Specifically,

1 PLAINTIFF and other non-exempt employees earn non-discretionary remuneration. Rather than pay sick pay at the
2 regular rate of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS Members at
3 their base rates of pay.

4 18. Cal. Lab. Code Section 246(l)(2) requires that paid sick time for nonexempt
5 employees be calculated by dividing the employee's total wages, not including overtime premium pay, by the
6 employee's total hours worked in the full pay periods of the prior 90 days of employment.

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

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

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

25 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify PLAINTIFF and the
26 other CALIFORNIA CLASS Members for required business expenses incurred by the PLAINTIFF and other
27 CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf of DEFENDANT.
28 Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred

1 in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
2 indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence
3 of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful,
4 unless the employee, at the time of obeying the directions, believed them to be unlawful."

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

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

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

21 26. By reason of this conduct applicable to PLAINTIFF and all Aggrieved Employees, DEFENDANT
22 violated California Labor Code Section 1198 and California Code of Regulations, Title 8, Section 11070(14) (Failure
23 to Provide Seating), Wage Order 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties
24 on behalf of PLAINTIFF and other Aggrieved Employees as provided herein. Providing suitable seating is the
25 DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of the obligation to meet this burden,
26 DEFENDANT violated the California Labor Code and regulations promulgated thereunder as herein alleged.

27 27. During the CALIFORNIA CLASS period, pursuant to DEFENDANT's company policies and
28 practices, PLAINTIFF and other CALIFORNIA CLASS Members were forced to forfeit gratuities left for them by

1 customers to DEFENDANT's agents who provided no service to the customers that resulted in the gratuity.
2 DEFENDANT routinely added anywhere from 18%-22% service charges to its food, massage and beverage banquet
3 bills. These service charges were in the form of automatic charges which customers are required to pay, and which
4 reasonably appear to be gratuities for the service staff. It is typical and customary in the hospitality industry that
5 establishments impose gratuity charges in the range of 18%-22% of the food and beverage bill. Thus, when customers
6 have paid these charges, it is reasonable for them to have believed they were gratuities to be paid to the service staff.
7 Indeed, because many of these charges are depicted to customers, and the custom in the food and beverage industry
8 that gratuities in the range of 18%-22% are paid for food and beverage service, customers have paid these charges
9 reasonably believing they were remitted to the service staff. However, DEFENDANT has not remitted the total
10 proceeds of these gratuities to the non-managerial employees who serve the food and beverages. Instead,
11 DEFENDANT has a policy and practice of retaining for itself a portion of these gratuities and/or using a portion of
12 these gratuities to pay managers or other non-service employees. As a result, PLAINTIFF and CALIFORNIA CLASS
13 Members have not received the total proceeds of the gratuities, to which they are entitled to under California law.

14 28. DEFENDANT is generally in the business of owning and operating hotels, including the pubs and
15 restaurants in the hotels. In addition, DEFENDANT also provides banquet services to large groups, such as wedding
16 parties and other banquet events. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA
17 CLASS Members were in the "chain of service" and earned gratuities based on their service for their customers.
18 However, PLAINTIFF and CALIFORNIA CLASS Members were forced to forfeit portions of their gratuities, which
19 said gratuities were kept by DEFENDANT and their agents who were not in the chain of service from which the
20 gratuity resulted. PLAINTIFF and other CALIFORNIA CLASS Members contend that any gratuities kept by
21 DEFENDANT were illegal and in violation of California law because PLAINTIFF and other CALIFORNIA CLASS
22 Members, not DEFENDANT, provided the service for to whom the gratuity should have been paid.

23 29. California Labor Code § 351 establishes the requirements for an employer regarding the payment
24 of gratuities. Specifically, gratuities are the sole property of the employees. California Labor Code § 351 expressly
25 prohibits employers and their agents from collecting, taking, or receiving any portion of a gratuity. California Labor
26 Code § 350(e) defines the term "gratuity" as including any money that has been paid or given or left for an employee
27 by a patron of a business over and above the actual amount due the business for services rendered or for goods, food,
28

1 drink or articles sold or served to such patron. Labor Code § 353 requires employers to keep accurate records of all
2 gratuities they receive, directly or indirectly.

