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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE**

NORMA REYES, on behalf of herself, other
Aggrieved Employees, and the State of
California,

Plaintiff,

v.

SIMPSON GARDEN GROVE, INC. (dba
Simpson Chevrolet of Garden Grove); and
DOES 1-50, Inclusive,

Defendants.

Case No: 30-2020-01175614-CU-OE-CJC

**DECLARATION OF SHANI O. ZAKAY
IN SUPPORT OF MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Hearing Date: May 12, 2021
Hearing Time: 10:00 AM
Reservation No.: 73502141

Honorable Judge Fred W. Slaughter
Department C64

Trial Date: August 22, 2022
Action Filed: December 22, 2020

I, SHANI O. ZAKAY, declare as follows:

1. I am the managing partner of the law firm of Zakay Law Group, APC, lead counsel of record for Plaintiff Norma Reyes ("Plaintiff") in this matter. As such, I am fully familiar with the facts, pleadings and history of the matter. The following facts are within my own personal knowledge, and if called as a witness, I could testify competently to the matters stated herein.

2. This declaration is being submitted in support of the motion by Plaintiff for an order: approving the settlement in this Private Attorneys General Act ("PAGA") action with

1 Defendant Simpson Garden Grove, Inc. (dba Simpson Chevrolet of Garden Grove, Inc.
2 (“Defendant”).

3 3. A true and correct copy of the fully executed Private Attorney General Act (Labor
4 Code Section 2698 *Et Seq.*) Settlement Agreement and Limited Release (“Settlement
5 Agreement”) is attached as Exhibit #1. A proposed order approving the PAGA settlement is
6 submitted herewith.

7 4. On August 18, 2020, Plaintiff gave written notice to the LWDA of her intent to
8 assert a claim under PAGA and her alleged basis for the claim. On September 17, 2020, Plaintiff
9 submitted an amended notice to the LWDA, further advising of her intent too assert a claim under
10 PAGA and her alleged basis for the claim. More than 65 days passed after the letter and amended
11 letter were sent to the LWDA, and the LWDA has not indicated that it intends to investigate the
12 alleged violations referenced in the letters. On November 2, 2020, the Parties entered into a tolling
13 agreement, tolling in place the statute of limitations applicable to Plaintiff’s representative PAGA
14 action, which may pply to any and all California Labor Code violations, in the state they existed
15 on October 28, 2020 until December 25, 2020. On December 22, 2020, Plaintiff filed a Complaint
16 against Defendant in the Superior Court of the State of California, County of Orange. The
17 Complaint alleged a single claim for: (1) Violation of the Private Attorneys General Act
18 California Labor Code §§2689 et seq. (“PAGA”).

19 5. Prior to filing of the Complaint, Plaintiff and Defendant agreed to mediate with
20 Hon. William C. Pate (Ret.), an experienced and reputable Jurist and wage and hour and PAGA
21 actions mediator. Prior to the mediation, in order to evaluate the potential value of the claims, the
22 Parties engaged in significant efforts to obtain the facts regarding the claims asserted, including
23 all of Defendant’s relevant wage and hour policies, the exchange of detailed statistical data
24 regarding shifts worked by Plaintiff and the PAGA Settlement Members, the production of
25 hundreds of pages of documents, including a large sample of payroll records and time records,
26 and the exchange of detailed briefing and analysis in connection with the mediation. On
27 December 18, 2020, Plaintiff and Defendant engaged in a full-day mediation with the Hon.
28 William C. Pate (Ret.) After the conclusion of the full-day mediation, the Parties were able to

1 reach a settlement, which led to the signing of a Memorandum of Understanding memorializing
2 the settlement. Thereafter, on March 9, 2021, Plaintiff, Defendant, and their counsel fully
3 executed the long-form settlement agreement.¹ The settlement was negotiated in light of all
4 known facts and circumstances and the uncertainty associated with litigation – including the risk
5 of Plaintiff not being able to maintain representative claims, the difficulty of proving Plaintiff’s
6 claims in a manageable trial, the merits of Defendant’s potential defenses, and the significant
7 delay and potential appellate issues inherent to litigation. The settlement calls for this PAGA case
8 to be resolved for \$240,000.

9 6. The PAGA settlement is subject to Court approval consistent with Labor Code
10 §2699(1)(2) (Settlement Agreement at §5.02). The Settlement Agreement negotiated by the
11 Parties provides for a “Gross Settlement Amount” payment in the amount of \$240,000 to resolve
12 the PAGA Claims (hereinafter referred to as the “PAGA Settlement”). From this PAGA
13 Settlement of \$240,000, there is a deduction of attorneys’ fees in the amount of \$80,000 (which is
14 one-third of the PAGA Settlement), reimbursement of incurred costs in an amount not to exceed
15 \$10,000, and Settlement Administration Costs, which will not exceed \$3,050. (Settlement
16 Agreement at §4.01-4.04).² After these deductions, the amount remaining is the “PAGA
17 Payment”, which is estimated to be \$146,950. Of the PAGA Payment amount, seventy-five
18 percent (75%) will be paid to the LWDA and the remaining twenty-five percent (25%) will be
19 paid to the PAGA Settlement Members (Settlement Agreement at 4.05).³ This 75/25 allocation is
20

21 ¹ As part of the settlement and in addition to the Gross Settlement Amount, Defendant has agreed
22 to separately settle Plaintiff’s individual claims which is set forth in a separate Individual
23 Settlement Agreement. The Individual Settlement Agreement is attached to the PAGA Settlement
24 Agreement as Exhibit B.

25 ² In the event the Court approves less than One-Third of the PAGA Settlement Amount in
26 Attorneys’ Fees or less than \$10,000 in Attorneys’ Expenses to Plaintiff’s Counsel, the unawarded
27 difference will be added to the PAGA Payment and not to Plaintiff’s Counsel or the Defendant
28 (Settlement Agreement at 4.03). In the event the Court approves less than \$3,050 to administer the
settlement or if the actual cost to administer the settlement is less than \$3,050, the difference will
be added to the PAGA Payment. (*Id.* at 4.04).

³ “PAGA Settlement Member” means all individuals who are or previously were employed by
Defendant in California who were classified as hourly, piece-rate, and/or commissioned
employees during the time period April 6, 2019 to December 18, 2020. (Settlement Agreement at
§ 1.01(xvii)).

1 required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court*, 8 Cal.5th 175 (2019).
2 The Gross Settlement Amount shall be due by Defendant to the Settlement Administrator as
3 follows: Defendant shall the Gross Settlement Amount within 15 days after the Effective Date.
4 (Settlement Agreement at 5.04(c)).

5 7. PAGA Settlement Members will be issued Form 1099 for their share of the PAGA
6 payments. (Settlement Agreement at 4.05.) The Individual PAGA Payment for each PAGA
7 Settlement Member shall be based on the number of biweekly payroll periods each PAGA
8 Settlement Member worked during the PAGA Period as a percentage of the total pay periods
9 worked by all PAGA Settlement Members during the PAGA Period. (*Id.*) The PAGA Period is
10 the time period from April 6, 2019 to December 18, 2020. (Settlement Agreement at § 1.01(xvii).)
11 Defendant has represented to Plaintiff’s Counsel the number of pay periods and PAGA Settlement
12 Members. Defendant has represented to Plaintiff’s Counsel the number of pay periods and PAGA
13 Settlement Members. Defendants represent that there are approximately 117 PAGA Settlement
14 Members who worked approximately 2,808 pay periods during the PAGA Period. (Settlement
15 Agreement at § 5.02). The PAGA settlement releases the “Released Claims” as follows: the
16 Released Parties shall be entitled to a release from the State of California and the PAGA
17 Settlement Members only as to all PAGA claims and PAGA penalties arising from the factual
18 allegations in Plaintiff’s August 18, 2020 notice to the LWDA, Plaintiff’s September 17, 2020
19 amended notice to the LWDA, and in the operative complaint which occurred during the PAGA
20 Period, including civil penalties pursuant to Labor Code section 2699, et seq. for violations of
21 Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558,
22 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, and the Applicable Wage Orders and
23 expressly excluding claims for wrongful termination, discrimination, unemployment insurance,
24 disability, and workers’ compensation, and claims outside of the PAGA Period. (“PAGA
25 Released Claims”) (Settlement Agreement at §1.01(xxii)). Settlement checks issued to PAGA
26 Settlement Members that are not cashed within 180 days will be voided and the funds represented
27 will be paid to the Children Advocacy Institute (Settlement Agreement at §5.04(d)).
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1 8. The additional amounts to be paid from the Settlement Sum other than the Net
2 PAGA Payment are as follows: (1) \$80,000 shall be paid to Plaintiff's Counsel for payment of
3 attorneys' fees, and up to \$10,000 shall be paid to Plaintiff's Counsel for litigation expenses as set
4 forth in the client's billing statement (pursuant to Declaration(s) by Plaintiff's Counsel) in
5 prosecuting the PAGA claims (Settlement Agreement at §4.03.); and (2) a Settlement
6 Administrator Fee in an amount not to exceed \$3,050. Any difference from these maximum
7 amounts will be added to the PAGA Fund.⁴

8 9. As experienced counsel, I believe that the PAGA Payment is fair and reasonable
9 and therefore should be approved. Here, the PAGA Settlement Amount of \$240,000 is
10 significantly more and constitutes approximately \$85 per pay period. The Settlement Sum
11 compares favorably to the estimated amount of PAGA penalties based on the violations alleged in
12 Plaintiff's complaint. With the assistance of an expert, Plaintiff calculated that the maximum
13 amount of statutory PAGA civil penalties was potentially \$4,709,066 based on 2,808 pay periods
14 at issue as of the mediation date. Importantly, however, these calculations were performed at the
15 maximum statutory rates for the PAGA penalties, when in fact, it is likely that any penalties
16 awarded would be at a lower rate.

17 10. California Labor Code Section 2699(e)(1) permits a Court to award a lesser
18 amount than the maximum civil penalty if based on the facts and circumstances to do otherwise
19 would result in an award that is "unjust, arbitrary and oppressive or confiscatory." Before and
20 during the mediation, Defendant argued, among other things, that it was unlikely that any Judge
21 would award more than the actual amounts owed on the claims, let alone the full \$100 or \$200 per
22 violation. In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court of Appeal
23 affirmed a judgment after trial which only provided for a PAGA penalty of \$5 per pay period.
24 Therefore, at trial, any PAGA penalties awarded in this case could be significantly less than
25 Plaintiff's calculation even if Plaintiff prevailed on the PAGA claim. Here, multiplying the
26

27 ⁴ Plaintiff has entered into a separate confidential settlement agreement with Defendant in regards
28 to the settlement of her individual claims which provides for payment to her in exchange for a
general release of all claims.

1 number of pay periods (2,808) by \$5 results in a total potential liability of **\$14,040**. Therefore,
2 even assuming Plaintiff would have prevailed in trial, the result obtained by Plaintiff in the
3 Settlement exceeds the amount Plaintiff would have recovered had the Court relied on *Carrington*
4 in awarding the PAGA penalties.

5 11. The three primary claims in this PAGA action are based on (1) Defendant's failure
6 to provide complaint meal breaks to the PAGA Settlement Members when a break was missed,
7 short or late, (2) Defendant's failure to provide complaint rest breaks to the PAGA Settlement
8 Members when a break was missed, short or late, and (3) Defendant's failure to pay PAGA
9 Settlement Members who are paid by piece rate at the correct rate for rest periods and other "non-
10 productive" time.

11 12. Here, a number of defenses asserted by Defendant presented serious threats to the
12 claims of the Plaintiff and the PAGA Settlement Members. Defendant asserted that the
13 employment practices complied with all applicable Labor Laws.

14 13. Most importantly and relevant to this case, Defendant argued that the Supreme
15 Court decision in *Brinker v. Superior Court*, 53 Cal.4th 1004 (2012), weakened, if not eliminated,
16 Plaintiff's claims, on liability, value, and discretion with respect to the PAGA penalties, as to the
17 meal and rest period claims. A major component of the penalties alleged to have been owed by
18 Defendant are attributed to non-compliant meal and rest breaks. Before and during the mediation,
19 Defendant aggressively argued that Defendant's policies and culture afforded the PAGA
20 Settlement Members an opportunity to take timely meal and rest breaks, and that employees like
21 the Plaintiff *chose* not to take compliant breaks. Specifically, Defendant's written policies
22 encouraged PAGA Settlement Members to take meal periods and rest breaks according to
23 schedules compliant with the California Labor Code. The policy further *required* employees who
24 felt they were not provided an opportunity to take a meal break to their supervisor immediately.
25 Defendant argued, therefore, that under the *Brinker* decision it has no liability for the missed
26 breaks whatsoever. Defendant argued that it adopted and strictly enforced lawful policies and
27 afforded Plaintiff and the PAGA Settlement Members compliant meal and rest breaks. Because
28 Plaintiff's claims were largely based on the missed meal and rest breaks, and because Defendant's

1 policies were, indeed, compliant, this presented a very real concern for Plaintiff. If successful, this
2 defense could eliminate or substantially reduce any recovery under PAGA. Moreover, Defendant
3 argued that the Court of Appeal decision in *Vaquero v. Stoneledge Furniture, LLC* (2017) 9
4 Cal.App.5th 98 does not require paid rest periods be separately compensated at the regular rate of
5 pay and, further, that its policy of separately compensating paid rest periods at the applicable
6 minimum wage complies with California labor laws. Plaintiff's counsel, on the other hand, argues
7 that the *Vaquero* Court, implicitly, if not explicitly, accepted that like piece-rate employees, sales
8 persons earning commission compensation, like the PAGA Settlement Members, must be
9 separately compensated for paid rest periods at their regular rate of pay. While Plaintiff believes
10 that this defense, and others, could be overcome, Defendant maintains these defenses have merit
11 and therefore present a serious risk to recovery of penalties.

