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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

RASHEDA K. KIRBY and AMOURA
BURTON, on behalf of themselves and all
others similarly situated, and the general
public,

Plaintiffs,

v.

TROVE RECOMMERCE, INC., a Delaware
corporation; TROVE, INC., a business entity
of unknown form; YERDLE, INC., a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Electronically
FILED

by Superior Court of California, County of San Mateo

ON

2/3/2025

By

/s/ Haley Correa
Deputy Clerk

Case No.: 23CIV04345

Amended As a Matter of Right Pursuant to
Labor Code Section 2699.3(a)(2)(C)

**CONSOLIDATED SECOND AMENDED
CLASS AND REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
6. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
7. Failure to Indemnify (Lab. Code § 2802);
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*); and
9. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

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1 Plaintiffs RASHEDA K. KIRBY and AMOURA BURTON (“Plaintiffs”), on behalf of
2 themselves, all others similarly situated, the State of California, and the general public, complain and
3 allege as follows:

4 **INTRODUCTION**

5 1. Plaintiffs bring this class action against Defendants TROVE RECOMMERCE, INC.,
6 a Delaware corporation; TROVE, INC., a business entity of unknown form; YERDLE, INC., a
7 California corporation; and DOES 1 through 50, inclusive, (collectively referred to as “Defendants”)
8 for alleged violations of the California Labor Code and California Business and Professions Code.
9 As set forth below, Plaintiffs allege that Defendants have:

- 10 a. failed to pay them minimum wages for all hours worked;
- 11 b. failed to pay them overtime wages at the correct rate;
- 12 c. failed to pay them double time wages at the correct rate;
- 13 d. failed to pay them overtime and/or double time wages by failing to include all
14 applicable remuneration in calculating the regular rate of pay;
- 15 e. failed to provide them with meal periods;
- 16 f. failed to provide them with rest periods;
- 17 g. failed to pay them premium wages for missed meal and rest periods;
- 18 h. failed to pay them proper sick time pay;
- 19 i. failed to provide them with accurate written wage statements;
- 20 j. failed to reimburse them with necessary business expenditures; and
- 21 k. failed to pay them all of their final wages following separation of employment.

22 Based on these alleged Labor Code violations, Plaintiffs now bring this class action to recover
23 unpaid wages, liquidated damages, civil and statutory penalties, restitution and related relief on behalf
24 of themselves, all others similarly situated, and the general public.

25 **JURISDICTION AND VENUE**

26 2. This Court has subject matter jurisdiction to hear this case because the monetary
27 damages and restitution sought by Plaintiffs from Defendants conduct exceeds the minimal
28 jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of San Mateo pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

4. Venue is proper in San Mateo County because Defendants' have at all times alleged herein, conducted business in San Mateo County, and throughout California. As such, venue is proper in any county in California.

PARTIES

1. Plaintiff RASHEDA K. KIRBY is, and at all relevant times mentioned herein, an individual residing in the State of California. Plaintiff AMOURA BURTON is, and at all relevant times mentioned herein, an individual residing in the State of California.

2. Plaintiffs are informed and believe, and thereupon allege that Defendant TROVE RECOMMERCE, INC., is, and at all relevant times mentioned herein, a Delaware corporation doing business in the State of California.

3. Plaintiffs are informed and believe, and thereupon allege that Defendant TROVE, INC., is, and at all relevant times mentioned herein, a business entity of unknown form doing business in the State of California.

4. Plaintiffs are informed and believe, and thereupon allege that Defendant YERDLE, INC., is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

5. Plaintiffs are ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of the DOE defendants when ascertained. Plaintiffs are informed and believe, and thereupon allege that each of the fictitiously named defendants are responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiffs' alleged damages were proximately caused by these defendants, and each of them. Plaintiffs will amend this complaint to allege both the true names and capacities of the DOE defendants when ascertained.

1 6. Plaintiffs are informed and believe, and thereupon allege that, at all relevant times
2 mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,
3 directors, associates, joint venturers, joint employers, owners, principals or co-participants of some
4 or all of the other defendants, and in doing the things alleged herein, were acting within the course
5 and scope of such relationship and with the full knowledge, consent and ratification by such other
6 defendants.

7 7. Plaintiffs are informed and believe, and thereupon allege that, at all relevant times
8 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and
9 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts
10 and omissions alleged herein.

11 8. This action has been brought and may be maintained as a class action pursuant to Code
12 of Civil Procedure section 382 because there is a well-defined community of interest among the
13 persons who comprise the readily ascertainable classes defined below and because Plaintiffs are
14 unaware of any difficulties likely to be encountered in managing this case as a class action.

15 9. **Relevant Time Period:** The relevant time period is defined as the time period
16 beginning four years prior to the filing of this action until judgment is entered.

- 17 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
18 separately, and/or any staffing agencies and/or any other third parties in hourly or
19 non-exempt positions in California four years prior to the filing of this action and
ending on the date that final judgment is entered in this action (“Hourly Employee
Class”).
- 20 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
21 a shift in excess of five hours during the four years prior to the filing of this action
and ending on the date that final judgment is entered in this action.
- 22 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
23 shift of at least three and one-half (3.5) hours the four years prior to the filing of
this action and ending on the date that final judgment is entered in this action.
- 24 d. **Sick-Pay Class:** All **Hourly Employee Class** members, worked for more than
25 30 days for Defendants, and were not paid for at least one hour of sick time for
26 every 30 hours of work thereafter, or at least 3 days of sick time for every 12-
month period of employment, at the proper rate of pay.
- 27 e. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
28 separated from their employment with Defendants during the period beginning
three years before the filing of this action and ending when final judgment is
entered.

