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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

ISAAC MARTINEZ and ALFREDO
MENDEZ, on behalf of themselves and all
others similarly situated, the State of
California, and the general public,

Plaintiff,

v.

3 S NETWORK, INC., a Washington
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: STK-CV-UOE-2023-11074

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

**FIRST 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 Reporting Time Wages;
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.*);
9. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

BY FAX

1 Plaintiffs ISAAC MARTINEZ and ALFREDO MENDEZ (“Plaintiffs”), on behalf of
2 themselves, all others similarly situated, the State of California, and the general public, complains
3 and alleges as follows:

4 **INTRODUCTION**

5 1. Plaintiffs bring this class and representative action against Defendants 3 S
6 NETWORK, INC., a Washington corporation; and DOES 1 through 50, inclusive, (collectively
7 referred to as “Defendants”) for alleged violations of the California Labor Code and California
8 Business and Professions Code. As set forth below, Plaintiffs allege that Defendants have:

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

18 Based on these alleged Labor Code violations, Plaintiffs now bring this class and
19 representative action to recover unpaid wages, liquidated damages, civil and statutory penalties,
20 restitution, and related relief on behalf of themselves, all others similarly situated, the State of
21 California, and the general public.

22 **JURISDICTION AND VENUE**

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

26 3. Venue is proper in the County of San Joaquin pursuant to Code of Civil Procedure
27 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
28 that are the subject matter of this Complaint occurred therein and/or each defendant is found,

1 maintains offices, transacts business and/or has an agent therein.

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

5 **PARTIES**

6 5. Plaintiff ISAAC MARTINEZ is, and at all relevant times mentioned herein, an
7 individual residing in the State of California.

8 6. Plaintiff ALFREDO MENDEZ is, and at all relevant times mentioned herein, an
9 individual residing in the State of California.

10 7. Plaintiffs are informed and believe, and thereupon allege that Defendant 3 S
11 NETWORK, INC., is, and at all relevant times mentioned herein, a Washington corporation doing
12 business in the State of California.

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

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

27 10. Plaintiffs are informed and believe, and thereupon allege that, at all relevant times
28 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and

1 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts
2 and omissions alleged herein.

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

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

- 9 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
10 separately, and/or any staffing agencies and/or any other third parties in hourly or
11 non-exempt positions in California four years prior to the filing of this action and
12 ending on the date that final judgment is entered in this action (“Hourly Employee
13 Class”).
- 14 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
15 a shift in excess of five hours during the four years prior to the filing of this action
16 and ending on the date that final judgment is entered in this action.
- 17 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
18 shift of at least three and one-half (3.5) hours the four years prior to the filing of
19 this action and ending on the date that final judgment is entered in this action.
- 20 d. **Reporting Time Pay Sub-Class:** All **Hourly Employee Class** members who
21 were required to call in or otherwise show up to work without being paid half of
22 their usual or scheduled day's work from four years prior to the filing of this action
23 and ending on the date that final judgment is entered in this action.
- 24 e. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
25 separated from their employment with Defendants during the period beginning
26 three years before the filing of this action and ending when final judgment is
27 entered.
- 28 f. **Wage Statement Class:** All persons employed by Defendants in California during
the period beginning one year before the filing of this action and ending when final
judgment is entered.
- g. **Expense Reimbursement Class:** All persons employed by Defendants in
California who incurred business expenses during the **Relevant Time Period**.
- h. **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class**
members employed by Defendants in California during the four years prior to the
filing of this action and ending on the date that final judgment is entered in this
action.

13. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiffs reserve the right
to amend or modify the class definitions with greater specificity, by further division into sub-classes

1 and/or by limitation to particular issues.

2 14. **Numerosity**: The class members are so numerous that the individual joinder of each
3 individual class member is impractical. While Plaintiffs do not currently know the exact number of
4 class members, Plaintiffs are informed and believe, and thereupon allege that the actual number
5 exceeds the minimum required for numerosity under California law.