3 30. Although tip pooling is not expressly prohibited by the Labor Code, employees who mandate tip
4 pooling must only distribute pooled tips to employees in the “chain of service.” By distributing tips to DEFENDANT
5 directly and to their agents who were not in the “chain of service,” DEFENDANT has violated and continue to violate
6 the legal requirements for handling pooled tips and violated the holding in *O’Grady v. Merchant Exchange*
7 *Productions, Inc.*, No. A148513 (Court of Appeals of California, First District, Division Two.)

8 31. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally required off-duty meal
9 and rest breaks to PLAINTIFF as required by the applicable Wage Order and Labor Code and failed to pay
10 PLAINTIFF all minimum and overtime wages due to PLAINTIFF. DEFENDANT did not have a policy or practice
11 which provided timely off-duty meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for
12 PLAINTIFF’s missed meal and rest breaks. The nature of the work performed by the PLAINTIFF did not prevent
13 PLAINTIFF from being relieved of all of PLAINTIFF’s duties for the legally required off-duty meal periods. As a
14 result, DEFENDANT’s failure to provide PLAINTIFF with the legally required meal periods is evidenced by
15 DEFENDANT’s business records. The amount in controversy for PLAINTIFF individually does not exceed the sum
16 or value of \$75,000.

17 JURISDICTION AND VENUE

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

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

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28 THE CALIFORNIA CLASS

1 34. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices
2 pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ.
3 Proc. § 382, on behalf of a California class, defined as all current and former non-exempt employees of
4 DEFENDANT who worked in the State of California at the La Jolla Hyatt location (the "CALIFORNIA CLASS")
5 from July 7, 2019 through the date of preliminary approval of this settlement, or July 5, 2024, whichever is earlier (the
6 "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS
7 Members is under five million dollars (\$5,000,000.00).

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

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

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

23 38. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS Members is
24 impracticable.

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

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

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

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

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

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

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

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

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

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

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

17 1) With respect to the First Cause of Action, the final relief on behalf of the
18 CALIFORNIA CLASS sought does not relate exclusively to restitution because
19 through this claim PLAINTIFF seeks declaratory relief holding that the
20 DEFENDANT's policy and practices constitute unfair competition, along with
21 declaratory relief, injunctive relief, and incidental equitable relief as may be
22 necessary to prevent and remedy the conduct declared to constitute unfair
23 competition;

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

- 1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
- 2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the

1 DEFENDANT's employment practices are applied with respect to the CALIFORNIA
2 CLASS;

3 (b) A Class Action is superior to any other available method for the fair and efficient
4 adjudication of the claims of the members of the CALIFORNIA CLASS because in the
5 context of employment litigation a substantial number of individual CALIFORNIA CLASS
6 Members will avoid asserting their rights individually out of fear of retaliation or adverse
7 impact on their employment;

8 (c) The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring
9 all members of the CALIFORNIA CLASS before the Court;

10 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to obtain
11 effective and economic legal redress unless the action is maintained as a Class Action;

12 (e) There is a community of interest in obtaining appropriate legal and equitable relief for the
13 acts of unfair competition, statutory violations and other improprieties, and in obtaining
14 adequate compensation for the damages and injuries which DEFENDANT's actions have
15 inflicted upon the CALIFORNIA CLASS;

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

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

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

24 (I) Class treatment provides manageable judicial treatment calculated to bring a efficient and
25 rapid conclusion to all litigation of all wage and hour related claims arising out of the
26 conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

27 43. DEFENDANT maintains records from which the Court can ascertain and identify by job title each
28 of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's company policy, practices

1 and procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job
2 titles of similarly situated employees when they have been identified.

3
4 **THE CALIFORNIA LABOR SUB-CLASS**

5 44. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth
6 causes Action on behalf of a California sub-class, defined as all current and former non-exempt employees of
7 DEFENDANT who worked in the State of California at the La Jolla Hyatt location (the “CALIFORNIA LABOR
8 SUB-CLASS”) from July 7, 2019 through the date of preliminary approval of this settlement, or July 5, 2024,
9 whichever is earlier (the “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382.
10 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five
11 million dollars (\$5,000,000.00).