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- 2 f. **Wage Statement Class**: All persons employed by Defendants in California during
- 3 the period beginning one year before the filing of this action and ending when final
- 4 judgment is entered.
- 5 g. **Expense Reimbursement Class**: All persons employed by Defendants in
- 6 California who incurred business expenses during the **Relevant Time Period**.
- 7 h. **UCL Class**: All **Hourly Employee Class** and **Expense Reimbursement Class**
- 8 members employed by Defendants in California during the four years prior to the
- 9 filing of this action and ending on the date that final judgment is entered in this
- 10 action.

11 10. **Reservation of Rights**: Pursuant to Rule of Court 3.765(b), Plaintiffs reserve the right

12 to amend or modify the class definitions with greater specificity, by further division into sub-classes

13 and/or by limitation to particular issues.

14 11. **Numerosity**: The class members are so numerous that the individual joinder of each

15 individual class member is impractical. While Plaintiffs do not currently know the exact number of

16 class members, Plaintiffs are informed and believe, and thereupon allege that the actual number

17 exceeds the minimum required for numerosity under California law.

18 12. **Commonality and Predominance**: Common questions of law and fact exist as to all

19 class members and predominate over any questions which affect only individual class members.

20 These common questions include, but are not limited to:

- 21 a. Whether Defendants maintained a policy or practice of failing to provide
- 22 employees with their rest periods;
- 23 b. Whether Defendants maintained a policy or practice of failing to provide
- 24 employees with their meal periods;
- 25 c. Whether Defendants failed to pay premium wages to class members when they
- 26 have not been provided with meal and rest periods at the appropriate rates of pay;
- 27 d. Whether Defendants failed to pay minimum and/or overtime wages to class
- 28 members for all time worked;
- e. Whether Defendants fails to pay proper sick time pay;
- f. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with

1 inaccurate entries for, among other things, amounts of gross and net wages, and
2 total hours worked;

- 3 g. Whether Defendants applied policies or practices that result in late and/or
4 incomplete final wage payments;
- 5 h. Whether Defendants failed to reimburse class members for all necessary business
6 expenses incurred during the discharge of their duties;
- 7 i. Whether Defendants are liable to class members for waiting time penalties under
8 Labor Code section 203; and
- 9 j. Whether class members are entitled to restitution of money or property that
10 Defendants may have acquired from them through unfair competition;

11 13. **Typicality:** Plaintiffs' claims are typical of the other class members' claims.
12 Plaintiffs are informed and believes and thereupon allege that Defendants have a policy or practice of
13 failing to comply with the California Labor Code and Business and Professions Code as alleged in
14 this Complaint.

15 14. **Adequacy of Class Representative:** Plaintiffs are adequate class representatives in
16 that they have no interests that are adverse to, or otherwise conflict with, the interests of absent class
17 members and is dedicated to vigorously prosecuting this action on their behalf. Plaintiffs will fairly
18 and adequately represent and protect the interests of the other class members.

19 15. **Adequacy of Class Counsel:** Plaintiffs' counsel are adequate class counsel in that
20 they have no known conflicts of interest with Plaintiffs or absent class members, are experienced in
21 wage and hour class action litigation, and are dedicated to vigorously prosecuting this action on behalf
22 of Plaintiffs and absent class members.

23 16. **Superiority:** A class action is vastly superior to other available means for fair and
24 efficient adjudication of the class members' claims and would be beneficial to the parties and the
25 Court. Class action treatment will allow a number of similarly situated persons to simultaneously and
26 efficiently prosecute their common claims in a single forum without the unnecessary duplication of
27 effort and expense that numerous individual actions would entail. In addition, the monetary amounts
28 due to many individual class members are likely to be relatively small and would thus make I difficult,

1 if not impossible, for individual class members to both seek and obtain relief. Moreover, a class
2 action will serve an important public interest by permitting class members to effectively pursue the
3 recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent
4 or contradictory judgments inherent in individual litigation.

5 **GENERAL ALLEGATIONS**

6 17. Plaintiffs worked for Defendants as a non-exempt employee during the relevant and
7 statutory periods.

8 18. Defendants had a common policy and practice of systemically failing to pay Plaintiffs
9 and Class members proper wages and overtime for all hours worked, at the proper rates of pay.

10 19. Plaintiffs and Class Members were also consistently required to perform work, off-
11 the-clock, for which they were not paid wages. Specifically, regarding their uncompensated pre-shift
12 duties, Plaintiffs and Class Members were systemically required to arrive to work early and undergo
13 mandatory COVID-19 screening measures, including temperature checks as well as having to
14 complete questionnaires, prior to being allowed to clock in for work. Then, Plaintiffs and Class
15 Members were required to put away their personal items that they brought to work. Finally, Plaintiffs
16 and Class Members were then required to spend time waiting for the time-clock kiosk to open in order
17 to clock in for work.

18 20. Additionally, Plaintiffs and Class Members were required to perform work-related
19 tasks during their unpaid meal periods, when such meal periods were taken. The forgoing and
20 uncompensated working time was under the direction and control of Defendants, for which no wages
21 were paid.

22 21. This uncompensated time caused Plaintiffs and Class Members to work in excess of
23 eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiffs
24 and Class Members to minimum and overtime wages, which they were systemically denied.

25 22. Defendants had a common policy and practice of systemically denying Plaintiffs and
26 Class Members the opportunity to take meal periods in compliance with the California Law.
27 Specifically, due to understaffing and heavy workloads, Plaintiffs and Class Members were not
28 relieved of all duties, and required to perform work-relates tasks during their unpaid meal periods,

1 which were systemically denied. In fact, Plaintiffs and Class Members' meal periods were regularly
2 either denied altogether, under 30-minutes in length, or taken after the completion of their fifth hour
3 of work. Additionally, the uncompensated pre-shift duties, discussed herein, further delayed Plaintiffs
4 and Class Members' meal periods, to commence after the completion of their fifth hour of work.
5 Moreover, Plaintiffs and Class Members were prohibited from leaving the work premises during meal
6 periods.

