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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

DEBORAH JONES and MICHAEL
SALAZAR, individually, and on behalf of
other members of the general public
similarly situated, and as aggrieved
employees pursuant to the Private Attorneys
General Act (“PAGA”),

Plaintiffs,

vs.

CARDINAL HEALTH PHARMACY
SERVICES, LLC, a Delaware limited
liability company; CARDINAL HEALTH,
INC., an Ohio corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 23CV419594

**SECOND AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (4) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (6) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (7) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (8) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices);

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- (10) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices); and
- (11) Failure to Pay Sick Pay Wages in Violation of Cal. Lab. Code §§201-204, 233 and 246; and
- (12) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order.

Jury Trial Demanded

1 Plaintiffs Deborah Jones and Michael Salazar, individually and on behalf of all other
2 members of the public similarly situated, and as an aggrieved employee and on behalf of all
3 aggrieved employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court, because Defendants employ persons within the
24 County of Santa Clara, and have violated the requirements of the California Labor Code and
25 applicable IWC Wage Order in this county which give rise to the penalties sought in this
26 action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of
27 the California Labor Code and applicable IWC Wage Order in at least one location within the
28 County of Santa Clara, including Defendants’ locations or facilities in Milpitas (1000

1 Gibraltar Drive, Milpitas, California 95035; 1820 McCarthy Boulevard, Milpitas, California
2 95035; and 1840 McCarthy Boulevard, Milpitas, California 95035); Palo Alto (4083
3 Transport Street, Palo Alto, California 94303); San Jose (1410 Koll Circle, San Jose,
4 California 95112); and Santa Clara (5452 Betsy Ross Drive, Santa Clara, California 95054).
5 Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery
6 of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of
7 the cause, arose. Because Defendants have employees in Santa Clara County and Plaintiff
8 could bring this action to recover penalties in Santa Clara County, venue is proper.

9 **THE PARTIES**

10 4. Plaintiff Deborah Jones (“Plaintiff Jones”) is a resident of Angwin, in Napa
11 County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Technician
12 II (Retail Pharmacy) from approximately December 2022 to March 2023. During her
13 employment, Plaintiff Jones typically worked seven (7) hours or more per day and five (5) days
14 per week. Plaintiff Jones’ primary job duties included, without limitation, filling prescriptions,
15 communicating with insurance companies, inputting data into the computer system, and
16 answering phone calls from patients. Plaintiff Michael Salazar (“Plaintiff Salazar”) was
17 employed by DEFENDANT in California at USC Arcadia Hospital as a Pharmacy Technician
18 II, from December of 2022 to August 23, 2023. Plaintiff Salazar was at all times classified by
19 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally
20 required meal and rest periods and payment of minimum and overtime wages due for all time
21 worked

22 5. CARDINAL HEALTH PHARMACY SERVICES, LLC was and is, upon
23 information and belief, a Delaware limited liability company, and at all times hereinafter
24 mentioned, an employer whose employees are engaged throughout this county and the State of
25 California.

26 6. CARDINAL HEALTH, INC. was and is, upon information and belief, an Ohio
27 corporation, and at all times hereinafter mentioned, an employer whose employees are
28 engaged throughout this county and the State of California.

1 7. Plaintiffs are unaware of the true names or capacities of the Defendants sued
2 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
3 amend the complaint and serve such fictitiously named Defendants once their names and
4 capacities become known.

5 8. Plaintiffs are informed and believes, and thereon alleges, that DOES 1 through
6 10 were the partners, agents, owners, or managers of CARDINAL HEALTH PHARMACY
7 SERVICES, LLC and CARDINAL HEALTH, INC. at all relevant times.

8 9. Plaintiffs are informed and believes, and thereon alleges, that each and all of
9 the acts and omissions alleged herein was performed by, or is attributable to, CARDINAL
10 HEALTH PHARMACY SERVICES, LLC; CARDINAL HEALTH, INC.; and/or DOES 1
11 through 10 (collectively, “Defendants” or “CARDINAL HEALTH”), each acting as the agent,
12 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
13 Defendants and was acting within the course and scope of such agency, employment, joint
14 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
15 and all Defendants were in accordance with, and represent, the official policy of Defendants.

16 10. At all relevant times, Defendants, and each of them, ratified each and every act
17 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
18 and abetted the acts and omissions of each and all the other Defendants in proximately causing
19 the damages herein alleged.

20 11. Plaintiffs are informed and believes, and thereon alleges, that each of said
21 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
22 omissions, occurrences, and transactions alleged herein.

23 12. Under California law, Defendants are jointly and severally liable as employers
24 for the violations alleged herein because they have each exercised sufficient control over the
25 wages, hours, working conditions, and employment status of Plaintiffs and class members.
26 Each Defendant had the power to hire and fire Plaintiffs and class members, supervised and
27 controlled their work schedule and/or conditions of employment, determined their rate of pay,
28 and maintained their employment records. Defendants suffered or permitted Plaintiffs and

1 class members to work and/or “engaged” Plaintiffs and class members so as to create a
2 common-law employment relationship. As joint employers of Plaintiffs and class members,
3 Defendants are jointly and severally liable for the civil penalties and all other relief available
4 to Plaintiffs and class members under the law.

5 13. Plaintiffs are informed and believes, and thereon alleges, that at all relevant
6 times, Defendants, and each of them, have acted as joint employers with respect to Plaintiffs
7 and class members because Defendants have:

- 8 (a) jointly exercised meaningful control over the work performed by
9 Plaintiffs and class members;
- 10 (b) jointly exercised meaningful control over Plaintiffs’ and class members’
11 wages, hours, and working conditions, including the quantity, quality
12 standards, speed, scheduling, and operative details of the tasks
13 performed by Plaintiffs and class members;
- 14 (c) jointly required that Plaintiffs and class members perform work which is
15 an integral part of Defendants’ businesses; and
- 16 (d) jointly exercised control over Plaintiffs and class members as a matter
17 of economic reality in that Plaintiffs and class members were dependent
18 on Defendants, who shared the power to set the wages of Plaintiffs and
19 class members and determined their working conditions, and who
20 jointly reaped the benefits from the underpayment of their wages and
21 noncompliance with other statutory provisions governing their
22 employment.

23 14. Plaintiffs are informed and believes, and thereon alleges, that at all relevant
24 times there has existed a unity of interest and ownership between Defendants such that any
25 individuality and separateness between the entities has ceased.

26 15. CARDINAL HEALTH PHARMACY SERVICES, LLC; CARDINAL
27 HEALTH, INC.; and DOES 1 through 10 are therefore alter egos of each other.

28 16. Adherence to the fiction of the separate existence of Defendants would permit

1 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
2 from liability for the wrongful acts committed by them under the name CARDINAL
3 HEALTH.

4 17. Plaintiffs further allege, upon information and belief, that Defendants
5 CARDINAL HEALTH PHARMACY SERVICES, LLC and CARDINAL HEALTH, INC. are
6 alter egos of each other for the following reasons:

7 (a) According to CARDINAL HEALTH, INC.’s SEC Form 10-K filing for
8 2022¹, CARDINAL HEALTH PHARMACY SERVICES, LLC is a
9 subsidiary of CARDINAL HEALTH, INC.;

10 (b) On the California Secretary of State’s website, CARDINAL HEALTH
11 PHARMACY SERVICES, LLC and CARDINAL HEALTH, INC. share
12 the same agent for service of process, C T CORPORATION SYSTEM;
13 and

14 (c) On information and belief, CARDINAL HEALTH PHARMACY
15 SERVICES, LLC and CARDINAL HEALTH, INC. utilize the same
16 standardized employment forms and issue the same employment
17 policies.

18 **GENERAL ALLEGATIONS**

19 18. Defendants are distributors of pharmaceuticals, global manufacturers and
20 distributors of medical and laboratory products, and providers of performance and data
21 solutions for healthcare facilities, operating at least 77 locations in California. Upon
22 information and belief, Defendants maintain a single, centralized Human Resources (“HR”)
23 department at their company headquarters in Stafford, Texas, or Dublin, Ohio, which is
24 responsible for the recruiting and hiring of new employees, and communicating and
25 implementing Defendants’ company-wide policies, including timekeeping policies and meal
26 and/or rest period policies, to employees throughout California.

27
28 ¹ 10-K Annual Report 08/11/2022, “Cardinal Health, Inc. – Financials SEC Filings”
<https://ir.cardinalhealth.com/financials/sec-filings/default.aspx> (last accessed July 24, 2023).

1 19. In particular, Plaintiffs and class members, on information and belief, received
2 the same standardized documents and/or written policies. Upon information and belief, the
3 usage of standardized documents and/or written policies, including new-hire documents,
4 indicate that Defendants dictated policies at the corporate level and implemented them
5 company-wide, regardless of their employees' assigned locations or positions. Upon
6 information and belief, Defendants set forth uniform policies and procedures in several
7 documents provided at an employee's time of hire.

8 20. Upon information and belief, Defendants maintain a centralized Payroll
9 department at their company headquarters in Stafford, Texas, or Dublin, Ohio, which
10 processes payroll for all non-exempt, hourly paid employees working for Defendants at their
11 various locations in California, including Plaintiffs and class members. Based upon
12 information and belief, Defendants issue the same formatted wage statements to all non-
13 exempt, hourly paid employees in California, irrespective of their work locations. Upon
14 information and belief, Defendants process payroll for departing employees in the same
15 manner throughout the State of California, regardless of the manner in which each employee's
16 employment ends.

17 21. Defendants continue to employ non-exempt or hourly paid employees in
18 California.

19 22. Plaintiffs are informed and believe, and thereon allege, that at all times herein
20 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
21 and advisors knowledgeable about California labor and wage law, employment and personnel
22 practices, and about the requirements of California law.

23 23. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and class
24 members were not paid for all hours worked because all hours worked were not recorded.

25 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
26 should have known that Plaintiffs and class members were entitled to receive certain wages
27 for overtime compensation and that they were not receiving certain wages for overtime
28 compensation.

1 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and/or class members were entitled to be paid at a regular
3 rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest period
4 premiums, that included as eligible income all remuneration required by law, including but not
5 limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or other
6 forms of compensation, but failed to include all forms of remuneration in calculating the
7 regular rate of pay for Plaintiffs and/or class members.

8 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs and class members were entitled to receive at least
10 minimum wages for compensation and that they were not receiving at least minimum wages
11 for work that was required to be done off-the-clock. In violation of the California Labor
12 Code, Plaintiffs and class members were not paid at least minimum wages for work done off-
13 the-clock.

14 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known that Plaintiffs and class members were entitled to rest periods in
16 accordance with the California Labor Code and applicable IWC Wage Order or payment of
17 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
18 permitted to take a compliant rest period and that Plaintiffs and class members were not
19 authorized and permitted to take compliant rest periods or provided payment of one (1)
20 additional hour of pay at their regular rates of pay when they were not authorized and
21 permitted to take a compliant rest period.

22 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
23 should have known that Plaintiff and/or class members were entitled to meal periods in
24 accordance with the California Labor Code and applicable IWC Wage Order or payment of
25 one (1) additional hour of pay at their regular rates of pay when they were not provided with
26 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and/or class members
27 were not provided with all meal periods or payment of one (1) additional hour of pay at their
28 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal

1 period.

2 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
3 should have known that Plaintiffs and class members were entitled to receive complete and
4 accurate wage statements in accordance with California law. In violation of the California
5 Labor Code, Plaintiffs and class members were not provided complete and accurate wage
6 statements.

7 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
8 should have known that they had a duty to maintain accurate and complete payroll records in
9 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
10 knowingly, and intentionally failed to do so.

11 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and class members were entitled to timely payment of all
13 wages earned upon termination of employment. In violation of the California Labor Code,
14 Plaintiffs and class members did not receive payment of all wages due, including, but not
15 limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within
16 permissible time periods.

17 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that Plaintiffs and class members were entitled to timely payment of
19 wages during their employment. In violation of the California Labor Code, Plaintiffs and
20 class members did not receive payment of all wages, including, but not limited to, overtime
21 wages, minimum wages, and/or meal and rest period premiums, within permissible time
22 periods.

23 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and/or class members were entitled to receive sick leave
25 benefits to be paid at a regular rate of pay, that included, as eligible income, all income
26 derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation. In
27 violation of the California Labor Code, Defendants failed to include all forms of remuneration
28 in calculating the regular rate of pay for sick leave pay.

1 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs and class members were entitled to receive full
3 reimbursement for all business-related expenses and costs they incurred during the course and
4 scope of their employment and that they did not receive full reimbursement of applicable
5 business-related expenses and costs incurred.

6 35. Plaintiffs are informed and believe, and thereon allege, that at all times herein
7 mentioned, Defendants knew or should have known that they had a duty to compensate
8 Plaintiffs and class members for all hours worked, and that Defendants had the financial
9 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so,
10 and falsely represented to Plaintiffs and class members that they were properly denied wages,
11 all in order to increase Defendants' profits.