6 15. **Commonality and Predominance**: Common questions of law and fact exist as to all
7 class members and predominate over any questions which affect only individual class members.
8 These common questions include, but are not limited to:

- 9 a. Whether Defendants maintained a policy or practice of failing to provide
10 employees with their rest periods;
- 11 b. Whether Defendants maintained a policy or practice of failing to provide
12 employees with their meal periods;
- 13 c. Whether Defendants failed to pay premium wages to class members when they
14 have not been provided with meal and rest periods at the appropriate rates of pay;
- 15 d. Whether Defendants failed to pay minimum and/or overtime wages to class
16 members for all time worked;
- 17 e. Whether Defendants maintained a policy or practice of failing to pay proper
18 reporting time pay;
- 19 f. Whether Defendants failed to provide class members with accurate written wage
20 statements as a result of providing them with written wage statements with
21 inaccurate entries for, among other things, amounts of gross and net wages, and
22 total hours worked;
- 23 g. Whether Defendants applied policies or practices that result in late and/or
24 incomplete final wage payments;
- 25 h. Whether Defendants failed to reimburse class members for all necessary business
26 expenses incurred during the discharge of their duties;
- 27 i. Whether Defendants are liable to class members for waiting time penalties under
28 Labor Code section 203; and

j. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

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

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

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

19. **Superiority:** A class action is vastly superior to other available means for fair and efficient adjudication of the class members' claims and would be beneficial to the parties and the Court. Class action treatment will allow a number of similarly situated persons to simultaneously and efficiently prosecute their common claims in a single forum without the unnecessary duplication of effort and expense that numerous individual actions would entail. In addition, the monetary amounts due to many individual class members are likely to be relatively small and would thus make it difficult, if not impossible, for individual class members to both seek and obtain relief. Moreover, a class action will serve an important public interest by permitting class members to effectively pursue the recovery of monies owed to them. Further, a class action will prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

GENERAL ALLEGATIONS

20. Plaintiffs worked for Defendants as non-exempt employees during the relevant and statutory periods.

21. Defendants had a common policy and practice of systemically failing to pay Plaintiffs

1 and Class members proper wages and overtime for all hours worked, at the proper rates of pay. First,
2 Defendants implemented an unlawful time-rounding policy and practice which rounded down and
3 reduced the actual working hours recorded by Plaintiffs and Class Members, and upon which their
4 pay was based, and generally did so to the detriment of the Plaintiffs and Class Members, and these
5 unlawfully rounded time entries were inputted into Defendants' payroll system from which wage
6 statements and payroll checks were created. Defendants did so with the ostensible intent of paying
7 Plaintiffs and Class members only for the hours they were scheduled to work, rather than the hours
8 they were actually under Defendants' control. Plaintiffs contend this policy is not neutral and results,
9 over time, to the detriment of the Plaintiffs and Class members by systematically undercompensating
10 them.

11 22. Additionally, Defendants failed to pay Plaintiffs and Class Members minimum wages
12 for work performed under the direction and control of Defendants. Specifically, Plaintiffs and Class
13 Members would travel for work-related purposes. However, Defendants only paid Plaintiffs and Class
14 Members \$13 per hour for this travel time, below the California statutory minimum wage of \$15 per
15 hour.

16 23. Next, Plaintiffs and Class Members were also consistently required to perform work,
17 off-the-clock, for which they were not paid wages. Specifically, Plaintiffs and Class Members were
18 systemically denied full 30-minute, uninterrupted, meal periods. However, Defendants implemented
19 a common policy and practice of automatically deducting 30-minutes of wages for alleged meal
20 periods which were systemically denied. Further, Plaintiffs and Class Members were required to use
21 their personal cell phone, off the clock, for work related activities, including worksite updates,
22 pictures, and work emails. Also, Plaintiffs and Class Members were required to send text messages
23 and communicate with management, with their cellular phones, off-the-clock. Finally, Plaintiffs and
24 Class Members were required to travel for work but were undercompensated for this working time.
25 The forgoing and uncompensated working time was under the direction and control of Defendants,
26 for which no wages were paid.