7 23. Plaintiffs and Class Members were not provided with meal periods of at least thirty
8 (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each
9 meal period as part of each work shift; (2) no formal written meal policy that encouraged employees
10 to take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
11 Defendants' practice of requiring putative class members to continue working through their meal and
12 rest periods due to the excessive workload.

13 24. Defendants had a common policy and practice of systemically denying Plaintiffs and
14 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiffs
15 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)
16 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
17 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
18 no formal compliant written rest period policy that encouraged employees to take their rest periods,
19 or that properly advised Plaintiffs and Class Members of their rest period rights; (3) Defendants'
20 policy and practice of requiring putative class members to continue working through their rest breaks
21 due to the excessive workload; and (4) Defendants' policy and practice of requiring putative class
22 members to remain on the premises during rest breaks. Additionally, the uncompensated working
23 hours, discussed herein, further delayed the commencement the rest breaks to which Plaintiffs and
24 Class Members were entitled, in violation of California Law.

25 25. Furthermore, Defendants failed to pay Plaintiffs and Class Members premium pay
26 wages at their appropriate regular rates of pay for each meal and rest period denied.

27 26. Defendants had a common policy and practice of systemically failing to pay Plaintiffs
28 and Class Members the requisite sick time pay in accordance with California Law, at the employees'

1 applicable regular rates of pay. Specifically, the sick pay paid Plaintiffs and Class Members did not
2 account for the performance-based non-discretionary bonuses, which were never factored into the
3 rate upon which sick pay was accrued and paid.

4 27. Plaintiffs and Class Members were not provided with accurate wage statements as
5 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
6 statements as “a detachable part of the check, draft, or voucher paying the employee’s wages, or
7 separately if wages are paid by personal check or cash, an accurate itemized statement in writing.”
8 Additionally, the wage statements issued to Plaintiffs and Class Members were not recorded in “ink
9 or other indelible form.”

10 28. Defendants failed to comply with Labor Code section 226(a)(1) as “gross wages
11 earned” were not accurately reflected in that: all hours worked, including overtime, were not included.

12 29. Defendants failed to comply with Labor Code section 226(a)(2) as “total hours worked
13 by the employee” were not accurately reflected in that: all hours worked, including overtime, were
14 not included.

15 30. Defendants failed to comply with Labor Code section 226(a)(5) as “net wages earned”
16 were not accurately reflected in that: all hours worked, including overtime, were not included.

17 31. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable
18 hourly rates in effect during the pay period and the corresponding number of hours worked at each
19 hourly rate by the employee” were not accurately reflected in that: all hours worked, including
20 overtime, were not included.

21 32. Additionally, the wage statements issued to Plaintiffs and Class Members failed to
22 include the “name and address of the legal entity that is the employer” as required by Labor Code §
23 226(a)(8).

24 33. Furthermore, Defendants failed to provide Plaintiffs and Class Members with paper
25 pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters.
26 Plaintiffs’ and Class Members’ wage statement were only provided in electronic format in violation
27 of Labor Code § 226.

28 34. Plaintiffs and Class Members were not reimbursed for business expenses incurred in

1 executing their duties under Defendant's employ. Specifically, Plaintiffs and Class Members were
2 required to pay purchase cellular phones and cellular phone service, necessary to perform their duties
3 under Defendants' employ. Plaintiffs and Class members were not reimbursed for these necessary
4 work-related expenses.

5 35. Next, pursuant to the Occupational Safety and Health Administration, employers must
6 keep the thermostat between 68 and 78 degrees Fahrenheit. California Wage Order 7 states: "the
7 temperature maintained in each work area shall provide reasonable comfort consistent with industry-
8 wide standards for the nature of the process and the work performed. Where the nature of the
9 employment requires a temperature of less than 60 degrees Fahrenheit, a heated room shall be
10 provided to which employees may retire for warm, and such room shall be maintained at not less than
11 68 degrees Fahrenheit. A temperature of not less than 68 degrees Fahrenheit shall be maintained in
12 the toilet rooms, resting rooms, and change rooms during hours of use." Here, the temperature in
13 Defendants' workspace was well above what is legally allowed under California Law.

14 36. Finally, Defendants had a common policy and practice of requiring Aggrieved
15 Employees (defined below) to sign an agreement, as a condition of employment, which violates
16 California law. Specifically, as a condition of their employment, Aggrieved Employees were required
17 to sign an unlawful non-compete agreement which prohibited Aggrieved Employees from seeking or
18 engaging in lawful and gainful employment.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PROVIDE MEAL PERIODS**

21 **(Lab. Code §§ 226.7, 512, 1174, and 1198)**

22 **(Plaintiffs and Meal Period Sub-Class)**

23 37. Plaintiffs incorporate by reference the preceding paragraphs of the Complaint as if
24 fully alleged herein.

25 38. At all relevant times, Plaintiffs and the **Meal Period Sub-Class** members have been
26 non-exempt employees of Defendant entitled to the full meal period protections of both the Labor
27 Code and the applicable Industrial Welfare Commission Wage Order.

28 39. Labor Code section 512 and Section 11 of the applicable Industrial Welfare

1 Commission Wage Order impose an affirmative obligation on employers to provide non-exempt
2 employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period
3 of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty
4 minutes for each work period of ten hours.

5 40. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
6 Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work
7 during required meal periods and require employers to pay non-exempt employees an hour of
8 premium wages on each workday that the employee is not provided with the required meal period.

9 41. Compensation for missed meal periods constitutes wages within the meaning of Labor
10 Code section 200.

11 42. Labor Code section 1198 makes it unlawful to employ a person under conditions that
12 violate the applicable Wage Order.

13 43. Section 11 of the applicable Wage Order states:

14 “No employer shall employ any person for a work period of more than five (5) hours
15 without a meal period of not less than 30 minutes, except that when a work period of
16 not more than six (6) hours will complete the day’s work the meal period may be
17 waived by mutual consent of the employer and employee. Unless the employee is
18 relieved of all duty during a 30 minute meal period, the meal period shall be considered
19 an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall
20 be permitted only when the nature of the work prevents an employee from being
21 relieved of all duty and when by written agreement between the parties an on-the-job
22 paid meal period is agreed to. The written agreement shall state that the employee
23 may, in writing, revoke the agreement at any time.”

