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

JOHNATHAN VIGIL and TAMARA
CASTEEL, individuals, on behalf of
themselves and all persons similarly situated,
and on behalf of the State of California, as
private attorney general,

Plaintiffs,

v.

ALASKA AIRLINES, INC., a corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 24CV060637

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Unfair Competition In Violation Of Cal. Bus. & Prof. Code §§ 17200, *et seq.*;
2. Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 204, 218, 218.5, 1182.12, 1194, 1194.1, 1194.2, 1197 & 1197.1, And The Applicable IWC Wage Order;
3. Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510, 1194, And The Applicable IWC Wage Order;
4. Failure To Provide Required Meal Periods In Violation Of Cal. Lab. Code §§ 226.7, 512, 516, 558 And The Applicable IWC Wage Order;
5. Failure To Provide Required Rest Periods In Violation Of Cal. Lab. Code §§ 226.7, 512, 516, 558 And The Applicable IWC Wage Order;
6. Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab. Code §§ 226, 226.3, 558;
7. Failure To Reimburse Employees For Required Expenses In Violation Of Cal. Lab. Code § 2802, 2804;
8. Failure To Pay Sick Pay Wages In Violation Of Cal. Lab Code §§ 201-203, 210, 233, 246;
9. Failure to Pay to Pay All Wages Due to

FILED
Superior Court of California
County of Alameda

01/02/2025

Chad Flake, Executive Officer/Clerk of the Court

By: C. Huang Deputy
C. Huang

1 Discharged and Quitting Employees In
2 Violation Of Cal. Lab. Code §§ 201-204,
3 210, 227.3, 558;
4 10. Failure To Provide Suitable Seating In
5 Violation Of Cal. Lab. Code §§ 1198,
6 1194.5, California Code of Regulations,
7 Title 8, § 11040, Subdivision 7, And The
8 Applicable IWC Wage Order;
9 11. Failure To Maintain Records In
10 Violation Of Cal. Lab. Code § 226, 1174,
11 1174.5, And The Applicable IWC Wage
12 Order; and
13 12. Civil Penalties Pursuant to Labor Code §
14 2699, *et seq.* for violations of Labor Code §
15 201, 202, 203, 204, 210, 218, 218.5, 226,
16 226.3, 226.7, 227.3, 233, 246, 510, 512,
17 516, 558, 1174, 1174.5, 1182.12, 1194,
18 1194.1, 1194.2, 1194.5, 1197, 1197.1, 1198,
19 2699, 2802, 2804, California Code of
20 Regulations, Title 8, § 11040, Subdivision
21 5(A)-(B), California Code of Regulations,
22 Title 8, § 11040, Subdivision 7, California
23 Code of Regulations, Title 8, § 11070(14)
24 (Failure to Provide Seating), and the
25 applicable Wage Order(s).

14
15 **DEMAND FOR A JURY TRIAL**

1 **INTRODUCTION**

2 Plaintiffs Johnathan Vigil and Tamara Casteel (each a “PLAINTIFF” and, collectively,
3 “PLAINTIFFS”), individuals, on behalf of themselves and all other persons similarly situated,
4 and on behalf of the people of the State of California and as “aggrieved employees” acting as a
5 private attorney general under the Labor Code Private Attorney General Act of 2004, § 2699, *et*
6 *seq.* (“PAGA”), hereby allege as follows:

7 **THE PARTIES**

8 1. Alaska Airlines, Inc. (“DEFENDANT”) is a Corporation that at all relevant times
9 mentioned herein conducted and continues to conduct substantial business in California.

10 2. DEFENDANT owns and operates an airline company.

11 3. PLAINTIFF Johnathan Vigil (“VIGIL”) is a resident and citizen of California and
12 has been employed by DEFENDANT in California since 2011. VIGIL has been at all times
13 classified by DEFENDANT as a flight attendant, paid on an hourly basis, and entitled to the
14 legally required meal and rest periods and payment of minimum and overtime wages due for all
15 time worked.

16 4. PLAINTIFF Tamara Casteel (“CASTEEL”) is a resident and citizen of California
17 and has been employed by DEFENDANT in California since 2008. CASTEEL has been at all
18 times classified by DEFENDANT as a flight attendant, paid on an hourly basis, and entitled to the
19 legally required meal and rest periods and payment of minimum and overtime wages due for all
20 time worked.

21 5. PLAINTIFFS bring this Class Action on behalf of themselves and a California
22 class, defined as Flight Attendants employed by DEFENDANT and based in the state of
23 California (the “CALIFORNIA CLASS”) at any time during the period beginning on October 3,
24 2019 and ending on the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”).
25 The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under
26 five million dollars (\$5,000,000.00).

27 6. PLAINTIFFS bring this Class Action on behalf of themselves and a
28 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses

1 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S policy and
2 practice which failed to lawfully compensate these employees. DEFENDANT’S policy and
3 practice alleged herein was an unlawful, unfair and deceptive business practice whereby
4 DEFENDANT retained and continues to retain wages due to PLAINTIFFS and the other
5 members of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the
6 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the
7 future, relief for the named PLAINTIFFS and the other members of the CALIFORNIA CLASS
8 who have been economically injured by DEFENDANT’S past and current unlawful conduct, and
9 all other appropriate legal and equitable relief.

10 7. PLAINTIFFS, and such persons that may be added from time to time who satisfy
11 the requirements and exhaust the administrative procedures under the Private Attorney General
12 Act, bring this Representative Action on behalf of the State of California with respect to
13 themselves and all Flight Attendants employed by DEFENDANT and based in the state of
14 California (“AGGRIEVED EMPLOYEES”) during the time period of October 3, 2022 until a
15 date as determined by the Court (the “PAGA PERIOD”).

16 8. PLAINTIFFS, on behalf of themselves and all AGGRIEVED EMPLOYEES
17 presently or formerly employed by DEFENDANT during the PAGA PERIOD, bring this
18 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
19 DEFENDANT’S violation of California Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 226,
20 226.3, 226.7, 227.3, 233, 246, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.1, 1194.2,
21 1194.5, 1197, 1197.1, 1198, 2699, 2802, 2804, California Code of Regulations, Title 8, § 11040,
22 Subdivision 5(A)-(B), California Code of Regulations, Title 8, § 11070(14) (Failure to Provide
23 Seating), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFFS and all
24 AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code
25 § 2699, *et seq.*

26 9. The true names and capacities, whether individual, corporate, subsidiary,
27 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
28 unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names pursuant