27 24. This uncompensated time caused Plaintiffs and Class Members to work in excess of
28 eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiffs

1 and Class Members to minimum and overtime wages, which they were systemically denied.

2 25. Plaintiffs and Class Members regularly worked in excess of eight (8), ten (10) and/or
3 twelve (12) hours a day and/or forty (40) hours a week, but were never paid overtime wages at the
4 proper rates of pay. Moreover, Defendants also failed to Plaintiffs and Class Members overtime wages
5 at the proper and applicable regular rates of pay. Specifically, Plaintiffs and Class Members earned
6 commissions, performance-based non-discretionary bonuses, and/or “Additional Earnings” in
7 addition to their hourly pay. Additionally, Plaintiffs and Class Members did not have their regular
8 rates of pay calculated correctly as Defendants failed to pay Plaintiffs and Class Members minimum
9 wages and overtime for travel time. However, these supplemental earnings were not accounted for
10 when determining Plaintiffs and Class Members’ regular rates of pay, and respective and proper
11 overtime rates of pay.

12 26. Defendants had a common policy and practice of systemically denying Plaintiffs and
13 Class Members the opportunity to take meal periods in compliance with the California Law.
14 Specifically, Plaintiffs and Class Members were systemically denied full 30-minute, uninterrupted,
15 meal periods. However, Defendants implemented a common policy and practice of automatically
16 deducting 30-minutes of wages for alleged meal periods which were systemically denied. Moreover,
17 Plaintiffs and Class Members were required to work in excess of ten (10) and twelve (12) hours a day
18 without being afforded the opportunity to take second compliant meal periods, to which they were
19 entitled.

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

26 28. Defendants had a common policy and practice of systemically denying Plaintiffs and
27 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiffs
28 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)

1 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
2 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more and
3 third rest breaks for shifts of ten (10) hours or more; (2) no formal compliant written rest period policy
4 that encouraged employees to take their rest periods, or that properly advised Plaintiffs and Class
5 Members of their rest period rights; and (3) Defendants' policy and practice of requiring putative
6 class members to continue working through their rest breaks due to the excessive workload.

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

9 30. Defendants also had a common policy and practice of failing to pay Plaintiffs and
10 Class Members all reporting time pay to which they were entitled under California Law. Specifically,
11 Plaintiffs and Class Members were required to show up to work but dismissed within two (2) hours
12 of working without being paid reporting time pay for the shift.

13 31. Plaintiffs and Class Members were not provided with accurate wage statements as
14 mandated by law pursuant to Labor Code section 226. Specifically, Defendants failed to issue wage
15 statements as "a detachable part of the check, draft, or voucher paying the employee's wages, or
16 separately if wages are paid by personal check or cash, an accurate itemized statement in writing."
17 Additionally, the wage statements issued to Plaintiffs and Class Members were not recorded in "ink
18 or other indelible form."

19 32. Defendants failed to comply with Labor Code section 226(a)(1) as "gross wages
20 earned" were not accurately reflected in that: all hours worked, including overtime, were not included.

21 33. Defendants failed to comply with Labor Code section 226(a)(2) as "total hours worked
22 by the employee" were not accurately reflected in that: all hours worked, including overtime, were
23 not included.

24 34. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"
25 were not accurately reflected in that: all hours worked, including overtime, were not included.

26 35. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable
27 hourly rates in effect during the pay period and the corresponding number of hours worked at each
28 hourly rate by the employee" were not accurately reflected in that: all hours worked, including

overtime, were not included.