24 44. At all relevant times, Plaintiffs were not subject to a valid on-duty meal period
25 agreement. Plaintiffs are informed and believe that, at all relevant times, **Meal Period Sub-Class**
26 members were not subject to valid on-duty meal period agreements with Defendants.

27 45. Plaintiffs allege that, at all relevant times during the applicable limitations period,
28 Defendants maintained a policy or practice of not providing Plaintiffs and members of the **Meal**
Period Sub-Class with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each
five (5) hour work period, as required by Labor Code section 512 and the applicable Wage Order.
Specifically, due to understaffing and heavy workloads, Plaintiffs and **Meal Period Sub-Class**
members were not relieved of all duties, and required to perform work-relates tasks during their

1 unpaid meal periods, which were systemically denied. In fact, Plaintiffs and **Meal Period Sub-Class**
2 members' meal periods were regularly either denied altogether, under 30-minutes in length, or taken
3 after the completion of their fifth hour of work. Additionally, the uncompensated pre-shift duties,
4 discussed herein, further delayed Plaintiffs and **Meal Period Sub-Class** members' meal periods, to
5 commence after the completion of their fifth hour of work. Moreover, Plaintiffs and **Meal Period**
6 **Sub-Class** members' were prohibited from leaving the work premises during meal periods.

7 46. Plaintiffs allege that, at all relevant times during the applicable limitations period,
8 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
9 **Class** members when they worked five (5) hours without clocking out for any meal period.

10 47. Plaintiffs allege that, at all relevant times during the applicable limitations period,
11 Defendants maintained a policy or practice of not providing Plaintiffs and members of the **Meal**
12 **Period Sub-Class** with a second meal period when they worked shifts of ten or more hours and failed
13 to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

14 48. Moreover, Defendants written policies fail to inform Meal period Class Members of
15 their meal period rights under the Labor Code and applicable Wage Orders.

16 49. At all relevant times, Defendants failed to pay Plaintiffs and the **Meal Period Sub-**
17 **Class** members additional premium wages, and/or were not paid premium wages at the employees'
18 regular rates of pay when required meal periods were not provided.

19 50. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiffs, on behalf of
20 themselves and the **Meal Period Sub-Class** members, seek to recover unpaid premium wages,
21 interest thereon, and costs of suit.

22 51. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
23 substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and
24 the **Meal Period Sub-Class** members, seek to recover reasonable attorneys' fees.

25 **SECOND CAUSE OF ACTION**

26 **FAILURE TO PROVIDE REST PERIODS**

27 **(Lab. Code §§ 204, 223, 226.7 and 1198)**

28 **(Plaintiffs and Rest Period Sub-Class)**

1 52. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
2 herein.

3 53. At all relevant times, Plaintiffs and the **Rest Period Sub-Class** members have been
4 non-exempt employees of Defendants entitled to the full rest period protections of both the Labor
5 Code and the applicable Wage Order.

6 54. Section 12 of the applicable Wage Order imposes an affirmative obligation on
7 employers to permit and authorize employees to take required rest periods at a rate of no less than ten
8 minutes of net rest time for each four hour work period, or major fraction thereof, that must be in the
9 middle of each work period insofar as practicable.

10 55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
11 employers from requiring employees to work during required rest periods and require employers to
12 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
13 workday that the employee is not provided with the required rest period(s).

14 56. Compensation for missed rest periods constitutes wages within the meaning of Labor
15 Code section 200.

16 57. Labor Code section 1198 makes it unlawful to employ a person under conditions that
17 violate the Wage Order.

18 58. Plaintiffs allege that, at all relevant times during the applicable limitations period,
19 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
20 with net rest period of at least ten uninterrupted minutes for each four hour work period, or major
21 fraction thereof, as required by the applicable Wage Order.

22 59. Defendants had a common policy and practice of systemically denying Plaintiffs and
23 **Rest Period Sub-Class** members the opportunity to take rest periods in compliance with the
24 California Law. Plaintiffs and **Rest Period Sub-Class** members were not provided with rest periods
25 of at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
26 Defendants' policy of not scheduling each rest period as part of each work shift, including second
27 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that
28 encouraged employees to take their rest periods, or that properly advised Plaintiffs and **Rest Period**

1 **Sub-Class** members of their rest period rights; (3) Defendants’ policy and practice of requiring
2 putative class members to continue working through their rest breaks due to the excessive workload;
3 and (4) Defendants’ policy and practice of requiring **Rest Period Sub-Class** members to remain on
4 the premises during rest breaks. Additionally, the uncompensated working hours, discussed herein,
5 further delayed the commencement the rest breaks to which Plaintiffs and **Rest Period Sub-Class**
6 members were entitled, in violation of California Law.

7 60. At all relevant times, Defendants failed to pay Plaintiffs and the **Rest Period Sub-**
8 **Class** members additional premium wages when required rest periods were not provided.

9 61. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiffs, on behalf of
10 themselves and **Rest Period Sub-Class** members, seek to recover unpaid premium wages, interest
11 thereon, and costs of suit.

12 62. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
13 substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and
14 **Rest Period Sub-Class** members, seek to recover reasonable attorneys’ fees.

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

17 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

18 **(Plaintiffs and Hourly Employee Class)**

19 63. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
20 herein.

21 64. At all relevant times, Plaintiffs and **Hourly Employee Class** members are or have
22 been non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
23 applicable Wage Order.

24 65. Section 2 of the applicable Wage Order defines “hours worked” as “the time during
25 which an employee is subject to the control of the employer, and includes all the time the employee
26 is suffered or permitted to work, whether or not required to do so.”