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

21 46. DEFENDANT maintains records from which the Court can ascertain and
22 identify by name and job title, each of DEFENDANT’s employees who have been intentionally subjected to
23 DEFENDANT’s company policy, practices and procedures as herein alleged. PLAINTIFF will seek leave to amend
24 the complaint to include any additional job titles of similarly situated employees when they have been identified.

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

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

- 1 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay compensation due
2 to members of the CALIFORNIA LABOR SUB-CLASS for missed meal and rest breaks
3 in violation of the California Labor Code and California regulations and the applicable
4 California Wage Order;
- 5 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other members of the
6 CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- 7 (c) Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;
- 8 (d) The proper measure of damages and penalties owed to the members of the CALIFORNIA
9 LABOR SUB-CLASS; and,
- 10 (e) Whether DEFENDANT's conduct was willful.

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

12 by:

- 13 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF and the
14 members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked,
15 for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;
- 16 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay
17 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct
18 minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194
19 and 1197;
- 20 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the
21 CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing
22 showing the corresponding correct amount of wages earned by the employee;
- 23 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other
24 members of the CALIFORNIA LABOR SUB-CLASS with all legally required off-duty,
25 uninterrupted thirty (30) minute meal breaks and the legally required off-duty rest breaks;
- 26 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee
27 is discharged or quits from employment, the employer must pay the employee all wages due
28 without abatement, by failing to tender full payment and/or restitution of wages owed or in

1 the manner required by California law to the members of the CALIFORNIA LABOR SUB-
2 CLASS who have terminated their employment; and,

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

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

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

CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of all
CALIFORNIA LABOR SUB-CLASS Members.

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

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

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

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

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

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

1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in
individually controlling the prosecution or defense of separate actions in that the

substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;

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

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

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

3) In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

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

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

(a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

- 1 (b) A Class Action is superior to any other available method for the fair and efficient
2 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS
3 because in the context of employment litigation a substantial number of individual
4 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights
5 individually out of fear of retaliation or adverse impact on their employment;
- 6 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is
7 impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the
8 Court;
- 9 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be
10 able to obtain effective and economic legal redress unless the action is maintained as a
11 Class Action;
- 12 (e) There is a community of interest in obtaining appropriate legal and equitable relief for the
13 acts of unfair competition, statutory violations and other improprieties, and in obtaining
14 adequate compensation for the damages and injuries which DEFENDANT's actions have
15 inflicted upon the CALIFORNIA LABOR SUB-CLASS;
- 16 (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are
17 sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-
18 CLASS for the injuries sustained;
- 19 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
20 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate
21 with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 22 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from
23 the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists
24 of all CALIFORNIA CLASS Members who worked for DEFENDANT in California at any
25 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 26 (I) Class treatment provides manageable judicial treatment calculated to bring a efficient and
27 rapid conclusion to all litigation of all wage and hour related claims arising out of the
28 conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

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

7 54. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code § 17021.

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

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

17 Cal. Bus. & Prof. Code § 17203.

18 56. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a business
19 practice which violates California law, including but not limited to, the applicable Industrial Wage Order(s), the
20 California Code of Regulations and the California Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512,
21 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder,
22 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203
23 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including restitution of
24 wages wrongfully withheld.

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

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

10 59. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and deceptive
11 in that DEFENDANT's employment practices caused PLAINTIFF and the other members of the CALIFORNIA
12 CLASS to be underpaid during their employment with DEFENDANT.

13 60. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and deceptive
14 in that DEFENDANT's policies, practices and procedures failed to provide all legally required meal breaks to
15 PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

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

20 62. PLAINTIFF further demands on behalf of himself and each member of the CALIFORNIA LABOR
21 SUB-CLASS, one (1) hour of pay for each workday in which an off duty paid rest period was not timely provided
22 as required by law.