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

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

15 **THE CONDUCT**

16 11. Pursuant to the Industrial Welfare Commission ("IWC") Wage Orders,
17 DEFENDANT was required to pay PLAINTIFFS and the CALIFORNIA CLASS Members for
18 all their time worked, meaning the time during which an employee is subject to the control of an
19 employer, including all the time the employee is suffered or permitted to work. DEFENDANT
20 requires PLAINTIFFS and the CALIFORNIA CLASS Members to work without paying them for
21 all the time they are under DEFENDANT'S control. Among other things, DEFENDANT
22 requires PLAINTIFFS to work while clocked out during what is supposed to be PLAINTIFFS'
23 off-duty meal break. PLAINTIFFS were from time to time interrupted by work assignments
24 while clocked out for what should have been PLAINTIFFS' off-duty meal break. DEFENDANT,
25 as a matter of established company policy and procedure, administers a uniform practice of
26 rounding the actual time worked and recorded by PLAINTIFFS and the CALIFORNIA CLASS
27 Members always to the benefit of DEFENDANT, so that during the course of their employment,
28 PLAINTIFFS and the CALIFORNIA CLASS Members are paid less than they would have been

1 paid had they been paid for actual recorded time rather than “rounded” time. Additionally,
2 DEFENDANT engages in the practice of requiring PLAINTIFF and CALIFORNIA CLASS
3 Members to perform work off the clock in that DEFENDANT, as a condition of employment,
4 required these employees to submit to mandatory temperature checks and symptom
5 questionnaires for COVID-19 screening prior to clocking into DEFENDANT’S timekeeping
6 system for the workday. DEFENDANT also requires PLAINTIFFS and CALIFORNIA CLASS
7 Members to work without paying them for all the time they are under DEFENDANT’S control.
8 PLAINTIFFS and other CALIFORNIA CLASS Members were required to place bids each month
9 for schedules, which took in upwards of one hour but were not compensated. PLAINTIFFS and
10 other CALIFORNIA CLASS Members were also required to review bulletins and updates prior to
11 arriving for a shift and if the items were not reviewed they would be subject to disciplinary
12 action. DEFENDANT, as a matter of established company policy and procedure, administers a
13 uniform practice of paying PLAINTIFFS and CALIFORNIA CLASS Members only \$2 for time
14 when the plane doors were not closed. DEFENDANT requires PLAINTIFFS and CALIFORNIA
15 CLASS Members to clock in one hour before the flight departs and mandates that PLAINTIFFS
16 and CALIFORNIA CLASS Members arrive to the gate 45 minutes before the flight leaves in
17 order to perform security checks on the emergency equipment, assist with luggage and seating
18 issues, assist those with disabilities, young families or unaccompanied minors. DEFENDANT, as
19 a matter of established company policy and procedure, administers a uniform practice of illegally
20 applying Block In Time adjustments whereby PLAINTIFFS and CALIFORNIA CLASS
21 Members were not paid the time PLAINTIFFS and CALIFORNIA CLASS Members were
22 required to remain on the ground. PLAINTIFFS and CALIFORNIA CLASS Members are
23 required to sit on the ground and wait for their next flight but are not compensated unless that sit
24 time is in excess of 2 hours and even when they are compensated it is less than minimum wage.
25 Defendant however made Block In Time adjustments that further reduced PLAINTIFFS and
26 CALIFORNIA CLASS Members compensation for sit time, which included time in which
27 PLAINTIFFS and CALIFORNIA CLASS Members were under the control of Defendant and
28 performing their duties. As a result, PLAINTIFFS and CALIFORNIA CLASS Members forfeit

1 minimum wage compensation by working without their time being correctly recorded and
2 without compensation. As a result, PLAINTIFFS and the CALIFORNIA CLASS Members
3 forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working
4 without their time being correctly recorded and without compensation at the applicable rates.
5 DEFENDANT’S policy and practice not to pay PLAINTIFFS and the CALIFORNIA CLASS
6 Members for all time worked, is evidenced by DEFENDANT’S business records. In addition,
7 when DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to respond to
8 and engage in additional work, this resulted in a second reporting for work in a single workday,
9 and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs.,
10 tit. 8, § 11040, subd. 5(B).

11 12. State and federal law provides that employees must be paid overtime and meal and
12 rest break premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFFS and the
13 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied
14 to specific elements of an employee’s performance.

15 13. The second component of PLAINTIFFS’ and the CALIFORNIA CLASS
16 Members’ compensation is DEFENDANT’S non-discretionary incentive program that paid
17 PLAINTIFFS and the CALIFORNIA CLASS Members incentive wages based on their
18 performance for DEFENDANT. The non-discretionary incentive program provided all
19 employees paid on an hourly basis with incentive compensation when the employees met the
20 various performance goals set by DEFENDANT. However, when calculating the regular rate of
21 pay in order to pay overtime and meal and rest break premiums to PLAINTIFFS and the
22 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation as
23 part of the employees’ “regular rate of pay” for purposes of calculating overtime pay and meal
24 and rest break premium pay. Management and supervisors described the incentive program to
25 potential and new employees as part of the compensation package. As a matter of law, the
26 incentive compensation received by PLAINTIFFS and the CALIFORNIA CLASS Members must
27 be included in the “regular rate of pay.” The failure to do so has resulted in a underpayment of
28 overtime compensation and meal and rest break premiums to PLAINTIFFS and the

1 CALIFORNIA CLASS Members by DEFENDANT.

2 14. As a result of their rigorous work schedules, PLAINTIFFS and the CALIFORNIA
3 CLASS Members were from time to time unable to take thirty (30) minute off duty meal breaks
4 and were not fully relieved of duty for their meal periods. PLAINTIFFS and the CALIFORNIA
5 CLASS Members were required from time to time to perform work as ordered by DEFENDANT
6 for more than five (5) hours during some shifts without receiving a meal break. Further,
7 DEFENDANT from time to time failed to provide PLAINTIFFS and the CALIFORNIA CLASS
8 Members with a second off-duty meal period for some workdays in which these employees were
9 required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engaged in the
10 practice of rounding the meal period times to avoid paying penalties to PLAINTIFFS and the
11 CALIFORNIA CLASS Members. PLAINTIFFS and the CALIFORNIA CLASS Members
12 therefore forfeit meal breaks without additional compensation and in accordance with
13 DEFENDANT'S corporate policy and practice.

14 15. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and the
15 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
16 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
17 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)
18 to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for
19 some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second
20 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more
21 from time to time. PLAINTIFFS and the CALIFORNIA CLASS Members were also not
22 provided with one hour wages in lieu thereof. Additionally, the applicable California Wage
23 Order requires employers to provide employees with off-duty rest periods, which the California
24 Supreme Court defined as time during which an employee is relieved from all work related duties
25 and free from employer control. In so doing, the Court held that the requirement under California
26 law that employers authorize and permit all employees to take rest period means that employers
27 must relieve employees of all duties and relinquish control over how employees spend their time
28 which includes control over the locations where employees may take their rest period. Employers

1 cannot impose controls that prohibit an employee from taking a brief walk – five minutes out, five
2 minutes back. Here, DEFENDANT’S policy restricted PLAINTIFFS and the CALIFORNIA
3 CLASS Members from unconstrained walks and is unlawful based on DEFENDANT’S rule
4 which states PLAINTIFFS and the CALIFORNIA CLASS Members cannot leave the work
5 premises during their rest period.