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

37. Plaintiffs and Class Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiffs and Class Members were required to use their personal cellular phones and cellular phone service for work purposes, incurring costs for phone use and maintenance. Additionally, Plaintiffs and Class Members were required to purchase tools, protective gear, hard hats, and visibility clothing all necessary to perform their duties under Defendants' employ. Plaintiffs and Class members were not reimbursed for these necessary work-related expenses.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

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

(Plaintiffs and Meal Period Sub-Class)

38. Plaintiffs incorporate by reference the preceding paragraphs of the Complaint as if fully alleged herein.

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

40. Labor Code section 512 and Section 11 of the applicable Industrial Welfare Commission Wage Order impose an affirmative obligation on employers to provide non-exempt employees with uninterrupted, duty-free meal periods of at least thirty minutes for each work period of five hours, and to provide them with two uninterrupted, duty-free meal periods of at least thirty minutes for each work period of ten hours.

41. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work

1 during required meal periods and require employers to pay non-exempt employees an hour of
2 premium wages on each workday that the employee is not provided with the required meal period.

3 42. Compensation for missed meal periods constitutes wages within the meaning of Labor
4 Code section 200.

5 43. Labor Code section 1198 makes it unlawful to employ a person under conditions that
6 violate the applicable Wage Order.

7 44. Section 11 of the applicable Wage Order states:

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

15 45. At all relevant times, Plaintiffs were not subject to a valid on-duty meal period
16 agreement. Plaintiffs are informed and believes that, at all relevant times, **Meal Period Sub-Class**
17 members were not subject to valid on-duty meal period agreements with Defendants.

18 46. Plaintiffs allege that, at all relevant times during the applicable limitations period,
19 Defendants maintained a policy or practice of not providing Plaintiffs and members of the **Meal**
20 **Period Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each
21 five (5) hour work period, as required by Labor Code section 512 and the applicable Wage Order.
22 Specifically, Plaintiffs and **Meal Period Sub-Class** members were systemically denied full 30-
23 minute, uninterrupted, meal periods. However, Defendants implemented a common policy and
24 practice of automatically deducting 30-minutes of wages for alleged meal periods which were
25 systemically denied. Moreover, Plaintiffs and **Meal Period Sub-Class** members were required to
26 work in excess of ten (10) and twelve (12) hours a day without being afforded the opportunity to take
27 second compliant meal periods, to which they were entitled, as required by Labor Code 512 and the
28 applicable Wage Order.

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

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

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

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

12 51. 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 the **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PROVIDE REST PERIODS**

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

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

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

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

24 54. Section 12 of the applicable Wage Order imposes an affirmative obligation on
25 employers to permit and authorize employees to take required rest periods at a rate of no less than ten
26 (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must
27 be in the middle of each work period insofar as practicable.

28 55. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit

1 employers from requiring employees to work during required rest periods and require employers to
2 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
3 workday that the employee is not provided with the required rest period(s).

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

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

8 58. Plaintiffs allege that, at all relevant times during the applicable limitations period,
9 Defendants maintained a policy or practice of not providing members of the **Rest Period Sub-Class**
10 with net rest period of at least ten (10) uninterrupted minutes for each four (4) hour work period, or
11 major fraction thereof, as required by the applicable Wage Order.

12 59. Plaintiffs and **Rest Period Sub-Class** members were not provided with rest periods of
13 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
14 Defendants' policy of not scheduling each rest period as part of each work shift, including second
15 rest breaks for shifts of six (6) hours or more and third rest breaks for shifts of ten (10) hours or more;
16 (2) no formal compliant written rest period policy that encouraged employees to take their rest
17 periods, or that properly advised Plaintiffs and **Rest Period Sub-Class** members of their rest period
18 rights; and (3) Defendants' policy and practice of requiring **Rest Period Sub-Class** members to
19 continue working through their rest breaks due to the excessive workload.

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

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

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

28 ///

1 **THIRD CAUSE OF ACTION**

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

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

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

5 63. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
6 herein.

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

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

13 66. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
14 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours
15 that an employer has actual or constructive knowledge that employees are working.

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

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

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

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

28 71. Labor Code section 1198 makes it unlawful for employers to employ employees under

1 conditions that violate the applicable Wage Order.