23 63. By and through the unlawful and unfair business practices described herein, DEFENDANT has
24 obtained valuable property, money and services from PLAINTIFF and the other members of the CALIFORNIA
25 CLASS, including earned wages for all time worked, and has deprived them of valuable rights and benefits guaranteed
26 by law and contract, all to the detriment of these employees and to the benefit of DEFENDANT so as to allow
27 DEFENDANT to unfairly compete against competitors who comply with the law.
28

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

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

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

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

SECOND CAUSE OF ACTION

For Failure To Pay Minimum Wages

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

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

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

69. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare

Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

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

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

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

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

77. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members to work without paying them for all the time they were under DEFENDANT's control. During the CALIFORNIA LABOR SUB-CLASS PERIOD,

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

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

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

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

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

1 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other
2 CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

3 **THIRD CAUSE OF ACTION**

4 **For Failure To Pay Overtime Compensation**

5 **[Cal. Lab. Code § 510]**

6 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

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

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

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

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

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

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

26 88. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable to the
27 CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and practice that failed to
28 accurately record overtime worked by PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and

1 denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
2 for overtime worked, including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
3 (12) hours in a workday, and/or forty (40) hours in any workweek.

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

11 90. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
12 from the overtime requirements of the law. None of these exemptions are applicable to the PLAINTIFF and the other
13 members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS were not subject to a valid collective bargaining agreement that would preclude
15 the causes of action contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of himself and
16 the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable, non-waiveable
17 rights provided by the State of California.

18 91. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other members
19 of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime worked that they are entitled to,
20 constituting a failure to pay all earned wages.

21 92. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of the CALIFORNIA
22 LABOR SUB-CLASS overtime wages for the time they worked which was in excess of the maximum hours
23 permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF and the other
24 members of the CALIFORNIA LABOR SUB-CLASS were required to work, and did in fact work, overtime as to
25 which DEFENDANT failed to accurately record and pay as evidenced by DEFENDANT's business records and
26 witnessed by employees.

27 93. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation to
28 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for the true amount of time they

1 worked, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS have suffered and will
2 continue to suffer an economic injury in amounts which are presently unknown to them and which will be ascertained
3 according to proof at trial.

4 94. DEFENDANT knew or should have known that PLAINTIFF and the other members of the
5 CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked. DEFENDANT elected,
6 either through intentional malfeasance or gross nonfeasance, to not pay employees for their labor as a matter of
7 company policy, practice and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF
8 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

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

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

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1 **FOURTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

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

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

25 100. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR
26 SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and
27 due, interest, penalties, expenses and costs of suit.
28

1 **FIFTH CAUSE OF ACTION**

2 **For Failure to Provide Required Rest Periods**

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

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

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

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

23 **SIXTH CAUSE OF ACTION**

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

25 **[Cal. Lab. Code § 226]**

26 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

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

1 106. Cal. Labor Code § 226 provides that an employer must furnish employees with
2 an “accurate itemized” statement in writing showing:

- 3 (1) gross wages earned,
4 (2) total hours worked by the employee, except for any employee whose compensation is solely based on a
5 salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable
6 order of the Industrial Welfare Commission,
7 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate
8 basis,
9 (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated
10 and shown as one item,
11 (5) net wages earned,
12 (6) the inclusive dates of the period for which the employee is paid,
13 (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the
14 last four digits of his or her social security number or an employee identification number other than a social
15 security number may be shown on the itemized statement,
16 (8) the name and address of the legal entity that is the employer, and
17 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked
18 at each hourly rate by the employee.

19 107. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other members of the
20 CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed to show, among other
21 things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that every employer shall furnish each
22 of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross
23 wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time
24 worked at each hourly rate. PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly
25 basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours
26 worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section
27 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA LABOR SUB-
28 CLASS Members failed to identify such information. More specifically, the wage statements failed to identify the
accurate total hours worked each pay period. When the hours shown on the wage statements were added up, they did
not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement
that lists all the requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time
provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with wage statements
which violated Cal. Lab. Code § 226.

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

SEVENTH CAUSE OF ACTION

For Failure to Reimburse Employees for Required Expenses

[Cal. Lab. Code § 2802]

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

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

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

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

111. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from

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

7 112. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by himself and
8 the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for DEFENDANT, or their
9 obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

10 **EIGHTH CAUSE OF ACTION**

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

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

13 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

14 **and Against All Defendants)**

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

17 114. Cal. Lab. Code § 200 provides, in relevant part, that:

18 As used in this article:

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

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

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

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

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

1 of the mailing shall constitute the date of payment for purposes of the requirement to provide
2 payment within 72 hours of the notice of quitting.