6 16. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
7 record and pay PLAINTIFFS and the CALIFORNIA CLASS Members for the actual amount of
8 time these employees worked. Pursuant to the IWC Wage Orders, DEFENDANT was required to
9 pay PLAINTIFFS and the CALIFORNIA CLASS Members for all time worked, meaning the
10 time during which an employee was subject to the control of an employer, including all the time
11 the employee was permitted or suffered to permit this work. DEFENDANT required these
12 employees to work off the clock without paying them for all the time they were under
13 DEFENDANT’S control. As such, DEFENDANT knew or should have known that
14 PLAINTIFFS and the CALIFORNIA CLASS Members were under compensated for all time
15 worked. As a result, PLAINTIFFS and the CALIFORNIA CLASS Members forfeited time
16 worked by working without their time being accurately recorded and without compensation at the
17 applicable minimum wage and overtime wage rates. To the extent that the time worked off the
18 clock does not qualify for overtime premium payment, DEFENDANT failed to pay minimum
19 wages for the time worked off-the-clock in violation of California Labor Code §§ 1194, 1197, and
20 1197.1.

21 17. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the
22 CALIFORNIA CLASS Members with complete and accurate wage statements which failed to
23 show, among other things, the correct gross and net wages earned. California Labor Code § 226
24 provides that every employer shall furnish each of his or her employees with an accurate itemized
25 wage statement in writing showing, among other things, gross wages earned and all applicable
26 hourly rates in effect during the pay period and the corresponding amount of time worked at each
27 hourly rate. PLAINTIFFS and the CALIFORNIA CLASS Members were paid on an hourly
28 basis. As such, the wage statements should reflect all applicable hourly rates during the pay

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

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

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

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

28 20. DEFENDANT underpaid sick pay wages to PLAINTIFFS and the CALIFORNIA
CLASS Members by failing to pay such wages at the regular rate of pay in violation of California
Labor Code § 246. Specifically, PLAINTIFFS and other flight attendants earn non-discretionary
remuneration, including, but not limited to, incentives, shift differential pay, and bonuses. Rather

1 than pay sick pay at the regular rate of pay, DEFENDANT underpays sick pay to PLAINTIFFS
2 and the CALIFORNIA CLASS Members at their base rates of pay.

3 21. California Labor Code § 246(1)(2) requires that paid sick time for nonexempt
4 employees be calculated by dividing the employee's total wages, not including overtime premium
5 pay, by the employee's total hours worked in the full pay periods of the prior 90 days of
6 employment.

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

13 23. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
14 the CALIFORNIA CLASS Members their correct wages and accordingly owe waiting time
15 penalties pursuant to California Labor Code § 203. Further, PLAINTIFFS are informed and
16 believe and based thereon allege that such failure to pay sick pay at regular rate was willful, such
17 that the CALIFORNIA CLASS Members and the AGGRIEVED EMPLOYEES whose
18 employment has separated are entitled to waiting time penalties pursuant to California Labor
19 Code §§ 201-203.

20 24. Pursuant to California Labor Code § 221, "It shall be unlawful for any employer to
21 collect or receive from an employee any part of wages theretofore paid by said employer to said
22 employee." DEFENDANT failed to pay all compensation due to PLAINTIFFS and the
23 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
24 payable to PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members, failed to
25 disclose all aspects of the deductions from compensation payable to PLAINTIFFS and the
26 CALIFORNIA LABOR SUB-CLASS Members, and thereby failed to pay these employees all
27 wages due at each applicable pay period and upon termination. PLAINTIFFS and the
28 CALIFORNIA LABOR SUB-CLASS members seek recovery of all illegal deductions from

1 wages according to proof, related penalties, interest, attorney fees and costs.

2 25. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
3 PLAINTIFFS and the CALIFORNIA CLASS Members for required business expenses incurred
4 by the PLAINTIFFS and the CALIFORNIA CLASS Members in direct consequence of
5 discharging their duties on behalf of DEFENDANT. Under California Labor Code § 2802,
6 employers are required to indemnify employees for all expenses incurred in the course and scope
7 of their employment. California Labor Code § 2802 expressly states that “an employer shall
8 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
9 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
10 directions of the employer, even though unlawful, unless the employee, at the time of obeying the
11 directions, believed them to be unlawful.”

12 26. In the course of their employment PLAINTIFFS and the CALIFORNIA CLASS
13 Members, as a business expense, were required by DEFENDANT to use their own personal
14 cellular phones as a result of and in furtherance of their job duties as employees for
15 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated
16 with the use of their personal cellular phones for DEFENDANT’S benefit. Specifically,
17 PLAINTIFFS and the CALIFORNIA CLASS Members were required by DEFENDANT to use
18 their personal cellular phones. As a result, in the course of their employment with
19 DEFENDANT, PLAINTIFFS and the CALIFORNIA CLASS Members incurred unreimbursed
20 business expenses which included, but were not limited to, costs related to the use of their
21 personal cellular phones all on behalf of and for the benefit of DEFENDANT.

22 27. In violation of the applicable sections of the California Labor Code and the
23 requirements of the applicable IWC Wage Order, DEFENDANT as a matter of company policy,
24 practice and procedure, intentionally, knowingly and systematically failed to provide
25 PLAINTIFFS and the CALIFORNIA CLASS MEMBERS suitable seating when the nature of
26 these employees’ work reasonably permitted sitting.

27 28. DEFENDANT knew or should have known that PLAINTIFFS and the
28 CALIFORNIA CLASS MEMBERS were entitled to suitable seating and/or were entitled to sit

1 when it did not interfere with the performance of their duties, and that DEFENDANT did not
2 provide suitable seating and/or did not allow them to sit when it did not interfere with the
3 performance of their duties.

4 29. By reason of this conduct applicable to PLAINTIFFS and the CALIFORNIA
5 CLASS MEMBERS, DEFENDANT violated California Labor Code § 1198 and California Code
6 of Regulations, Title 8, § 11070(14) (Failure to Provide Seating), Wage Order 4-2001, § 14 by
7 failing to provide suitable seats. PLAINTIFFS seek penalties on behalf of PLAINTIFFS and the
8 CALIFORNIA CLASS MEMBERS as provided herein. Providing suitable seating is the
9 DEFENDANT'S burden. As a result of DEFENDANT'S intentional disregard of the obligation
10 to meet this burden, DEFENDANT violated the California Labor Code and regulations
11 promulgated thereunder as herein alleged.

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

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

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

24 32. PLAINTIFFS, on behalf of themselves and all AGGRIEVED EMPLOYEES
25 presently or formerly employed by DEFENDANT during the PAGA PERIOD, after properly
26 exhausting their administrative requirements as set forth in more detail below, further bring a
27 representative action pursuant to Labor Code § 2699, et seq. seeking fixed civil penalties for
28 DEFENDANT'S violation of Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 226, 226.3,

226.7, 227.3, 233, 246, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.1, 1194.2, 1194.5, 1197, 1197.1, 1198, 2699, 2802, 2804, California Code of Regulations, Title 8, § 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, § 11040, Subdivision 7, California Code of Regulations, Title 8, § 11070(14) (Failure to Provide Seating), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFFS and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, et seq. All of the conduct and violations alleged herein occurred during the PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFFS during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157 (Certified for Publication 12/19/18).