12 **PAGA REPRESENTATIVE ALLEGATIONS**

13 36. At all times herein set forth, PAGA provides that any provision of law under
14 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
15 assessed and collected by the Labor and Workforce Development Agency ("LWDA") for
16 violations of the California Labor Code and applicable IWC Wage Order may, as an
17 alternative, be recovered by aggrieved employees in a civil action brought on behalf of
18 themselves and other current or former employees pursuant to procedures outlined in
19 California Labor Code section 2699.3.

20 37. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
21 person who was employed by the alleged violator and against whom one or more of the
22 alleged violations was committed."

23 38. Plaintiffs and other current and former employees of Defendants are "aggrieved
24 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
25 or former employees and one or more of the alleged violations were committed against them.

26 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
27 employee, including Plaintiffs, may pursue a civil action arising under PAGA after the
28 following requirements have been met:

- 1 (a) The aggrieved employee or representative shall give written notice by
2 online filing with the LWDA and by certified mail to the employer of
3 the specific provisions of the California Labor Code alleged to have
4 been violated, including the facts and theories to support the alleged
5 violation.
- 6 (b) An aggrieved employee's notice filed with the LWDA pursuant to
7 2699.3(a) and any employer response to that notice shall be
8 accompanied by a filing fee of seventy-five dollars (\$75).
- 9 (c) The LWDA shall notify the employer and the aggrieved employee or
10 representative by certified mail that it does not intend to investigate the
11 alleged violation ("LWDA Notice") within sixty (60) calendar days of
12 the postmark date of the aggrieved employee's notice. Upon receipt of
13 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
14 (65) calendar days of the postmark date of the aggrieved employee's
15 notice, the aggrieved employee may commence a civil action pursuant
16 to California Labor Code section 2699 to recover civil penalties.

17 40. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
18 through Plaintiffs, may pursue a civil action arising under PAGA for violations of any
19 provision other than those listed in Section 2699.5 after the following requirements have been
20 met:

- 21 (a) The aggrieved employee or representative shall give written notice by
22 online filing with the LWDA and by certified mail to the employer of
23 the specific provisions of the California Labor Code alleged to have
24 been violated (other than those listed in Section 2699.5), including the
25 facts and theories to support the alleged violation.
- 26 (b) An aggrieved employee's notice filed with the LWDA pursuant to
27 2699.3(c) and any employer response to that notice shall be
28 accompanied by a filing fee of seventy-five dollars (\$75).

1 (c) The employer may cure the alleged violation within thirty-three (33)
2 calendar days of the postmark date of the notice sent by the aggrieved
3 employee or representative. The employer shall give written notice
4 within that period of time by certified mail to the aggrieved employee or
5 representative and by online filing with the LWDA if the alleged
6 violation is cured, including a description of actions taken, and no civil
7 action pursuant to Section 2699 may commence. If the alleged violation
8 is not cured within the 33-day period, the aggrieved employee may
9 commence a civil action pursuant to Section 2699.

10 41. On August 22, 2023, Plaintiff Jones provided written notice by online filing to
11 the LWDA and by Certified Mail to Defendants of the specific provisions of the California
12 Labor Code alleged to have been violated, including facts and theories to support the alleged
13 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
14 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
15 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
16 Plaintiff PAGA Case Number LWDA-CM-977040-23. A true and correct copy of Plaintiff's
17 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1." On August 18,
18 2023, Plaintiff Salazar provided written notice by online filing to the LWDA and by Certified
19 Mail to Defendants of the specific provisions of the California Labor Code alleged to have
20 been violated, including facts and theories to support the alleged violations, in accordance
21 with California Labor Code section 2699.3. The LWDA PAGA Administrator confirmed
22 receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-
23 976276-23. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants
24 is attached hereto as "Exhibit 2."

25 42. As of the filing date of this complaint, over 65 days have passed since Plaintiffs
26 sent the notice described above to the LWDA, and the LWDA has not responded that it
27 intends to investigate Plaintiffs' claims and Defendants have not cured the violations.

28 43. Thus, Plaintiffs have satisfied the administrative prerequisites under California

1 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
2 violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7,
3 227.3, 246, 248.6, 510, 512(a), 516, 558(a)(1)(2), 1174(d), 1182.12, 1194, 1197, 1197.1,
4 1198, and 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-
5 (B), California Code of Regulations, Title 8, Section 11740(14) (failure to provide
6 seating),and the applicable Wage Order(s).

7 44. Labor Code section 558(a) provides “[a]ny employer or other person acting on
8 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
9 provision regulating hours and days of work in any order of the Industrial Welfare
10 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
11 dollars (\$50) for each underpaid employee for each pay period for which the employee was
12 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
13 underpaid employee for each pay period for which the employee was underpaid” Labor
14 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
15 to any other civil or criminal penalty provided by law.”

16 45. Defendants, at all times relevant to this complaint, were employers or persons
17 acting on behalf of an employer(s) who violated Plaintiffs’ and other aggrieved employees’
18 rights by violating various sections of the California Labor Code as set forth above.

19 46. As set forth below, Defendants have violated numerous provisions of both the
20 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
21 Order.

22 47. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
23 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiffs, acting in the public interest as a
24 private attorney general, seeks assessment and collection of civil penalties for themselves, all
25 other aggrieved employees, and the State of California against Defendants for violations of
26 California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246,
27 248.6, 510, 512(a), 516, 558(a)(1)(2), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802,
28 and California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California

Code of Regulations, Title 8, Section 11740(14) (failure to provide seating), and the applicable Wage Order(s).

.CLASS ACTION ALLEGATIONS

48. Plaintiffs bring this action on their own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

49. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

50. Plaintiffs' proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, at any time from October 8, 2020, until the date of trial ("Class").

51. Plaintiffs' proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial ("Subclass").

52. Members of the Class and Subclass are referred to herein as "class members."

53. Plaintiffs reserve the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

54. There are common questions of law and fact as to class members that predominate over questions affecting only individual members, including, but not limited to:

- (a) Whether Defendants required Plaintiffs and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime compensation to Plaintiffs and class members;
- (b) Whether Defendants failed to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiffs and/or class

- members;
- (c) Whether Defendants failed to pay Plaintiffs and class members at least minimum wages for all hours worked;
- (d) Whether Defendants failed to authorize and permit Plaintiffs and class members to take rest periods;
- (e) Whether Defendants failed to provide Plaintiffs and/or class members with meal periods;
- (f) Whether Defendants provided Plaintiffs and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (g) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (h) Whether Defendants failed to pay earned overtime wages, minimum wages, and/or meal and rest period premiums due to Plaintiffs and class members upon their discharge;
- (i) Whether Defendants failed to timely pay overtime wages, minimum wages, and/or meal and rest period premiums to Plaintiffs and class members during their employment;
- (j) Whether Defendants failed to properly calculate the regular rate of pay upon which Plaintiffs' and/or class members' sick leave rate of pay was based, as required by California Labor Code section 246 and 248.6;
- (k) Whether Defendants failed to reimburse Plaintiffs and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (l) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (m) The appropriate amount of damages, restitution, or monetary penalties

1 resulting from Defendants' violations of California law.

2 55. There is a well-defined community of interest in the litigation and the class
3 members are readily ascertainable:

- 4 (a) Numerosity: The class members are so numerous that joinder of all
5 members would be unfeasible and impractical. The membership of the
6 entire class is unknown to Plaintiffs at this time; however, the class is
7 estimated to be greater than one hundred (100) individuals and the
8 identity of such membership is readily ascertainable by inspection of
9 Defendants' employment records.
- 10 (b) Typicality: Plaintiffs are qualified to, and will, fairly and adequately
11 protect the interests of each class member with whom she has a well-
12 defined community of interest, and Plaintiffs' claims (or defenses, if
13 any) are typical of all class members as demonstrated herein.
- 14 (c) Adequacy: Plaintiffs are qualified to, and will, fairly and adequately
15 protect the interests of each class member with whom she has a well-
16 defined community of interest and typicality of claims, as demonstrated
17 herein. Plaintiffs acknowledge that they have an obligation to make
18 known to the Court any relationship, conflicts or differences with any
19 class member. Plaintiffs' attorneys, the proposed class counsel, are
20 versed in the rules governing class action discovery, certification, and
21 settlement. Plaintiffs have incurred, and throughout the duration of this
22 action, will continue to incur costs and attorneys' fees that have been,
23 are, and will be necessarily expended for the prosecution of this action
24 for the substantial benefit of each class member.
- 25 (d) Superiority: The nature of this action makes the use of class action
26 adjudication superior to other methods. A class action will achieve
27 economies of time, effort, and expense as compared with separate
28 lawsuits, and will avoid inconsistent outcomes because the same issues

1 can be adjudicated in the same manner and at the same time for the
2 entire class.

3 (e) Public Policy Considerations: Employers in the State of California
4 violate employment and labor laws every day. Current employees are
5 often afraid to assert their rights out of fear of direct or indirect
6 retaliation. Former employees are fearful of bringing actions because
7 they believe their former employers might damage their future
8 endeavors through negative references and/or other means. Class
9 actions provide the class members who are not named in the complaint
10 with a type of anonymity that allows for the vindication of their rights
11 while simultaneously protecting their privacy.

12 **FIRST CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 14 **(Against all Defendants)**

15 56. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
16 and every allegation set forth above.

17 57. Labor Code section 1198 makes it illegal to employ an employee under
18 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
19 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
20 shall be the . . . standard conditions of labor for employees. The employment of any employee
21 . . . under conditions of labor prohibited by the order is unlawful.”

22 58. California Labor Code section 1198 and the applicable IWC Wage Order
23 provide that it is unlawful to employ persons without compensating them at a rate of pay
24 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
25 number of hours worked by the person on a daily or weekly basis.

26 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
27 were required to pay Plaintiffs and class members working more than eight (8) hours in a day
28 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all

1 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
2 workweek.

3 60. The applicable IWC Wage Order further provides that Defendants are and were
4 required to pay Plaintiffs and class members working more than twelve (12) hours in a day,
5 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
6 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
7 employee, including nondiscretionary bonuses and incentive pay.

8 61. California Labor Code section 510 codifies the right to overtime compensation
9 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
10 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
11 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
12 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
13 in a day on the seventh (7th) day of work.

14 62. During the relevant time period, Defendants willfully failed to pay all overtime
15 wages owed to Plaintiffs and class members. During the relevant time period, Plaintiffs and
16 class members were not paid overtime premiums for all of the hours they worked in excess of
17 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
18 hours in a week, because all hours worked were not recorded.

19 63. During the relevant period, Defendants had, and continue to have, a company-
20 wide policy of requiring Plaintiffs and class members to work off-the-clock before their
21 scheduled shifts. For instance, Defendants had a practice of requiring employees to work
22 several minutes off the clock before their scheduled shift start-times. Plaintiffs and class
23 members spent time booting up their computers and logging in before clocking in for their
24 shifts, but they had no way of recording this time worked. As a further example, Defendants
25 had, and continue to have, a company-wide security policy and/or practice of allowing only
26 certain employees to carry keys to the Defendants' pharmacy. Specifically, only the
27 pharmacist employees were issued keys to access the pharmacy at any given time. In
28 adherence with this policy, Plaintiffs and class members had to wait for a pharmacist

1 employee to arrive at Defendants' premises and unlock the pharmacy in the mornings before
2 they could clock in for their shifts. In addition, Defendants engage in the practice of requiring
3 Plaintiffs and class members to submit to mandatory temperature checks and symptom
4 questionnaires for COVID-19 screening prior to clocking into Defendants' timekeeping
5 system for the workday. As a result, Plaintiffs and class members were subject to Defendants'
6 control before they had clocked in for their shifts, but were not compensated for this time.

7 64. Defendants, as a matter of established company policy and procedure,
8 administer a uniform practice of rounding the actual time worked and recorded for Plaintiffs
9 and class members, always to the benefit of Defendants, so that during the course of their
10 employment, Plaintiff and class members are paid less than they would have been paid has
11 they been paid for actual recorded time rather than "rounded" time.

12 65. Defendants knew or should have known that, as a result of these company-wide
13 practices and/or policies, Plaintiffs and class members were performing their assigned duties
14 off-the-clock before their shifts and were suffered or permitted to perform work for which
15 they were not paid. Because Plaintiffs and class members worked shifts of eight (8) hours a
16 day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for
17 overtime premium pay. Therefore, Plaintiffs and class members were not paid overtime
18 wages for all of the overtime hours they actually worked.

19 66. Defendants' failure to pay Plaintiffs and class members the balance of overtime
20 compensation, as required by California law, violates the provisions of California Labor Code
21 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiffs and class
22 members are entitled to recover from Defendants their unpaid overtime compensation, as well
23 as interest, costs, and attorneys' fees.

24 **SECOND CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 26 **Minimum Wages** 27 **(Against all Defendants)**

28 67. Plaintiffs incorporate by reference and re-allege as if fully stated herein each

1 and every allegation set forth above.