3 117. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-CLASS Members'
4 employment contract.

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

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

11 119. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS Members has
12 terminated and DEFENDANT has not tendered payment of all wages owed as required by law. Additionally, at all
13 times during the term of PLAINTIFF's employment with DEFENDANT, PLAINTIFF and CALIFORNIA LABOR
14 SUB-CLASS Members earned and accrued vested vacation and holiday time on the date of their termination pursuant
15 to DEFENDANT's uniform vacation policies and applicable California law. The amount of vacation pay PLAINTIFF
16 and the other CALIFORNIA LABOR SUB-CLASS Members earned and accumulated is evidenced by
17 DEFENDANT's business records. Additionally, DEFENDANT also underpaid accrued vested vacation wages to
18 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS MEMBERS by failing to pay such wages at the regular
19 rate of pay and more specifically the final rate of pay that included all non-discretionary incentive compensation.
20 Rather than pay vacation wages at the regular rate of pay, DEFENDANT underpaid vacation wages to PLAINTIFF
21 and other CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of including all of
22 PLAINTIFF's and CALIFORNIA LABOR SUB-CLASS Members' non-discretionary incentive compensation into
23 the vacation wage payment calculations. DEFENDANT failed to specify in DEFENDANT's written vacation policy
24 the rate at which PLAINTIFF and other CALIFORNIA LABOR CLASS Members would be paid vacation upon
25 leaving employment with DEFENDANT. As a result of DEFENDANT's unlawful practice, policy and procedure to
26 deny paying the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS all of their vested
27 vacation and holiday time, DEFENDANT failed to pay the PLAINTIFF and the members of the CALIFORNIA
28 LABOR SUB-CLASS all vested vacation time as wages due upon employment termination, in violation of the
California Labor Code, Sections 201, 202, 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties
to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of

1 including all of PLAINTIFF's' and CALIFORNIA LABOR SUB-CLASS Members' non-discretionary compensation
2 into the waiting time penalty calculations. This failure by DEFENDANT is believed to be the result of
3 DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for earned, accrued and vested
4 vacation and holiday time, as well as the corresponding waiting time penalties that were paid. DEFENDANT
5 perpetrated this unlawful, unfair and deceptive practice to the detriment of the PLAINTIFF and the members of the
6 CALIFORNIA LABOR SUB-CLASS . DEFENDANT's uniform practice and policy of failing to pay the LABOR
7 SUB-CLASS Members for all vested vacation and holiday time accumulated at employment termination violated and
8 continues to violate Section 227.3 of the California Labor Code.

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

15 **NINTH CAUSE OF ACTION**

16 **For Failure to Pay Sick Pay Wages**

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

18 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

19 **and Against All Defendants)**

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

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

1 or (ii) "Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not
2 including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
3 of employment." Under Cal Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay wages as
4 damages.

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

15 124. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
16 during each calendar month and are to be paid no later than the payday for the next regular payroll period. Consistent
17 with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick leave, vested sick
18 pay wages are due and to be paid no later than the payday for the next regular payroll period after accrued sick leave
19 is used as paid sick time. Similarly, Cal. Lab. Code § 201 provides that if an employer discharges an employee, wages
20 earned and unpaid at the time of discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an
21 employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment,
22 unless the employee has given 72-hour notice of his or her intention to quit, in which case the employee is entitled
23 to his or her wages at the time of quitting. The Labor Code penalizes untimely payments. For example, Cal. Lab.
24 Code § 203 provides that if an employer willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-
25 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but
26 the wages shall not continue for more than thirty (30) days. Likewise, Cal. Lab. Code § 210 provides penalties for
27 violations of Cal. Lab. Code § 204 and untimely payments during employment. Under Cal. Lab. Code §§ 203, 210
28 and 218, employees may sue to recover applicable penalties.

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

126. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties, attorney's fees, and costs of suit.