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

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

8 74. Labor Code section 510 and Section 3 of the applicable Wage Order require employees
9 to pay non-exempt employees overtime wages of no less than one and one-half (1.5) times their
10 respective regular rates of pay for all hours worked in excess of eight (8) hours in one workday, all
11 hours worked in excess of forty (40) hours in one workweek, and/or for the first eight (8) hours
12 worked on the seventh consecutive day of one workweek.

13 75. Labor Code section 510 and Section 3 of the applicable Wage Order also require
14 employers to pay non-exempt employees overtime wages of no less than two (2) times their respective
15 regular rates of pay for all hours worked in excess of twelve (12) hours in one workday and for all
16 hours worked in excess of eight (8) hours on a seventh consecutive workday during the workweek.

17 76. Plaintiffs are informed and believe that, at all relevant times, Defendants have applied
18 centrally devised policies and practices to them and **Hourly Employee Class** members with respect
19 to working conditions and compensation arrangements.

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

23 78. Plaintiffs and **Hourly Employee Class** members were not paid proper wages and
24 overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful
25 time-rounding policy and practice which rounded down and reduced the actual working hours
26 recorded by Plaintiffs and **Hourly Employee Class**, and upon which their pay was based, and
27 generally did so to the detriment of the Plaintiffs and **Hourly Employee Class**, and these unlawfully
28 rounded time entries were inputted into Defendants' payroll system from which wage statements and

1 payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiffs and
2 **Hourly Employee Class** members only for the hours they were scheduled to work, rather than the
3 hours they were actually under Defendants' control. Plaintiffs contend this policy is not neutral and
4 results, over time, to the detriment of the Plaintiffs and **Hourly Employee Class** members by
5 systematically undercompensating them.

6 79. Plaintiffs and **Hourly Employee Class** members were consistently required to
7 perform work, off-the-clock for which they were not paid wages. Specifically, Plaintiffs and **Hourly**
8 **Employee Class** members were systemically denied full 30-minute, uninterrupted, meal periods.
9 However, Defendants implemented a common policy and practice of automatically deducting 30-
10 minutes of wages for alleged meal periods which were systemically denied. Further, Plaintiffs and
11 **Hourly Employee Class** members were required to use their personal cell phone, off the clock, for
12 work related activities, including worksite updates, pictures, and work emails. Also, Plaintiffs and
13 **Hourly Employee Class** members were required to send text messages and communicate with
14 management, with their cellular phones, off-the-clock. Finally, Plaintiffs and **Hourly Employee**
15 **Class** members were required to travel for work but were undercompensated for this working time.
16 The forgoing and uncompensated working time was under the direction and control of Defendants,
17 for which no wages were paid.

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

22 81. Plaintiffs and Class Members regularly worked in excess of eight (8), ten (10) and/or
23 twelve (12) hours a day and/or forty (40) hours a week, but were never paid overtime wages at the
24 proper rates of pay. Moreover, Defendants also failed to Plaintiffs and **Hourly Employee Class**
25 members overtime wages at the proper and applicable regular rates of pay. Specifically, Plaintiffs and
26 **Hourly Employee Class** members earned commissions, performance-based non-discretionary
27 bonuses, and/or "Additional Earnings" in addition to their hourly pay. Additionally, Plaintiffs and
28 **Hourly Employee Class** members did not have their regular rates of pay calculated correctly as

1 Defendants failed to pay Plaintiffs and **Hourly Employee Class** members minimum wages and
2 overtime for travel time. However, these supplemental earnings were not accounted for when
3 determining Plaintiffs and **Hourly Employee Class** members' regular rates of pay, and respective
4 and proper overtime rates of pay.

5 82. As a result of Defendants' unlawful conduct, Plaintiffs and **Hourly Employee Class**
6 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
7 full amount of wages earned during each pay period during the applicable limitations period,
8 including overtime wages.

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

12 84. 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 **Hourly Employee Class** members, seek to recover reasonable attorneys' fees.