27 66. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
28 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours

1 that an employer has actual or constructive knowledge that employees are working.

2 67. Labor Code section 1194 invalidates any agreement between an employer and an
3 employee to work for less than the minimum or overtime wage required under the applicable Wage
4 Order.

5 68. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
6 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
7 to the underlying unpaid minimum wages and interest thereon.

8 69. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
9 than the minimum wage required under the applicable Wage Order for all hours worked during a
10 payroll period.

11 70. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
12 person acting either individually or as an officer, agent or employee of another person, to pay an
13 employee, or cause an employee to be paid, less than the applicable minimum wage.

14 71. Labor Code section 1198 makes it unlawful for employers to employ employees under
15 conditions that violate the applicable Wage Order.

16 72. Labor Code section 204 requires employers to pay non-exempt employees their earned
17 wages for the normal work period at least twice during each calendar month on days the employer
18 designates in advance and to pay non-exempt employees their earned wages for labor performed in
19 excess of the normal work period by no later than the next regular payday.

20 73. Labor Code section 223 makes it unlawful for employers to pay their employees lower
21 wages than required by contract or statute while purporting to pay them legal wages.

22 74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
23 to pay non-exempt employees overtime wages of no less than one and one-half times their respective
24 regular rates of pay for all hours worked in excess of eight hours in one workday, all hours worked in
25 excess of forty hours in one workweek, and/or for the first eight hours worked on the seventh
26 consecutive day of one workweek.

27 75. Labor Code section 510 and Section 3 of the applicable Wage Order also require
28 employers to pay non-exempt employees overtime wages of no less than two times their respective

1 regular rates of pay for all hours worked in excess of twelve hours in one workday and for all hours
2 worked in excess of eight hours on a seventh consecutive workday during the workweek.

3 76. Plaintiffs are informed and believes that, at all relevant times, Defendants have applied
4 centrally devised policies and practices to him and **Hourly Employee Class** members with respect to
5 working conditions and compensation arrangements.

6 77. At all relevant times, Defendants failed to pay hourly wages to Plaintiffs and **Hourly**
7 **Employee Class** members for all time worked, including but not limited to, overtime hours at
8 statutory and/or agreed rates.

9 78. Plaintiffs and **Hourly Employee Class** members were not paid proper wages and
10 overtime for all hours worked, at the proper rates of pay. Specifically, regarding their uncompensated
11 pre-shift duties, Plaintiffs and **Hourly Employee Class** members were systemically required to arrive
12 to work early and undergo mandatory COVID-19 screening measures, including temperature checks
13 as well as having to complete questionnaires, prior to being allowed to clock in for work. Then,
14 Plaintiffs and **Hourly Employee Class** members were required to put away their personal items that
15 they brought to work. Finally, Plaintiffs and **Hourly Employee Class** members were required to
16 spend time waiting for the time-clock kiosk to open.

17 79. Additionally, Plaintiffs and **Hourly Employee Class** members were required to
18 perform work-related tasks during their unpaid meal breaks, when such breaks were taken. The
19 forgoing and uncompensated working time was under the direction and control of Defendants, for
20 which no wages were paid.

21 80. The forgoing and uncompensated working time was under the direction and control
22 of Defendants, for which no wages were paid.

23 81. This uncompensated time caused Plaintiffs and **Hourly Employee Class** members to
24 work in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week,
25 entitling Plaintiffs and **Hourly Employee Class** members to minimum and overtime wages, which
26 they were systemically denied.

27 82. As a result of Defendants' unlawful conduct, Plaintiffs and **Hourly Employee Class**
28 members have suffered damages in an amount, subject to proof, to the extent they were not paid the

1 full amount of wages earned during each pay period during the applicable limitations period,
2 including overtime wages.

3 83. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiffs, on
4 behalf of themselves and **Hourly Employee Class** members, seek to recover unpaid straight time and
5 overtime wages, interest thereon and costs of suit.

6 84. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
7 substantial benefit doctrine, and/or the common fund doctrine, Plaintiffs, on behalf of themselves and
8 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PAY PROPER SICK PAY**

11 **(Lab. Code § 246)**

12 **(Plaintiffs and Sick Pay Class)**

13 85. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
14 full herein.

15 86. Labor Code Section 246 affords an employee "who works in California for 30 or
16 more days within a year from the commencement of employment [] paid sick days . . . of not less
17 than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid
18 time off by the 120th calendar day of employment or each calendar year, or in each 12-month
19 period."

20 87. Additionally, Subsection (l) of Section 246 provides:

21 For the purposes of this section, an employer shall calculate paid sick leave
22 using any of the following calculations:

23 (1) Paid sick time for nonexempt employees shall be calculated in the same
24 manner as the regular rate of pay for the workweek in which the employee
25 uses paid sick time, whether or not the employee actually works overtime
26 in that workweek.

26 88. Defendants had a common policy and practice of systemically failing to pay Plaintiffs
27 and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law, at the
28 employees' applicable regular rates of pay. Specifically, the sick pay paid to Plaintiffs and **Sick Pay**

1 **Class** Members did not account for the performance-based non-discretionary bonuses, which were
2 never factored into the rate upon which sick pay was accrued and paid.

3 89. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages
4 pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and
5 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties
6 pursuant to Labor Code § 558(a).

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

9 **(Lab. Code § 226)**

10 **(Plaintiffs and Wage Statement Penalties Sub-Class)**

11 90. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
12 herein.