2 68. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
3 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
4 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
5 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the
6 time during which an employee is subject to the control of an employer, and includes all the
7 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
8 Code Regs. Tit. 8, § 11070(2)(G) (defining “Hours Worked”).

9 69. As stated, during the relevant time period, Defendants had company-wide
10 practices and/or policies requiring Plaintiffs and class members to work off-the-clock, but
11 failed to compensate them for this time spent working. Plaintiffs and class members were
12 required to spend time waiting off-the-clock, before their scheduled shifts, booting up their
13 computers, logging in, then clocking in for their shifts, and waiting for a pharmacist employee
14 to arrive and unlock the pharmacy in the morning.

15 70. Thus, Defendants did not pay minimum wages for all hours worked by
16 Plaintiffs and class members. To the extent that these off-the-clock hours did not qualify for
17 overtime premium payment, Defendants did not pay at least minimum wages for those hours
18 worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197,
19 1197.1, and 1198.

20 71. As a result, Defendants regularly failed to pay at least minimum wages to
21 Plaintiffs and class members for all of the hours they worked in violation of California Labor
22 Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code
23 section 1194.2, Plaintiffs and class members are entitled to recover from Defendants
24 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

25 **THIRD CAUSE OF ACTION**

26 **Violation of California Labor Code §§ 226.7, 512, 516, and 1198—Rest Period Violations** 27 **(Against all Defendants)**

28 72. Plaintiffs incorporate by reference and re-allege as if fully stated herein each

1 and every allegation set forth above.

2 73. At all relevant times herein set forth, the applicable IWC Wage Order and
3 California Labor Code sections 226.7, 512, 516, and 1198 were applicable to Plaintiffs' and
4 class members' employment by Defendants.

5 74. At all relevant times, the applicable IWC Wage Order provides that "[e]very
6 employer shall authorize and permit all employees to take rest periods, which insofar as
7 practicable shall be in the middle of each work period" and that the "rest period time shall be
8 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
9 hours or major fraction thereof" unless the total daily work time is less than three and one-half
10 (3 ½) hours.

11 75. At all relevant times, California Labor Code section 226.7 provides that no
12 employer shall require an employee to work during any rest period mandated by an applicable
13 order of the California IWC. To comply with its obligation to authorize and permit rest
14 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
15 employer must "relinquish any control over how employees spend their break time, and
16 relieve their employees of all duties—including the obligation that an employee remain on
17 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
18 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
19 Labor Code section 226.7(c), Plaintiffs and class members are entitled to recover from
20 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
21 required rest period was not authorized and permitted.

22 76. During the relevant time period, Defendants regularly failed to authorize and
23 permit Plaintiffs and class members to take a ten (10) minute rest period per each four (4)
24 hour period worked or major fraction thereof. Defendants' company-wide policies and/or
25 practices of understaffing and assigning heavy workloads resulted in a lack of rest period
26 coverage and prevented Plaintiffs and class members from being relieved of all duty to take
27 rest periods. Defendants also failed to schedule rest periods, which further led to Plaintiffs
28 and class members not being authorized and permitted to take rest periods.

77. Moreover, upon information and belief, Defendants maintained a company-wide on-premises rest period policy, which effectively required that Plaintiffs and/or class members remain on Defendants' premises during their rest periods and prevented them from taking unconstrained walks. Because Plaintiffs and/or class members were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, Defendants effectively maintained control over Plaintiffs and/or class members during rest periods.

78. As a result of Defendants' practices and policies, Plaintiffs and class members worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Plaintiffs had to forego their rest periods during her employment.

79. Defendants have also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Plaintiffs and class members have not received premium pay for all missed rest periods. As a result, Defendants denied Plaintiffs and class members rest periods and failed to pay them rest period premiums due, in violation of Labor Code sections 226.7 and 516, and the applicable IWC Wage Order.

80. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 512, 516, and 1198. Plaintiffs and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that a compliant rest period was not authorized and permitted.

FOURTH CAUSE OF ACTION

**Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage
Statements and Failure to Maintain Accurate Payroll Records**

(Against all Defendants)

81. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

1 82. At all relevant times herein set forth, California Labor Code section 226(a)
2 provides that every employer shall furnish each of his or her employees an accurate and
3 complete itemized wage statement in writing, including, but not limited to, the name and
4 address of the legal entity that is the employer, the inclusive dates of the pay period, total
5 hours worked, and all applicable rates of pay.

6 83. At all relevant times, Defendants have knowingly and intentionally provided
7 Plaintiffs and class members with uniform, incomplete, and inaccurate wage statements. For
8 example, Defendants issued uniform wage statements to Plaintiffs and class members that fail
9 to correctly list: gross wages earned; total hours worked; net wages earned; the name and
10 address of the legal entity that is the employer; and all applicable hourly rates in effect during
11 the pay period, including rates of pay for overtime wages, and the corresponding number of
12 hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
13 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

14 84. Because Defendants did not accurately record the time Plaintiffs and Subclass
15 members spent working off-the-clock, Defendants did not list the correct amount of gross
16 wages and net wages earned by Plaintiffs and Subclass members in compliance with sections
17 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total
18 number of hours worked by Plaintiffs and Subclass members in violation of section 226(a)(2),
19 and failed to list the applicable hourly rates of pay in effect during the pay period and
20 corresponding accurate number of work hours worked at each hourly rate in violation of
21 section 226(a)(9).

22 85. In addition, and separately from these violations, Defendants issued uniform
23 wage statements to Plaintiffs and Subclass members that failed to list the name and address of
24 the legal entity of the actual employer in violation of 226(a)(8). The purpose of section
25 226(a)(8) is to provide California employees with transparency as to the true identity of their
26 employer, to allow the employee to contact their employer during employment or in the future
27 for various reasons, including filing an administrative claim, judicial claim, or other action to
28 seek relief against their employer, to obtain unemployment benefits, etc. During the relevant

1 time period, Defendants systematically, and on a company-wide basis, issued wage statements
2 to Plaintiffs and Subclass members that fail to list the employing entity's correct name and/or
3 address. Plaintiffs' and Subclass members' wage statements incorrectly list the employer's
4 address as "7000 CARDINAL PLACE, DUBLIN, OH 43017," but according to the California
5 Secretary of State's website, CARDINAL HEALTH PHARMACY SERVICES, LLC's entity
6 address should be "13651 DUBLIN COURT, STAFFORD, TX 77477." Alternatively,
7 Plaintiffs' and Subclass members' wage statements incorrectly list the employing entity as
8 "Cardinal Health Pharm Serv," when the correct employing entities' name is CARDINAL
9 HEALTH, INC.

10 86. The wage statement deficiencies also include, without limitation, failing to list
11 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
12 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
13 for which employees were paid; failing to list the name of the employee and only the last four
14 digits of his or her social security number or an employee identification number other than a
15 social security number; and/or failing to state all hours worked as a result of not recording or
16 stating hours worked off-the-clock.

17 87. California Labor Code section 1174(d) provides that "[e]very person employing
18 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
19 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
20 plants or establishments at which employees are employed, payroll records showing the hours
21 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
22 applicable piece rate paid to, employees employed at the respective plants or
23 establishments" At all relevant times, and in violation of Labor Code section 1174(d),
24 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
25 members showing the daily hours they worked and the wages paid thereto as a result of failing
26 to record the off-the-clock hours that they worked.

27 88. California Labor Code section 1198 provides that the maximum hours of work
28 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as

1 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
2 employment of any employees for longer hours than those fixed by the order or under
3 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
4 Wage Order, employers are required to keep accurate time records showing when the
5 employee begins and ends each work period. During the relevant time period, Defendants
6 engaged in company-wide practices and/or policies of failing to record actual hours worked,
7 in violation of section 1198.

8 89. Plaintiffs and Subclass members are entitled to recover from Defendants the
9 greater of their actual damages caused by Defendants’ failure to comply with California Labor
10 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
11 employee.

12 **FIFTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 14 **Termination** 15 **(Against all Defendants)**

16 90. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
17 and every allegation set forth above.

18 91. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
19 that if an employer discharges an employee, the wages earned and unpaid at the time of
20 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
21 her employment, his or her wages shall become due and payable not later than seventy-two
22 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
23 his or her intention to quit, in which case the employee is entitled to his or her wages at the
24 time of quitting.

25 92. On information and belief, Defendants have a company-wide practice and/or
26 policy of paying departing employees their final wages on the next regular pay cycle, instead
27 of adhering to the time requirements set forth in Labor Code sections 201 and 202. For
28 example, Defendants terminated Plaintiff Jones on or about March 23, 2023; however,

1 Defendants did not provide Plaintiffs with their final paycheck until about one week later.
2 Thus, Defendants failed to pay Plaintiffs their final wages immediately, in violation of
3 California Labor Code section 201.

4 93. Additionally, Defendants willfully failed to pay Plaintiffs and class members
5 who are no longer employed by Defendants the earned and unpaid wages set forth above,
6 including but not limited to, overtime wages, minimum wages, and/or meal and rest period
7 premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving
8 Defendants' employ.

9 94. Defendants' failure to pay Plaintiffs and class members who are no longer
10 employed by Defendants their wages earned and unpaid at the time of discharge, or within
11 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
12 and 202. Plaintiffs and class members are therefore entitled to recover from Defendants the
13 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
14 thirty (30) day maximum pursuant to California Labor Code section 203.

15 **SIXTH CAUSE OF ACTION**

16 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 17 **Employment** 18 **(Against all Defendants)**

19 95. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
20 and every allegation set forth above.

21 96. This cause of action is dependent upon, and wholly derivative of, the overtime
22 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
23 Plaintiffs and class members during their employment.

24 97. At all times relevant herein set forth, Labor Code section 204 provides that all
25 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
26 days, inclusive, of any calendar month, other than those wages due upon termination of an
27 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
28 the month during which the labor was performed.

98. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

99. At all times relevant herein, Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

100. During the relevant time period, Defendants willfully failed to pay Plaintiffs and class members all wages due including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within the time periods specified by California Labor Code section 204.

101. Defendants' failure to timely pay Plaintiffs and class members all wages due violates Labor Code section 204. Plaintiffs and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 2802—Unpaid Business-Related Expenses
(Against all Defendants)

102. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

103. At all times herein set forth, California Labor Code section 2802 provides that an employer must reimburse employees for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on

1 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
2 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: "[w]hen the
3 employer requires the use of tools or equipment or they are necessary to the performance of a
4 job, such tools and equipment shall be provided and maintained by the employer, except that
5 an employee whose wages are at least two (2) times the minimum wage may provide and
6 maintain hand tools and equipment customarily required by the particular trade or craft."

7 104. During the relevant time period, Defendants, on a company-wide basis,
8 required Plaintiffs and class members to use their personal mobile devices, including, but not
9 limited to, cellular phones, and/or mobile data to carry out their job duties but failed to
10 reimburse them for the costs of their work-related mobile device and/or mobile data expenses.
11 For example, Plaintiff Jones was required to download a mobile application, "Crew
12 Messaging and Scheduling," on her personal cellular phone and to regularly use her mobile
13 data to view her schedule and message coworkers and management. Plaintiffs and class
14 members were not compensated for the cost of the mobile data used to download and access
15 the application. Further, Plaintiffs and class members used their personal cellular phones to
16 communicate with management and coworkers via text message regarding work-related
17 matters. Although Defendants required Plaintiffs and class members to use their personal
18 mobile devices and/or mobile data to carry out their work-related duties, Defendants failed to
19 reimburse them for their costs incurred.

20 105. Defendants could have provided Plaintiffs and class members with company
21 mobile devices, or, Defendants could have reimbursed employees for the costs of their mobile
22 device usage. Instead, Defendants passed these operating costs off onto Plaintiffs and class
23 members. At all relevant times, Plaintiffs did not earn at least two (2) times the minimum
24 wage.

25 106. Defendants also required Plaintiffs and class members to use their home offices
26 to perform work related job tasks but Defendants failed to reimburse them for their costs
27 incurred.

28 107. Defendants' company-wide policy and/or practice of passing on their operating

costs to Plaintiffs and class members violates California Labor Code section 2802. Defendants have intentionally and willfully failed to reimburse Plaintiffs and class members for necessary business-related expenses and costs.

108. Plaintiffs and class members are entitled to recover from Defendants their business-related expenses incurred during the course and scope of their employment, plus interest.

EIGHTH CAUSE OF ACTION

For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.*

(Against all Defendants)

109. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every allegation set forth above.

110. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiffs, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including sections 246, 248.6, 516 and 1182.12.

111. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiffs and other aggrieved employees with all required overtime pay, as alleged herein and as set forth below;
- (b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants’ failure to include all forms of remuneration in the regular rate of pay as required by law for purposes of paying overtime wages and/or meal and rest period

- premiums to other aggrieved employees, as set forth below;
- (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiffs and other aggrieved employees with at least minimum wages for all hours worked, as alleged herein and set forth below;
- (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit other aggrieved employees to take rest periods, as alleged herein;
- (e) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide other aggrieved employees with meal periods, as set forth below;
- (f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiffs and other aggrieved employees, as alleged herein;
- (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as alleged herein;
- (h) Violation of Labor Code sections 201 and 202 for failure to pay all earned wages upon termination, as alleged herein;
- (i) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as alleged herein;
- (j) Violation of Labor Code section 221 for illegal deductions from wages;
- (k) Violation of Labor Code sections 246 and 248.6 for failure to properly calculate the sick leave paid to other aggrieved employees as set forth below; and
- (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs

1 and other aggrieved employees for all business expenses necessarily
2 incurred, as alleged herein.