15 **FOURTH CAUSE OF ACTION**

16 **RECOVERY OF REPORTING TIME PAY**

17 **(Plaintiffs and Reporting Time Pay Sub-Class)**

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

20 86. The IWC Wage Orders, require that reporting time pay be provided to any employee
21 who is required to report for work and does report, but is not put to work or is furnished less than
22 half said employee's usual or scheduled day's work.

23 87. Plaintiffs are informed and believe and thereon allege that all or substantially all the
24 **Reporting Time Pay Sub-Class** are subject to Defendants' policies and practices requiring them to
25 call in or otherwise show up to work but not being paid half said their usual or scheduled day's
26 work.

27 88. Defendants had a common policy and practice of failing to pay Plaintiffs and
28

1 **Reporting Time Pay Sub-Class** Members all reporting time pay to which they were entitled under
2 California Law. Specifically, Plaintiffs and **Reporting Time Pay Sub-Class** Members were required
3 to show up to work but dismissed within two (2) hours of working without being paid reporting time
4 pay for the shift.

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

9 **FIFTH CAUSE OF ACTION**

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

11 **(Lab. Code § 226)**

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

13 90. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
14 herein.

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

16 An employer, semimonthly or at the time of each payment of wages,
17 shall furnish to his or her employee, either as a detachable part of the
18 check, draft, or voucher paying the employee's wages, or separately if
19 wages are paid by personal check or cash, an accurate itemized
20 statement in writing showing (1) gross wages earned, (2) total hours
21 worked by the employee, except as provided in subdivision (j), (3) the
22 number of piece-rate units earned and any applicable piece rate if the
23 employee is paid on a piece-rate basis, (4) all deductions, provided that
24 all deductions made on written orders of the employee may be
25 aggregated and shown as one item, (5) net wages earned, (6) the
26 inclusive dates of the period for which the employee is paid, (7) the
27 name of the employee and only the last four digits of his or her social
28 security number or an employee identification number other than a
social security number, (8) the name and address of the legal entity that
is the employer and, if the employer is a farm labor contractor, as
defined in subdivision (b) of Section 1682, the name and address of the
legal entity that secured the services of the employer, and (9) all
applicable hourly 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

1 kept on file by the employer for at least three years at the place of
2 employment or at a central location within the State of California. For
3 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.

4 92. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the
5 "detachable part of the check" provision and the "accurate itemized statement in writing" provision
6 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
7 retains the right to elect to receive a written paper stub or record and that those who are provided with
8 electronic wage statements retain the ability to easily access the information and convert the electronic
9 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

10 93. Plaintiffs are informed and believe that, at all relevant times during the applicable
11 limitations period, Defendants have failed to provide Plaintiffs and **Wage Statement Class**
12 members with written wage statements as described above. Additionally, the wage statements
13 issued to class members failed to account for the unpaid minimum wages, overtime, and premium
14 pay wages described above.

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

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

24 96. Plaintiffs and **Wage Statement Class** members have suffered injuries, in that
25 Defendants have violated their legal rights to receive accurate wage statements and have misled them
26 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
27 statements has prevented immediate challenges to Defendants' unlawful pay practices, has required
28 discovery and mathematical computations to determine the amount of wages owed, has caused

1 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
2 submission of inaccurate information about wages and deductions to federal and state government
3 agencies.

4 97. Pursuant to Labor Code section 226(e), Plaintiffs, on behalf of themselves and **Wage**
5 **Statement Class** members, seek the greater of actual damages or \$50.00 for the initial pay period in
6 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
7 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
8 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

9 **SIXTH CAUSE OF ACTION**

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

11 **(Lab. Code §§ 201-203)**

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

13 98. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
14 herein.

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

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

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

23 102. Plaintiffs are informed and believe that, at all relevant times during the applicable
24 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
25 members all their final wages in accordance with the Labor Code.