12 14. Accordingly, Defendant disputes and denies Plaintiff's allegations and claims
13 asserted in the operative complaint which are resolved by the Settlement Agreement. Defendant
14 asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount
15 of the penalties. Defendant could argue that no penalties prior to the PAGA notification should be
16 awarded because the violations were not intentional, and at least one Court has so ruled. In
17 addition, Defendant argued that any Court would substantially reduce the PAGA penalty awards
18 in light of decisions like *Carrington*. These defenses present a significant risk to the PAGA claim
19 and the potential that some or all of the PAGA penalties sought may not be awarded. Given
20 Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation,
21 Plaintiff and their attorneys believe that the PAGA Settlement Sum is fair and reasonable.

22 15. Plaintiff's Counsel have significant experience litigating wage and hour claims
23 including claims for PAGA penalties, and the PAGA Settlement Sum here is similar to
24 settlements that courts have approved. The PAGA Settlement Sum was negotiated by experienced
25 counsel at arm's length with the assistance of an experienced and reputable mediator, Hon.
26 William C. Pate (Ret.).

27 16. As set forth in the accompanying proof of service, the LWDA has been provided
28 notice of this motion and the PAGA settlement (See also Exhibit 5). The decision of LWDA to

1 accept the PAGA settlement and not oppose or object to this motion should be given considerable
2 weight. This is not a situation where the Court needs to be concerned about the rights of absent
3 employees as in a class settlement, as this PAGA-only settlement does not release the individual
4 claims of absent employees, and the LWDA is a sophisticated government entity that is more than
5 able to look out for its own rights.

6 17. The payment of attorneys' fees and costs to Plaintiff's Counsel under the
7 Agreement is supported by several factors. First, the requested fees are justified by the result
8 achieved. PAGA Counsel's diligent and efficient litigation of this action resulted in the creation of
9 an ascertainable common fund of \$240,000.00 that will substantially benefit the state of California
10 and the PAGA Settlement Members. PAGA Counsel seek approval of an award of attorneys' fees
11 in the amount of \$80,000 representing 1/3 of the common fund. PAGA Counsel have also each
12 provided information about the tasks that the two law firms performed on this case. PAGA
13 Counsel's request for attorneys' fees in the amount of 1/3 of the monetary common fund is
14 consistent with the amount awarded in other cases. Under *Laffitte v. Robert Half Int'l Inc.*, 1
15 Cal.5th 480, 504, (2016), the Court need not undertake any lodestar cross-check where, as here,
16 the percentage of the common fund sought equates to 1/3 of the common fund obtained.

17 18. Under the Settlement Agreement, Plaintiff's Counsel will be recovering litigation
18 expenses in the total amount of \$5,500, which represents the combined amount of costs that were
19 incurred by Plaintiff's Counsel, and which is less than the \$10,000 allocated in the Agreement.
20 The litigation expenses incurred by Zakay Law Group, APC and JCL Law Firm, APC were in the
21 amount of \$5,500, were all reasonably necessary to the litigation, and are detailed in Exhibit #2
22 attached hereto.

23 19. As detailed in the accompanying billing statement attached hereto as Exhibit #3,
24 Zakay Law Group, APC and JCL Law Firm, APC current lodestar is \$60,955 for more than 118.6
25 hours of work. The firms have worked on this action for over 8 months. In addition, there will be
26 additional lodestar still to be incurred to complete the settlement.

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1 Experience and Qualifications

2 20. I have represented thousands of employees in a variety of legal matters, including
3 PAGA lawsuits, class actions and complex litigation cases. Zakay Law Group APC's practice is
4 devoted almost entirely to the prosecution of wage and hour class action and PAGA action
5 matters. I have successfully prosecuted and obtained significant recoveries in numerous class
6 action lawsuits and other lawsuits involving complex issues of law and fact. A true and correct
7 copy of the resume of Zakay Law Group, APC is attached hereto as Exhibit #4.

8 21. My credentials are reflected in the Zakay Law Group, APC firm resume, a true
9 and correct copy of which is attached hereto as Exhibit #4. Some of the major cases my firm has
10 undertaken are also set forth in Exhibit #4. I have had extensive representative and class litigation
11 experience, much of it in the area of representative PAGA actions, employment class actions,
12 unfair business practices and other complex litigation. I have litigated similar wage and hour class
13 action cases against other employers on behalf of employees. It is this level of experience which
14 enabled the firm to undertake the instant matter and to successfully combat the resources of the
15 defendant and its capable and experienced counsel. On account of the concerted and dedicated
16 effort this case required in order to properly handle and prosecute, I was precluded from taking
17 other cases, and in fact, had to turn away other potential fee generating cases.

18 22. My hourly rate for this case is \$500 per hour. My rate is in line with the prevailing
19 rates of attorneys in the local legal community for similar work and, if this were a commercial
20 matter, these are the charges that would be made and presented to the client. The rates charged by
21 my firm are in line with the prevailing rates of attorneys in the local legal community for similar
22 work and, if this were a commercial matter, these are the charges that would be made and
23 presented to the client. These hourly rates have been approved by Court's throughout California,
24 including the Courts in the Superior Court of California. Finally, the reasonableness of my hourly
25 rates is further confirmed by comparing this rate with the rates of comparable counsel practicing
26 complex and class litigation as detailed in the National Law Journal Billing Survey. See e.g. *Zest*
27 *IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014)
28 (finding that "Mayer Brown's \$775 average billing rate for partners" and "Mayer Brown's \$543

average associate billing rate” are reasonable rates when compared within 21 other firms practicing in the Southern District of California.) This survey is useful to show that Class Counsel’s rates are in line with the comparable rates of the defense counsel that opposes these types of class claims, such as Mayer Brown. In another example, Sheppard Mullin Richter & Hampton, who is opposing counsel in many cases prosecuted by Class Counsel charges rates as high as \$875 for partners and \$535 for associates. Similarly, Paul Hastings, another opposing counsel in these types of cases, charges between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the rates charged by Plaintiff’s Counsel for comparable work are less than these examples, and are therefore undoubtedly reasonable.

Additional Issues

23. **National Change of Address** – The Settlement Administrator is required to perform a National Change of Address search on any check returned by the U.S. Postal Service as non-deliverable, and re-mail the check to the Aggrieved Employee’s new address under paragraph 5.03(a)(2) of the Settlement Agreement.

24. **Information Received** – In this case, Plaintiff received all of the information needed to evaluate the claims being settled. The following is a summary of the relevant documents received, reviewed and analyzed by Plaintiff in order to evaluate the claims:

- a. Significant sample data showing the employees, their employment dates, their time sheets, hourly rates, and their wages.
- b. Significant sample data concerning recorded meal periods.
- c. Defendant’s Employee Handbook for the relevant time period, which outlined the wage and hour policies of Defendant.
- d. Employee file of Plaintiff.
- e. Samples of wage statements provided by Defendant to employees.
- f. Significant sample payroll data.
- g. Hiring and termination forms used by Defendant for employees.

25. **Valuation of Penalties**– Plaintiff estimates that Defendant was subject to maximum liability for PAGA penalties in the amount of \$4,709,100, \$555,800 for minimum wage

1 violations, \$277,850 for unpaid wages, \$2,763,850 for wage statement violations, \$555,800 for
2 rest break violations, and \$555,800 for meal break violations. With respect to rest break
3 violations and minimum wage violations, this model assumed a violation for every single pay
4 period for every single employee, which Plaintiff recognizes would be extremely hard to prove
5 given Defendant's defenses to this Action.

6 26. PAGA penalty calculations are highly variable. Plaintiff's Counsel is unaware of
7 any PAGA judgment in which substantial PAGA penalties were awarded at the full statutory rate,
8 rather, the PAGA judgments have typically decreased the amount of the per violation penalty to a
9 fraction of the statutory amount. Here, some of the PAGA penalty amounts were likely not
10 awardable at the maximum rate given the defenses presented by Defendant. In addition to the
11 defenses presented by Defendant, as detailed above, there is another basis for concluding that the
12 settlement in this case is reasonable even with PAGA penalties in this amount. Specifically,
13 PAGA penalty claims are routinely settled at a small fraction of the potential penalties. For
14 example, Judge Nelson in *Price v. Uber Technologies*, (Los Angeles Superior Court case no.
15 BC554512), recently approved a PAGA settlement of \$7.75 million for 1.5 million drivers where
16 the maximum PAGA liability was \$151 billion. Thus, the PAGA penalties were settled for
17 0.005% of the PAGA liability. Notably, this was the largest PAGA settlement in the 15-year
18 history of PAGA. So while PAGA penalty figures may be inflated to significant numbers,
19 realistic settlements of PAGA claims result in a settlement amount of less than 1% of the PAGA
20 liability. Here, the settlement represents approximately 5% of the PAGA liability.

21 27. Scope of the Release. The release is limited to PAGA penalties predicated on the
22 claims actually asserted in the operative complaint and/or in the notice to the LWDA. A copy of
23 the notice to the LWDA is attached hereto as Exhibit #6.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed this 2nd day of April 2021, at San Diego, California.

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27 By: 
28 Shani O. Zakay

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EXHIBIT 1

PRIVATE ATTORNEY GENERAL ACT (LABOR CODE SECTION 2698 ET SEQ.)
SETTLEMENT AGREEMENT AND LIMITED RELEASE

Norma Reyes v. Simpson Garden Grove, Inc.. et al.
(Orange County Superior Court, Case Number 30-2020-01175614-CU-OE-CJC)

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Private Attorney General Act (Labor Code section 2698 *et seq.*) (“PAGA”) Settlement Agreement and Limited Release (“Agreement”).

This Agreement is made by and between Plaintiff Norma Reyes (“Plaintiff”), for herself and in her capacity as a representative of the State of California on behalf of other aggrieved employees, and Defendant Simpson Garden Grove, Inc. (“Defendant”). This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded by this Agreement, which is intended to effect and complete settlement of this matter.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- i. “Action” shall mean the civil action entitled *Norma Reyes v. Simpson Garden Grove, Inc. et al.*, filed in the Superior Court for the County of Orange on or about December 22, 2020, designated as Case No. 30-2020-01175614-CU-OE-CJC.
- ii. “Agreement,” or “Settlement Agreement,” means this Private Attorney General Act (Labor Code section 2698 *et seq.*) Settlement Agreement and Limited Release.
- iii. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant Simpson Garden Grove, Inc. as an hourly, piece-rate, and/or commissioned employee in California during the period of April 6, 2019 to December 18, 2020.
- iv. “Complaint” means Plaintiff’s Complaint filed in Orange County Superior Court on December 22, 2020, which is the operative Complaint.
- v. “Court” means the Superior Court for the State of California, County of Orange.
- vi. “Defendant” means Simpson Garden Grove, Inc. and Simpson Automotive, Inc.

vii. “Defense Counsel” or “Counsel for Defendant” is:

Ron Hodges
Goe Forsyth & Hodges, LLP
18101 Von Karman Avenue
Suite 1200
Irvine, CA 92612

- viii. “Effective Date” refers to the date on which the settlement is approved and the Court’s order approving the settlement (“Judgment”) becomes final. For purposes of this agreement, the Court’s Judgment “becomes final” upon the latter of: (i) if no objection is filed, the date upon which the Court signs the order approving the settlement. (ii) if an objection is filed, but no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Court’s Judgment (this time period shall not be less than 60 calendar days after the Court’s Judgment is entered); (iii) if an objection is filed and an appeal is filed, the date affirmance of an appeal of the Judgment becomes final; or (iii) if an objection is filed and an appeal is filed, the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment.
- ix. “Fee Amount” is the amount in fees Plaintiff’s Counsel is free to request that the Court award them up to one-third (1/3) of the PAGA Settlement Amount as compensation for their attorneys’ fees.
- x. “Cost Amount” is the total amount of litigation costs incurred by Plaintiff’s counsel in connection with the Action, including filing fees, mediation expenses and fees, travel and hotel costs, etc., up to a maximum of \$10,000 which shall be paid from the PAGA settlement amount as reimbursement of litigation costs.
- xi. “Individual PAGA Payment” is the amount in Labor Code Section 2699 penalties to be paid to Aggrieved Employees, which will be 25% of the Net PAGA Payment, unless the Court determines otherwise.
- xii. “LWDA” refers to the California Labor & Workforce Development Agency.
- xiii. “LWDA Payment” is the amount in Labor Code Section 2699 penalties to be paid to the LWDA, which will be 75% of the Net PAGA Payment, unless the Court determines otherwise.
- xiv. “Net PAGA Payment” means the amount remaining from the Settlement Sum after the deduction of the Settlement Administration Fee, Plaintiffs’ Counsel’s Fee Amount and Plaintiffs’ Counsels’ Cost Amount.
- xv. “Notice of PAGA Settlement” means the Notice of PAGA Settlement (attached hereto as Exhibit A) the Settlement Administrator shall mail, along with each Individual PAGA Payment, to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each Aggrieved Employee with directions to the Postmaster to forward the Notice and return all undeliverable Notices to the Settlement Administrator.