3 112. During the relevant time period, as stated, Defendants had company-wide
4 policies and/or practices of requiring Plaintiffs and other aggrieved employees to work off-
5 the-clock before their scheduled shifts, but did not compensate Plaintiffs and other aggrieved
6 employees for this time. Moreover, Defendants had, and continue to have, a company-wide
7 policy and/or practice of understaffing while assigning heavy workloads, resulting in a failure
8 to provide other aggrieved employees with adequate meal period coverage. As a result, other
9 aggrieved employees were not always afforded uninterrupted 30-minute meal periods during
10 shifts when they were entitled to receive a meal period. Consequently, other aggrieved
11 employees worked through meal periods and/or had meal periods interrupted in order to attend
12 to their work duties. Defendants did not compensate other aggrieved employees for the time
13 they spent working off the clock during meal periods.

14 113. As stated, Defendants knew or should have known that as a result of these
15 company-wide practices and/or policies, Plaintiffs and other aggrieved employees were
16 performing their assigned duties off-the-clock before their shifts and/or during meal periods,
17 and were suffered or permitted to perform work for which they were not paid. Because
18 Plaintiffs and other aggrieved employees worked shifts of eight (8) hours a day or more or
19 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
20 premium pay.

21 114. Moreover, when Defendants required Plaintiffs and aggrieved employees to
22 report for work, but “furnished less than half said employee’s usual or scheduled day’s work,”
23 Defendants violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiffs and
24 aggrieved employees for at least two (2) hours’ worth of work at their regular rate of pay. In
25 addition, when Defendants required Plaintiff and aggrieved employees to respond to and
26 engage in additional work, this resulted in a second reporting for work in a single workday,
27 and Defendants failed to pay these employees reporting time pay as required by Cal. Code
28 Regs., tit. 8 § 11040, subd. 5(B).

115. Furthermore, Defendants did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, Defendants paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

116. Defendants' failure to compensate Plaintiffs and/or other aggrieved employees with all required overtime pay and Defendants' failure to properly calculate the overtime rates paid to other aggrieved employees is in violation of California Labor Code sections 510 and 1198, and the applicable IWC Wage Order. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Defendants' failure to pay Plaintiff and/or other aggrieved employees minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.

117. As stated, Defendants also have engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Plaintiffs and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that Defendants did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, Defendants did not pay other aggrieved employees at the correct rate of pay for premiums because Defendants failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

118. Defendants' failure to properly calculate the rates of pay for rest period

1 premiums based on all remuneration paid is in violation of California Labor Code sections
2 226.7, 516, and 1198, and the applicable IWC Wage Order.

3 119. At all relevant times herein set forth, the applicable IWC Wage Order and
4 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to other
5 aggrieved employees' employment by Defendants.

6 120. At all relevant times herein set forth, California Labor Code section 512(a)
7 provides that an employer may not require, cause, or permit an employee to work for a period
8 of more than five (5) hours per day without providing the employee with a meal period of not
9 less than thirty (30) minutes, except that if the total work period per day of the employee is
10 not more than six (6) hours, the meal period may be waived by mutual consent of both the
11 employer and the employee. Under California law, first meal periods must start after no more
12 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

13 121. At all relevant times herein set forth, California Labor Code sections 226.7,
14 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
15 meal period mandated by an applicable order of the IWC.

16 122. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and
17 1198, and the applicable IWC Wage Order also require employers to provide a second meal
18 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
19 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if
20 the total hours worked is no more than twelve (12) hours, the second meal period may be
21 waived by mutual consent of the employer and the employee only if the first meal period was
22 not waived.

23 123. During the relevant time period, as with rest periods, Defendants had, and
24 continue to have, a company-wide policy and/or practice of understaffing locations, which,
25 combined with the assignment of heavy workloads, has resulted in a lack of meal period
26 coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal
27 periods to which they were entitled. As a result, other aggrieved employees had to work
28 through all or part of their meal periods, had their meal periods interrupted, and/or had to wait

1 extended periods of time before taking meal periods. Additionally, Defendants did not
2 provide other aggrieved employees with second 30-minute meal periods on days that they
3 worked in excess of ten (10) hours in one day. Other aggrieved employees did not sign valid
4 meal period waivers on days that they were entitled to meal periods and were not relieved of
5 all duties.

6 124. At all times mentioned herein, Defendants knew or should have known that, as
7 a result of these policies, other aggrieved employees were prevented from being relieved of all
8 duties and required to perform some of their assigned duties during meal periods. Defendants
9 further knew or should have known that they did not pay other aggrieved employees meal
10 period premiums when meal periods were late, interrupted, shortened, and/or missed.

11 125. Moreover, Defendants engaged in a company-wide practice and/or policy of
12 not paying all meal period premiums owed when compliant meal periods are not provided.
13 Because of this practice and/or policy, other aggrieved employees have not received premium
14 pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants
15 did pay other aggrieved employees for missed, late, and interrupted meal periods, Defendants
16 did not pay other aggrieved employees at the correct rate of pay for premiums because
17 Defendants systematically failed to include all forms of compensation, such as incentive pay,
18 nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

19 126. Defendants' failure to provide meal periods to other aggrieved employees and
20 failure to properly calculate the rates of pay for meal period premiums based on all
21 remuneration paid is in violation of California Labor Code sections 226.7, 512(a), 516, and
22 1198, and the applicable IWC Wage Order.

23 127. During the relevant time period, because Defendants did not calculate other
24 aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages
25 and/or meal and rest period premiums, Defendants did not list the correct amount of gross
26 wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not
27 list the correct amount of net wages earned by other aggrieved employees in violation of
28 section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect

1 during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest
2 period premiums, in violation of section 226(a)(9).

3 128. Furthermore, Defendants failed, on a company-wide basis, to keep accurate
4 records of all wages owed, including meal period premiums, and first and second meal period
5 start and end times for other aggrieved employees, in violation of sections 1174(d) and 1198,
6 and the applicable IWC Wage Order. Defendants' conduct is in violation of California Labor
7 Code 226(a), 1174(d), and 1198.

8 129. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
9 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
10 days from the commencement of employment with paid sick days, to be accrued at least one
11 hour for every 30 hours worked. Further, Labor Code section 246(l) provides that an
12 employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time
13 for nonexempt employees shall be calculated in the same manner as the regular rate of pay for
14 the workweek in which the employee uses paid sick time, whether or not the employee
15 actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt
16 employees shall be calculated by dividing the employee's total wages, not including overtime
17 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
18 days of employment."

19 130. At all relevant times herein, California Labor Code section 248.6 provides
20 covered employees with COVID-19 supplemental paid sick leave. Labor Code section
21 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be
22 compensated at a rate equal to the following: 1) "[c]alculated in the same manner as the
23 regular rate of pay for the workweek in which the employee uses paid sick time, whether or
24 not the employee actually works overtime in that workweek[;]" or 2) "[c]alculated by dividing
25 the employee's total wages, not including overtime premium pay, by the employee's total
26 nonovertime hours worked in the full pay periods occurring within the prior 90 days of
27 employment; provided that, for nonexempt employees paid by piece rate, commission or other
28 method that uses all hours to determine the regular rate of pay, total wages, not including

overtime premium pay, shall be divided by all hours, to determine the correct amount of COVID-19 supplemental paid sick leave under this subdivision.”

131. During the relevant time period, on information and belief, Defendants did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, Defendants paid Plaintiffs and/or other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, Defendants paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

132. Defendants’ failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis, in violation of Labor Code sections 246(l) and 248.6(b)(3)(A).

133. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Defendants failed to pay all compensation due to Plaintiffs and other aggrieved employees made unlawful deductions from compensation payable to Plaintiffs and aggrieved employees, failed to disclose all aspects of the deductions from compensation payable to Plaintiffs and aggrieved employees, and thereby failed to pay these employees all wages due at each applicable pay period and upon termination.

134. In violation of the applicable sections of the California Labor Code and the requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order, Defendants as a matter of company policy, practice and procedure, intentionally, knowingly and systematically failed to provide Plaintiff and other aggrieved employees suitable seating

1 when the nature of these employees' work reasonably permitted sitting. Defendants knew or
2 should have known that Plaintiffs and other aggrieved employees were entitled to suitable
3 seating and/or were entitled to sit when it did not interfere with the performance of their
4 duties, and that Defendants did not provide suitable seating and/or did not allow them to sit
5 when it did not interfere with the performance of their duties. By reason of this conduct
6 applicable to Plaintiffs and all aggrieved employees, Defendants violated California Labor
7 Code Section 1198 and California Code of Regulations, Title 8, Section 11070(14) (Failure to
8 Provide Seating), Wage Order 4-2001, Section 14 by failing to provide suitable seats.
9 Plaintiffs seek penalties on behalf of themselves and other aggrieved employees as provided
10 herein. Providing suitable seating is the Defendants' burden. As a result of Defendants'
11 intentional disregard of the obligation to meet this burden, Defendants violated the California
12 Labor Code and regulations promulgated thereunder as herein alleged.

13 135. The employment of some aggrieved employees has terminated and Defendants
14 have not tendered payment of all wages owed as required by law. Additionally, at all times
15 during the term of Plaintiffs' employment with Defendant, aggrieved employees earned and
16 accrued vested vacation and holiday time on the date of their termination pursuant to
17 Defendants' uniform vacation policies and applicable California law. The amount of vacation
18 pay aggrieved employees earned and accumulated is evidenced by Defendants' business
19 records. Additionally, Defendants also underpaid accrued vested vacation wages to aggrieved
20 employees by failing to pay such wages at the regular rate of pay and more specifically the
21 final rate of pay that included all non-discretionary incentive compensation. Rather than pay
22 vacation wages at the regular rate of pay, Defendants underpaid vacation wages to aggrieved
23 employees at their base rates of pay, instead of including all of the aggrieved employees'
24 nondiscretionary incentive compensation into the vacation wage payment calculations.
25 Defendants failed to specify in Defendants' written vacation policy the rate at which
26 aggrieved employees would be paid vacation upon leaving employment with Defendants. As a
27 result of Defendants' unlawful practice, policy and procedure to deny paying the aggrieved
28 employees all of their vested vacation and holiday time, Defendants failed to pay aggrieved

1 employees all vested vacation time as wages due upon employment termination, in violation
2 of the California Labor Code, Sections 201, 202, 203 and 227.3. Similarly, Defendants
3 underpaid waiting time penalties to aggrieved employees at their base rates of pay, instead of
4 including all of the aggrieved employees' non-discretionary compensation into the waiting
5 time penalty calculations. This failure by Defendants is believed to be the result of
6 Defendants' unlawful, unfair and deceptive refusal to provide compensation for earned,
7 accrued and vested vacation and holiday time, as well as the corresponding waiting time
8 penalties that were paid. Defendants perpetrated this unlawful, unfair and deceptive practice to
9 the detriment of aggrieved employees. Defendants' uniform practice and policy of failing to
10 pay the aggrieved employees for all vested vacation and holiday time accumulated at
11 employment termination violated and continues to violate Section 227.3 of the California
12 Labor Code.

13 136. Thus, Plaintiffs and/or other aggrieved employees are therefore entitled to
14 recover civil penalties pursuant to Labor Code sections 210, 226.3, 248.5, 558, 1174.5, and/or
15 2699(a), (f), and (g).

16 **NINTH CAUSE OF ACTION**

17 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

18 **Unlawful Business Practices**

19 **(Against all Defendants)**

20 137. Plaintiffs incorporate by reference and re-allege as if fully stated herein each
21 and every allegation set forth above.

22 138. Defendants are "persons" as defined by California Business & Professions
23 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
24 and/or associations.

25 139. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
26 unlawful and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have
27 suffered injury in fact and have lost money as a result of Defendants' unlawful business
28 practices. Plaintiffs seek to enforce important rights affecting the public interest within the

1 meaning of Code of Civil Procedure section 1021.5.