13 91. Labor Code section 226(a) states:

14 “An employer, semimonthly or at the time of each payment of wages, shall furnish to
15 his or her employee, either as a detachable part of the check, draft, or voucher paying
16 the employee’s wages, or separately if wages are paid by personal check or cash, an
17 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
18 worked by the employee, except as provided in subdivision (j), (3) the number of
19 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
20 rate basis, (4) all deductions, provided that all deductions made on written orders of
21 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the name of the
23 employee and only the last four digits of his or her social security number or an
24 employee identification number other than a social security number, (8) the name and
25 address of the legal entity that is the employer and, if the employer is a farm labor
26 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
27 legal entity that secured the services of the employer, and (9) all applicable hourly
28 rates in effect during the pay period and the corresponding number of hours worked at
each hourly rate by the employee and, beginning July 1, 2013, if the employer is a
temporary services employer as defined in Section 201.3, the rate of pay and the total
hours worked for each temporary services assignment. The deductions made from
payment of wages shall be recorded in ink or other indelible form, properly dated,
showing the month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at the place of
employment or at a central location within the State of California. For purposes of
this subdivision, ‘copy’ includes a duplicate of the itemized statement provided to an
employee or a computer-generated record that accurately shows all of the information
required by this subdivision.”

92. The Division of Labor Standards Enforcement (“DLSE”) has sought to harmonize the
“detachable part of the check” provision and the “accurate itemized statement in writing” provision

1 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
2 retains the right to elect to receive a written paper stub or record and that those who are provided with
3 electronic wage statements retain the ability to easily access the information and convert the electronic
4 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

5 93. Plaintiffs are informed and believes that, at all relevant times during the applicable
6 limitations period, Defendants have failed to provide **Wage Statement Class** members with written
7 wage statements as described above. Additionally, the wage statements issued to class members
8 failed to account for the unpaid minimum wages, overtime, and premium pay wages described
9 above.

10 94. Furthermore, Defendants failed to provide Plaintiffs and **Wage Statement Class**
11 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE
12 Opinion Letters. Plaintiffs' and **Wage Statement Class** members' wage statement were only
13 provided in electronic format in violation of Labor Code § 226.

14 95. Additionally, the wage statements issued to Plaintiffs and Class Members failed to
15 include the "name and address of the legal entity that is the employer" as required by Labor Code §
16 226(a)(8).

17 96. Plaintiffs are informed and believes that Defendants' failure to provide her and **Wage**
18 **Statement Class** members with accurate written wage statements were intentional in that Defendants
19 have the ability to provide them with accurate wage statements but have intentionally provided them
20 with written wage statements that Defendants have known do not comply with Labor Code section
21 226(a).

22 97. Plaintiffs and **Wage Statement Class** members have suffered injuries, in that
23 Defendants have violated their legal rights to receive accurate wage statements and have misled them
24 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
25 statements have prevented immediate challenges to Defendants' unlawful pay practices, has required
26 discovery and mathematical computations to determine the amount of wages owed, has caused
27 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
28 submission of inaccurate information about wages and deductions to federal and state government

1 agencies.

2 98. Pursuant to Labor Code section 226(e), Plaintiffs, on behalf of themselves and **Wage**
3 **Statement Class** members, seek the greater of actual damages or \$50.00 for the initial pay period in
4 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
5 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
6 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

7 **SIXTH CAUSE OF ACTION**

8 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

9 **(Lab. Code §§ 201-203)**

10 **(Plaintiffs and Waiting Time Penalties Sub-Class)**

11 99. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
12 herein.

13 100. At all relevant times, Plaintiffs and **Waiting Time Penalties Sub-Class** members have
14 been entitled, upon the end of their employment with Defendants, to timely payment of all wages
15 earned and unpaid before termination or resignation.

16 101. At all relevant times, pursuant to Labor Code section 201, employees who have been
17 discharged have been entitled to payment of all final wages immediately upon termination.

18 102. At all relevant times, pursuant to Labor Code section 202, employees who have
19 resigned after giving at least seventy-two (72) hours notice of resignation have been entitled to
20 payment of all final wages at the time of resignation.

21 103. Plaintiffs are informed and believes that, at all relevant time during the applicable
22 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
23 members all of their final wages in accordance with the Labor Code.

24 104. Plaintiffs are informed and believes that, at all relevant times during the applicable
25 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
26 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
27 sections 201 or 202 by failing to timely pay them all final wages.

28 105. Plaintiffs are informed and believe and thereupon allege that Defendants' failure to

1 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members have been willful
2 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
3 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
4 requirements.

5 106. Pursuant to Labor Code sections 203 and 218.6, Plaintiffs, on behalf of themselves
6 and **Waiting Time Penalties Sub-Class** members, seek waiting time penalties from the dates that
7 their final wages have first become due until paid, up to a maximum of thirty days, and interest
8 thereon.

9 107. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
10 and/or the common fund doctrine, Plaintiffs, on behalf of themselves and **Waiting Time Penalties**
11 **Sub-Class** members, seek awards of reasonable attorneys' fees and costs.

12 SEVENTH CAUSE OF ACTION

13 FAILURE TO INDEMNIFY

14 (Lab. Code § 2802)

15 (Plaintiffs and Reimbursement Class)

16 108. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
17 herein.

18 109. Labor Code section 2802(a) states:

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

22 110. Plaintiffs and **Expense Reimbursement Class Members** were not reimbursed for
23 business expenses incurred in executing their duties under Defendant's employ. Specifically,
24 Specifically, Plaintiffs and **Expense Reimbursement Class Members** were required to pay purchase
25 cellular phones and cellular phone service all necessary to perform, their duties under Defendants'
26 employ. Plaintiffs and **Expense Reimbursement Class Members** were not reimbursed for these
27 necessary work-related expenses.

28 111. Accordingly, Plaintiffs and **Expense Reimbursement Class** members are entitled to

1 restitution for all unpaid amounts due and owing to within four years of the date of the filing of the
2 Complaint and until the date of entry of judgment.

3 112. Plaintiffs, on behalf of themselves, and **Expense Reimbursement Class** members,
4 seeks interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees
5 pursuant to Code of Civil Procedure section 1021.5.

6 **EIGHTH CAUSE OF ACTION**

7 **UNFAIR COMPETITION**

8 **(Bus. & Prof. Code §§ 17200 *et seq.*)**

9 **(Plaintiffs and UCL Class)**

10 113. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
11 herein.