- xvi. “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*
- xvii. “PAGA Period” means the time period from April 6, 2019 through December 18, 2020.
- xviii. “Parties” refers to Plaintiff, the State of California, and Defendants.
- xix. “Pay Period” means each biweekly period in which Aggrieved Employees received wages during their employment at Defendant, during the PAGA Period.
- xx. “Plaintiff” refers to Norma Reyes individually and in her capacity as representative of the State of California on behalf of other aggrieved employees.
- xxi. “Plaintiff’s Counsel” are as follows:

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THE JCL LAW FIRM, APC
3990 Old Town Ave. Suite C204
San Diego, CA 92110

Shani O. Zakay
ZAKAY LAW GROUP APLC
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San Diego, CA 92110

- xxii. “Released Claims” means all PAGA claims and PAGA penalties arising from the factual allegations in Plaintiff’s August 18, 2020 Notice to the LWDA, her September 17, 2020 amended notice to the LWDA, and in the Lawsuit, which occurred during the PAGA Period (the “Released PAGA Claims”). The release shall be limited to violations of PAGA and shall not release any of the Aggrieved Employees’ claims for the underlying Labor Code violations. The release shall also exclude claims wrongful termination, discrimination, unemployment insurance, disability, workers’ compensation, and claims outside of the PAGA Period.
- xxiii. “Released Parties” means Defendant and its former and present parents, subsidiaries and affiliated corporations and its officers, directors, employees, managers, partners, shareholders, agents, insurers, attorneys, and any other successors, assigns, or legal representatives.
- xxiv. “Settlement Administrator” means a third-party administrator the Parties will jointly select to administer the notice and payments called for in this Agreement. The Settlement Administrator shall be selected by the parties based on the bid most agreeable to all parties after considering bids from ILYM, and/or Simpluris.
- xxv. “Settlement Administration Fee” means costs incurred by the Settlement Administrator in connection with the current Agreement, whether foreseen or not, which are anticipated not to exceed \$3,050.

- xxvi. “Settlement Sum” means the Two Hundred Forty Thousand Dollars And Zero Cents (\$240,000.00) Defendant has agreed to pay as set forth herein.
- xxvii. “Individual Settlement Payment” means the payment by Defendant to Plaintiff in accordance with the separate individual settlement agreement entered into between the Parties and attached hereto as Exhibit B.”

Article II.

Background.

- (a) On August 18, 2020, Plaintiff gave written notice to the Labor and Workforce Development Agency (“LWDA”) of her intent to assert a claim under the Private Attorneys General Act of 2004 (“PAGA”) and her alleged basis for the claim. On September 17, 2020 Plaintiff submitted an amended notice to the LWDA, further advising of her intent to assert a claim under PAGA and her alleged basis for the claim. More than 65 days passed after the letter and amended letter were sent to the LWDA, and the LWDA has not indicated that it intends to investigate the alleged violations referenced in the letters.
- (b) On November 2, 2020 the Parties entered into a tolling agreement, tolling in place the statute of limitations applicable to Plaintiff’s representative PAGA which may apply to any and all California Labor Code violations, in the state they existed on October 28, 2020 until December 25, 2020.
- (c) On December 18, 2020, the Parties engaged in mediation with the Honorable Judge William Pate (Ret.), Esq. an experienced and reputable Jurist and wage and hour and PAGA actions mediator. At the conclusion of the full-day mediation, the Parties were able to reach a settlement. The Parties’ agreement was memorialized in a Memorandum of Understanding, which this Agreement now replaces.
- (d) On December 22, 2020, Plaintiff filed the Action, a representative PAGA action complaint against Defendant in the Superior Court of Orange County, Case No. 30-2020-01175614-CU-OE-CJC alleging a cause of action for violations of PAGA based on alleged Labor Code violations such as failure to pay minimum wages, failure to pay overtime wages, failure to provide meal & rest breaks, failure to provide accurate wage statements, and failure to provide wages when due.
- (e) Counsel for all Parties have thoroughly investigated the facts relating to the claims alleged in the operative complaint and have made a thorough study of the legal principles applicable to the claims asserted against Defendant. Based on their investigation and evaluation of the case, Plaintiff’s Counsel has concluded that the settlement is fair, reasonable, and adequate in light of all known facts and circumstances, including the defenses asserted by Defendant, potential adverse findings regarding liability, and numerous potential appellate issues.

- (f) This Agreement contemplates (a) the entry of an order by the Court approving the payment allocated for settlement of the Settlement Sum provided herein; (b) an order entering PAGA Judgment in the Action; and (c) all Parties bearing their respective fees and costs except as expressly provided in this Agreement. These terms are material provisions of this Agreement.

Defendant denies each and every claim and contention alleged in the Action, and has always maintained that it never engaged in any unlawful acts regarding any of the matters alleged in the Action.

Article III.

Non-Admission of Liability

Section 3.01 Based on the factual and legal issues involved, the expense and time necessary to prosecute the Action through trial, the risks, uncertainty and costs of further prosecution, the difficulty of proof necessary to establish manageability for purposes of liability, and the relative benefits to the Aggrieved Employees of an expeditious resolution to the Action, the Parties have concluded that the terms set forth in this Settlement are fair, reasonable, adequate and in the best interests of the Aggrieved Employees.

Section 3.02 By entering into this Settlement, Defendant denies any liability for any of the claims in the Action, as well as any other potential or unknown claims based on wage and hour violations under state or federal law. Neither this Settlement, nor any document referred to or contemplated herein, nor any action taken to carry out this Settlement, is, may be construed as, or may be used as, an admission, concession, or indication by or against Defendant of any unlawful conduct, fault, wrongdoing or liability whatsoever. Defendant specifically denies that it has engaged in any unlawful or wrongful conduct towards Plaintiff or the Aggrieved Employees.

Article IV.

Terms of Agreement.

Section 4.01 Settlement Sum.

Defendant agrees to pay **Two Hundred Forty Thousand Dollars And Zero Cents (\$240,000.00)** as a full, complete and final settlement of the Action. This sum includes the following: (i) any payment to the LWDA; (ii) any payment to Aggrieved Employees; (iii) the payment of fees and costs to Plaintiff's counsel, as approved by the Court; and (v) all fees, costs, and expenses of administration of this Agreement. This sum excludes the Individual Settlement Payment to Plaintiff.

Section 4.02 Non-Monetary Relief.

Omitted.

Section 4.03 Fee Amount.

Plaintiff's Counsel will apply to the Court for an award of attorneys' fees not to exceed thirty-three and one-third percent (33 1/3%), of the Settlement Sum, and Plaintiff's Counsel will also seek reimbursement of reasonable litigation costs not to exceed \$10,000 (attorneys' fees and reasonable litigation costs are referred to as "Plaintiff's Counsel Payment"). Defendant will not oppose or object to Plaintiff's Counsel's application for Plaintiff's Counsel Payment. In the event that the Court does not approve an award of attorneys' fees equal to the requested amount, or the Court alters the payment methodology described herein, Plaintiff's Counsel agrees not to seek additional review of the Court's decision regarding attorneys' fees, and this Settlement will enforceable. Any reduction in this payment by the Court is not grounds to void this Agreement and any funds requested but not awarded as attorneys' fees or costs will be distributed to the State and eligible employees pursuant to the distribution terms of the Agreement or any terms imposed by the Court. Plaintiff's Counsel Payment shall be allocated between Plaintiff's Counsel as follows: The JCL Law Firm's share will be 50%, and Zakay Law Group ALPC's share will be 50%.

Section 4.04 Settlement Administration Fees and Costs.

Settlement administration shall be done by a qualified, third-party settlement administrator agreed to by the Parties and approved by the Court ("Settlement Administrator"). The parties agree that this Settlement Administrative Costs shall be paid from the Settlement Sum. This includes all fees and costs for postage, envelopes, and computer searches to locate addresses; and expenses of the Settlement Administrator to implement and complete the settlement process according to the terms of this Settlement, to calculate payments to individual Aggrieved Employees, and cost associated with the escheatment process or an any uncashed or undeliverable settlement checks, to prepare any necessary tax documents for PAGA Settlement members, and any other related fees and costs (The "Settlement Administrative Costs"). Any reductions by the Court or any unused amount shall revert to the Net PAGA Payment.

The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator

Section 4.05 PAGA Payment - Allocation.

The Net PAGA Payment shall represent Labor Code Section 2699 penalties, of which 75% of the payment will be paid to the LWDA as the LWDA Payment and 25% will be paid to Aggrieved Employees as Individual PAGA Payments, unless the Court determines otherwise. A reallocation of the settlement funds amongst PAGA claims directed by the Court shall not be a basis for either side to void the agreement. Aggrieved Employees will be issued Form 1099 for their share of the PAGA payments. The Individual PAGA Payment for each Aggrieved Employee shall be based on the number of biweekly payroll periods each Aggrieved Employees worked during the PAGA Period as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period.

Article V.

Approval and Implementation of Agreement.

Section 5.01 Cooperation.

The Parties will cooperate in obtaining through an unopposed motion, an Order from the Court approving the terms of this Agreement at the earliest possible date. The Parties agree to use their best efforts to expedite the preparation and submission of the Agreement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed in order to obtain approval of this Agreement.

Section 5.02 Court Approval.

The Parties will seek to obtain the Court's approval of this Agreement by way of a motion to be filed by Plaintiff's counsel. Defendant shall provide a declaration under penalty of perjury as to the number of Aggrieved Employees and pay periods worked by the Aggrieved Employees prior to the filing of the motion for PAGA approval. Before the mediation, Defendant provided an estimate to Plaintiff of 117 Aggrieved Employees and 2,808 pay periods during the PAGA Period. The Settlement Sum will increase proportionally with added pay periods if the declaration states that the actual number of pay periods during the PAGA Period is more than 5% of the estimate provided by Defendants for the mediation. The Court's approval of this Agreement shall be embodied in a written Order. Should the Court not grant approval of terms set forth in Section 4.01 of this Agreement, then the entirety of this Agreement shall be null and void.

Section 5.03 Notice to Aggrieved Employees.

(a) Notice.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than Fifteen (15) days after Effective Date, Defendant shall provide the Settlement Administrator with a list of all Aggrieved Employees ("Aggrieved Employees List"). The Aggrieved Employees List shall state the first name and last name in separate columns for each Aggrieved Employee, the last known home address for each such Aggrieved Employee, each Aggrieved Employee's social security number, and each Aggrieved Employee's respective number of Pay Periods employed by Defendants in California during the PAGA Period.
- (2) The Settlement Administrator shall conduct one National Change of Address ("NCOA") search for all Aggrieved Employees identified on the Aggrieved Employees List. No later than ten (10) business days after its receipt of the information described in Section 4.03(a)(1), above, the Settlement Administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit A) and the First Payment as defined below in Section 4.04(b) to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each Aggrieved Employee with directions

to the Postmaster to forward the Notice and Individual PAGA Payment and return all undeliverable Notices and Individual PAGA Payments to the Settlement Administrator. For each Notice and Individual PAGA Payment that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database.

- (3) All costs incurred by the Settlement Administrator in connection with the current settlement, whether foreseen or not, shall be paid out of the Settlement Sum.

Section 5.04 Settlement Payment And Administration Procedures.

(a) Settlement Sum

The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID number and calculate all settlement checks and withholdings required under the law based on the information that will be confidentially furnished by Defendant. There are no payroll deductions to be calculated under this Settlement, since no part of the Settlement will be classified as wages.

(b) Payment of Aggrieved Employee Payment.

Defendant shall provide the Settlement Administrator with a list of the names and addresses of the Aggrieved Employees, to be furnished within ten (10) days after the Court issues an Order approving this Settlement. The contact information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the Aggrieved Employees. This information is to be used only to carry out the Settlement Administrator's duties and specified in this Settlement. For purposes of distributing each Individual PAGA Payment, all distribution payments will be made according to the number of Pay Periods each Aggrieved Employee was employed by Defendant in California during the PAGA Period (partial Pay Periods will be counted as full Pay Periods), with each Aggrieved Employee being entitled to a share of the Net PAGA Payment allocated to the Aggrieved Employees based upon the Aggrieved Employee's number of Pay Periods employed with Defendant during the specified period as a numerator and the total number of Pay Periods all Aggrieved Employees were employed with Defendant in California during the PAGA Period as the denominator. Defendant's records shall be determinative for purposes of calculating the number of Pay Periods worked and any payments to Aggrieved Employees.

The Individual PAGA Payments are considered penalties and will not be subject to local, state or federal tax withholdings. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 reflecting this portion of the settlement.

(c) Payment Schedule

In no event will any funds or payment be due by Defendant prior to the Effective Date of this Agreement. Payment by Defendant shall be due and made within 15 days after the Effective Date.

(d) Uncashed Checks

To provide the best notice and delivery of Individual Payments practicable, any Individual Payment returned to the Settlement Administrator as non-delivered shall be sent by postmarked First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual Payment that is returned as non-deliverable, the Settlement Administrator shall use the best available technology accessible (i.e. skip tracing, address verification, etc.) to the Settlement Administrator or other mutually agreeable method to locate Aggrieved Employees and will then mail the Individual Payment to the address identified by the best available technology accessible to the Settlement Administrator or other mutually agreeable method. If no current address is located, the Individual Payment for that individual will be deemed undeliverable. If any PAGA Settlement Members cannot be located within two attempts at mailings by the Settlement Administrator, the Individual Payment for that individual will be deemed undeliverable.