2 140. Defendants' activities, as alleged herein, are violations of California law, and
3 constitute unlawful business acts and practices in violation of California Business &
4 Professions Code sections 17200, *et seq.*

5 141. A violation of California Business & Professions Code sections 17200, *et seq.*
6 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
7 policies and practices have violated state law in at least the following respects:

- 8 (a) Requiring non-exempt, hourly paid employees, including Plaintiffs and
9 class members, to work overtime without paying them proper
10 compensation in violation of California Labor Code sections 510 and
11 1198, and the applicable IWC Wage Order, as alleged herein;
- 12 (b) Failing to pay at least minimum wage to Plaintiffs and class members in
13 violation of California Labor Code sections 1182.12, 1194, 1197,
14 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
15 herein;
- 16 (c) Failing to authorize and permit Plaintiffs and class members to take all
17 rest periods in violation of California Labor Code sections 226.7, 516,
18 and 1198, and the applicable IWC Wage Order, as alleged herein;
- 19 (d) Failing to provide Plaintiffs and class members with meal periods in
20 violation of California Labor Code sections 226.7, 512, 516, and 1198,
21 and the applicable IWC Wage Order, as alleged herein;
- 22 (e) Failing to provide Plaintiffs and class members with accurate wage
23 statements and failing to maintain accurate payroll records in violation
24 of California Labor Code sections 226(a), 1174(d), and 1198, and the
25 applicable IWC Wage Order, as alleged herein;
- 26 (f) Failing to timely pay all earned wages to Plaintiffs and class members in
27 violation of California Labor Code sections 201, 202, and 204, as
28 alleged herein; and

1 (g) Failing to reimburse Plaintiffs and class members for all business
2 expenses necessarily incurred in violation of California Labor Code
3 section 2802, as alleged herein.

4 142. As a result of the violations of California law herein described, Defendants
5 unlawfully gained an unfair advantage over other businesses. Plaintiffs and class members
6 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
7 herein.

8 143. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
9 Plaintiffs and class members are entitled to restitution of the wages withheld and retained by
10 Defendants during a period that commences four years prior to the filing of this complaint; a
11 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and
12 class members; and an award of attorneys' fees pursuant to California Code of Civil
13 Procedure section 1021.5 and other applicable laws; and an award of costs.

14 **TENTH CAUSE OF ACTION**

15 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

16 **Unfair Business Practices**

17 **(Against all Defendants)**

18 144. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and
19 every allegation set forth above.

20 145. Defendants are "persons" as defined by California Business & Professions
21 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
22 and/or associations.

23 146. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
24 and harmful to Plaintiffs, class members, and to the general public. Plaintiffs have suffered
25 injury in fact and has lost money as a result of Defendants' unfair business practices.
26 Plaintiffs seek to enforce important rights affecting the public interest within the meaning of
27 Code of Civil Procedure section 1021.5.

28 147. Defendants' activities, namely Defendants' company-wide practice and/or

1 policy of not paying Plaintiffs and class members all meal and rest period premiums due to
2 them under California Labor Code section 226.7, deprived Plaintiffs and class members of the
3 compensation guarantee and enhanced enforcement implemented by section 226.7. The
4 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
5 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*
6 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
7 were guaranteed to Plaintiffs and class members as part of their employment with Defendants,
8 and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an
9 unfair business practice in violation of California Business & Professions Code sections
10 17200, *et seq.* (*Id.*)

11 148. A violation of California Business & Professions Code sections 17200, *et seq.*
12 may be predicated on any unfair business practice. In the instant case, Defendants’ policies
13 and practices have violated the spirit of California’s meal and rest period laws and constitute
14 acts against the public policy behind these laws.

15 149. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
16 Plaintiffs and class members are entitled to restitution for the class-wide loss of the statutory
17 benefits implemented by section 226.7 withheld and retained by Defendants during a period
18 that commences four years prior to the filing of this complaint; a permanent injunction
19 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
20 Plaintiffs and class members; an award of attorneys’ fees pursuant to California Code of Civil
21 Procedure section 1021.5 and other applicable laws; and an award of costs.

22 **ELEVENTH CAUSE OF ACTION**

23 **For Failure to Pay Sick Pay Wages**

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

25 **(Against All Defendants)**

26 144. Plaintiffs, and the other members of the subclass, reallege and incorporate by
27 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

28 145. Cal Lab. Code § 233 provides that an employer must permit an employee to use

1 accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate
2 of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for
3 use of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick
4 leave is used as paid sick time, an employee has a vested right to sick pay wages, which an
5 employer must calculate and compensate based on one of two calculations: (i) "Paid sick time
6 for nonexempt employees shall be calculated in the same manner as the regular rate of pay for
7 the workweek in which the employee uses paid sick time, whether or not the employee actually
8 works overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be
9 calculated by dividing the employee's total wages, not including overtime premium pay, by the
10 employee's total hours worked in the full pay periods of the prior 90 days of employment."
11 Under Cal Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay wages
12 as damages.

13 146. As a matter of policy and practice, Defendant pays sick pay wages to Plaintiffs
14 and the other members of the subclass at the incorrect rate of pay. PLAINTIFF and the other
15 members of the subclass regularly use accrued sick leave in the workweeks in which they also
16 earn non-hourly remuneration. As a matter of policy and practice, Defendant pays sick pay
17 wages to Plaintiffs and the other members of the subclass at the base hourly pay, as opposed to
18 the regular rate of pay, which would consider all non-hourly remuneration in addition to base
19 hourly wages, or the rate resulting from dividing the employee's total wages, not including
20 overtime premium pay, by the employee's total hours worked in the full pay periods of the prior
21 90 days of employment. As a result, Defendant underpaid sick pay wages to Plaintiff and the
22 other members of the subclass.

23 147. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
24 during each calendar month and are to be paid no later than the payday for the next regular
25 payroll period. Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires
26 that, upon use of accrued sick leave, vested sick pay wages are due and to be paid no later than
27 the payday for the next regular payroll period after accrued sick leave is used as paid sick time.
28 Similarly, Cal. Lab. Code § 201 provides that if an employer discharges an employee, wages

1 earned and unpaid at the time of discharge are due and payable immediately. Cal. Lab. Code §
2 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours
3 after an employee quits his or her employment, unless the employee has given 72-hour notice
4 of his or her intention to quit, in which case the employee is entitled to his or her wages at the
5 time of quitting. The Labor Code penalizes untimely payments. For example, Cal. Lab. Code
6 § 203 provides that if an employer willfully fails to pay wages owed in accordance with Cal.
7 Lab. Code §§ 201-202, then the wages of the employee shall continue as a penalty from the due
8 date, and at the same rate until paid, but the wages shall not continue for more than thirty (30)
9 days. Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204
10 and untimely payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218,
11 employees may sue to recover applicable penalties.

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

24 149. Such a pattern, practice, and uniform administration of corporate policy is
25 unlawful and entitles Plaintiffs and the other members of the subclass to underpaid sick pay
26 wages, including interest thereon, applicable penalties, attorney's fees, and costs of suit.

27
28 **TWELFTH CAUSE OF ACTION**

For Failure to Provide Required Meal Periods

[Cal. Lab. Code §§ 226.7 & 512]

(Against All Defendants)

151. Plaintiffs, and the other members of the subclass, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

152. During the class period, Defendant from time to time failed to provide all the legally required off-duty meal breaks to Plaintiffs and the other subclass Members as required by the applicable Wage Order and Labor Code. The nature of the work performed by Plaintiffs and subclass did not prevent these employees from being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work schedules, Plaintiffs and other subclass Members were from time to time not fully relieved of duty by Defendant for their meal periods. Additionally, Defendant's failure to provide Plaintiffs and the subclass with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by Defendant's business records from time to time. Further, Defendant's failed to provide Plaintiffs and Class Members with a second off-duty meal period in some workdays in which these employees were required by Defendant to work ten (10) hours of work from time to time. Defendants also engaged in the practice of rounding the meal period times to avoid paying penalties. As a result, Plaintiffs and other members of the subclass therefore forfeited meal breaks without additional compensation and in accordance with Defendant's strict corporate policy and practice.

153. Defendant further violates California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate Plaintiffs and subclass Members who were not provided a meal period, in accordance with the applicable Wage Order, one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided.

154. As a proximate result of the aforementioned violations, Plaintiff and subclass Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

REQUEST FOR JURY TRIAL

Plaintiffs request a trial by jury.

PRAYER FOR RELIEF

Plaintiffs, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiffs reserve the right to amend their prayer for relief to seek a different amount.

Class Certification

2. That this case be certified as a class action;
3. That Plaintiffs be appointed as the representative of the Class and Subclass;
4. That counsel for Plaintiffs be appointed as class counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to pay all overtime wages due to Plaintiffs and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiffs and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 512, 516, and 1198 and the applicable IWC Wage Order by willfully failing to authorize and permit Plaintiffs and class members to take all rest periods;

17. That the Court make an award to the Plaintiffs and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

24. For all actual, consequential, and incidental losses and damages, according to proof;

25. For injunctive relief pursuant to California Labor Code section 226(h);

26. For statutory penalties pursuant to California Labor Code section 226(e);

27. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

28. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, and/or meal and rest period premiums owed at the time of termination of the employment of Plaintiff and other terminated class members;

30. For all actual, consequential and incidental losses and damages, according to proof;

31. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

32. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

33. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

1 34. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 **As to the Sixth Cause of Action**

4 35. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code section 204 by willfully failing to timely pay Plaintiffs and class members
6 overtime wages, minimum wages, and/or rest period premiums during their employment;

7 36. For all actual, consequential and incidental losses and damages, according to
8 proof;

9 37. For statutory penalties according to proof pursuant to California Labor Code
10 section 210;

11 38. For pre-judgment interest on any unpaid wages from the date such amounts
12 were due, or as otherwise provided by law;

13 39. For attorneys' fees pursuant to California Code of Civil Procedure section
14 1021.5, or as otherwise provided by law; and

15 40. For such other and further relief as the Court may deem equitable and
16 appropriate.

17 **As to the Seventh Cause of Action**

18 41. That the Court declare, adjudge and decree that Defendants violated California
19 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
20 related expenses and costs incurred by Plaintiffs and class members;

21 42. For unpaid business-related expenses and such general and special damages as
22 may be appropriate;

23 43. For pre-judgment interest on any unpaid business-related expenses from the
24 date such amounts were due, or as otherwise provided by law;

25 44. For all actual, consequential, and incidental losses and damages, according to
26 proof;

27 45. For attorneys' fees and costs pursuant to California Labor Code section
28 2802(c), or as otherwise provided by law; and

1 46. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 **As to the Eighth Cause of Action**

4 47. That the Court declare, adjudge and decree that Defendants violated the
5 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
6 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
7 to include all forms of remuneration in the regular rate of pay for purposes of paying overtime
8 wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and 1198 (by
9 failing to pay at least minimum wages for all hours worked); 226.7, 516, and 1198 (by failing
10 to authorize and permit all rest periods); 226.7, 512(a), 516, and 1198 (by failing to provide all
11 meal periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and
12 maintain accurate payroll records); 201 and 202 (by failing to timely pay all earned wages
13 upon termination); 204 (by failing to timely pay all earned wages during employment); 246
14 and 248.6 (by failing to properly calculate sick leave pay); and 2802 (by failing to reimburse
15 business expenses);

16 48. For civil penalties pursuant to the California Labor Code, including sections
17 210, 226.3, 248.5, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor
18 Code sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 248.6, 510,
19 512(a), 516, 558(a)(1)(2), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802, and
20 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code
21 of Regulations, Title 8, Section 11740(14) (failure to provide seating), and the applicable
22 Wage Order(s);

23 49. For attorneys' fees and costs pursuant to California Labor Code section
24 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
25 Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 248.6, 510,
26 512(a), 516, 558(a)(1)(2), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802, and
27 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code
28 of Regulations, Title 8, Section 11740(14) (failure to provide seating), and the applicable

1 Wage Order(s);

2 50. For pre-judgment and post-judgment interest as provided by law; and

3 51. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Ninth Cause of Action**

6 52. That the Court declare, adjudge and decree that Defendants' conduct of failing
7 to provide Plaintiffs and class members all overtime wages due to them, failing to provide
8 Plaintiffs and class members all minimum wages due to them, failing to authorize and permit
9 Plaintiffs and class members to take all rest periods, failing to provide Plaintiffs and class
10 members with all meal periods, failing to provide Plaintiffs and class members accurate and
11 complete wage statements, failing to maintain accurate payroll records for Plaintiffs and class
12 members, failing to timely pay Plaintiffs and class members all earned wages during and at
13 separation of employment, and failing to reimburse Plaintiffs and class members for business-
14 related expenses, constitutes an unlawful business practice in violation of California Business
15 and Professions Code sections 17200, *et seq.*;

16 53. For restitution of unpaid wages to Plaintiff and all class members and
17 prejudgment interest from the day such amounts were due and payable;

18 54. For the appointment of a receiver to receive, manage and distribute any and all
19 funds disgorged from Defendants and determined to have been wrongfully acquired by
20 Defendants as a result of violations of California Business & Professions Code sections
21 17200, *et seq.*;

22 55. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
23 California Code of Civil Procedure section 1021.5; and

24 56. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Tenth Cause of Action**

27 57. That the Court declare, adjudge and decree that Defendants' conduct of denying
28 Plaintiffs and class members the statutory benefits guaranteed under California Labor Code

1 section 226.7 constitutes an unfair business practice in violation of California Business and
2 Professions Code sections 17200, *et seq.*;

3 58. For restitution of the statutory benefits under California Labor Code section
4 226.7 unfairly withheld from Plaintiffs and class members and prejudgment interest from the
5 day such amounts were due and payable;

6 59. For the appointment of a receiver to receive, manage and distribute any and all
7 funds disgorged from Defendants and determined to have been wrongfully acquired by
8 Defendants as a result of violations of California Business & Professions Code sections
9 17200, *et seq.*;

10 60. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Code of Civil Procedure section 1021.5;

12 61. For pre-judgment and post-judgment interest as provided by law; and

13 62. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 **As to the Eleventh Cause of Action**

16 63. That the Court declare, adjudge and decree that Defendants violated California
17 Labor Code sections 201-204, 210, 233, 246 by willfully underpaying sick pay wages to
18 Plaintiffs and class members;

19 64. For general unpaid wages and such general and special damages as may be
20 appropriate;

21 65. For pre-judgment interest on any unpaid compensation from the date such
22 amounts were due, or as otherwise provided by law;

23 66. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
24 California Labor Code section 1194(a);

25 67. For liquidated damages pursuant to California Labor Code section 1194.2; and

26 68. For such other and further relief as the Court may deem equitable and
27 appropriate.