12 114. Business and Professions Code section 17200 defines "unfair competition" to include
13 any unlawful business practice.

14 115. Business and Professions Code section 17203-17204 allow a person who has lost
15 money or property as a result of unfair competition to bring a class action in accordance with Code
16 of Civil Procedure section 382 to recover money or property that may have been acquired from
17 similarly situated persons by means of unfair competition.

18 116. California law requires employers to pay hourly, non-exempt employees for all hours
19 they are permitted or suffered to work, including hours that the employer knows or reasonable should
20 know that employees have worked.

21 117. Plaintiffs and the **UCL Class** members re-allege and incorporate the FIRST,
22 SECOND, THIRD, FOURTH, and SEVENTH causes of action herein.

23 118. Plaintiffs lost money or property as a result of the aforementioned unfair competition.

24 119. Defendants have or may have acquired money by means of unfair competition.

25 120. Plaintiffs are informed and believes and thereupon allege that by committing the Labor
26 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
27 226.6, 226.7, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and
28 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations

1 alleged herein.

2 121. Defendants have committed criminal conduct through their policies and practices of,
3 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
4 employees with compliant meal and rest periods; pay for all hours worked at the proper rates of pay;
5 proper sick time pay; reporting time pay; and reimbursement for necessary business expenditures.

6 122. Defendants' unlawful conduct as alleged in this Complaint amounts to and constitutes
7 unfair competition within the meaning of Business and Professions Code section 17200 *et seq.*
8 Business and Professions Code sections 17200 *et seq.* protects against unfair competition and allows
9 a person who has suffered an injury-in-fact and has lost money or property as a result of an unfair,
10 unlawful or fraudulent business practice to seek restitution on his own behalf and on behalf of
11 similarly situated persons in a class action proceeding.

12 123. As a result of Defendants' violations of the Labor Code during the applicable
13 limitations period, Plaintiffs have suffered an injury-in-fact and has lost money or property in the
14 form of earned wages. Specifically, Plaintiffs have lost money or property as a result of Defendants'
15 conduct.

16 124. Plaintiffs are informed and believes that other similarly situated persons have been
17 subject to the same unlawful policies or practices of Defendants.

18 125. Due to the unfair and unlawful business practices in violation of the Labor Code,
19 Defendants have gained a competitive advantage over other comparable companies doing business in
20 the State of California that comply with their legal obligations.

21 126. California's Unfair Competition Law ("UCL") permits civil recovery and injunctive
22 for "any unlawful, unfair or fraudulent business act or practice," including if a practice or act violates
23 or is considered unlawful under any other state or federal law.

24 127. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
25 Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining
26 Defendants, and each of them, and their agents and employees, from further violations of the Labor
27 Code and applicable Wage Orders.

28 128. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs

1 request the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants,
2 and each of them, and their agents and employees, from further violations of the Labor Code and
3 applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an order
4 permanently enjoining Defendants, and each of them, and their respective agents and employees,
5 from further violations of the Labor Code and applicable Industrial Welfare Commission Wage
6 Orders.

7 129. Pursuant to Business and Professions Code section 17203, Plaintiffs, on behalf of
8 themselves and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
9 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
10 and unfair business practices.

11 130. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
12 and/or the common fund doctrine, Plaintiffs and **UCL Class** members are entitled to recover
13 reasonable attorneys' fees in connection with their unfair competition claims.

14 131. Pursuant to Business and Professions Code section 17203, Plaintiffs, on behalf of
15 themselves and **UCL Class** members, seek declaratory relief and restitution of all monies rightfully
16 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
17 and unfair business practices.

18 132. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
19 and/or the common fund doctrine, Plaintiffs and **UCL Class** members are entitled to recover
20 reasonable attorneys' fees in connection with their unfair competition claims.

21 **NINTH CAUSE OF ACTION**

22 **CIVIL PENALTIES**

23 **(Lab. Code §§ 2698 *et seq.*)**

24 133. Plaintiffs incorporate the preceding paragraphs as if fully alleged herein.

25 134. During the applicable limitations period, Defendants have violated Labor Code §§
26 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 432.5, 510, 512, 515, 558, 558.1, 1174, 1174.5,
27 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.

28 135. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of

1 themselves and other current and former employees, to bring a representative civil action to recover
2 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be
3 brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

4 136. Plaintiffs, former employees against whom Defendants committed one or more of the
5 alleged Labor Code violations during the applicable limitations period, as detailed above, are
6 aggrieved employees within the meaning of Labor Code § 2699(c).

7 137. Additionally, The IWC Wage Order requires employers to maintain the temperature
8 in each work area providing reasonable comfort consistent with industry wide standards for the nature
9 of the process and the work performed. The IWC Wage Order states: “the temperature maintained in
10 each work area shall provide reasonable comfort consistent with industry-wide standards for the
11 nature of the process and the work performed. If excessive heat or humidity is created by the work
12 process, the employer shall take all feasible means to reduce such excessive heat or humidity to a
13 degree providing reasonable comfort.”

14 138. Finally, California Business and Professions Code provides, “every contract by which
15 anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that
16 extent void.” (Bus. & Prof. Code, § 16600.)

17 139. Additionally, Labor Code § 432.5 states:

18 No employer, or agent, manager, superintendent, or officer thereof, shall
19 require any employee or applicant for employment to agree, in writing, to
20 any term or condition which is known by such employer, or agent,
21 manager, superintendent, or officer thereof to be prohibited by law.

22 140. Defendants had a common policy and practice of requiring Aggrieved Employees to
23 sign an agreement, as a condition of employment, which violates California law. Specifically, as a
24 condition of their employment, Aggrieved Employees were required to sign an unlawful non-compete
25 agreement which prohibited Aggrieved Employees from seeking or engaging in lawful and gainful
26 employment in violation of Business and Professions Code § 16600. As such, as this unlawful
27 agreement was a condition of Aggrieved Employees’ employment, Defendants have violated Labor
28 Code § 432.5.