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Payment to the Aggrieved Employees, and a list of Aggrieved Employees who did not receive the Individual Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

All settlement checks will remain valid and negotiable for 180 days from the date of their mailing by the Settlement Administrator. After 180 days from the date of their mailing by the Settlement Administrator, any uncashed checks shall be paid to the Children Advocacy Institute in the name of the Aggrieved Employee.

No later than January 31 of the year following payment of their individual portion of the Settlement Sum, the Settlement Administrator will prepare and issue IRS Form 1099 to Aggrieved Employees who receive a payment.

Section 5.05 LWDA Notice.

Pursuant to California Labor Code section 2699(l), Plaintiff will provide a copy of this Agreement to the LWDA concurrently with the filing of the motion for settlement approval. Plaintiff will also file a declaration in support of his Motion for Settlement Approval confirming that she has submitted the Agreement to the LWDA in compliance with Labor Code section 2699(l). In addition, Plaintiff shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of the judgment or order.

Article VI.

Limitations On Use Of This Agreement.

Section 6.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as admission by Defendant of any violations of Plaintiff's rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaim any liability to Plaintiff or any other Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

Section 6.02 Nullification.

- (a) If the Court should for any reason fail to approve this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.
- (b) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of Aggrieved Employees (Section 1.01(iv)); the definition of Effective Date (Section 1.01(viii)); the definition of PAGA Period (Section 1.01(xiv)); the definition of Released Claims (Section 1.01(xviii)); the definition of Released Parties (Section 1.01(xix)); the definition of Settlement Sum (Section 1.01(xxii)); the requirement for entry of an order by the Court approving this Agreement and entering PAGA Judgment as contemplated in Article II(g). The following terms are not material to this Agreement: the allocation of Fee Amount (Sections 1.01(ix) and 4.03); the amount of the Settlement Administration Fee (Section 1.01(xxi)); the allocation within the Net PAGA payment (Section 4.04).

Article VII.

Section 7.01 **Limited Release and Wavier of Claims.** It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge disputes and claims alleged in the Action. Upon entry of the Order and Final Judgment approving payment of the payment of PAGA penalties as described in this Agreement, and upon funding of the Settlement Amount, Plaintiff and the State of California shall be bound by this Agreement and shall have recourse exclusively to the benefits, rights, and remedies provided hereunder. Plaintiff and the State of California shall be deemed to have, and by operation of the Order and Final Judgment granting approval of this Agreement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the PAGA Period. As a result of this release, Aggrieved Employees will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys General Act, California Labor Code § 2698 *et seq.*, for any violations of the Released Claims that took place during the PAGA Period.

Section 7.02 **Tax Treatment and Tax Indemnification.** Aggrieved Employees will assume any tax obligations or consequences which may arise from this Settlement. If any state or federal taxing authority contacts, investigates, or pursues any action against any Aggrieved Employees for their individual share of taxes related to any payments made under this Settlement, each Aggrieved Employee shall be responsible for his/her own defense of and payment for any claim of unpaid

taxes, interest, or penalties brought by any state or federal taxing authority for the Aggrieved Employee's share of any state or federal tax obligation. If an Aggrieved Employee has questions about any liability to any state or federal taxing authority, they shall contact the Settlement Administrator. The Aggrieved Employees shall not contact Defendant, any of the Released Parties, or Defense Counsel.

Article VIII.

Miscellaneous Provisions.

Section 8.01 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 8.02 Parties' Authority.

The signatories hereto represent that they are fully authorized to enter into this Settlement.

Section 8.03 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel who executed this Agreement and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 8.04 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that she has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 8.05 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, and shall in all cases be shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

Section 8.06 Entire Agreement.

This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 8.07 Joint Drafting Of Settlement Documents.

Plaintiff's Counsel and Defense Counsel have arrived at this Settlement as a result of a series of arm's-length negotiations, taking into account all relevant factors, present and potential. The Settlement Agreement has been drafted jointly by Plaintiff's Counsel and Defense Counsel; therefore, in any construction or interpretation of this Settlement Agreement, the same shall not be construed against any of the Parties.

Section 8.08 No Press Release Or Publicity Regarding The Terms Of The Settlement.

Plaintiff and Plaintiff's Counsel, as well as Defendant and Defense Counsel, agree that they will not issue any media or press release, initiate any contact with the media or the press, respond to any media or press inquiry, or have any communications with the media or the press about the fact, amount, or terms of this Settlement Agreement.

Section 8.09 Continuing Jurisdiction Of The Court.

Pursuant to California Code Of Civil Procedure section 664.6, the Parties agree that the Court shall retain jurisdiction over the Parties, and over this Settlement Agreement, in order to monitor and enforce compliance of this Settlement Agreement, and/or resolve any disputes over this Settlement Agreement or the administration of the benefits of this Settlement Agreement.

Section 8.10 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 8.11 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) first to Judge Pate, and if Judge Pate is unable to resolve the dispute(s), then to the Court.

IN WITNESS WHEREOF, the Parties have executed this Private Attorney General Act Settlement Agreement and Limited Release on the date set forth.

APPROVED AND ACCEPTED.

Dated: March 1, 2021

By 
Norma Reyes (Mar 1, 2021 08:45 PST)

Norma Reyes

Dated: March 8, 2021

By 

Its: Secretary / Treasurer
Simpson Garden Grove, Inc.

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: March 9, 2021, 2021

THE JCL LAW FIRM, APC

By 
Jean-Claude Lapuyade
Attorney for Plaintiff

Dated: March 1, 2021

ZAKAY LAW GROUP, APC

By 
Shani O. Zakay
Attorney for Plaintiff

Dated: March 8, 2021

GOE FORSYTH & HODGES, LLP

By 
Ron Hodges
Attorneys for Defendant

EXHIBIT A

NOTICE OF PAGA SETTLEMENT
Norma Reyes v. Simpson Garden Grove, Inc.. et al.
Orange County Superior Court
Case Number 30-2020-01175614-CU-OE-CJC

«Barcode» «BarcodeString»
SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You received this notice because of a lawsuit filed in the Orange County Superior Court entitled *Norma Reyes, et al. v. Simpson Garden Grove, Inc., et al.*, Orange County Superior Court Case No. 30-2020-01175614-CU-OE-CJC (“Action”). The plaintiff, Norma Reyes (“Plaintiff”) brought the Action against Simpson Garden Grove, Inc. and Simpson Automotive, Inc. (“Defendant”) pursuant to the Private Attorney General Act, Labor Code § 2698 *et seq.* (“PAGA”) in her representative capacity on behalf of the State of California and behalf of all of Defendant’s current and former hourly, piece-rate, and commissioned employees employed in California (“Aggrieved Employees”) between April 6, 2019 and December 18, 2020 (“PAGA Period”).

The Action seeks civil penalties on behalf of the State of California and the Aggrieved Employees for Defendant’s alleged California Labor Code violations that occurred during the PAGA Period.

Defendant denies all claims, allegations and liabilities arising out of the Action. Further, Defendant asserts that it fully complied with all applicable California Labor Code provisions at all times during the PAGA Period. Nevertheless, to avoid further time and expense defending the Action, Defendant has settled the case, and the Court has approved the settlement and release of claims. By settling the Action, Defendant is not admitting any liability.

According to the Defendant’s records, you are entitled to a share of the PAGA settlement based upon the Court-approved allocation. Enclosed with this Notice is a check, representing the settlement of the PAGA claims in this matter. The settlement check shall remain valid for 180 days.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your Individual PAGA Payment. Neither Plaintiff nor Defendant have made any representations or warranties regarding the taxation of your Individual PAGA Payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended). **Enclosed are the** appropriate tax forms pertaining to your payment.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or to ask questions about the claims process. If you have any questions, you may call or write Simpluris, Inc., at the number listed below:

Simpluris, Inc.

P.O. Box _____

Telephone: _____

Simpluris, Inc.

EXHIBIT B

SETTLEMENT AND RELEASE

1. **SETTLEMENT AND RELEASE:** This writing reflects an agreement for settlement and release ("Agreement") between Simpson Garden Grove, Inc. ("Defendant"), and Norma Reyes ("Plaintiff"), jointly ("the Parties") and the promises following are full and mutual consideration for the Agreement.

2. **PAGA SETTLEMENT AGREEMENT:** The Parties have separately agreed to a settlement of the claims arising under Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.* contained in LWDA Case No. LWDA-CM-802985-20. That separate settlement shall not be affected in any way by the existence of, and the terms contained in, this Agreement.

3. **PROMISES OF DEFENDANT:**

a. **Payment to Plaintiff:** Defendant shall pay to Plaintiff a total of \$60,000.00 ("Settlement Sum") in three separate checks thirty (30) days after the Effective Date of this Agreement. The first check will be made payable to the Zakay Law Group, APC Client Trust Account in the amount of \$10,000.00, and for tax purposes, tax Form 1099 will be issued to Zakay Law Group, APC and Plaintiff. The second check shall be made payable to Otkupman Law Firm, ALC in the amount of \$22,500.00, and for tax purposes, tax Form 1099 will be issued to Otkupman Law Firm, ALC. The third check shall be made payable to Nora Reyes in the amount of \$27,500.00, less applicable withholdings and payroll deductions, and a form W-2 shall be issued to Norma Reyes. These checks will be delivered to Otkupman Law Firm, ALC at 30700 Russell Ranch Road, Suite 250, Westlake Village, CA 91362. It is understood and agreed that Defendant is not liable for the apportionment of any of the Settlement Sum as between Plaintiff and any other person or entity.

b. **Response to Solicitation for Employment:** In response to solicitation for employment references, or in response to any outside inquiry, Defendant shall provide only dates of employment and job classification.

4. **PROMISES OF PLAINTIFF:**

a. **Releases:** Plaintiff releases Defendant and its current and former agents, employees, representatives, officers, directors, members, shareholders, attorneys, accountants, insurers, advisors, partners, partnerships, divisions, subsidiaries, assigns, successors, heirs, predecessors in interest, joint ventures, commonly controlled corporations, and affiliated persons, companies, and organizations ("Released Parties") from all liabilities, causes of action, charges, complaints, suits, claims, obligations, costs, losses, damages, injuries, rights, judgments, attorneys' fees, expenses, bonds, liens, bills, penalties, fines, and all other legal responsibilities of any form whatsoever, whether known or unknown, whether suspected or unsuspected, occurring on or before the effective date of this Agreement, except as expressly prohibited by statute ("Released Actions").

(1) If any claim is not subject to release, to the extent permitted by law, and except with respect to Plaintiff's existing PAGA Action (LWDA Case No. LWDA-CM-802985-20; Orange County Superior Court Case Number 30-2020-01175614-CU-OE-CJC), Plaintiff waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective action or proceeding based on such a claim in which Defendant, or any of the other Release Parties identified in this Settlement Agreement, is a party. Notwithstanding anything to the contrary herein, Plaintiff shall have the right and ability, and shall be permitted to maintain as a representative, the existing PAGA Action (LWDA Case No. LWDA-CM-802985-20; Orange County Superior Court Case Number 30-2020-01175614-CU-OE-CJC), which is the subject of the PAGA Settlement Agreement.

b. **Agreement Not To Prosecute:** Plaintiff understands and acknowledges that neither this Agreement, nor anything contained herein, shall be construed to prohibit her from filing a complaint with, or participating in any investigation or proceeding conducted by, a federal, state, or local administrative agency (including the Equal Employment Opportunity Commission and the National Labor Relations Board). Notwithstanding the foregoing, Plaintiff waives any right to monetary or other individual relief related to any such administrative complaint, with the exception of any rights to monetary or other relief granted to Plaintiff pursuant to the PAGA Settlement Agreement. Defendant's obligation to pay the Settlement Sum shall be triggered upon Plaintiff's execution of this Agreement ("Effective Date").

c. **Age Discrimination in Employment Act:**

(1) **Age Discrimination is Specifically Intended to be Included as a Released Action:** Plaintiff specifically intends that Released Actions shall include the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act of 1990, except for any allegation that a breach of this Act occurred following the effective date of this Agreement.

(2) **Additional Consideration:** Plaintiff agrees that promises in this Agreement by Defendant represent obligations by Defendant to Plaintiff that are in addition to anything of value to which Plaintiff was otherwise entitled from Defendant.

(3) **Advice to Consult an Attorney:** Plaintiff acknowledges that Plaintiff was advised to consult with an attorney prior to Plaintiff's signing this Agreement.

(4) **Twenty-One Days to Consider This Agreement:** Plaintiff acknowledges that, before signing this Agreement, Plaintiff has been given twenty-one (21) full calendar days to consider this Agreement.

d. **No Transfer or Assignment:** Plaintiff will make no assignment of any Released Actions, and Plaintiff represents that no such assignment has been made. Plaintiff will also make no transfer to any person or entity all or any part of any interest in any claim released under this Settlement Agreement, and Plaintiff represents that no such transfer has been made. Plaintiff and Plaintiff's Counsel agree that they solely are responsible for the satisfaction of any assignment or liens to any lien holder and will indemnify and hold the

Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes, or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the actions of any lien holder or any lien Plaintiff or any taxing authority or any court in relation to any interest in which any third-party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

e. **No Current or Past Work Related Injury:** Plaintiff represents and warrants that Plaintiff has no knowledge of any work-related injury or illness incurred while working for Defendant except those for which claims were made prior to the date of this agreement.

f. **Return of Company Property/Information:** Plaintiff represents that she has returned to Defendant all documents and property that belong to Defendant, including, but without limitation, any and all reports, files, memoranda, records, cardkey passes, door and file keys, safe combinations, laptop computer, computer access codes, disks and instructional or personnel manuals, and other physical or personal property that Plaintiff received or prepared or helped to prepare in connection with Plaintiff's employment with Defendant ("Company Property").