26 103. Plaintiffs are informed and believe that, at all relevant times during the applicable
27 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
28 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code

1 sections 201 or 202 by failing to timely pay them all final wages.

2 104. Plaintiffs are informed and believe, and thereupon allege that Defendants' failure to
3 timely pay all final wages to him and **Waiting Time Penalties Sub-Class** members has been willful
4 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
5 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
6 requirements.

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

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

14 **SEVENTH CAUSE OF ACTION**

15 **FAILURE TO INDEMNIFY**

16 **(Lab. Code § 2802)**

17 **(Plaintiffs and Reimbursement Class)**

18 107. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
19 herein.

20 108. Labor Code section 2802(a) states:

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

26 109. Plaintiffs and **Expense Reimbursement Class** members were not reimbursed for
27 business expenses incurred in executing their duties under Defendant's employ. Specifically,
28 Plaintiffs and **Expense Reimbursement Class** members were required to use their personal cellular
phones and cellular phone service for work purposes. Additionally, Plaintiffs and **Expense**
Reimbursement Class members were required to purchase tools, protective gear, hard hats, and

1 visibility clothing all necessary to perform, their duties under Defendants' employ. Plaintiffs and
2 **Expense Reimbursement Class Members** were not reimbursed for these necessary work-related
3 expenses.

4 110. Accordingly, Plaintiffs and **Expense Reimbursement Class** members are entitled to
5 restitution for all unpaid amounts due and owing to within four (4) years of the date of the filing of
6 the Complaint and until the date of entry of judgment.

7 111. Plaintiffs, on behalf of themselves, and **Expense Reimbursement Class** members,
8 seek interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees
9 and costs pursuant to Code of Civil Procedure section 1021.5.

10 **EIGHTH CAUSE OF ACTION**

11 **UNFAIR COMPETITION**

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

13 **(Plaintiffs and UCL Class)**

14 112. Plaintiffs incorporate the preceding paragraphs of the Complaint as if fully alleged
15 herein.

16 113. Business and Professions Code section 17200 defines "unfair competition" to include
17 any unlawful business practice.

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

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

25 116. Plaintiffs and the **UCL Class** members re-allege and incorporate the FIRST,
26 SECOND, and FIFTH causes of action herein.

27 117. Plaintiffs lost money or property as a result of the aforementioned unfair competition.

28 118. Defendants have or may have acquired money by means of unfair competition.

1 119. Plaintiffs are informed and believe, and thereupon allege that by committing the Labor
2 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 225,
3 226.6, 226.7, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802
4 as well as applicable Wage Orders, which make it a misdemeanor to commit the violations alleged
5 herein.

6 120. Defendants have committed criminal conduct through their policies and practices of,
7 *inter alia*, failing to comport with their affirmative obligations as an employer to: provide non-exempt
8 employees with compliant meal periods; pay for all hours worked at the proper rates of pay; and
9 reimbursement for necessary business expenditures.

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

16 122. As a result of Defendants' violations of the Labor Code during the applicable
17 limitations period, Plaintiffs have suffered an injury-in-fact and have lost money or property in the
18 form of earned wages. Specifically, Plaintiffs have lost money or property as a result of Defendants'
19 conduct.

20 123. Plaintiffs are informed and believe that other similarly situated persons have been
21 subject to the same unlawful policies or practices of Defendants.

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

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

28 126. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,

1 Plaintiffs request the issuance of temporary, preliminary and permanent injunctive relief enjoining
2 Defendants, and each of them, and their agents and employees, from further violations of the Labor
3 Code and applicable Wage Orders.

4 127. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiffs
5 request the issuance of temporary, preliminary and permanent injunctive relief enjoining Defendants,
6 and each of them, and their agents and employees, from further violations of the Labor Code and
7 applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seek an order
8 permanently enjoining Defendants, and each of them, and their respective agents and employees,
9 from further violations of the Labor Code and applicable Industrial Welfare Commission Wage
10 Orders.