TENTH CAUSE OF ACTION

For Failure To Pay Statutory Gratuities

[Cal. Lab. Code §§ 351, *et seq.*]

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

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

128. DEFENDANT's conduct, as set forth above, in failing to remit to non-managerial banquet service employees the total proceeds of gratuities added to banquet customers' bills constitutes a violation of California Labor Code Section 351. This violation is enforceable pursuant to the California Unfair Competition Law, Cal. Bus. And Prof. Code 17200 et seq. DEFENDANT's conduct constitutes unlawfully, unfair, and/or fraudulent business acts or practices, in that DEFENDANT has violated California Labor Code Section 351 in not remitting to the non-managerial service employees the total gratuities that were charged to customers.

129. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, including the loss of gratuities to which they were entitled. and seek all wages earned and due, interest, penalties, expenses and costs of suit.

ELEVENTH CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab. Code §§ 2698, *et seq.*]

(By PLAINTIFF and Against All Defendants)

130. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

132. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, brings this Representative Action on behalf of the State of California with respect to himself and all current and former non-exempt employees of DEFENDANT who worked in the State of California at the La Jolla, California Hyatt location (the "Aggrieved Employees") from June 8, 2022 to the earlier of preliminary approval or July 5, 2024 (the "PAGA PERIOD").

133. On June 8, 2023, PLAINTIFF gave written notice by electronic mail to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the employer of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference herein (*PAGA Notice only without draft complaint*). The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now

commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

134. The policies, acts and practices heretofore described were and are an unlawful business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and provide legally required meal and rest periods, © failed to pay minimum wages, (d) failed to pay overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses, (f) failed to provide wages when due, (g) failed to provide suitable seating and (h) failed to provide gratuities, all in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating) , and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED EMPLOYEES.

135. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

PRAYER FOR RELIEF

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

1. On behalf of the CALIFORNIA CLASS:
 - A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - B) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;

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

- 1 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld from
2 compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
3 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of
4 the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the other members of
5 the CALIFORNIA CLASS.

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

- 7 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth
8 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant
9 to Cal. Code of Civ. Proc. § 382;
10 B) Compensatory damages, according to proof at trial, including compensatory damages for minimum
11 and overtime compensation due PLAINTIFF and the other members of the CALIFORNIA LABOR
12 SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest
13 thereon at the statutory rate;
14 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
15 occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR SUB-
16 CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
17 thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
18 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable
19 IWC Wage Order;
20 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;
21 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA LABOR
22 SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit.; and,
23 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as a penalty
24 from the due date thereof at the same rate until paid or until an action therefore is commenced, in
25 accordance with Cal. Lab. Code § 203.

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

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

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

3 4. On all claims:

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

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

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

8
9 Dated: June 13, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

10 By: /s/ Nicholas James De Blouw

11 Norman B. Blumenthal

12 Nicholas J. De Blouw

13 **GOMEZ TRIAL ATTORNEYS, APLC**

14 John Gomez (State Bar #171485)

15 Emilia Arutunian (State Bar #305824)

16 655 Broadway, 17th Floor

17 San Diego, CA 92101

18 *Attorneys for Plaintiff*

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PLAINTIFF’S DEMAND FOR A JURY TRIAL

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

Dated: June 13, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas James De Blouw
Norman B. Blumenthal
Nicholas J. De Blouw

GOMEZ TRIAL ATTORNEYS, APLC
John Gomez (State Bar #171485)
Emilia Arutunian (State Bar #305824)
655 Broadway, 17th Floor
San Diego, CA 92101

Attorneys for Plaintiff

EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

June 8, 2023

CA2989

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Hyatt Corporation
Certified Mail #9589071052700182372817
CSC - Lawyers Incorporating Service
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE, Suite 150N
SACRAMENTO, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Hyatt Corporation at Hyatt Corporation’s Hyatt Regency in La Jolla, California, including any employees staffed with Hyatt Corporation at Hyatt Corporation’s Hyatt Regency in La Jolla, California by a third party, and classified as non-exempt employees during the time period of June 8, 2022 until a date as determined by the Court. Our offices represent Plaintiff Rogeberto Benitez (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Hyatt Corporation (“Defendant”). Plaintiff was employed by Defendant in California from March of 2022 to May of 2023. Plaintiff was at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved

Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.