(1) Plaintiff acknowledge and agrees that in the course of Plaintiff's work with Defendant, Plaintiff may have acquired certain trade secret information (hereafter collectively referred to as "Trade Secret Information"). Plaintiff understands and agrees that Plaintiff: (i) will keep such Trade Secret Information confidential at all times, (ii) will not disclose or communicate Trade Secret Information to any third-party, and (iii) will not make use of Trade Secret Information on Plaintiff's own behalf of any third-party. In view of the nature of Plaintiff's employment and the nature of Trade Secret Information Plaintiff received during the course of Plaintiff's assignment, Plaintiff agrees that any unauthorized disclosure to third-parties of Trade Secret Information would cause irreparable damage to Defendant, and therefore, Defendant shall be entitled to an injunction prohibiting Plaintiff from any such disclosure, attempted disclosure, violation, or threatened violation.

(2) The undertaking set forth in Paragraph f and its subparts shall survive the termination of this Settlement Agreement or other arrangement contained in this Settlement Agreement.

g. **Tax Indemnification:** Plaintiff shall indemnify Released Parties against any claim for liability, including attorney's fees, arising out of Released Parties' not withholding any income taxes or not withholding or paying any payroll taxes on any money paid to or on behalf of Plaintiff pursuant to this Agreement in the event an action is brought by the Plaintiff, or the Plaintiff's successors in interest, or the federal government, or the government of any state, or any other person or organization.

h. **Non-Disparagement:** Plaintiff agrees to do nothing to disparage Defendant and/or any of the current or former owners, officers, directors, trustees, staff, members, employees or agents of Defendant or its affiliated companies in any communications whatsoever after the date of this Agreement.

i. **Confidentiality:** Except as necessary as part of Plaintiff's efforts to seek approval of the PAGA Settlement with the Court, Plaintiff shall not disclose, to any person or entity, including but not limited to any print, broadcasting, electronic, or any other media, the existence of this Agreement, any of the terms or provisions of this Agreement, or any of the facts and circumstances concerning the Released Actions; however, that Plaintiff shall not be prohibited from making such disclosures to any person who has a strict legal necessity to know, but shall specifically make best efforts to prevent those persons from repeating those disclosures to any other person. This confidentiality provision shall not prohibit Plaintiff from informing people that "the matter has been resolved."

j. **Waiver of Unknown Claims:** Plaintiff expressly waives and relinquishes any rights and benefits pursuant to California Civil Code § 1542 with respect to the Released Actions herein, and does so understanding and acknowledging the significance and consequence of such specific waiver of Section 1542 that reads:

"Section 1542. [Certain claims not affected by General Release.] "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known to him or her, would have materially affected his or her settlement with the debtor or released party."

5. **PROMISES OF PLAINTIFF AND DEFENDANT**

a. **No Admission of Wrongdoing:** Plaintiff and Defendant agree that this Agreement is not to be construed as an admission, by either party, of any wrongdoing, by either party. Defendant also does not admit to any liability or wrongdoing whatsoever with respect to Plaintiff's putative class allegations. Defendant expressly denies any and all such liability and wrongdoing. This Agreement, and the terms herein, shall not be used or introduced for any purpose other than to enforce the terms contained herein, or as necessary to seek approval of the PAGA Settlement with the Court. The Parties further agree and understand that each party to this Agreement shall bear their own respective attorneys' fees, costs, expenses related to any dispute arising from the enforcement of this Agreement.

6. **CONSTRUCTION OF THIS AGREEMENT:**

a. **Choice of Law:** This Agreement is to be construed pursuant to the laws of the State of California, including California law regarding choice of law.

b. **Invalid Agreement Provisions:** Should any provision of this Agreement become legally unenforceable, no other provision of this Agreement shall be affected, and this Agreement shall be construed as if the Agreement had never included the unenforceable provision.

c. **No Other Agreement:** Except as provided for herein in Section 2, this Agreement represents the full agreement between Defendant and Plaintiff. In signing this Agreement, Defendant and Plaintiff rely upon no promise, representation, or other inducement

that is not expressed in this Agreement. This Agreement may be modified only by written agreement of Defendant and Plaintiff and may not be modified by any oral agreement.

d. **Practices Inconsistent with this Agreement:** No provision of this Agreement shall be modified or construed by any practice that is inconsistent with such provision, and failure by Defendant or Plaintiff to comply with any provision, shall not affect the rights of any to thereafter comply or require the other to comply.

e. **Attorney's Fees:** If an action is brought to recover damages, equitable relief, or both, or to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees as part of its costs from the other party.

f. **Dismissal and Enforcement of Settlement Agreement:** The Court shall retain jurisdiction over the parties until performance in full terms of this Agreement pursuant to Cal. Code of Civil Procedure section 664.6. Pursuant to Evidence Code § 1123, this Agreement is enforceable, binding and admissible in a court of law.

g. **Ambiguities Not Construed Against Drafting Party:** The language contained in this Agreement has been reviewed and agreed to by all parties, and any ambiguities in the Agreement shall not be construed against whichever party drafted the particular provision in question.

h. **Counterparts:** This Agreement may be executed in counterparts, which will collectively, along with a copy of the text of the remainder of the Agreement, be deemed the original Agreement for all purposes. Furthermore, the Parties agree that a photocopy, fax, or email of signature shall have equal force and effect and admissibility as an original signature.

i. **Costs and Fees:** Defendant and Plaintiff agree that each shall bear their own costs and fees associated with discovery, pleadings, and any other facet of Released Actions.

j. **Contents of Agreement:** This Agreement consists of six pages.

[signature page to follow]

PLEASE READ CAREFULLY. THIS GENERAL AND SPECIAL RELEASE AND SETTLEMENT AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. MARCOS ANTONIOS ACKNOWLEDGES THAT HE HAS READ THIS

AGREEMENT AND UNDERSTANDS IT, HE HAS CONSULTED WITH AN ATTORNEY BEFORE SIGNING THIS AGREEMENT, AND HE IS VOLUNTARILY ENTERING INTO THIS AGREEMENT.

Dated: 1/6/2021, 2020

DocuSigned by:
N. Reyes
BA83BB39E90B4DF...

Norma Reyes

Dated: 1/8, 2020

Simpson Garden Grove, Inc.

By Richard R.

Title Secretary / Treasurer

APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY

Dated: 1/6/2021, 2020

OTKUPMAN LAW FIRM, ALC

DocuSigned by:
Roman Otkupman
018FE032D1FA4AD...
By Roman Otkupman
Roman Otkupman
Attorneys for Plaintiff

Dated: _____, 2020

ZAKAY LAW GROUP, APC

By _____
Shani O. Zakay
Attorney for Plaintiff

Dated: 2/9/2021, ~~2020~~

GOE FORSYTH & HODGES, LLP

By Ron Hodges
Ron Hodges
Attorney for Defendant

AGREEMENT AND UNDERSTANDS IT, HE HAS CONSULTED WITH AN ATTORNEY BEFORE SIGNING THIS AGREEMENT, AND HE IS VOLUNTARILY ENTERING INTO THIS AGREEMENT.

Dated: _____, 2020

Norma Reyes

Dated: _____, 2020

Simpson Garden Grove, Inc.

By _____

Title _____

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

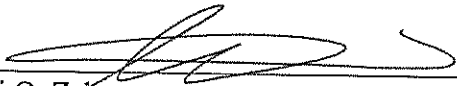
Dated: _____, 2020

OTKUPMAN LAW FIRM, ALC

By _____
Roman Otkupman
Attorneys for Plaintiff

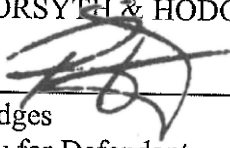
Dated: January 6, 2021

ZAKAY LAW GROUP, APC

By  _____
Shani O. Zakay
Attorney for Plaintiff

Dated: 2/9/2021, ~~2020~~

GOE FORSYTH & HODGES, LLP

By  _____
Ron Hodges
Attorney for Defendant

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EXHIBIT 2

Activities Export

04/02/2021

2:44 PM

Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
08/18/2020	\$	PAGA Filing Fee ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	75.00	-	75.00
08/18/2020	\$	Photocopies - PAGA Letters ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	10.25	-	10.25
08/18/2020	\$	Postage - PAGA Letters ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	8.50	-	8.50
09/18/2020	\$	Photocopies - Amended PAGA Notice ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	9.00	-	9.00
09/18/2020	\$	Postage - Amended PAGA Notice ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	16.00	-	16.00
10/26/2020	\$	Document Purchase Cost ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	7.50	-	7.50
12/01/2020	\$	Mediation Fee ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	2,250.00	-	2,250.00
12/22/2020	\$	Filing Fee - Complaint ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	461.56	-	461.56
02/19/2021	\$	Postage - Check to Client ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	0.50	-	0.50
					0.00h		\$0.00 0.0h	\$3,241.80 0.0h

Activities Export

04/02/2021
2:44 PM

Date	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
04/02/2021	\$	Estimated Costs - Motion for Approval and Post Judge Work	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	-	403.49	-	403.49
	● Unbilled							
					0.00h		\$0.00 0.0h	\$3,241.80 0.0h

JCL Law Firm
Transaction Report
All Dates

	Date	Transaction Type	Num	Name	Memo/Description	Account	Split	Amount	Balance
Reyes v. Simpson Auto (002-149)	10/31/2020	Journal Entry	OCT. 2020 Postage		Copies for Oct. 2020	Client costs deferred	-Split-	0.20	0.20
	10/31/2020	Journal Entry	OCT. 2020 Postage		Postage for Oct. 2020	Client costs deferred	-Split-	6.90	7.10
	11/09/2020	Check	2320	JAMS	Mediation	Client costs deferred	US Bank-Checking - 4270	300.00	307.10
	11/30/2020	Journal Entry	Nov. 2020 Postage		Copies for Nov. 2020	Client costs deferred	-Split-	0.50	307.60
	11/30/2020	Journal Entry	Nov. 2020 Postage		Postage for Nov. 2020	Client costs deferred	-Split-	0.50	308.10
	12/04/2020	Check	2337	JAMS	Mediation	Client costs deferred	US Bank-Checking - 4270	1,950.00	2,258.10
	01/31/2021	Journal Entry	Jan. 2021 Postage		Copies for Jan. 2021	Client costs deferred	-Split-	0.10	2,258.20
Total for Reyes v. Simpson Auto (002-149)								\$ 2,258.20	
TOTAL								\$ 2,258.20	

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EXHIBIT 3

Activities Export

04/02/2021

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Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
08/16/2020		Review the file. Draft complaint and PAGA letters.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	5.00	550.00	-	2,750.00
08/18/2020		Process filing and service of the PAGA notice. Process payment to LWDA.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.00	550.00	-	550.00
09/08/2020		Review letter from OPC and emails with OPC to schedule a call.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.50	550.00	-	275.00
09/10/2020		Review notes and related cases in preparation for call with OPC.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.00	550.00	-	550.00
09/10/2020		Prepare for and attend call with OPC.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.50	550.00	-	275.00
09/14/2020		Draft amended complaint and amended PAGA letter to add defendant and to clarify definition of the aggrieved employees.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.50	550.00	-	825.00
09/14/2020		Call with the client regarding individual claims and email to co-counsel with update.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
09/17/2020		Finalize amended PAGA notice. File with LWDA. Coordinate	30201-Reyes Norma Reyes v. Simpson	Shani Zakay	1.00	550.00	-	550.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021

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Date	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
		service on defendants. Email to staff with update. ● Unbilled	Garden Grove, Inc.					
09/18/2020	🕒	Coordinate service via mail of amended PAGA notice. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
09/21/2020	🕒	Review the arbitration agreement. Emails with OPC regarding individual claims and possible phone call to discuss. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.40	550.00	-	220.00
09/22/2020	🕒	Emails with OPC to schedule a call. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
09/24/2020	🕒	Telephone conversation with OPC regarding mediation. Call with co-counsel to follow up on the call with OPC and discuss mediation. Detailed email to OPC accordingly. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.80	550.00	-	440.00
09/28/2020	🕒	Emails with OPC regarding mediation. Email to mediator's office to obtain availability. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
09/28/2020	🕒	Emails with co-counsel, OPC, and mediator's office regarding scheduling of mediation. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.40	550.00	-	220.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021

2:45 PM

Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
10/07/2020		Emails with co-counsel to provide a status update on mediation.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
10/12/2020		Review mediation documents and calendar all relevant dates. Upload to CLIO.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.70	550.00	-	385.00
10/13/2020		Review invoice from JAMS and upload to CLIO.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
10/25/2020		Emails with OPC and with staff regarding filing of complaint.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
10/26/2020		Multiple emails with OPC regarding filing of complaint and mediation. Research related cases and obtain documents related to dismissal.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.50	550.00	-	275.00
10/28/2020		Draft tolling agreement and emails and calls with OPC regarding the same.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.00	550.00	-	550.00
11/02/2020		Review fully executed tolling agreement and calendar deadlines accordingly.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
11/24/2020		Review all records produced for	30201-Reyes	Shani	4.00	550.00	-	2,200.00
					62.30h		\$0.00	\$32,805.00
							0.0h	62.3h