JURISDICTION AND VENUE

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

34. Venue is proper in this Court pursuant to California Code of Civil Procedure, §§ 395.5 and 393, because DEFENDANT (i) operates in locations across California, (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS, and (iii) employs CALIFORNIA CLASS Members across California, including in this County, and committed the wrongful conduct herein alleged in this County against the CALIFORNIA CLASS Members.

THE CALIFORNIA CLASS

35. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq. (the “UCL”) as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all Flight Attendants employed by DEFENDANT and based in the state of California (the “CALIFORNIA CLASS”) at any time during the period beginning on October 3, 2019 and

1 ending on the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The
2 amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five
3 million dollars (\$5,000,000.00).

4 36. To the extent equitable tolling operates to toll claims by the CALIFORNIA
5 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
6 accordingly.

7 37. DEFENDANT, as a matter of company policy, practice and procedure, and in
8 violation of the applicable Labor Code, IWC Wage Order requirements, and the applicable
9 provisions of California law, intentionally, knowingly, and willfully, engaged in a practice
10 whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFFS and
11 other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this
12 work, required employees to perform this work and permits or suffers to permit this work.

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

22 39. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
23 CLASS Members is impracticable.

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

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

1 that failed to record and pay PLAINTIFFS and the other members of the
2 CALIFORNIA CLASS for all time worked, including minimum wages
3 owed and overtime wages owed for work performed by these employees;
4 and,

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

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

- 10 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
11 that the joinder of all such persons is impracticable and the disposition of
12 their claims as a class will benefit the parties and the Court;
- 13 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
14 that are raised in this Complaint are common to the CALIFORNIA CLASS
15 will apply to every member of the CALIFORNIA CLASS;
- 16 (c) The claims of the representative PLAINTIFFS are typical of the claims of
17 each member of the CALIFORNIA CLASS. PLAINTIFFS, like all the
18 other members of the CALIFORNIA CLASS, was classified as a flight
19 attendant paid on an hourly basis who was subjected to the
20 DEFENDANT'S deceptive practice and policy which failed to provide the
21 legally required meal and rest periods to the CALIFORNIA CLASS and
22 thereby underpaid compensation to PLAINTIFFS and CALIFORNIA
23 CLASS. PLAINTIFFS sustained economic injury as a result of
24 DEFENDANT'S employment practices. PLAINTIFFS and the members
25 of the CALIFORNIA CLASS were and are similarly or identically harmed
26 by the same unlawful, deceptive and unfair misconduct engaged in by
27 DEFENDANT; and,
- 28 (d) The representative PLAINTIFFS will fairly and adequately represent and

1 protect the interest of the CALIFORNIA CLASS, and have retained
2 counsel who are competent and experienced in Class Action litigation.
3 There are no material conflicts between the claims of the representative
4 PLAINTIFFS and the members of the CALIFORNIA CLASS that would
5 make class certification inappropriate. Counsel for the CALIFORNIA
6 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
7 Members.

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

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

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

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

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

28 1) With respect to the First Cause of Action, the final relief on behalf

1 of the CALIFORNIA CLASS sought does not relate exclusively to
2 restitution because through this claim PLAINTIFFS seek
3 declaratory relief holding that the DEFENDANT’S policy and
4 practices constitute unfair competition, along with declaratory
5 relief, injunctive relief, and incidental equitable relief as may be
6 necessary to prevent and remedy the conduct declared to constitute
7 unfair competition;

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

14 1) The interests of the members of the CALIFORNIA CLASS in
15 individually controlling the prosecution or defense of separate
16 actions in that the substantial expense of individual actions will be
17 avoided to recover the relatively small amount of economic losses
18 sustained by the individual CALIFORNIA CLASS Members when
19 compared to the substantial expense and burden of individual
20 prosecution of this litigation;

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

23 A. Inconsistent or varying adjudications with respect to
24 individual members of the CALIFORNIA CLASS, which
25 would establish incompatible standards of conduct for the
26 DEFENDANT; and/or,

27 B. Adjudications with respect to individual members of the
28 CALIFORNIA CLASS would as a practical matter be

dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT'S employment practices are applied with respect to the CALIFORNIA CLASS;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the

1 Court;

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

5 (e) There is a community of interest in obtaining appropriate legal and
6 equitable relief for the acts of unfair competition, statutory violations and
7 other improprieties, and in obtaining adequate compensation for the
8 damages and injuries which DEFENDANT'S actions have inflicted upon
9 the CALIFORNIA CLASS;

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

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

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

18 (i) Class treatment provides manageable judicial treatment calculated to bring
19 an efficient and rapid conclusion to all litigation of all wage and hour
20 related claims arising out of the conduct of DEFENDANT as to the
21 members of the CALIFORNIA CLASS.

22 44. DEFENDANT maintains records from which the Court can ascertain and identify
23 by job title each of DEFENDANT'S employees who have been intentionally subjected to
24 DEFENDANT'S company policy, practices and procedures as herein alleged. PLAINTIFFS will
25 seek leave to amend the Complaint to include any additional job titles of similarly situated
26 employees when they have been identified.

27 **THE CALIFORNIA LABOR SUB-CLASS**

28 45. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh,

1 Eighth, Ninth, Tenth, and Eleventh causes Action on behalf of a California sub-class, defined as
2 all members of the CALIFORNIA CLASS, including all Flight Attendants employed by
3 DEFENDANT and based in the state of California (the “CALIFORNIA LABOR SUB-CLASS”)
4 at any time during the period beginning on October 3, 2020 and ending on the date as determined
5 by the Court (the “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of
6 Civ. Proc. § 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR
7 SUB-CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

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

28 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay

1 compensation due to members of the CALIFORNIA LABOR SUB-
2 CLASS for missed meal and rest breaks in violation of the California
3 Labor Code and California regulations and the applicable California Wage
4 Order;

5 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other
6 members of the CALIFORNIA LABOR SUB-CLASS with accurate
7 itemized wage statements;

8 (c) Whether DEFENDANT has engaged in unfair competition by the above-
9 listed conduct;

10 (d) The proper measure of damages and penalties owed to the members of the
11 CALIFORNIA LABOR SUB-CLASS; and,

12 (e) Whether DEFENDANT'S conduct was willful.