28 **As to the Twelfth Cause of Action**

1 69. That the Court declare, adjudge and decree that Defendants violated California
2 Labor Code sections 226.7, 512, and 1198 and the applicable IWC Wage Order by willfully
3 failing to authorize and permit Plaintiffs and class members to take all meal periods;

4 70. That the Court make an award to the Plaintiffs and class members of one (1)
5 hour of pay at each employee's regular rate of pay for each workday that a meal period was
6 not authorized and permitted;

7 71. For all actual, consequential, and incidental losses and damages, according to
8 proof;

9 72. For premiums pursuant to California Labor Code section 226.7(c);

10 73. For pre-judgment interest on any unpaid rest period premiums from the date
11 such amounts were due, or as otherwise provided by law;

12 74. For attorneys' fees pursuant to California Code of Civil Procedure section
13 1021.5, or as otherwise provided by law; and

14 75. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 Dated: March 11, 2025

Respectfully submitted,

17
18 Capstone Law APC

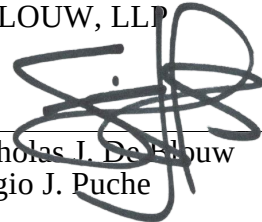
19 By: 

20 Orlando Villalba
21 Helga Hakimi
22 Jaime Castaneda

Attorneys for Plaintiff Deborah Jones

23 Dated: March 11, 2025

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW, LLP

24
25 By: 

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EXHIBIT “1”



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August 22, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Deborah Jones v. Cardinal Health Pharmacy Services, LLC, et al.*

Dear PAGA Administrator:

This office represents Deborah Jones in connection with her claims under the California Labor Code. Ms. Jones was an employee of CARDINAL HEALTH PHARMACY SERVICES, LLC and/or CARDINAL HEALTH, INC. For the purpose of this letter, Ms. Jones collectively refers to these entities as "CARDINAL."

The employers may be contacted directly at the addresses below:

CARDINAL HEALTH PHARMACY SERVICES, LLC	CARDINAL HEALTH, INC.
13651 DUBLIN COURT	7000 CARDINAL PLACE
STAFFORD, TX 77477	DUBLIN, OH 43017

Ms. Jones intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Jones seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CARDINAL as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CARDINAL employed Ms. Jones as an hourly paid, non-exempt employee from approximately December 2022 to March 2023. Ms. Jones worked as a Technician II (Retail Pharmacy) at CARDINAL's location in Santa Rosa, California. Ms. Jones typically worked seven (7) hours or more per day and five (5) days per week. At the time her employment ended, Ms. Jones was compensated approximately \$28.00 per hour. Her primary job duties included, without limitation, filling prescriptions, communicating with insurance companies, inputting data into the computer system, and answering phone calls from patients.

CARDINAL committed one or more of the following Labor Code violations against Ms. Jones, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

CARDINAL’s Company-Wide and Uniform Payroll and HR Practices

CARDINAL HEALTH PHARMACY SERVICES, LLC is a Delaware limited liability company and CARDINAL HEALTH, INC. is an Ohio corporation. Together, they are distributors of pharmaceuticals, global manufacturers and distributors of medical and laboratory products, and providers of performance and data solutions for healthcare facilities, operating at least 77 locations in California. Upon information and belief, CARDINAL maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Stafford, Texas, or Dublin, Ohio, for all non-exempt, hourly paid employees working for CARDINAL in California, including Ms. Jones and other aggrieved employees. At all relevant times, CARDINAL issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Jones and other aggrieved employees, regardless of their location or position.

Upon information and belief, CARDINAL maintains a centralized Payroll department at its corporate headquarters in Stafford, Texas, or Dublin, Ohio, which processes payroll for all non-exempt, hourly paid employees working for CARDINAL in California, including Ms. Jones and other aggrieved employees. Further, CARDINAL issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Jones and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, CARDINAL utilized the same methods and formulas when calculating wages due to Ms. Jones and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CARDINAL willfully failed to pay all overtime wages owed to Ms. Jones and other aggrieved employees. During the relevant time period, Ms. Jones and other aggrieved employees were not paid

¹ These facts, theories, and claims are based on Ms. Jones’s experience and counsel’s review of those records currently available relating to Ms. Jones’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Jones reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

During the relevant period, CARDINAL had, and continues to have, a company-wide policy of requiring Ms. Jones and other aggrieved employees to work off-the-clock before their scheduled shifts. For instance, CARDINAL had a practice of requiring employees to work several minutes off the clock before their scheduled shift start-times. Ms. Jones and other aggrieved employees spent time booting up their computers and logging in before clocking in for their shifts, but they had no way of recording this time worked. As a further example, CARDINAL had, and continues to have, a company-wide security policy and/or practice of allowing only certain employees to carry keys to the CARDINAL's pharmacy. Specifically, only the pharmacist employees were issued keys to access the pharmacy at any given time. In adherence with this policy, Ms. Jones and other aggrieved employees had to wait off-the-clock for approximately 15 minutes for a pharmacist employee to arrive at CARDINAL's premises and unlock the pharmacy in the mornings before they could clock in for their shifts; this occurred about three (3) times per week. As a result, Ms. Jones and other aggrieved employees were subject to CARDINAL's control before they had clocked in for their shifts, but were not compensated for this time.

Moreover, CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, resulting in a failure to provide other aggrieved employees with adequate meal period coverage. As a result, other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Consequently, other aggrieved employees worked through meal periods and/or had meal periods interrupted in order to attend to their work duties. CARDINAL did not compensate other aggrieved employees for the time they spent working off the clock during meal periods.

CARDINAL knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Jones and other aggrieved employees were performing their assigned duties off-the-clock before their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Jones and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Jones and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, CARDINAL did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, CARDINAL paid Ms. Jones and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CARDINAL failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, CARDINAL failed to pay all overtime wages by paying a lower overtime rate than required.

CARDINAL's failure to pay Ms. Jones and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil

penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 7-2001 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code Regs. tit. 8, § 11070(2)(G) (defining “Hours Worked”).

As set forth above, during the relevant time period, CARDINAL had company-wide practices and/or policies requiring Ms. Jones and other aggrieved employees to work off-the-clock, but failed to compensate them for this time spent working. Ms. Jones and other aggrieved employees were required to spend time waiting off-the-clock, before their scheduled shifts, booting up their computers, logging in, then clocking in for their shifts, and waiting for a pharmacist employee to arrive and unlock the pharmacy in the morning.

In addition, as stated, due to CARDINAL's uniform policies and/or practices of understaffing, assigning heavy workloads, and resultant lack of meal period coverage, other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods. As a result, other aggrieved employees were not relieved of all duties during unpaid meal periods and continued to work, time for which they were not compensated.

Accordingly, CARDINAL regularly failed to pay at least minimum wages to Ms. Jones and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than

twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing locations, which, combined with the assignment of heavy workloads, has resulted in a lack of meal period coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. Additionally, CARDINAL did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. Other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, CARDINAL knew or should have known that, as a result of these policies, other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. CARDINAL further knew or should have known that it did not pay other aggrieved employees all meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, CARDINAL engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that CARDINAL did pay other aggrieved employees for missed, late, and interrupted meal periods, CARDINAL did not pay other aggrieved employees at the correct rate of pay for premiums because CARDINAL systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CARDINAL failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over

how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, CARDINAL regularly failed to authorize and permit Ms. Jones and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. CARDINAL had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, which resulted in a lack of rest period coverage because there were too few employees on duty to handle the heavy workloads and provide rest period coverage. Moreover, CARDINAL had a company-wide practice of failing to schedule rest periods, which further led to Ms. Jones and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, during the relevant time period, CARDINAL maintained a company-wide on-premises rest period policy, which effectively required that Ms. Jones and/or other aggrieved employees remain on the work premises during their rest periods. Because Ms. Jones and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, CARDINAL effectively maintained control over Ms. Jones and/or other aggrieved employees during rest periods.

As a result of CARDINAL’s practices and policies, Ms. Jones and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Jones had to forego all of her rest periods during her employment.

CARDINAL has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Jones and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that CARDINAL did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, CARDINAL did not pay other aggrieved employees at the correct rate of pay for premiums because CARDINAL failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CARDINAL failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. CARDINAL has not provided Ms. Jones and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a

subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CARDINAL has knowingly and intentionally provided Ms. Jones and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CARDINAL issued uniform wage statements to Ms. Jones and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, CARDINAL violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because CARDINAL did not record the time Ms. Jones and other aggrieved employees spent working off-the-clock, CARDINAL did not list the correct amount of gross wages and net wages earned by Ms. Jones and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CARDINAL failed to accurately list the total number of hours worked by Ms. Jones and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

Second, because CARDINAL did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, CARDINAL did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CARDINAL failed to list the correct amount of net wages in violation of section 226(a)(5). CARDINAL also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

Third, and separately from these violations, CARDINAL issued uniform wage statements to Ms. Jones and other aggrieved employees that failed to list the name and address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. During the relevant time period, CARDINAL systematically, and on a company-wide basis, issued wage statements to Ms. Jones and other aggrieved employees that fail to list the employing entity's correct name and/or address. Ms. Jones's and other aggrieved employees' wage statements incorrectly list the employer's address as "7000 CARDINAL PLACE, DUBLIN, OH 43017," but according to the California Secretary of State's website, CARDINAL HEALTH PHARMACY SERVICES, LLC's entity address should be "13651 DUBLIN COURT, STAFFORD, TX 77477." Alternatively, Ms. Jones's and other aggrieved employees' wage statements incorrectly list the employing entity as "Cardinal Health Pharm Serv," when the correct employing entity's name is CARDINAL HEALTH, INC.

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to

list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; and/or failing to state all hours worked as a result of not recording or stating the hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d), CARDINAL willfully failed to maintain accurate payroll records for Ms. Jones and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CARDINAL engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and/or meal period start and stop times for Ms. Jones and other aggrieved employees, in violation of section 1198. Also, in light of CARDINAL’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, CARDINAL kept no records of meal start and end times for second meal periods.

Because CARDINAL failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Jones and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Jones and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, CARDINAL willfully failed to pay Ms. Jones and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, CARDINAL had a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, CARDINAL terminated Ms. Jones on or about March 23, 2023; however, CARDINAL did not provide Ms. Jones with her final paycheck until about one week later. Thus, CARDINAL failed to pay Ms. Jones her final wages immediately, in violation of California Labor Code section 201.

Additionally, CARDINAL willfully failed to pay Ms. Jones and other aggrieved employees who are no longer employed by CARDINAL the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and/or rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving CARDINAL's employ.

Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 246 and 248.6 – Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually

works overtime in that workweek[;]” or 2) “[p]aid sick time for nonexempt employees shall be calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days of employment.”

At all relevant times herein, California Labor Code section 248.6 provide covered employees with COVID-19 supplemental paid sick leave. California Labor Code section 248.6(b)(3)(A) provides that each hour of COVID-19 supplemental paid sick leave shall be compensated at a rate equal to the following: 1) “[c]alculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]” or 2) “[c]alculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total nonovertime hours worked in the full pay periods occurring within the prior 90 days of employment; provided that, for nonexempt employees paid by piece rate, commission or other method that uses all hours to determine the regular rate of pay, total wages, not including overtime premium pay, shall be divided by all hours, to determine the correct amount of COVID-19 supplemental paid sick leave under this subdivision.”

During the relevant time period, on information and belief, CARDINAL did not pay other aggrieved employees the correct sick leave rates of pay. In addition to an hourly wage, CARDINAL paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CARDINAL failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave pay rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, CARDINAL failed to pay all sick leave benefits by paying a lower sick leave pay rate than required. Specifically, CARDINAL paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

CARDINAL’s failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code sections 246(l) and 248.6(b)(3)(A).