Activities Export

04/02/2021

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Date	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
		mediation and email to co-counsel with summary. Begin work on damage model. ● Unbilled	Norma Reyes v. Simpson Garden Grove, Inc.	Zakay				
11/27/2020	🕒	Email to OPC regarding data for mediation. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
12/04/2020	🕒	Follow up on data for mediation. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
12/09/2020	🕒	Begin work on the mediation brief. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	3.00	550.00	-	1,650.00
12/10/2020	🕒	Review additional data from defendant for the mediation and discuss with co-counsel. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	2.00	550.00	-	1,100.00
12/11/2020	🕒	More work on the mediation brief. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	3.00	550.00	-	1,650.00
12/14/2020	🕒	Mediation prep work with co-counsel. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.00	550.00	-	550.00
12/15/2020	🕒	Review confidentiality agreement for mediation and execute. ● Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021

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Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
12/17/2020		Multiple calls with the client and counsel on wrongful termination claim. Update mediation brief and finalize. Email to OPC and to mediator.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	2.50	550.00	-	1,375.00
12/18/2020		Attend mediation.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	8.50	550.00	-	4,675.00
12/21/2020		Work on the individual settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.70	550.00	-	385.00
12/21/2020		Draft PAGA only complaint and emails with staff regarding the same.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	2.00	550.00	-	1,100.00
12/22/2020		Review and revise the individual settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
12/29/2020		Further review and approval of the individual settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
01/04/2021		Review further revisions to the individual settlement agreement and emails with Roman accordingly.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021

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Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
01/06/2021		Emails with Roman regarding execution of the individual settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
01/07/2021		Emails with co-counsel regarding contact from client and providing an update.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.10	550.00	-	55.00
01/09/2021		Draft PAGA settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	4.00	550.00	-	2,200.00
01/20/2021		Emails with Simpluris and ILYM and review bid from ILYM.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
01/21/2021		Review bid from Simpluris. Update settlement agreement accordingly. Draft notice to aggrieved employees. Email to OPC with final agreement, bids, and draft notice.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.70	550.00	-	385.00
02/02/2021		Review notice of trial and calendar. Upload to CLIO.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
02/08/2021		Emails with OPC and calls with the client regarding status of the settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021

2:45 PM

Date	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
02/09/2021		Finalize the settlement agreement. Review changes to notice. Finalize and add exhibits. Coordinate execution by client.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.50	550.00	-	275.00
02/12/2021		Call with client regarding status of case.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
02/19/2021		Telephone call with the client with an update. Process payment to client for individual settlement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
03/01/2021		Correspondence with client regarding missing signature on the PAGA settlement. Coordinate execution of the settlement agreement and emails with OPC accordingly.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
03/09/2021		Emails regarding the signed settlement agreement.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
03/16/2021		Begin drafting Motion for Approval and Declaration in Support  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Jackland Hom	0.50	350.00	-	175.00
03/20/2021		Draft MPA, Declaration, and Proposed Order  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Jackland Hom	6.50	350.00	-	2,275.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

Activities Export

04/02/2021
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Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
03/22/2021		Review and revise the motion for approval and emails with Attorney Hom regarding the same.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	1.00	550.00	-	550.00
03/22/2021		Further review and revisions to the motion for approval.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.30	550.00	-	165.00
03/24/2021		Revise Declaration for MPA. Emails with Attorney Zakay and co-counsel re same.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Jackland Hom	0.30	350.00	-	105.00
03/30/2021		Work on the motion for PAGA settlement approval.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.40	550.00	-	220.00
04/01/2021		Emails with OPC and staff regarding motion for approval.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	0.20	550.00	-	110.00
04/02/2021		More work on motion for approval - finalize motion papers and prepare for filing.  Unbilled	30201-Reyes Norma Reyes v. Simpson Garden Grove, Inc.	Shani Zakay	2.00	550.00	-	1,100.00
					62.30h		\$0.00 0.0h	\$32,805.00 62.3h

JCL Law Firm

Time Activities by Customer Detail

Activity: All Dates

ACTIVITY DATE	EMPLOYEE	MEMO/DESCRIPTION	RATES	DURATION	BILLABLE	AMOUNT
Reyes v. Simpson Auto (002-149)						
07/13/2020	Jean Claude Lapuyade	Fact Investigation - Client Interview	500.00	1:30	Yes	750.00
07/17/2020	Jean Claude Lapuyade	Fact Investigation - Reviewed Client Documents	500.00	1:48	Yes	900.00
07/29/2020	Jean Claude Lapuyade	Legal Research - Inside Sales Exemption, Meal, Rest and 226	500.00	3:42	Yes	1,850.00
07/29/2020	Jean Claude Lapuyade	Fact Investigation - Reviewed Employee File from Defendant	500.00	2:12	Yes	1,100.00
08/10/2020	Jean Claude Lapuyade	Legal Drafting - Complaint and PAGA Notice	500.00	1:06	Yes	550.00
08/18/2020	Jean Claude Lapuyade	Legal Drafting - Finalized, Review and Revised Complaint and PAGA Notice	500.00	0:48	Yes	400.00
09/10/2020	Jean Claude Lapuyade	Legal Research - OT and Inside Sales	500.00	1:54	Yes	950.00
09/15/2020	Jean Claude Lapuyade	Review, Revised and Finalized Supplemental PAGA Notice	500.00	1:00	Yes	500.00
10/08/2020	Jean Claude Lapuyade	Emails w/ OC Re Mediation	500.00	0:24	Yes	200.00
10/30/2020	Jean Claude Lapuyade	Legal Drafting - Review, Revise and Finalize Tolling Agreement	500.00	0:48	Yes	400.00
11/12/2020	Jean Claude Lapuyade	Drafted Status Letter to Client	500.00	2:12	Yes	1,100.00
11/16/2020	Jean Claude Lapuyade	TCW Client Re Status	500.00	0:36	Yes	300.00
11/19/2020	Jean Claude Lapuyade	Legal Research for Mediation Brief	500.00	3:30	Yes	1,750.00
12/09/2020	Jean Claude Lapuyade	Fact Investigation - Review Data and Expert Report for Mediation	500.00	4:48	Yes	2,400.00
12/11/2020	Jean Claude Lapuyade	Legal Drafting - Review, Revise and Finalize Mediation Brief	500.00	3:54	Yes	1,950.00
12/18/2020	Jean Claude Lapuyade	Attended Mediation	500.00	8:00	Yes	4,000.00
12/21/2020	Jean Claude Lapuyade	Drafted Status Letter to Client	500.00	1:48	Yes	900.00
12/23/2020	Jean Claude Lapuyade	TCW Client Re Mediation Status	500.00	0:48	Yes	400.00
01/25/2021	Jean Claude Lapuyade	Legal Drafting - Reviewed, Edited and Revised Settlement Agreement	500.00	1:30	Yes	750.00
02/17/2021	Jean Claude Lapuyade	Drafted Client Status Letter	500.00	2:30	Yes	1,250.00
02/19/2021	Jean Claude Lapuyade	TCW Client Re Case Status	500.00	0:54	Yes	450.00
03/09/2021	Jean Claude Lapuyade	Finalized and Executed Settlement Agreement	500.00	0:42	Yes	350.00

JCL Law Firm

Time Activities by Customer Detail

Activity: All Dates

ACTIVITY DATE	EMPLOYEE	MEMO/DESCRIPTION	RATES	DURATION	BILLABLE	AMOUNT
03/15/2021	Jean Claude Lapuyade	Legal Research - Final Approval	500.00	3:12	Yes	1,600.00
03/16/2021	Jean Claude Lapuyade	Legal Research - Motion for Att'y Fees	500.00	4:00	Yes	2,000.00
03/21/2021	Jean Claude Lapuyade	Revised, Edit Final Approval	500.00	1:24	Yes	700.00
03/29/2021	Jean Claude Lapuyade	Law and Motion - R&R Approval Motion and Defense Comments	500.00	1:18	Yes	650.00
Total for Reyes v. Simpson Auto (002-149)				56:18		\$28,150.00

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EXHIBIT 4

Zakay Law Group, APC
5850 Oberlin Drive, Suite 230A
San Diego, California 92121
Telephone: (619) 892-7095
Fax: (858) 404-9203

1. Firm Practice Areas:

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

2. Attorney Shani O. Zakay Biography:

• **PRACITCE AREAS**

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

• **BAR ADMISSIONS, MEMBERSHIPS & BOARDS**

State of California (all courts)
United States District Court for the Southern & Central Districts of California
American Bar Association
California Western School of Law Alumni Board

• **PROFESSIONAL EXPERIENCE**

ZAKAY LAW GROUP, APLC, San Diego, CA
Founder, April 2018

SILLDORF LAW, LLP, San Diego, CA (now known as Berding & Weil)
Partner, January 2012 – March 2018

• **EDUCATION**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA

Juris Doctor, *magma cum laude*, April 2011

Honors: Dean's List: Spring 2009, Fall 2009, Spring 2010, Fall 2010, Spring 2011.

Academic Achievement Awards: Advanced Legal Research, Constitutional Law II, Criminal Procedure, Insurance Law & Litigation, Law Office Technologies, Property II, Products Liability, Trusts & Estates.

Activities: Associate Editor, *California Western Law Review*
Legal Skills Honor Instructor for Professor Leslie Culver
Vice President, Jewish Student Union

SAN DIEGO STATE UNIVERSITY, San Diego, CA

Bachelor of Science, Business Administration, Management, *cum laude*, May 2008

Honors: Dean's List: Spring 2007 and Fall 2007

- **COMMUNITY SERVICE**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA
Spring 2016, 2018
Moot Court Judge

COMMUNITY LAW PROJECT, San Diego, CA
October 2018 – Present
Volunteer Attorney on Employment Matters

3. Lead Counsel – Class Action & Representative Cases:

1. Hubscher v. Bodyspirit, LLC

Court	San Diego
Case No.	37-2016-00021261-CU-OE-CTL
Nature	Independent Contractor Misclassification
Status	Settled

2. Henry v. InMotion Entertainment Group, LLC

Court	San Francisco
Case No.	CGC-18-565643
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

3. Moore v. Zirx Transportation

Court	San Francisco
Case No.	CGC-18-566655
Nature	Independent Contractor Misclassification
Status	Settled

4. Pasallo v. GSG Protective Services

Court	San Diego
Case No.	37-2018-00037611-CU-OE-CTL
Nature	Meal/Rest Break claims
Status	Settled

5. Villaroman v. C.C.H.C.

Court	Orange County
Case No.	30-2018-01013128-CU-OE-CXC
Nature	Meal/Rest Break claims
Status	Settled

6. Flores v. Plastic Express

Court	Los Angeles
Case No.	BC719071
Nature	Meal/Rest Break and minimum wage claims
Status	Settled

7. Tressler v. Spoonful Management

Court	Los Angeles
Case No.	BC719405
Nature	Meal/Rest Break claims
Status	Settled

8. Leymaster v. Toms Sierra Company, Inc.

Court	Placer
Case No.	SCV0041735
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

9. Murphy v. Rockler Retailer Group, Inc.

Court	Sacramento
Case No.	34-2018-00241374
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

10. Bruemmer v. Tempur Retail Stores, LLC.

Court	Marin
Case No.	CIV1803646
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

11. Christina Cummings v. G6 Hospitality, LLC

Court	San Diego
Case No.	37-2018-00056207-CU-OE-CTL 19CV122 GPC LL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

12. Nicolai Laguatan v. Prevent LSS

Court	San Diego
Case No.	37-2018-00057434-CU-OE-CTL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

13. Lisa Ramirez v. Carefusion Resources, LLC

Court	San Diego
Case No.	37-2018-00058078-CU-OE-CTL 3:18-CV-02852-BEN-MSB
Nature	Overtime and Meal and Rest Breaks
Status	Settled

14. Charles Ornelas v. C&A Transportation Services

Court	San Diego
Case No.	37-2018-00061289-CU-OE-CTL
Nature	Minimum Wage and Meal/Rest Break claims
Status	Settled

15. Luz Marin v. California Marine Cleaning

Court	San Diego
Case No.	37-2018-00063483-CU-OE-CTL
Nature	Meal Break claims
Status	Settled

16. Christian Van Cleave v. Sunrise Senior Living Management

Court	San Diego
Case No.	37-2018-00061960-CU-OE-CTL 19CV0044BEN NLS
Nature	Regular rate and meal premium miscalculation
Status	Settled

17. Heather McIntyre v. JRR Enterprises

Court	Sacramento
Case No.	34-2019-00251220
Nature	Overtime and Meal and Rest Periods
Status	Settled

18. Lori Phipps v. Soapy Joe's

Court	San Diego
Case No.	37-2019-00017673-CU-OE-CTL
Nature	Tip Polling and Meal and Rest Periods
Status	Settled

19. Heather Broughton v. NFG San Francisco, LLC

Court	San Francisco
Case No.	CGC-19-574657
Nature	Meal and Rest Breaks
Status	Settled

20. Marcos Antonios v. Interface Rehab, LLC

Court	Orange County
Case No.	30-2019-01067547-CU-OE-CXC
Nature	Meal and Rest Breaks and Reporting Time Violations
Status	Settled

21. Tiffany Rodriguez v. Circle K

Court	Riverside
Case No.	RIC 1901407 5:19-cv-00469
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

22. Derik Scott et al. v. Ultimate Performance

Court	Los Angeles
Case No.	19STCV22823
Nature	Piece Rate Pay violations
Status	Settled