13 50. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
14 under California law by:

15 (a) Violating California Labor Code § 510, by failing to correctly pay the
16 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
17 CLASS all wages due for overtime worked, for which DEFENDANT is
18 liable pursuant to California Labor Code § 1194;

19 (b) Violating California Labor Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing
20 to accurately pay PLAINTIFFS and the members of the CALIFORNIA
21 LABOR SUB-CLASS the correct minimum wage pay for which
22 DEFENDANT is liable pursuant to California Labor Code §§ 1194 and
23 1197;

24 (c) Violating California Labor Code § 226, by failing to provide PLAINTIFFS
25 and the members of the CALIFORNIA LABOR SUB-CLASS with an
26 accurate itemized statement in writing showing the corresponding correct
27 amount of wages earned by the employee;

28 (d) Violating California Labor Code §§ 226.7 and 512, by failing to provide

1 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
2 CLASS with all legally required off-duty, uninterrupted thirty (30) minute
3 meal breaks and the legally required off-duty rest breaks;

- 4 (e) Violating California Labor Code §§ 201, 202 and/or 203, which provides
5 that when an employee is discharged or quits from employment, the
6 employer must pay the employee all wages due without abatement, by
7 failing to tender full payment and/or restitution of wages owed or in the
8 manner required by California law to the members of the CALIFORNIA
9 LABOR SUB-CLASS who have terminated their employment; and,
10 (f) Violating California Labor Code § 2802 by failing to reimburse
11 PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members with
12 necessary expenses incurred in the discharge of their job duties.

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

- 15 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are
16 so numerous that the joinder of all CALIFORNIA LABOR SUB- CLASS
17 Members is impracticable and the disposition of their claims as a class will
18 benefit the parties and the Court;
19 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
20 that are raised in this Complaint are common to the CALIFORNIA
21 LABOR SUB-CLASS and will apply to every member of the
22 CALIFORNIA LABOR SUB-CLASS;
23 (c) The claims of the representative PLAINTIFFS are typical of the claims of
24 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS,
25 like all the other members of the CALIFORNIA LABOR SUB-CLASS,
26 were flight attendants paid on an hourly basis who was subjected to the
27 DEFENDANT’S practice and policy which failed to pay the correct
28 amount of wages due to the CALIFORNIA LABOR SUB-CLASS.

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

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

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

- 16 (a) Without class certification and determination of declaratory, injunctive,
17 statutory and other legal questions within the class format, prosecution of
18 separate actions by individual members of the CALIFORNIA LABOR
19 SUB-CLASS will create the risk of:
- 20 1) Inconsistent or varying adjudications with respect to individual
21 members of the CALIFORNIA LABOR SUB-CLASS which would
22 establish incompatible standards of conduct for the parties opposing
23 the CALIFORNIA LABOR SUB-CLASS; or,
- 24 2) Adjudication with respect to individual members of the
25 CALIFORNIA LABOR SUB-CLASS which would as a practical
26 matter be dispositive of interests of the other members not party to
27 the adjudication or substantially impair or impede their ability to
28 protect their interests.

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

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

15 1) The interests of the members of the CALIFORNIA LABOR SUB-
16 CLASS in individually controlling the prosecution or defense of
17 separate actions in that the substantial expense of individual actions
18 will be avoided to recover the relatively small amount of economic
19 losses sustained by the individual CALIFORNIA LABOR SUB-
20 CLASS Members when compared to the substantial expense and
21 burden of individual prosecution of this litigation;

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

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

28 B. Adjudications with respect to individual members of the

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

- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- (b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA

LABOR SUB-CLASS before the Court;

- (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- (e) There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT'S actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
- (f) There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who worked for DEFENDANT in California at any time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS

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1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

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

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

8 55. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code
9 § 17021.

10 56. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
11 unfair competition as any unlawful, unfair, or fraudulent business act or practice.

12 Section 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect
13 to unfair competition as follows:

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

19 Cal. Bus. & Prof. Code § 17203.

20 57. By the conduct alleged herein, DEFENDANT has engaged and continues to
21 engage in a business practice which violates California law, including but not limited to, the
22 applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor
23 Code including §§ 201, 202, 203, 204, 210, 218, 218.5, 226, 226.3, 226.7, 227.3, 233, 246, 510,
24 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.1, 1194.2, 1194.5, 1197, 1197.1, 1198, 2699,
25 2802, 2804 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for
26 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof.
27 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
28 competition, including restitution of wages wrongfully withheld.

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

6 59. By the conduct alleged herein, DEFENDANT’S practices were deceptive and
7 fraudulent in that DEFENDANT’S policy and practice failed to provide the legally mandated
8 meal and rest periods, the required amount of compensation for missed meal and rest periods and
9 overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse all
10 necessary business expenses incurred, and failed to provide Fair Labor Standards Act overtime
11 wages due for overtime worked as a result of failing to include non- discretionary incentive
12 compensation into their regular rates of pay for purposes of computing the proper overtime pay
13 due to a business practice that cannot be justified, pursuant to the applicable California Labor
14 Code, and IWC requirements in violation of California Business Code §§ 17200, *et seq.*, and for
15 which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code
16 § 17203, including restitution of wages wrongfully withheld.

17 60. By the conduct alleged herein, DEFENDANT’S practices were also unlawful,
18 unfair and deceptive in that DEFENDANT’S employment practices caused PLAINTIFFS and the
19 other members of the CALIFORNIA CLASS to be underpaid during their employment with
20 DEFENDANT.

21 61. By the conduct alleged herein, DEFENDANT’S practices were also unlawful,
22 unfair and deceptive in that DEFENDANT’S policies, practices and procedures failed to provide
23 all legally required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA
24 CLASS as required by California Labor Code §§ 226.7 and 512.

25 62. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
26 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
27 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
28 each workday in which a second off-duty meal period was not timely provided for each ten (10)

1 hours of work.

2 63. PLAINTIFFS further demand on behalf of themselves and each member of the
3 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty
4 paid rest period was not timely provided as required by law.

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

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

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

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

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

1 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
2 and economic harm unless DEFENDANT is restrained from continuing to engage in these
3 unlawful and unfair business practices.

4 **SECOND CAUSE OF ACTION**

5 **For Failure To Pay Minimum Wages**

6 **[Cal. Lab. Code §§ 204, 218, 218.5, 1182.12, 1194, 1194.1, 1194.2, 1197 & 1197.1, AND THE**
7 **APPLICABLE IWC WAGE ORDER]**

8 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**
9 **and Against All Defendants)**

10 69. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
11 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
12 paragraphs of this Complaint.

13 70. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
14 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code
15 and the IWC requirements for DEFENDANT'S failure to accurately calculate and pay minimum
16 wages to PLAINTIFFS and CALIFORNIA CLASS Members.

17 71. Pursuant to California Labor Code § 204, other applicable laws and regulations,
18 and public policy, an employer must timely pay its employees for all hours worked.

19 72. California Labor Code § 1197 provides the minimum wage for employees fixed by
20 the commission is the minimum wage to be paid to employees, and the payment of a less wage
21 than the minimum so fixed is unlawful.

22 73. California Labor Code § 1194 establishes an employee's right to recover unpaid
23 wages, including minimum wage compensation and interest thereon, together with the costs of
24 suit.