141. As addressed in detail above, Defendants failed to reduce excessive heat to a degree

1 providing employees with reasonable comfort. The temperature in Defendants' workspace was well
2 above what is legally allowed constituting violations of Labor Code § 1198 and § 2699(f)(2).

3 142. Plaintiffs have complied with the procedures for bringing suit specified in Labor Code
4 § 2699.3. Notice was provided to the California Labor & Workforce Development Agency
5 ("LWDA") and 65 days have elapsed without the LWDA providing Plaintiffs with any notice of an
6 intent to investigate.

7 143. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs seek the following civil
8 penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a), 246,
9 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 10 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 246, 432.5, 1174, 1194,
11 1198 and 2802, one hundred dollars (\$100) for each employee per pay period
12 for each initial violation and two hundred dollars (\$200) for each employee per
13 pay period for each subsequent violation (penalties set by Labor Code §
14 2699(f)(2));
- 15 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
16 (30) days' pay as waiting time (penalties set by Labor Code § 256);
- 17 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
18 employee for each initial violation that was neither willful nor intentional, two
19 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
20 withheld from each employee, for each initial violation that was either willful
21 or intentional, and two hundred dollars (\$200) for each employee, plus twenty-
22 five percent (25%) of the amount unlawfully withheld from each employee,
23 for each subsequent violation, regardless of whether the subsequent violation
24 was either willful or intentional (penalties set by Labor Code § 210);
- 25 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
26 employee for each initial violation that was neither willful nor intentional, two
27 hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of
28

1 the amount unlawfully withheld from each employee, for each initial violation
2 that was either willful or intentional, and two hundred dollars (\$200) for each
3 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
4 from each employee, for each subsequent violation, regardless of whether the
5 subsequent violation was either willful or intentional (penalties set by Labor
6 Code § 225.5);

7 v. For violations of Labor Code § 226(a), if this action is deemed to be an initial
8 citation, two hundred and fifty dollars (\$250) for each employee for each
9 violation. Alternatively, if an initial citation or its equivalent occurred before
10 the filing of this action, one thousand dollars (\$1,000) for each employee for
11 each violation (penalties set by Labor Code § 226.3);

12 vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
13 employee for each initial pay period for which the employee was underpaid,
14 and one hundred dollars (\$100) for each employee for each subsequent pay
15 period for which the employee was underpaid (penalties set by Labor Code §
16 558);

17 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
18 aggrieved employee for each initial violation of Labor Code § 1197 that was
19 intentional and two hundred and fifty dollars (\$250) for each aggrieved
20 employee per pay period for each subsequent violation of Labor Code § 1197,
21 regardless of whether the initial violation was intentional (penalties set by
22 Labor Code § 1197.1);

23 viii. Pursuant to Labor Code § 2699(g), Plaintiffs seek an award of reasonable
24 attorneys' fees and costs in connection with Plaintiffs' claims for civil
25 penalties.

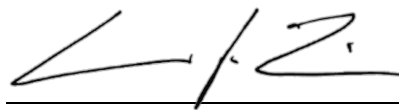
26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly situated, and the
28 general public, pray for relief and judgment against Defendants as follows:

- a. An order that the action be certified as a class action;
- b. An order that Plaintiffs be appointed class representatives;
- c. An order that counsel for Plaintiffs be appointed class counsel;
- d. Unpaid wages and overtime;
- e. Actual damages;
- f. Liquidated damages;
- g. Unreimbursed expenses;
- h. Restitution;
- i. Declaratory relief;
- j. Pre-judgment interest;
- k. Statutory penalties;
- l. Civil penalties;
- m. Costs of suit;
- n. Reasonable attorneys' fees; and
- o. Such other relief as the Court deems just and proper.

Dated: February 3, 2025

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Enoch J Kim
Attorneys for Plaintiff
RASHEDA K. KIRBY, and the putative class

1 DATED: February 3, 2025

JUSTICE FOR WORKERS, P.C.

2
3 By: /s/ William Sung

4 William C. Sung

5 Tiffany L. Luu

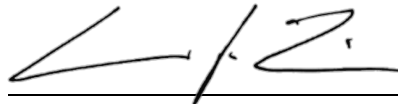
6 Attorneys for Plaintiff AMOURA BURTON

7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs, on behalf of themselves, all other similarly situated, and the general public, hereby
9 demands a jury trial on all issues so triable.

10
11 Dated: February 3, 2025

D.LAW, INC.

12
13 

14 Emil Davtyan

15 David Yeremian

16 David Keledjian

David Arakelyan

17 Enoch Kim

Attorneys for Plaintiff

18 RASHEDA K. KIRBY, and the putative class

19 DATED: February 3, 2025

JUSTICE FOR WORKERS, P.C.

20
21 By: /s/ William Sung

22 William C. Sung

23 Tiffany L. Luu

24 Attorneys for Plaintiff AMOURA BURTON

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 450 N Brand Blvd., Suite 840, Glendale, CA 91205.

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Attorneys for Plaintiff AMOURA BURTON

[] **(BY MAIL)** I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

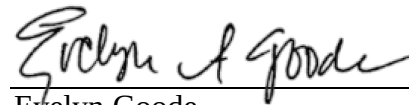
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1 **[] (BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package
2 provided by an overnight delivery carrier and addressed to the persons at the address above. I
3 placed the envelope or package for collection and overnight delivery at an office or a regularly
4 utilized drop box of the overnight delivery carrier.

5 **[X] (BY ELECTRONIC TRANSMISSION)** by use of email by scanning the documents and
6 any and all documents and emailing them to email addresses above.

7 **[X] (STATE)** I certify (or declare) under penalty of perjury under the laws of the State of
8 California that the foregoing is true and correct.

9 Executed on February 3, 2025, at Glendale, California.

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Evelyn Goode