23. Raymond Frazier v. Asa Carlton

Court	San Diego
Case No.	37-2019-00036147-CU-OE-CTL
Nature	Overtime Wages
Status	Settled

24. John Moreno v. Da Kitchen

Court	San Diego
Case No.	37-2019-00024885-CU-OE-CTL
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

25. Penny Lane v. International Aero Clubs, LLC

Court	San Diego
Case No.	37-2019-00021793-CU-OE-CTL
Nature	Meal and Rest Breaks and Regular Rate Miscalculation
Status	Settled

26. Amber Price v. DMSD Restaurants

Court	San Diego
Case No.	37-2019-00024062-CU-OE-CTL
Nature	Meal and Rest Break violations

Status	Settled
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27. Jamaal Johnson v. Volt Management Corp

Court	Los Angeles
Case No.	19STCV16466
Nature	On Duty Meal Break violations
Status	Settled

28. Ezzat Menias v. All American Private Security

Court	Orange County
Case No.	30-2019-01085120-CU-OE-CXC
Nature	On Duty Meal Break violations
Status	Settled

29. Mark Connor v. Ascendant Marketing

Court	San Diego
Case No.	37-2019-00026864-CU-OE-CTL
Nature	Minimum Wage violations
Status	Settled

30. Niki Nunez v. Home Depot

Court	San Joaquin
Case No.	STK-CV-406-2019-6656
Nature	Overtime Wages violations
Status	In Litigation

31. Alma Salazar v. Frontier Toyota

Court	Los Angeles
Case No.	19STCV20382
Nature	Rest Break violations
Status	Settled

32. Josefina Garces v. Kar Auction Services

Court	Los Angeles
Case No.	19STCV28489

Nature	Rest Break violations
Status	Settled

33. Madison Weiss v. Niznik Behavior

Court	San Diego
Case No.	37-2019-00039441-CU-OE-CTL
Nature	Meal and Rest Break violations
Status	Settled

34. Jimmy Mack v. ERM Enterprises

Court	Sacramento
Case No.	2019-00262259
Nature	Meal and Rest Break violations
Status	In Litigation

35. Josefina Garces v. DriverDo

Court	Los Angeles
Case No.	19STCV32773
Nature	Independent Contractor Misclassification
Status	In Litigation

36. Perseus Porras v. Tantalum Restaurant

Court	Los Angeles
Case No.	19STCV31015
Nature	Unpaid Wages + Missed Meal/Rest Breaks
Status	Settled

37. Dorcena Deutsch v. Scripps

Court	San Diego
Case No.	37-2019-00036333-CU-OE-CTL
Nature	Regular Rate Miscalculation for Nurses
Status	Settled

38. Josalyn O'Quinn v. Laugh Factory

Court	Los Angeles
Case No.	19STCV28155
Nature	Regular Rate Miscalculation, Wage Theft
Status	In Litigation

39. Nicholas Leon v. Miller Event Management

Court	San Luis Obispo
Case No.	19CV-0435
Nature	Meal/Rest Breaks, Reporting Time, 2802
Status	Settled

40. Aaris Watts v. TRL Systems

Court	Orange County
Case No.	30-2019-01102457-CU-OE-CXC
Nature	Meal/Rest Breaks, Reporting Time
Status	In Litigation

41. Faith Smith v. Island Pizza

Court	Contra Costa
Case No.	MSC19-01654
Nature	Meal/Rest Breaks, 226, 2802
Status	Settled

42. Johnathan Roa v. Otay Mesa Sales

Court	San Diego
Case No.	37-2019-00057735-CU-OE-CTL
Nature	Meal/Rest Breaks, 226
Status	In Litigation

43. Sabrina Ivon v. Sinclair Television of California

Court	Humboldt
Case No.	DR190699
Nature	Vaquero
Status	In Litigation

44. Jonathan Mitchell v. Mack Trucking

Court	San Bernardino
Case No.	CIVDS1928334
Nature	Independent Contractor Misclassification
Status	In Litigation

45. Curtis Edwards v. Resolve Group

Court	San Francisco
Case No.	CGC-19-579095
Nature	Meal & Rest Breaks + 2802
Status	In Litigation

46. Elena Kiseleva v. TotalMed Staffing, Inc

Court	Santa Clara
Case No.	19CV354635
Nature	Overtime + Meal and Rest Breaks
Status	Settled

47. Richard Jer Vang v. Bridge Property Management

Court	Alameda
Judge	Winfred Smith
Nature	Off the clock work, regular rate miscalc.
Status	Settled

48. Madison Marrero v. Stat Med

Court	Alameda
Case No.	HG19043214
Nature	Unpaid Overtime + Meal/Rest Breaks
Status	In Litigation

49. Brian Reyes v. Stowasser Buick-GMC

Court	Santa Barbara
Case No.	19CV06183
Nature	Vaquero
Status	Settled

50. Erik Foss v. Anderson Hospitality, Inc.

Court	Shasta
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Case No.	195317
OPC	Wood Smith – Andrew Kleiner
Nature	Meal and Rest Breaks, Regular Rate
Status	In Litigation

51. Griselda Duran v. EmployBridge

Court	Kern
Case No.	BCV-20-101583
Nature	Regular Rate, 226
Status	In Litigation

52. Luis Rendon v. Healthcare Investments, Inc.

Court	Los Angeles
Case No.	20STCV39775
Nature	Meal and Rest Breaks
Status	In Litigation

53. Richard Melead v. TVI, Inc.

Court	Orange
Case No.	30-2020-01140887-CU-OE-CXC
Nature	Regular Rate, 226 (Magadia)
Status	In Litigation

54. David Spencer v. Asset Gas, Inc.

Court	San Diego
Case No.	37-2020-00024642-CU-OE-CTL
Nature	Meal and Rest Breaks
Status	In Litigation

55. Thomas Haven v. California Vocations, Inc.

Court	Butte
Case No.	20CV01514
Nature	Regular Rate + Meal and Rest Breaks
Status	In Litigation

56. Estefania Renteria v. Love's Country

Court	Kern
Case No.	BCV-20-101260
Nature	226

Status	In Litigation
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57. Rachel Latin v. OneMain General Services Corp.

Court	Stanislaus
Case No.	CV-20-002498
Nature	Dart + Magadia
Status	In Litigation

58. Kalaina Dula v. 2 Kings Gaming, Inc.

Court	Merced
Case No.	#20CV-02289
Nature	Meal and Rest Breaks
Status	In Litigation

59. Jie Xu v. HT Multinational

Court	San Bernardino
Case No.	CIV-DS2015679
Nature	Exempt Misclassification
Status	In Litigation

60. Yvette Molina v. Hawaiian Airlines

Court	Los Angeles
Case No.	20STCV28079
Nature	Meal and Rest + Magadia
Status	In Litigation

61. Reinald Pillsbury v. T & T Restaurants CA

Court	Del Norte
Case No.	CVUJ-2020-1214
Nature	Meal/Rest Breaks + Regular Rate
Status	In Litigation

62. Luis de Jesus v. Guardian Angel Home Care

Court	San Diego
Case No.	37-2020-00021049-CU-OE-CTL
Nature	Piece-Rate
Status	In Litigation

63. Charles Sandlin v. Secure Nursing Services, Inc.

Court	Los Angeles
Case No.	20STCV25675
Nature	Regular Rate
Status	In Litigation

64. Gabriel Mendez v. Bondz, Inc.

Court	San Joaquin
Case No.	STK-CV-UOE-2020-0007486
Nature	Piece-Rate
Status	In Litigation

65. James Conley v. Siskiyou Forest Products

Court	Shasta
Judge	Stephen Baker
Nature	Regular Rate and Meal/Rest Breaks + 226
Status	In Litigation

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EXHIBIT 5

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EXHIBIT 6



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

shani@zakaylaw.com

August 18, 2020

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

SIMPSON GARDEN GROVE, INC.
(dba Simpson Chevrolet of Garden Grove)
c/o CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Re: Notice of Violations of California Labor Code Sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and Applicable Industrial Welfare Commission Wage Orders, and Pursuant to California Labor Code Section 2699.3.

Dear Sir/ Madam:

This office represents Norma Reyes (“Plaintiff”) and other aggrieved employees in an action against Simpson Garden Grove, Inc (dba Simpson Chevrolet of Garden Grove), (“Defendant”). This office intends to file the enclosed Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendant in California from April 2018 to March 2020. Plaintiff was paid on an hourly basis and entitled to minimum wages, overtime wages, and legally required meal and rest periods. At all times during his employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods, with minimum and overtime wages for all time worked, and, overtime compensation at one-and-one-half times the regular rate of pay. Said conduct, in addition to the foregoing, violates Labor Code § 1198 and the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3.

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

A copy of the Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

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

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

Respectfully,

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

Shani O. Zakay
Attorney at Law

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

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

Attorneys for Plaintiff

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

NORMA REYES on behalf of herself and on
behalf of all persons similarly situated,

Plaintiff,

v.

SIMPSON GARDEN GROVE, INC. (dba
Simpson Chevrolet of Garden Grove); and
DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

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

DEMAND FOR A JURY TRIAL

1 Plaintiff NORMA REYES, an individual, (“PLAINTIFF”), on behalf of herself and all
2 other similarly situated current and former employees, allege on information and belief,
3 except for their own acts and knowledge which are based on personal knowledge, the following:

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant SIMPSON GARDEN GROVE, INC. (dba Simpson Chevrolet of
6 Garden Grove) (“DEFENDANT” or “Defendant”) is a Delaware Corporation and at all relevant
7 times mentioned herein conducted and continues to conduct substantial and regular business
8 throughout California.

9 2. DEFENDANT, owns and operates four car dealerships in the city of Garden
10 Grove, in Orange County.

11 3. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
12 employee entitled to minimum wages, overtime pay and meal and rest periods from April 2018
13 to March of 2020. PLAINTIFF was at all times relevant mentioned herein classified by
14 DEFENDANT as a non-exempt employee paid on an hourly basis.

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

22 5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
23 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
24 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy and practice
25 which failed to lawfully compensate these employees for all their time worked.
26 DEFENDANT’S uniform policy and practice alleged herein is an unlawful, unfair and
27 deceptive business practice whereby DEFENDANTS retained and continue to retain wages due
28 to 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

1 DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the
2 CALIFORNIA CLASS who have been economically injured by DEFENDANT'S past and
3 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

21 **THE CONDUCT**

22 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
23 was required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time
24 worked, meaning the time during which an employee is subject to the control of an employer,
25 including all the time the employee is suffered or permitted to work. From time to time,
26 DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work without
27 paying them for all the time they were under DEFENDANT'S control. Specifically,
28 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be

1 PLAINTIFF'S off-duty meal break. PLAINTIFF was often interrupted by work assignments
2 during her breaks. Indeed there were many days where PLAINTIFF did not even receive a
3 partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members, from
4 time to time, forfeited minimum wage and overtime compensation by working without their
5 time being accurately recorded and without compensation at the applicable minimum wage and
6 overtime rates. DEFENDANT'S uniform policy and practice not to pay PLAINTIFF and other
7 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT'S business
8 records.

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

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

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

6 11. From time to time, when PLAINTIFF and other CALIFORNIA CLASS
7 Members missed meal and rest breaks, or when they worked during what was supposed to be
8 their meal breaks, DEFENDANT also failed to provide PLAINTIFF and the other members of
9 the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
10 among other things, the correct time and overtime worked, including, work performed in excess
11 of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the correct penalty
12 payments or missed meal and rest periods. Cal. Lab. Code § 226 provides that every employer
13 shall furnish each of his or her employees with an accurate itemized wage statement in writing
14 showing, among other things, gross wages earned and all applicable hourly rates in effect during
15 the pay period and the corresponding amount of time worked at each hourly rate. Aside from the
16 violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
17 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
18 As a result, from time to time DEFENDANT provided PLAINTIFF and the other members of
19 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

20 12. By reason of this uniform conduct applicable to PLAINTIFF and all
21 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in
22 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et*
23 *seq.*(the "UCL"), by engaging in a company-wide policy and procedure which failed to
24 accurately calculate and record all missed meal and rest periods by PLAINTIFF and other
25 CALIFORNIA CLASS Members. The proper recording of these employees' missed meal and
26 rest breaks is the DEFENDANT'S burden. As a result of DEFENDANT'S intentional disregard
27 of the obligation to meet this burden, DEFENDANT failed to properly calculate and/or pay all
28

1 required compensation for work performed by the members of the CALIFORNIA CLASS and
2 violated the California Labor Code and regulations promulgated thereunder as herein alleged.

3 13. Specifically as to PLAINTIFF, she was from time to time unable to take off duty
4 meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
5 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
6 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
7 provide PLAINTIFF with a second off-duty meal period each workday in which she was
8 required by DEFENDANT to work ten (10) hours of work. PLAINTIFF therefore forfeited meal
9 and rest breaks without additional compensation and in accordance with DEFENDANT'S strict
10 corporate policy and practice. DEFENDANT also provided PLAINTIFF with paystubs that
11 failed to accurately display payments for missed meal and rest periods for certain pay periods in
12 violation of Cal. Lab. Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFF all
13 wages still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203. The
14 amount in controversy for PLAINTIFF individually does not exceed the sum or value of
15 \$75,000.

16 **JURISDICTION AND VENUE**

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

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

26 **THE CALIFORNIA CLASS**

27 16. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
28 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class

1 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
2 individuals who are or previously were employed by DEFENDANT in California and classified
3 as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
4 beginning four (4) years prior to the filing of the original complaint and ending on the date as
5 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy
6 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
7 (\$5,000,000.00).