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

1 CALIFORNIA LABOR SUB-CLASS.

2 75. DEFENDANT'S unlawful wage and hour practices manifested, without limitation,
3 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a
4 policy and practice that denies accurate compensation to PLAINTIFFS and the other members of
5 the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

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

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

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

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

27 80. DEFENDANT knew or should have known that PLAINTIFFS and the other
28 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time

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

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

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

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[Cal. Lab. Code §§ 510, 1194, AND THE APPLICABLE IWC WAGE ORDER]
(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All
Defendants)

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1 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a
2 policy and practice that failed to accurately record overtime worked by PLAINTIFFS and other
3 CALIFORNIA LABOR SUB-CLASS Members and denied accurate compensation to
4 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime
5 worked, including, the overtime work performed in excess of eight (8) hours in a workday, and/or
6 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

7 90. In committing these violations of the California Labor Code, DEFENDANT
8 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
9 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted
10 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
11 the California Labor Code, the IWC requirements and other applicable laws and regulations. As a
12 direct result of DEFENDANT'S unlawful wage practices as alleged herein, the PLAINTIFFS and
13 the other members of the CALIFORNIA LABOR SUB-CLASS did not receive full compensation
14 for overtime worked.

15 91. California Labor Code § 515 sets out various categories of employees who are
16 exempt from the overtime requirements of the law. None of these exemptions are applicable to
17 the PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
18 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were not
19 subject to a valid collective bargaining agreement that would preclude the causes of action
20 contained herein this Complaint. Rather, PLAINTIFFS bring this Action on behalf of themselves
21 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT'S violations of non-
22 negotiable, non-waiveable rights provided by the State of California.

23 92. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the
24 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
25 worked that they are entitled to, constituting a failure to pay all earned wages.

26 93. DEFENDANT failed to accurately pay the PLAINTIFFS and the other members
27 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was
28 in excess of the maximum hours permissible by law as required by California Labor Code §§ 510,

1 1194 & 1198, even though PLAINTIFFS and the other members of the CALIFORNIA LABOR
2 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT
3 failed to accurately record and pay as evidenced by DEFENDANT'S business records and
4 witnessed by employees.

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

11 95. DEFENDANT knew or should have known that PLAINTIFFS and the other
12 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime
13 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to
14 not pay employees for their labor as a matter of company policy, practice and procedure, and
15 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS and the other members
16 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

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

25 97. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
26 therefore request recovery of all overtime wages, according to proof, interest, statutory costs, as
27 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by
28 the California Labor Code and/or other applicable statutes. To the extent minimum and/or

1 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS
2 Members who have terminated their employment, DEFENDANT’S conduct also violates Labor
3 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time
4 penalties under California Labor Code § 203, which penalties are sought herein on behalf of these
5 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT’S conduct as alleged herein was
6 willful, intentional and not in good faith. Further, PLAINTIFFS and other CALIFORNIA
7 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

8 **FOURTH CAUSE OF ACTION**

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

10 **[Cal. Lab. Code §§ 226.7, 512, 516, 558]**

11 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
12 **Defendants)**

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

16 99. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
17 failed to provide all the legally required off-duty meal breaks to PLAINTIFFS and the other
18 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and
19 Labor Code. The nature of the work performed by PLAINTIFFS and CALIFORNIA LABOR
20 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their
21 duties for the legally required off-duty meal periods. As a result of their rigorous work schedules,
22 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from time to time
23 not fully relieved of duty by DEFENDANT for their meal periods. Additionally,
24 DEFENDANT’S failure to provide PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
25 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by
26 DEFENDANT’S business records from time to time. Further, DEFENDANT failed to provide
27 PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty meal period in some
28 workdays in which these employees were required by DEFENDANT to work ten (10) hours of

1 work from time to time. As a result, PLAINTIFFS and other members of the CALIFORNIA
2 LABOR SUB-CLASS therefore forfeited meal breaks without additional compensation and in
3 accordance with DEFENDANT'S strict corporate policy and practice.

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

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

12 **FIFTH CAUSE OF ACTION**

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

14 **[Cal. Lab. Code §§ 226.7, 512, 516, 558]**

15 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
16 **Defendants)**

17 102. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
19 paragraphs of this Complaint.

20 103. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were
21 from time to time required to work in excess of four (4) hours without being provided ten (10)
22 minute rest periods. Further, these employees from time to time were denied their first rest
23 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a
24 first and second rest period of at least ten (10) minutes for some shifts worked of between six (6)
25 and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
26 shifts worked of ten (10) hours or more from time to time. PLAINTIFFS and other
27 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in
28 lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA

LABOR SUB-CLASS Members were periodically denied their proper rest periods by
DEFENDANT and DEFENDANT’S managers.

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

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

SIXTH CAUSE OF ACTION

For Failure to Provide Accurate Itemized Statements

[Cal. Lab. Code §§ 226, 226.3, 558]

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

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

107. California Labor Code § 226 provides that an employer must furnish employees
with an “accurate itemized” statement in writing showing:

- (1) gross wages earned,
- (2) total hours worked by the employee, except for any employee whose
compensation is solely based on a salary and who is exempt from payment of overtime
under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
Commission,
- (3) the number of piecerate units earned and any applicable piece rate if the employee
is paid on a piece-rate basis,
- (4) all deductions, provided that all deductions made on written orders of the
employee may be aggregated and shown as one item,
- (5) net wages earned,
- (6) the inclusive dates of the period for which the employee is paid,
- (7) the name of the employee and his or her social security number, except that by
January 1, 2008, only the last four digits of his or her social security number or an
employee identification number other than a social security number may be shown on the

1 itemized statement,

2 (8) the name and address of the legal entity that is the employer, and

3 (9) all applicable hourly rates in effect during the pay period and the corresponding
4 number of hours worked at each hourly rate by the employee.

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

25 109. DEFENDANT knowingly and intentionally failed to comply with California Labor
26 Code § 226, causing injury and damages to PLAINTIFFS and the other members of the
27 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
28 expended calculating the correct wages for all missed meal and rest breaks and the amount of
employment taxes which were not properly paid to state and federal tax authorities. These

1 damages are difficult to estimate. Therefore, PLAINTIFFS and the other members of the
2 CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars
3 (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars
4 (\$100.00) for each violation in a subsequent pay period pursuant to California Labor Code § 226,
5 in an amount according to proof at the time of trial (but in no event more than four thousand
6 dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA LABOR
7 SUB-CLASS herein).

8 **SEVENTH CAUSE OF ACTION**

9 **For Failure to Reimburse Employees for Required Expenses**

10 **[Cal. Lab. Code §§ 2802, 2804]**

11 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
12 **Defendants)**

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

16 111. California Labor Code § 2802 provides, in relevant part, that:

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

20 112. At all relevant times herein, DEFENDANT violated California Labor Code
21 § 2802, by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR
22 SUB-CLASS members for required expenses incurred in the discharge of their job duties for
23 DEFENDANT'S benefit. DEFENDANT failed to reimburse PLAINTIFFS and the
24 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not
25 limited to, costs related to using their personal cellular phones on behalf of and for the benefit of
26 DEFENDANT. Specifically, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS
27 Members were required by DEFENDANT to use their personal cellular phones and home offices
28 in order to perform work related job tasks. DEFENDANT'S policy and practice was to not

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

10 113. PLAINTIFFS therefore demand reimbursement for expenditures or losses incurred
11 by themselves and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their
12 job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest
13 at the statutory rate and costs under California Labor Code § 2802.