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

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

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

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

25 **NINTH CAUSE OF ACTION**

26 **CIVIL PENALTIES**

27 **(Lab. Code §§ 2698, *et seq.*)**

28 132. Plaintiffs incorporate the preceding paragraphs as if fully alleged herein.

1 133. During the applicable limitations period, Defendants have violated Labor Code §§
2 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 515, 558, 558.1, 1174, 1174.5, 1182.12, 1185,
3 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.¹

4 134. Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of
5 themselves and other current and former employees, to bring a representative civil action to recover
6 civil penalties pursuant to the procedures set forth in Labor Code § 2699.3 that may, but need not, be
7 brought or maintained as a class action pursuant to Code of Civil Procedure section 382.

8 135. Plaintiffs, former employees against whom Defendants committed one or more of the
9 alleged Labor Code violations during the applicable limitations period, are aggrieved employees
10 within the meaning of Labor Code § 2699(c). Plaintiffs were employed by Defendants as non-exempt
11 hourly employees in California. Aggrieved Employees include all non-exempt hourly employees of
12 Defendants within the state of California from one year prior to the date of this letter and continuing
13 through the present (Plaintiffs and Aggrieved Employees are collectively referred to herein as
14 “Aggrieved Employees”)

15 136. Plaintiffs have complied with the procedures for bringing suit specified in Labor Code
16 § 2699.3. Notice was provided to the California Labor & Workforce Development Agency
17 (“LWDA”) and 65 days have elapsed without the LWDA providing Plaintiffs with any notice of an
18 intent to investigate.

19 137. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs seek the following civil
20 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a), 510,
21 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 22 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 1174, 1194, 1198 and
23 2802, one hundred dollars (\$100) for each employee per pay period for each
24 initial violation and two hundred dollars (\$200) for each employee per pay
25

26 ¹ Plaintiffs hereby reserve the right to seek penalties on behalf of all Aggrieved Employees, for
27 Defendants’ violations of the applicable provisions of the Labor Code, suffered by Aggrieved
28 Employees, but not directly suffered by Plaintiffs under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745.

period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));

ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty (30) days' pay as waiting time (penalties set by Labor Code § 256);

iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 210);

iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each employee for each initial violation that was neither willful nor intentional, two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each initial violation that was either willful or intentional, and two hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each employee, for each subsequent violation, regardless of whether the subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);

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

vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each employee for each initial pay period for which the employee was underpaid,

1 and one hundred dollars (\$100) for each employee for each subsequent pay
2 period for which the employee was underpaid (penalties set by Labor Code §
3 558);

4 vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
5 aggrieved employee for each initial violation of Labor Code § 1197 that was
6 intentional and two hundred and fifty dollars (\$250) for each aggrieved
7 employee per pay period for each subsequent violation of Labor Code § 1197,
8 regardless of whether the initial violation was intentional (penalties set by
9 Labor Code § 1197.1);

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

13 **PRAYER FOR RELIEF**

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

- 16 a. An order that the action be certified as a class action;
17 b. An order that Plaintiffs be appointed class representatives;
18 c. An order that counsel for Plaintiffs be appointed class counsel;
19 d. Unpaid wages and overtime;
20 e. Actual damages;
21 f. Liquidated damages;
22 g. Unreimbursed expenses;
23 h. Restitution;
24 i. Declaratory relief;
25 j. Pre-judgment interest;

26 ///

27 ///

28 ///

- 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: December 21, 2023

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiffs
ISAAC MARTINEZ, ALFREDO MENDEZ, and
the putative class

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DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves, all other similarly situated, the State of California, and the
general public, hereby demand a jury trial on all issues so triable.

Dated: December 21, 2023

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiffs
ISAAC MARTINEZ, ALFREDO MENDEZ, and
the putative class

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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 880 E Broadway, Glendale, CA 91205.

Adam Apollo
JBV LAW & ASSOCIATES
700 E. Birch St., Unit 1242
Brea, CA 92822

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

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

Natalia Bermudes
Natalia Bermudes