8 17. 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 18. DEFENDANT, as a matter of company policy, practice and procedure, and in
12 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
13 requirements, and the applicable provisions of California law, intentionally, knowingly, and
14 willfully, engaged in a practice whereby DEFENDANT systematically failed to provide
15 compliant meal and rest breaks missed by PLAINTIFF and the other members of the
16 CALIFORNIA CLASS, even though DEFENDANT enjoyed the benefit of this work, required
17 employees to perform this work and permitted or suffered to permit this work.

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

1 20. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA
2 CLASS Members is impracticable.

3 21. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
4 California law by:

- 5 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
6 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
7 company policies, practices and procedures that failed to pay all wages due the
8 CALIFORNIA CLASS for all time worked;
- 9 b. Committing an act of unfair competition in violation of the California Unfair
10 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to
11 provide mandatory meal and/or rest breaks to PLAINTIFFS and the
12 CALIFORNIA CLASS members;
- 13 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
14 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
15 company policies, practices and procedures that uniformly and systematically
16 failed to record and pay PLAINTIFF and other members of the CALIFORNIA
17 CLASS for all time worked, including minimum wages owed and overtime
18 wages owed for work performed by these employees;

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

- 21 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
22 joinder of all such persons is impracticable and the disposition of their claims as
23 a class will benefit the parties and the Court;
- 24 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
25 raised in this Complaint are common to the CALIFORNIA CLASS will apply
26 uniformly to every member of the CALIFORNIA CLASS;
- 27 c. The claims of the representative PLAINTIFF are typical of the claims of each
28 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members

1 of the CALIFORNIA CLASS, were classified as a non- exempt employee paid
2 on an hourly basis who was subjected to the DEFENDANT’S deceptive practice
3 and policy which failed to provide the legally required meal and rest periods to
4 the CALIFORNIA CLASS and thereby systematically underpaid compensation
5 to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic
6 injury as a result of DEFENDANT’S employment practices. PLAINTIFF and the
7 members of the CALIFORNIA CLASS were and are similarly or identically
8 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
9 misconduct engaged in by DEFENDANT; and

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

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

- 19 a. Without class certification and determination of declaratory, injunctive, statutory
20 and other legal questions within the class format, prosecution of separate actions
21 by individual members of the CALIFORNIA CLASS will create the risk of:
- 22 i. Inconsistent or varying adjudications with respect to individual members
23 of the CALIFORNIA CLASS which would establish incompatible
24 standards of conduct for the parties opposing the CALIFORNIA CLASS;
25 and/or;
- 26 ii. Adjudication with respect to individual members of the CALIFORNIA
27 CLASS which would as a practical matter be dispositive of interests of
28

1 the other members not party to the adjudication or substantially impair or
2 impede their ability to protect their interests.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **THE CALIFORNIA LABOR SUB-CLASS**

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

15 27. DEFENDANT, as a matter of company policy, practice and procedure, and in
16 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
17 requirements, and the applicable provisions of California law, intentionally, knowingly, and
18 willfully, engaged in a practice whereby DEFENDANT failed to provide compliant meal and
19 rest breaks to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS,
20 and pay wages and premiums owed to these employees, even though DEFENDANT enjoyed the
21 benefit of this work, required employees to perform this work and permitted or suffered to
22 permit this work. DEFENDANT has uniformly denied these CALIFORNIA LABOR SUB-
23 CLASS Members wages and premiums to which these employees are entitled in order to
24 unfairly cheat the competition and unlawfully profit. To the extent equitable tolling operates to
25 toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the
26 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

27 28. DEFENDANT maintains records from which the Court can ascertain and
28 identify by name and job title, each of DEFENDANT’S employees who have been

1 systematically, intentionally and uniformly subjected to DEFENDANT’S company policy,
2 practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint
3 to include any additional job titles of similarly situated employees when they have been
4 identified.

5 29. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
6 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 9 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
10 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for
11 missed meal and rest breaks in violation of the California Labor Code and
12 California regulations and the applicable California Wage Order;
- 13 b. Whether DEFENDANT failed to provide PLAINTIFF and the other members of
14 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted
15 thirty (30) minute meal breaks and rest periods;
- 16 c. Whether DEFENDANT failed to provide PLAINTIFF and the other members of
17 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
18 statements;
- 19 d. Whether DEFENDANT have engaged in unfair competition by the above-listed
20 conduct;
- 21 e. The proper measure of damages and penalties owed to the members of the
22 CALIFORNIA LABOR SUB-CLASS; and
- 23 f. Whether DEFENDANT’s conduct was willful.

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

- 26 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay
27 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all
28

wages due for overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code § 1194;

b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;

d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing all accurate and applicable overtime rates in effect during the pay period and the corresponding amount of time worked at each overtime rate by the employee;

e. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee is discharged or quits from employment, the employer must pay the employee all wages due without abatement, by failing to tender full payment and/or restitution of wages owed or in the manner required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment.

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

a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;

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

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

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

- 1 i. Inconsistent or varying adjudications with respect to individual members
2 of the CALIFORNIA LABOR SUB-CLASS which would establish
3 incompatible standards of conduct for the parties opposing the
4 CALIFORNIA LABOR SUB-CLASS; or
5 ii. Adjudication with respect to individual members of the CALIFORNIA
6 LABOR SUB-CLASS which would as a practical matter be dispositive of
7 interests of the other members not party to the adjudication or
8 substantially impair or impede their ability to protect their interests.
- 9 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
10 refused to act on grounds generally applicable to the CALIFORNIA LABOR
11 SUB-CLASS, making appropriate class-wide relief with respect to the
12 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS
13 uniformly failed to pay all wages due for all time worked by the members of the
14 CALIFORNIA LABOR SUB-CLASS as required by law;
- 15 c. Common questions of law and fact predominate as to the members of the
16 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
17 violations of California Law as listed above, and predominate over any question
18 affecting only individual CALIFORNIA LABOR SUB-CLASS Members, and a
19 Class Action is superior to other available methods for the fair and efficient
20 adjudication of the controversy, including consideration of:
- 21 i. The interests of the members of the CALIFORNIA LABOR SUB-
22 CLASS in individually controlling the prosecution or defense of separate
23 actions in that the substantial expense of individual actions will be
24 avoided to recover the relatively small amount of economic losses
25 sustained by the individual CALIFORNIA LABOR SUB-CLASS
26 Members when compared to the substantial expense and burden of
27 individual prosecution of this litigation;
28

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

3 1. Inconsistent or varying adjudications with respect to individual
4 members of the CALIFORNIA LABOR SUB-CLASS, which
5 would establish incompatible standards of conduct for the
6 DEFENDANTS; and/or,

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

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

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

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

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

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

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

FIRST CAUSE OF ACTION

UNLAWFUL BUSINESS PRACTICES

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

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

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

36. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof. Code § 17021.

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code § 17203).

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

1 39. By the conduct alleged herein, DEFENDANT’S practices were unlawful and
2 unfair in that these practices violated public policy, were immoral, unethical, oppressive
3 unscrupulous or substantially injurious to employees, and were without valid justification or
4 utility for which this Court should issue equitable and injunctive relief pursuant to Section
5 17203 of the California Business & Professions Code, including restitution of wages wrongfully
6 withheld.

7 40. By the conduct alleged herein, DEFENDANT’S practices were deceptive and
8 fraudulent in that DEFENDANT’S uniform policy and practice failed to pay PLAINTIFF, and
9 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time
10 worked, failed to pay reporting time pay, and failed to reimburse for expenses due to a
11 systematic practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and
12 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*,
13 and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. &
14 Prof. Code § 17203, including restitution of wages wrongfully withheld.

15 41. By the conduct alleged herein, DEFENDANT’s practices were also unlawful,
16 unfair and deceptive in that DEFENDANT’S employment practices caused PLAINTIFF and the
17 other members of the CALIFORNIA CLASS to be underpaid during their employment with
18 DEFENDANT.

19 42. By the conduct alleged herein, DEFENDANT’s practices were also unfair and
20 deceptive in that DEFENDANT’s uniform policies, practices and procedures failed to provide
21 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

4 45. By and through the unlawful and unfair business practices described herein,
5 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
6 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them
7 of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
8 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly
9 compete against competitors who comply with the law.

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

15 47. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
16 and do, seek such relief as may be necessary to restore to them the money and property which
17 DEFENDANT have acquired, or of which PLAINTIFF and the other members of the
18 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
19 unfair business practices, including earned but unpaid wages.

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

24 49. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
25 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices
26 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As
27 a result of the unlawful and unfair business practices described herein, PLAINTIFF and the
28 other members of the CALIFORNIA CLASS have suffered and will continue to suffer

1 irreparable legal and economic harm unless DEFENDANT are restrained from continuing to
2 engage in these unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

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

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

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

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

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

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

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

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

28 56. DEFENDANT'S uniform pattern of unlawful wage and hour practices
manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a

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

4 57. 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 other
8 benefits in violation of the California Labor Code, the Industrial Welfare Commission
9 requirements and other applicable laws and regulations.

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

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

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

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

62. In performing the acts and practices herein alleged in violation of California labor
laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all

1 time worked and provide them with requisite compensation, DEFENDANT acted and continue
2 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of
3 the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal
4 rights, or the consequences to them, and with the despicable intent of depriving them of their
5 property and legal rights, and otherwise causing them injury in order to increase company
6 profits at the expense of these employees.

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

18 **THIRD CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME COMPENSATION** 20 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

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

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

26 65. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
27 bring a claim for DEFENDANT's willful and intentional violations of the California Labor
28 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to
properly compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime

1 worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40)
2 hours in any workweek.

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

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

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

13 69. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
14 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
15 DEFENDANT and were not paid for all the time they worked, including overtime work.

16 70. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
17 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
18 result of implementing a uniform policy and practice that failed to accurately record overtime
19 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS,
20 and denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA
21 LABOR SUB-CLASS for overtime worked, including, the work performed in excess of eight
(8) hours in a workday and/or forty (40) hours in any workweek.

22 71. In committing these violations of the California Labor Code, DEFENDANT acted
23 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
24 the California Labor Code, the Industrial Welfare Commission requirements and other
25 applicable laws and regulations.

26 72. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
28 receive full compensation for all overtime worked.

1 73. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
2 from the overtime requirements of the law. None of these exemptions are applicable to
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further
4 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS are not subject
5 to a valid collective bargaining agreement that would preclude the causes of action contained
6 herein this Complaint. Rather, PLAINTIFF bring this Action on behalf of themselves and the
7 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable,
8 non-waivable rights provided by the State of California.

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

12 75. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
13 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
14 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
15 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
16 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed
17 to accurately record and pay using the applicable overtime rate as evidenced by
18 DEFENDANT's business records and witnessed by employees.

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

25 77. DEFENDANT knew or should have known that PLAINTIFF and the other
26 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime
27 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
28 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to

1 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
2 applicable overtime rate.

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

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

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

24 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

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

22
23 **FIFTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE REQUIRED REST PERIODS**
25 **(Cal. Lab. Code §§ 226.7 & 512)**

26 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**
27 **Defendants)**
28

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

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

86. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who were not provided a rest 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 rest period was not provided.

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

SIXTH CAUSE OF ACTION

**FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS
(Cal. Lab. Code § 226)**

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

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

4 89. Cal. Labor Code § 226 provides that an employer must furnish employees with
5 an “accurate itemized” statement in writing showing:

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

24 90. When DEFENDANT did not accurately record PLAINTIFF’s and other
25 CALIFORNIA CLASS Members’ missed meal and rest breaks and wages owed, DEFENDANT
26 also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with
27 complete and accurate wage statements which failed to show, among other things, missed meal
28 and rest periods and reporting time wages owed to PLAINTIFF and other CALIFORNIA

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

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

20
21 **SEVENTH CAUSE OF ACTION**

22 **FAILURE TO PAY WAGES WHEN DUE**

23 **(Cal. Lab. Code §§201, 202, 203)**

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

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

1 93. Cal. Lab. Code § 200 provides that:

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

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

11 95. Cal. Lab. Code § 202 provides, in relevant part, that:

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

21 96. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR
22 SUB-CLASS Members' employment contract.

23 97. Cal. Lab. Code § 203 provides:

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

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

32 99. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
33 members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFF
34 demand up to thirty days of pay as penalty for not paying all wages due at time of termination
35 for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS

1 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory
2 costs as allowed by law.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, PLAINTIFFS pray for a judgment against each Defendants, jointly and
5 severally, as follows:

6 1. On behalf of the CALIFORNIA CLASS:

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

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

- 18 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes
19 of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
20 pursuant to Cal. Code of Civ. Proc. § 382;
- 21 b. Compensatory damages, according to proof at trial, including compensatory
22 damages for minimum wages, reporting time wages, and other compensation due
23 to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
24 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD
25 plus interest thereon at the statutory rate;
- 26 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
27 the applicable IWC Wage Order;
- 28 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in

1 which a violation occurs and one hundred dollars (\$100) per member of the
2 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
3 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
4 an award of costs for violation of Cal. Lab. Code § 226; and

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

8 3. On all claims:

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

14
15 DATED: _____, 2020
16

17 **ZAKAY LAW GROUP, APLC**
18

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20 By: _____
21 Shani O. Zakay
22 Attorney for Plaintiffs
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DEMAND FOR A JURY TRIAL

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

DATED: _____, 2020

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay
Attorney for Plaintiff