14 **EIGHTH CAUSE OF ACTION**

15 **For Failure to Pay Sick Pay Wages**

16 **[Cal. Lab. Code §§ 201-203, 210, 233, 246]**

17 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

18 **and Against All Defendants)**

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

22 115. Cal Lab. Code § 233 provides that an employer must permit an employee to use
23 accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate
24 of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for
25 use of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick
26 leave is used as paid sick time, an employee has a vested right to sick pay wages, which an
27 employer must calculate and compensate based on one of two calculations: (i) "Paid sick time for
28 nonexempt employees shall be calculated in the same manner as the regular rate of pay for the

1 workweek in which the employee uses paid sick time, whether or not the employee actually
2 works overtime in that workweek,” or (ii) “Paid sick time for nonexempt employees shall be
3 calculated by dividing the employee’s total wages, not including overtime premium pay, by the
4 employee’s total hours worked in the full pay periods of the prior 90 days of employment.”
5 Under Cal Lab. Code §§ 218 and 233, employees may sue to recover underpaid sick pay wages as
6 damages.

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

18 117. California Labor Code § 246 specifically requires that, upon use of accrued sick
19 leave, vested sick pay wages are due and to be paid no later than the payday for the next regular
20 payroll period after accrued sick leave is used as paid sick time. Similarly, California Labor Code
21 § 201 provides that if an employer discharges an employee, wages earned and unpaid at the time
22 of discharge are due and payable immediately. California Labor Code § 202 provides that an
23 employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his
24 or her employment, unless the employee has given 72-hour notice of his or her intention to quit,
25 in which case the employee is entitled to his or her wages at the time of quitting. The Labor Code
26 penalizes untimely payments. For example, California Labor Code § 203 provides that if an
27 employer willfully fails to pay wages owed in accordance with California Labor Code §§ 201-
28 202, then the wages of the employee shall continue as a penalty from the due date, and at the

1 same rate until paid, but the wages shall not continue for more than thirty (30) days. Likewise,
2 California Labor Code § 210 provides penalties for untimely payments during employment.
3 Under California Labor Code §§ 203, 210 and 218, employees may sue to recover applicable
4 penalties.

5 118. As alleged herein and as a matter of policy and practice, DEFENDANT routinely
6 underpays sick pay wages and thus did not timely pay PLAINTIFFS and the other members of
7 the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result,
8 DEFENDANT violates California Labor Code §§ 201-203, 210, 233, and 246, among other
9 Labor Code provisions. PLAINTIFFS are informed and believe that DEFENDANT was advised
10 by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it
11 relates to PLAINTIFFS' allegations, especially since the California Supreme Court has explained
12 that "[c]ourts have recognized that 'wages' also include those benefits to which an employee is
13 entitled as a part of his or her compensation, including money, room, board, clothing, vacation
14 pay, and sick pay." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis
15 added). Because DEFENDANT willfully fails to timely pay PLAINTIFFS and the other
16 members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is
17 subject to applicable penalties.

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

22 **NINTH CAUSE OF ACTION**

23 **For Failure to Pay All Wages Due to Discharged and Quitting Employees**

24 **[Cal. Labor Code §§ 201-204, 210, 227.3, 558]**

25 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

26 **and Against All Defendants)**

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

1 paragraphs of this Complaint.

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

8 122. Within the applicable statute of limitations, the employment of at least one of the
9 PLAINTIFFS and many other members of the CALIFORNIA LABOR SUB-CLASS ended, i.e.
10 was legally terminated, and the employment of others will be. However, during the relevant time
11 period, DEFENDANT failed, and continue to fail to pay terminated CALIFORNIA LABOR
12 SUB-CLASS Members, without abatement, all accrued wages and other compensation required
13 to be paid by California Labor Code §§ 201 and 202 either at the time of discharge, or within
14 seventy-two (72) hours of their leaving DEFENDANT'S employ.

15 123. Additionally, DEFENDANT failed to pay the CALIFORNIA LABOR SUB-
16 CLASS Members the full amount of vested vacation and holiday time that they were owed on the
17 date of their separation from employment pursuant to DEFENDANT'S uniform vacation policies
18 and applicable California law. DEFENDANT'S uniform practice and policy of failing to pay the
19 CALIFORNIA LABOR SUB-CLASS for all vested vacation and holiday time accumulated at
20 employment termination violated and continues to violate § 227.3 of the California Labor Code.

21 124. DEFENDANT'S failure to pay those CALIFORNIA LABOR SUB-CLASS
22 Members who are no longer employed by DEFENDANT their wages earned and unpaid at the
23 time of discharge, or within seventy-two (72) hours of their leaving DEFENDANT'S employ, is
24 in violation of California Labor Code §§ 201, 202 and 227.3.

25 125. California Labor Code § 203 provides that if an employer willfully fails to pay
26 wages owed, in accordance with §§ 201, 202, and 227.3, then the wages of the employee shall
27 continue as a penalty wage from the due date, and at the same rate until paid or until an action is
28 commenced; but the wages shall not continue for more than thirty (30) days.

126. The CALIFORNIA LABOR SUB-CLASS is entitled to recover from DEFENDANT their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to California Labor Code § 203.

127. Pursuant to California Labor Code §§ 218.5, 218.6 and 1194, the CALIFORNIA LABOR SUB-CLASS is also entitled to an award of reasonable attorneys' fees, interest, expenses, and costs incurred in this action.

TENTH CAUSE OF ACTION

For Failure to Provide Suitable Seating

[Cal. Lab. Code §§ 1198, 1194.5, And The Applicable IWC Wage Order]

(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)

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

129. At all times herein set forth, California Labor Code §§ 1198, 1194.5, and the Applicable IWC Wage Order provide that an employer must provide employees with suitable seating.

130. In violation of the applicable sections of the California Labor Code and the requirements of the applicable IWC Wage Order, DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly and systematically failed to provide PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS Members suitable seating when the nature of these employees' work reasonably permitted sitting.

131. DEFENDANT knew or should have known that PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were entitled to suitable seating and/or were entitled to sit when it did not interfere with the performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not allow them to sit when it did not interfere with the performance of their duties.

132. By reason of this conduct applicable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, DEFENDANT violated California Labor Code §§ 1198, 1194.5, and the

1 applicable IWC Wage Order by willfully failing to provide suitable seats. PLAINTIFFS seek
2 penalties on behalf of PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members as
3 provided herein.