Other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 7-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, CARDINAL had a company-wide policy of requiring Ms. Jones and other aggrieved employees to utilize their own personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties, but CARDINAL failed to reimburse

them for the costs of their work-related mobile device expenses. For example, Ms. Jones was required to download a mobile application, “Crew Messaging and Scheduling,” on her personal cellular phone and to regularly use her mobile data to view her schedule and message coworkers and management. Ms. Jones and other aggrieved employees were not compensated for the cost of the mobile data used to download and access the application. Further, Ms. Jones and other aggrieved employees used their personal cellular phones to communicate with management and coworkers via text messages regarding work-related matters. Although CARDINAL required Ms. Jones and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related duties, CARDINAL failed to reimburse them for these costs.

Additionally, during the relevant time period, CARDINAL, on a company-wide basis, required that other aggrieved employees use their own personal vehicles to run company errands. For example, other aggrieved employees were required to use their personal vehicles to drive to CARDINAL’s other pharmacy locations to pick up or drop off prescription medications. Although CARDINAL required other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, CARDINAL failed to reimburse them for their mileage or travel expenses.

CARDINAL could have provided Ms. Jones and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices and company vehicles, or, CARDINAL could have reimbursed employees for their mobile device usage, mileage, and travel expenses. Instead, CARDINAL passed these operating costs off onto Ms. Jones and other aggrieved employees. At all relevant times, Ms. Jones did not earn at least two (2) times the minimum wage.

Thus, CARDINAL had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Jones and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” CARDINAL, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Jones’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Jones seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Jones, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against CARDINAL for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 248.6, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Jones seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: CARDINAL HEALTH PHARMACY SERVICES, LLC (via U.S. Certified Mail);
CARDINAL HEALTH, INC. (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



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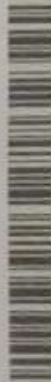
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PHARMACY SERVICES, LLC
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STAFFORD, TX 77477

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PHARMACY SERVICES, LLC
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STAFFORD, TX 77477



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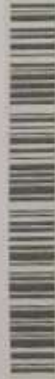
CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017

CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017

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DUBLIN, OH 43017



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2. Article Number (Transfer from service label)

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COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

3. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

4. Service Type

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- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail[®]
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Insured Mail
- ☐ Registered Mail[™]
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- ☐ Signature Confirmation Restricted Delivery

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SENDER: COMPLETE THIS SECTION

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**CARDINAL HEALTH
PHARMACY SERVICES, LLC
13651 DUBLIN COURT
STAFFORD, TX 77477**



9590 9402 7690 2122 7153 61

2. Article Number (Transfer from service label)

7022 2410 0000 2405 9389

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Susan Olveda*

- ☐ Agent
- ☐ Addressee

3. Received by (Printed Name)

Susan Olveda

C. Date of Delivery

- 3. Is delivery address different from item 1? ☐ Yes
- If YES, enter delivery address below: ☐ No

Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail®
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CARDINAL HEALTH, INC.
7000 CARDINAL PLACE
DUBLIN, OH 43017



9590 9402 7690 2122 7153 54

2. Article Number (Transfer from service label)

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A. Signature

X

☒ Agent

☐ Addressee

3. Received by (Printed Name)

C. Date of Delivery

08/29/23

4. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☒ No



5. Service Type

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☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

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EXHIBIT “2”

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

August 18, 2023
CA3059

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Cardinal Health Pharmacy Services, LLC
Certified Mail #9589071052700182373883
CT Corporation System
AMANDA GARCIA
330 N BRAND BLVD, Suite 700
GLENDALE, CA 91203

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 Cardinal Health Pharmacy Services, LLC in California, including any employees staffed with Cardinal Health Pharmacy Services, LLC by a third party, and classified as non-exempt employees during the time period of August 18, 2022 until a date as determined by the Court. Our offices represent Plaintiff Michael Salazar (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Cardinal Health Pharmacy Services, LLC (“Defendant”). Plaintiff has been employed by Defendant in California as a non-exempt employee since December of 2022 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. 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, for all of their missed meal and rest breaks (and paying for meal and rest break premiums at the correct regular rate), 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) *et seq.* Plaintiff and Aggrieved Employees are 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 provides to Plaintiff and other Aggrieved Employees fails to identify such information. More specifically, the wage statements fails to identify the accurate total hours worked each pay period. When the hours shown on the wage statements are added up, they do not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 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 1 1070(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.

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)

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Website: www.bamlawca.com

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8/17/2023 11:57 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By J. Nunez, Deputy Clerk

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

MICHAEL SALAZAR, an individual, on behalf
of himself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

CARDINAL HEALTH PHARMACY
SERVICES, LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,

Defendants.

Case No. 23STCV19699

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
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;
- and,
8. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB CODE §§201-204, 233, 246.

DEMAND FOR A JURY TRIAL

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

4
5 **THE PARTIES**

6 1. Cardinal Health Pharmacy Services, LLC (“DEFENDANT”) is a limited liability
7 company that at all relevant times mentioned herein conducted and continues to conduct
8 substantial business in California.

9 2. DEFENDANT is a distributor of pharmaceuticals, a manufacturer and distributor
10 of medical and laboratory products, and a provider of performance and data solutions for
11 healthcare facilities.

12 3. PLAINTIFF has been employed by DEFENDANT in California since December
13 of 2022. PLAINTIFF has been at all times classified by DEFENDANT as a non-exempt
14 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
15 payment of minimum and overtime wages due for all time worked.

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

23 5. PLAINTIFF brings this Class Action on behalf of himself and a
24 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their
25 losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s
26 policy and practice which failed to lawfully compensate these employees. DEFENDANT’s
27 policy and practice alleged herein was an unlawful, unfair and deceptive business practice
28 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 these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

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

THE CONDUCT

8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work.

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

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

25 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS
26 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
27 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
28 performance for DEFENDANT. The non-discretionary incentive program provided all

1 employees paid on an hourly basis with incentive compensation when the employees met the
2 various performance goals set by DEFENDANT. However, when calculating the regular
3 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
4 other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
5 compensation as part of the employees' "regular rate of pay" for purposes of calculating
6 overtime pay and meal and rest break premium pay. Management and supervisors described
7 the incentive program to potential and new employees as part of the compensation package.
8 As a matter of law, the incentive compensation received by PLAINTIFF and other
9 CALIFORNIA CLASS Members must be included in the "regular rate of pay." The failure
10 to do so has resulted in a underpayment of overtime compensation and meal and rest break
11 premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

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

25 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
26 CALIFORNIA CLASS Members were also required from time to time to work in excess of
27 four (4) hours without being provided ten (10) minute rest periods. Further, these employees
28 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at

1 least two (2) to four (4) hours from time to time, a first and second rest period of at least ten
2 (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to
3 time, and a first, second and third rest period of at least ten (10) minutes for some shifts
4 worked of ten (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA
5 CLASS Members were also not provided with one hour wages in lieu thereof. Additionally,
6 the applicable California Wage Order requires employers to provide employees with off-
7 duty rest periods, which the California Supreme Court defined as time during which an
8 employee is relieved from all work related duties and free from employer control. In so
9 doing, the Court held that the requirement under California law that employers authorize and
10 permit all employees to take rest period means that employers must relieve employees of all
11 duties and relinquish control over how employees spend their time which includes control
12 over the locations where employees may take their rest period. Employers cannot impose
13 controls that prohibit an employee from taking a brief walk - five minutes out, five minutes
14 back. Here, DEFENDANT's policy restricted PLAINTIFF and other CALIFORNIA
15 CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's rule
16 which states PLAINTIFF and other CALIFORNIA CLASS Members cannot leave the work
17 premises during their rest period.

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

1 working without their time being accurately recorded and without compensation at the
2 applicable minimum wage and overtime wage rates. To the extent that the time worked off
3 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
4 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
5 1197, and 1197.1.

6 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
7 other members of the CALIFORNIA CLASS with complete and accurate wage statements
8 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
9 Code § 226 provides that every employer shall furnish each of his or her employees with an
10 accurate itemized wage statement in writing showing, among other things, gross wages
11 earned and all applicable hourly rates in effect during the pay period and the corresponding
12 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS
13 Members were paid on an hourly basis. As such, the wage statements should reflect all
14 applicable hourly rates during the pay period and the total hours worked, and the applicable
15 pay period in which the wages were earned pursuant to California Labor Code Section
16 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
17 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
18 wage statements failed to identify the accurate total hours worked each pay period. When
19 the hours shown on the wage statements were added up, they did not equal the actual total
20 hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
21 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF
22 an itemized wage statement that lists all the requirements under California Labor Code 226
23 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFF and the other
24 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code
25 § 226.

26 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
27 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
28

1 the wages are paid not more than seven (7) calendar days following the close of the payroll
2 period. Cal. Lab. Code § 210 provides:

3 in [I]n addition to, and entirely independent and apart from, any other penalty provided
4 this article, every person who fails to pay the wages of each employee as provided in
5 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial
6 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.

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

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

17 18. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
18 employees be calculated by dividing the employee’s total wages, not including overtime
19 premium pay, by the employee’s total hours worked in the full pay periods of the prior 90
20 days of employment.

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

27 20. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
28 and other members of the CALIFORNIA CLASS their correct wages and accordingly owe

1 waiting time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is
2 informed and believes and based thereon alleges that such failure to pay sick pay at regular
3 rate was willful, such that PLAINTIFF and members of the CALIFORNIA CLASS whose
4 employment has separated are entitled to waiting time penalties pursuant to Cal. Lab. Code
5 Sections 201-203.

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

16 22. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
17 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses
18 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct
19 consequence of discharging their duties on behalf of DEFENDANT. Under California
20 Labor Code Section 2802, employers are required to indemnify employees for all expenses
21 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
22 states that "an employer shall indemnify his or her employee for all necessary expenditures
23 or losses incurred by the employee in direct consequence of the discharge of his or her
24 duties, or of his or her obedience to the directions of the employer, even though unlawful,
25 unless the employee, at the time of obeying the directions, believed them to be unlawful."

26 23. In the course of their employment PLAINTIFF and other CALIFORNIA
27 CLASS Members as a business expense, were required by DEFENDANT to use their own
28 personal cellular phones as a result of and in furtherance of their job duties as employees for

1 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost
2 associated with the use of their personal cellular phones for DEFENDANT's benefit.
3 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by
4 DEFENDANT to use their personal cellular phones. As a result, in the course of their
5 employment with DEFENDANT, PLAINTIFF and other members of the CALIFORNIA
6 CLASS incurred unreimbursed business expenses which included, but were not limited to,
7 costs related to the use of their personal cellular phones all on behalf of and for the benefit
8 of DEFENDANT.

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

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

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

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

JURISDICTION AND VENUE

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

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

THE CALIFORNIA CLASS

30. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a

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

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

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

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

27 34. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
28 CLASS Members is impracticable.

1 35. DEFENDANT violated the rights of the CALIFORNIA CLASS under
2 California law by:

- 3 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
4 Prof. Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly
5 and/or deceptively having in place company policies, practices and
6 procedures that failed to record and pay PLAINTIFF and the other
7 members of the CALIFORNIA CLASS for all time worked, including
8 minimum wages owed and overtime wages owed for work performed
9 by these employees; and,
10 (b) Committing an act of unfair competition in violation of the UCL, by
11 failing to provide the PLAINTIFF and the other members of the
12 CALIFORNIA CLASS with the legally required meal and rest periods.

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

- 15 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
16 that the joinder of all such persons is impracticable and the disposition
17 of their claims as a class will benefit the parties and the Court;
18 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
19 issues that are raised in this Complaint are common to the
20 CALIFORNIA CLASS will apply to every member of the
21 CALIFORNIA CLASS;
22 (c) The claims of the representative PLAINTIFF are typical of the claims
23 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
24 the other members of the CALIFORNIA CLASS, was classified as a
25 non-exempt employee paid on an hourly basis who was subjected to the
26 DEFENDANT's deceptive practice and policy which failed to provide
27 the legally required meal and rest periods to the CALIFORNIA CLASS
28 and thereby underpaid compensation to PLAINTIFF and

1 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
2 result of DEFENDANT's employment practices. PLAINTIFF and the
3 members of the CALIFORNIA CLASS were and are similarly or
4 identically harmed by the same unlawful, deceptive and unfair
5 misconduct engaged in by DEFENDANT; and,

- 6 (d) The representative PLAINTIFF will fairly and adequately represent and
7 protect the interest of the CALIFORNIA CLASS, and has retained
8 counsel who are competent and experienced in Class Action litigation.
9 There are no material conflicts between the claims of the representative
10 PLAINTIFF and the members of the CALIFORNIA CLASS that would
11 make class certification inappropriate. Counsel for the CALIFORNIA
12 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
13 Members.

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

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

- 20 1) Inconsistent or varying adjudications with respect to individual
21 members of the CALIFORNIA CLASS which would establish
22 incompatible standards of conduct for the parties opposing the
23 CALIFORNIA CLASS; and/or,
24 2) Adjudication with respect to individual members of the
25 CALIFORNIA CLASS which would as a practical matter be
26 dispositive of interests of the other members not party to the
27 adjudication or substantially impair or impede their ability to
28 protect their interests.