4 **ELEVENTH CAUSE OF ACTION**

5 **For Failure To Maintain Records**

6 **[Cal. Lab. Code §§ 226, 1174, 1174.5, California Code of Regulations, Title 8, § 11040,**

7 **Subdivision 7, And The Applicable IWC Wage Order]**

8 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

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

12 134. As noted above, California Labor Code §§ 226 provides that an employer must
13 furnish employees with an “accurate itemized” statement. California Labor Code § 1174
14 provides that employers must maintain and keep certain records, including payroll records
15 showing all hours worked on a daily basis, wages paid, piece rate units earned, and applicable
16 piece rates. California Labor Code § 1174.5 provides that any employer who willfully fails to
17 maintain the records required by § 1174 shall be subject to a civil penalty of \$500. Section 7 of
18 the applicable IWC Wage Order provides that employers must keep accurate records with respect
19 to each employee showing:

- 20 (1) Full name, home address, occupation and social security number.
21 (2) Birth date, if under 18 years, and designation as a minor.
22 (3) Time records showing when the employee begins and ends each work period. Meal
23 periods, split shift intervals and total daily hours worked shall also be recorded. Meal
24 periods during which operations cease and authorized rest periods need not be
25 recorded.
26 (4) Total wages paid each payroll period, including value of board, lodging, or other
27 compensation actually furnished to the employee.
28 (5) Total hours worked in the payroll period and applicable rates of pay. This information
shall be made readily available to the employee upon reasonable request.
(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the
incentive plan formula shall be provided to employees. An accurate production record
shall be maintained by the employer.

135. During the CLASS PERIOD, DEFENDANT deprived PLAINTIFFS and

1 CALIFORNIA LABOR SUB-CLASS Members of all wages earned and due, DEFENDANT
2 willfully failed to maintain the records required by § 1174 and the applicable IWC Wage Order
3 for the CALIFORNIA LABOR SUB-CLASS Members, including but not limited to the
4 following records: total hours worked by each employee; applicable rates of pay; all deductions;
5 time records showing when each employee begins and ends each meal period; time records
6 showing when each employee begins and ends each work period; and accurate itemized
7 statements.

8 136. As a proximate result of DEFENDANT’S unlawful actions and omissions,
9 PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members are entitled to all wages
10 earned and due, plus interest thereon. Additionally, PLAINTIFFS and CALIFORNIA LABOR
11 SUB-CLASS Members are entitled to all available statutory penalties, including but not limited to
12 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of
13 costs, expenses, and reasonable attorneys’ fees, including but not limited to those provided in
14 California Labor Code § 226(e), as well as other available remedies.

15 **TWELFTH CAUSE OF ACTION**

16 **For Violation of the Private Attorneys General Act**

17 **[Cal. Lab. Code §§ 2698, *et seq.*]**

18 **(By PLAINTIFFS and the AGGRIEVED EMPLOYEES and Against All Defendants)**

19 137. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth
20 herein, the prior paragraphs of this Complaint.

21 138. PAGA is a mechanism by which the State of California itself can enforce state
22 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
23 state’s labor law enforcement agencies. An action to recover civil penalties under PAGA is
24 fundamentally a law enforcement action designed to protect the public and not to benefit private
25 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
26 of “deputizing” citizens as private attorneys general to enforce the Labor Code. In enacting
27 PAGA, the California Legislature specified that “it was ... in the public interest to allow aggrieved
28 employees, acting as private attorneys general to recover civil penalties for Labor Code violations

1 ...” Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

2 139. PLAINTIFFS, and such persons that may be added from time to time who satisfy
3 the requirements and exhaust the administrative procedures under the Private Attorney General
4 Act, bring this Representative Action on behalf of the State of California with respect to
5 themselves and all Flight Attendants employed by DEFENDANT and based in the state of
6 California (“AGGRIEVED EMPLOYEES”) during the time period of October 2, 2022 until a
7 date as determined by the Court (the “PAGA PERIOD”).

8 140. On October 2, 2023, PLAINTIFFS gave written notice by electronic mail to the
9 Labor and Workforce Development Agency (the “Agency”) and by certified mail to the employer
10 of the specific provisions of this code alleged to have been violated as required by Labor Code
11 § 2699.3. The statutory waiting period for PLAINTIFFS to add these allegations to the
12 Complaint has expired. As a result, pursuant to § 2699.3, PLAINTIFFS may now commence a
13 representative civil action under PAGA pursuant to § 2699 as the proxy of the State of California
14 with respect to all AGGRIEVED EMPLOYEES as herein defined.

15 141. The policies, acts and practices heretofore described were and are an unlawful
16 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
17 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
18 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to
19 pay overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses,
20 and (f) failed to provide wages when due, all in violation of the applicable California Labor Code
21 sections listed in Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 226, 226.3, 226.7, 227.3,
22 233, 246, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.1, 1194.2, 1194.5, 1197, 1197.1,
23 1198, 2699, 2802, 2804, California Code of Regulations, Title 8, § 11040, Subdivision 5(A)-(B),
24 California Code of Regulations, Title 8, § 11040, Subdivision 7, California Code of Regulations,
25 Title 8, § 1 1070(14) (Failure to Provide Seating), and the applicable Wage Order(s), and thereby
26 gives rise to civil penalties as a result of such conduct.¹ PLAINTIFFS hereby seek recovery of
27

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

1 only civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
2 representative of the State of California for the illegal conduct perpetrated on PLAINTIFFS and
3 the AGGRIEVED EMPLOYEES.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
6 severally, as follows:

7 1. On behalf of the CALIFORNIA CLASS:

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

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

- 19 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
20 Ninth, Tenth, and Eleventh Causes of Action asserted by the CALIFORNIA
21 LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
22 B) Compensatory damages, according to proof at trial, including compensatory
23 damages for minimum and overtime compensation due PLAINTIFFS and the
24 other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
25 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
26 statutory rate;
27 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
28 which a violation occurs and one hundred dollars (\$100) per each member of the

- 1 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
2 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
3 an award of costs for violation of California Labor Code § 226;
- 4 D) Meal and rest period compensation pursuant to California Labor Code §§ 226.7,
5 512 and the applicable IWC Wage Order;
- 6 E) For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197;
- 7 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
8 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
9 costs of suit.; and,
- 10 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-
11 CLASS as a penalty from the due date thereof at the same rate until paid or until
12 an action therefore is commenced, in accordance with California Labor Code
13 § 203.
- 14 3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 15 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
16 General Act of 2004; and,
- 17 B) An award of attorneys' fees and cost of suit, as allowable under the law, including,
18 but not limited to, pursuant to Labor Code §2699
- 19 4. On all claims:
- 20 A) An award of interest, including prejudgment interest at the legal rate;
- 21 B) Such other and further relief as the Court deems just and equitable; and,
- 22 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
23 including, but not limited to, pursuant to Labor Code §221, §226, §1194, and/or
24 §2802.
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Dated: December 31, 2024

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

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

Attorneys for Plaintiffs

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Dated: December 31, 2024

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

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