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

6 1) With respect to the First Cause of Action, the final relief on
7 behalf of the CALIFORNIA CLASS sought does not relate
8 exclusively to restitution because through this claim
9 PLAINTIFF seeks declaratory relief holding that the
10 DEFENDANT's policy and practices constitute unfair
11 competition, along with declaratory relief, injunctive relief, and
12 incidental equitable relief as may be necessary to prevent and
13 remedy the conduct declared to constitute unfair competition;

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

20 1) The interests of the members of the CALIFORNIA CLASS in
21 individually controlling the prosecution or defense of separate
22 actions in that the substantial expense of individual actions will
23 be avoided to recover the relatively small amount of economic
24 losses sustained by the individual CALIFORNIA CLASS
25 Members when compared to the substantial expense and burden
26 of individual prosecution of this litigation;

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

1 A. Inconsistent or varying adjudications with respect to
2 individual members of the CALIFORNIA CLASS, which
3 would establish incompatible standards of conduct for the
4 DEFENDANT; and/or,

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

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

17 4) A class action is superior to other available methods for the fair
18 and efficient adjudication of this litigation because class
19 treatment will obviate the need for unduly and unnecessary
20 duplicative litigation that is likely to result in the absence of
21 certification of this action pursuant to Cal. Code of Civ. Proc. §
22 382.

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

25 (a) The questions of law and fact common to the CALIFORNIA CLASS
26 predominate over any question affecting only individual CALIFORNIA
27 CLASS Members because the DEFENDANT's employment practices
28 are applied with respect to the CALIFORNIA CLASS;

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

1 hour related claims arising out of the conduct of DEFENDANT as to
2 the members of the CALIFORNIA CLASS.

3 39. DEFENDANT maintains records from which the Court can ascertain and
4 identify by job title each of DEFENDANT's employees who have been intentionally
5 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
6 PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of
7 similarly situated employees when they have been identified.

8
9 **THE CALIFORNIA LABOR SUB-CLASS**

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

20 41. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
21 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
22 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
23 failed to correctly calculate compensation for the time worked by PLAINTIFF and the other
24 members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to
25 these employees, even though DEFENDANT enjoyed the benefit of this work, required
26 employees to perform this work and permitted or suffered to permit this work.
27 DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to
28 which these employees are entitled in order to unfairly cheat the competition and unlawfully

1 profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
2 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD
3 should be adjusted accordingly.

4 42. DEFENDANT maintains records from which the Court can ascertain and
5 identify by name and job title, each of DEFENDANT's employees who have been
6 intentionally subjected to DEFENDANT's company policy, practices and procedures as
7 herein alleged. PLAINTIFF will seek leave to amend the complaint to include any
8 additional job titles of similarly situated employees when they have been identified.

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

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

- 13 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
14 compensation due to members of the CALIFORNIA LABOR SUB-
15 CLASS for missed meal and rest breaks in violation of the California
16 Labor Code and California regulations and the applicable California
17 Wage Order;
- 18 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
19 members of the CALIFORNIA LABOR SUB-CLASS with accurate
20 itemized wage statements;
- 21 (c) Whether DEFENDANT has engaged in unfair competition by the
22 above-listed conduct;
- 23 (d) The proper measure of damages and penalties owed to the members of
24 the CALIFORNIA LABOR SUB-CLASS; and,
- 25 (e) Whether DEFENDANT's conduct was willful.

26 45. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
27 CLASS under California law by:
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- 1 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
2 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
3 CLASS all wages due for overtime worked, for which DEFENDANT is
4 liable pursuant to Cal. Lab. Code § 1194;
- 5 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
6 accurately pay PLAINTIFF and the members of the CALIFORNIA
7 LABOR SUB-CLASS the correct minimum wage pay for which
8 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 9 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and
10 the members of the CALIFORNIA LABOR SUB-CLASS with an
11 accurate itemized statement in writing showing the corresponding
12 correct amount of wages earned by the employee;
- 13 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
14 PLAINTIFF and the other members of the CALIFORNIA LABOR
15 SUB-CLASS with all legally required off-duty, uninterrupted thirty
16 (30) minute meal breaks and the legally required off-duty rest breaks;
- 17 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
18 when an employee is discharged or quits from employment, the
19 employer must pay the employee all wages due without abatement, by
20 failing to tender full payment and/or restitution of wages owed or in the
21 manner required by California law to the members of the
22 CALIFORNIA LABOR SUB-CLASS who have terminated their
23 employment; and,
- 24 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF
25 and the CALIFORNIA LABOR SUB-CLASS members with necessary
26 expenses incurred in the discharge of their job duties.

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

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

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

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

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

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

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

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

- 3 1) The interests of the members of the CALIFORNIA LABOR
4 SUB-CLASS in individually controlling the prosecution or
5 defense of separate actions in that the substantial expense of
6 individual actions will be avoided to recover the relatively small
7 amount of economic losses sustained by the individual
8 CALIFORNIA LABOR SUB-CLASS Members when compared
9 to the substantial expense and burden of individual prosecution
10 of this litigation;
- 11 2) Class certification will obviate the need for unduly duplicative
12 litigation that would create the risk of:
 - 13 A. Inconsistent or varying adjudications with respect to
14 individual members of the CALIFORNIA LABOR SUB-
15 CLASS, which would establish incompatible standards of
16 conduct for the DEFENDANT; and/or,
 - 17 B. Adjudications with respect to individual members of the
18 CALIFORNIA LABOR SUB-CLASS would as a
19 practical matter be dispositive of the interests of the other
20 members not parties to the adjudication or substantially
21 impair or impede their ability to protect their interests;
- 22 3) In the context of wage litigation because a substantial number of
23 individual CALIFORNIA LABOR SUB-CLASS Members will
24 avoid asserting their legal rights out of fear of retaliation by
25 DEFENDANT, which may adversely affect an individual's job
26 with DEFENDANT or with a subsequent employer, the Class
27 Action is the only means to assert their claims through a
28 representative; and,

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

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

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

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

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

10 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
11 ascertainable from the business records of DEFENDANT. The
12 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
13 CLASS Members who worked for DEFENDANT in California at any
14 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

15 (i) Class treatment provides manageable judicial treatment calculated to
16 bring a efficient and rapid conclusion to all litigation of all wage and
17 hour related claims arising out of the conduct of DEFENDANT as to
18 the members of the CALIFORNIA LABOR SUB-CLASS.

19
20 **FIRST CAUSE OF ACTION**

21 **For Unlawful Business Practices**

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

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

24 49. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
25 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
26 this Complaint.

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

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

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

13 Cal. Bus. & Prof. Code § 17203.

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

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

28 54. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
fraudulent in that DEFENDANT’s policy and practice failed to provide the legally mandated
meal and rest periods, the required amount of compensation for missed meal and rest
periods and overtime and minimum wages owed, failed to timely pay wages, and failed to

1 reimburse all necessary business expenses incurred, and failed to provide Fair Labor
2 Standards Act overtime wages due for overtime worked as a result of failing to include non-
3 discretionary incentive compensation into their regular rates of pay for purposes of
4 computing the proper overtime pay due to a business practice that cannot be justified,
5 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
6 in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue
7 injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
8 restitution of wages wrongfully withheld.

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

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

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

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

25 59. By and through the unlawful and unfair business practices described herein,
26 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and
27 the other members of the CALIFORNIA CLASS, including earned wages for all time
28 worked, and has deprived them of valuable rights and benefits guaranteed by law and

1 contract, all to the detriment of these employees and to the benefit of DEFENDANT so as to
2 allow DEFENDANT to unfairly compete against competitors who comply with the law.

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

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

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

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

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1 implementing a policy and practice that denies accurate compensation to PLAINTIFF and
2 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
3 wage pay.

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

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

14 73. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
15 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
16 Members to work without paying them for all the time they were under DEFENDANT's
17 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
18 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
19 that they were entitled to, constituting a failure to pay all earned wages.

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

26 75. DEFENDANT knew or should have known that PLAINTIFF and the other
27 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their
28 time worked. DEFENDANT elected, either through intentional malfeasance or gross

1 nonfeasance, to not pay employees for their labor as a matter of company policy, practice
2 and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF
3 and the other members of the CALIFORNIA LABOR SUB-CLASS the correct minimum
4 wages for their time worked.

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

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

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1 **THIRD CAUSE OF ACTION**

2 **For Failure To Pay Overtime Compensation**

3 **[Cal. Lab. Code § 510]**

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

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

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

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

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

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

26 83. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
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1 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
2 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,
3 including overtime work.

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

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

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

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

4 88. DEFENDANT failed to accurately pay the PLAINTIFF and the other
5 members of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they
6 worked which was in excess of the maximum hours permissible by law as required by Cal.
7 Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF and the other members of the
8 CALIFORNIA LABOR SUB-CLASS were required to work, and did in fact work, overtime
9 as to which DEFENDANT failed to accurately record and pay as evidenced by
10 DEFENDANT's business records and witnessed by employees.

11 89. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
12 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
13 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an
15 economic injury in amounts which are presently unknown to them and which will be
16 ascertained according to proof at trial.

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

23 91. In performing the acts and practices herein alleged in violation of California
24 labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-
25 CLASS for all overtime worked and provide them with the requisite overtime compensation,
26 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously
27 toward PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
28 with a conscious of and utter disregard for their legal rights, or the consequences to them,

1 and with the despicable intent of depriving them of their property and legal rights, and
2 otherwise causing them injury in order to increase company profits at the expense of these
3 employees.

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

16
17 **FOURTH CAUSE OF ACTION**

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

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

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

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

25 94. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
26 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
27 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
28 and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA

1 LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of
2 all of their duties for the legally required off-duty meal periods. As a result of their rigorous
3 work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
4 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
5 Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
6 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)
7 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
8 DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
9 second off-duty meal period in some workdays in which these employees were required by
10 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFF
11 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
12 breaks without additional compensation and in accordance with DEFENDANT's strict
13 corporate policy and practice.

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

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

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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**
5 **Defendants)**

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

9 98. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
10 from time to time required to work in excess of four (4) hours without being provided ten
11 (10) minute rest periods. Further, these employees from time to time were denied their first
12 rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
13 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
14 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten
15 (10) minutes for some shifts worked of ten (10) hours or more from time to time.

16 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
17 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
18 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically
19 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

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

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

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

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

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1 and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify
2 and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
3 these expenses as an employer is required to do under the laws and regulations of California.

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

8 **EIGHTH CAUSE OF ACTION**

9 **For Failure to Pay Sick Pay Wages**

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

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

12 **and Against All Defendants)**

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

16 110. Cal Lab. Code § 233 provides that an employer must permit an employee to
17 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then
18 current rate of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to
19 sick pay wages for use of accrued sick leave pursuant to Cal Lab. Code § 246.5.
20 Specifically, once accrued sick leave is used as paid sick time, an employee has a vested
21 right to sick pay wages, which an employer must calculate and compensate based on one of
22 two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the
23 same manner as the regular rate of pay for the workweek in which the employee uses paid
24 sick time, whether or not the employee actually works overtime in that workweek," or (ii)
25 "Paid sick time for nonexempt employees shall be calculated by dividing the employee's
26 total wages, not including overtime premium pay, by the employee's total hours worked in
27 the full pay periods of the prior 90 days of employment." Under Cal Lab. Code §§ 218 and
28 233, employees may sue to recover underpaid sick pay wages as damages.

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

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

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

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

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

21 **PRAYER FOR RELIEF**

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

24 1. On behalf of the CALIFORNIA CLASS:

25 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
26 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

27 B) An order temporarily, preliminarily and permanently enjoining and restraining
28 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

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

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

- 8 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
9 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class
10 action pursuant to Cal. Code of Civ. Proc. § 382;
11 B) Compensatory damages, according to proof at trial, including compensatory
12 damages for minimum and overtime compensation due PLAINTIFF and the other
13 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
14 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
15 statutory rate;
16 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
17 in which a violation occurs and one hundred dollars (\$100) per each member of
18 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
19 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
20 an award of costs for violation of Cal. Lab. Code § 226;
21 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
22 the applicable IWC Wage Order;
23 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
24 1197;
25 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
26 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
27 costs of suit.; and,
28

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

4 3. On all claims:

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

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

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

10 Dated: August 17, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

13 By: /s/ Nicholas De Blouw

14 Norman B. Blumenthal
Nicholas J. De Blouw

15 *Attorneys for Plaintiff*

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DEMAND FOR A JURY TRIAL

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

Dated: August 17, 2023 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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

Attorneys for Plaintiff

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **March 11, 2025**, I served the document described as: **SECOND AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

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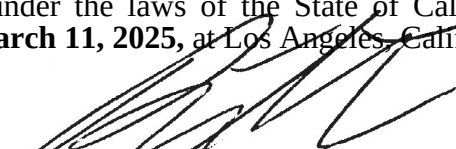
☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☒ **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **March 11, 2025**, at Los Angeles, California.

Riley McIntire
Type/Print Name


Signature