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Attorneys for Plaintiff COURTNEY BROOKS,
on behalf of herself and others similarly situated

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

COURTNEY BROOKS, an individual on
behalf of herself and all others similarly
situated,

Plaintiff,

vs.

CC VENICE, LLC, a California limited
liability company; SUNSET RESTAURANT
MANAGEMENT GROUP, a entity of
unknown form; CABO CANTINA, LLC, a
California limited liability company; CABO
CANTINA L.A., LLC; a California limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 23STCV31372

Assigned for All Purposes To:

Hon. Kenneth Freeman

Dept.: 14

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Failure to Pay Reporting Time Pay;
4. Meal Period Liability Under Labor Code § 226.7;
5. Rest-Break Liability Under Labor Code § 226.7;
6. Violation of Labor Code § 226(a);
7. Violation of Labor Code § 203;
8. Violation of Labor Code § 204;
9. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
10. Failure to Reimburse Necessary Business Expenses § 2802;
11. Failure to Produce Requested Employment Records Under Labor Code §§ 226 (b) and 1198.5;
12. Violation of Business & Professions Code § 17200 *et seq.*; and
13. Penalties under PAGA, Labor Code § 2698

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff COURTNEY BROOKS (“Plaintiff”) brings this action on behalf of himself and the Class Members who are defined as “all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendants CC VENICE, LLC, a California limited liability company; SUNSET RESTAURANT MANAGEMENT GROUP, a business entity of unknown form; CABO CANTINA, LLC, a California limited liability company; CABO CANTINA L.A., LLC, a California limited liability company; and DOES 1 through 50” (all defendants being collectively referred to herein as “Defendants”).

2. Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3) endured similar violations at the hands of Defendants as the other Class Members who served in similar and related positions.

THE PARTIES

A. The Plaintiff

4. Plaintiff COURTNEY BROOKS resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

B. The Defendants

5. Defendant CC VENICE, LLC is a California limited liability company and is registered with the California Secretary of State. Defendant CC VENICE, LLC, has been the employer listed on the wage statements and employment records issued to Plaintiff during the relevant time period that Plaintiff was employed with Defendants.

6. Defendant SUNSET RESTAURANT MANAGEMENT GROUP is a business entity of unknown form and has been the employer listed on the employment records issued to

1 Plaintiff during the relevant time period that Plaintiff was employed with Defendants.

2 7. Defendant CABO CANTINA, LLC is a California limited liability company and is
3 registered with the California Secretary of State. Defendant CABO CANTINA, LLC, has been the
4 employer listed on employment records issued to Plaintiff during the relevant time period that
5 Plaintiff was employed with Defendants.

6 8. Defendant CABO CANTINA L.A., LLC is a California limited liability company
7 and is registered with the California Secretary of State. Defendant CABO CANTINA L.A., LLC,
8 has been the employer listed on employment records issued to Plaintiff during the relevant time
9 period that Plaintiff was employed with Defendants.

10 9. The true names and capacities, whether individual, corporate, associate, or
11 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
12 unknown to Plaintiff, who therefore sue these Defendants by such fictitious names under Code of
13 Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
14 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
15 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
16 this Complaint to reflect the true names and capacities of the Defendants designated herein as
17 Does 1 through 50 when their identities become known.

18 10. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
19 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
20 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
21 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
22 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
23 exercised control over the wages, hours or working conditions of Class Members, or suffered or
24 permitted Class Members to work, or engaged, thereby creating a common law employment
25 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
26 employed Class Members.

27 11. Whenever and wherever reference is made in this Complaint to any act by a
28 defendant or defendants, such allegations and references shall also be deemed to mean the acts and

1 failures to act of each defendant acting individually, jointly, and severally.

2 12. Whenever and wherever reference is made to individuals who are not named as a
3 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
4 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
5 of their employment.

6 **JURISDICTION AND VENUE**

7 13. This Court has jurisdiction over this Action pursuant to California Code of Civil
8 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
9 as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to
10 California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial
11 district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief,
12 the obligations and liabilities giving rise to this lawsuit occurred in part in Los Angeles County.
13 Defendants maintain and operate facilities in Los Angeles County and employs Plaintiff and other
14 Class Members in Los Angeles County, while doing business throughout California.

15 **FACTUAL BACKGROUND**

16 14. Class Members consistently worked at Defendants behest without being paid all
17 wages due. Class Members were either not paid by Defendants for all hours worked or were not
18 paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that
19 Defendants failed to pay Class Members all wages due and owing, failing to provide meal and rest
20 breaks, failing to provide reporting time pay when employees were made to report to work and
21 leave early, failing to furnish accurate wage statements, failing to timely pay wages including final
22 wages, failing to maintain accurate records, failing to reimburse necessary business expenses, and
23 failing to provide required paid sick days all in violation of various provisions of the California
24 Labor Code and applicable Wage Orders.

25 15. During the course of Class Members' employment with Defendants, they were not
26 paid all wages they were owed, including for all work performed resulting in off the clock work.
27 Class Members were required to perform pre-shift and post-shift off the clock work which they
28 were not compensated for despite being subject to Defendants' control. Specifically, before their

1 scheduled shift start time, Class Members were required to assist those working in the bar.
2 However, Class Members were not allowed to record this time as time worked. Additionally, after
3 their scheduled shift end time, Class Members were required to stay late, after clocking out, to
4 clean the restaurant. Class Members did not receive compensation for this off the clock work.
5 Moreover, Class Members were required to take calls and answer messages for work related
6 purposes on their personal cell phones while off the clock.

7 16. By implementing policies, programs, practices, procedures and protocols which
8 resulted in off the clock work and systematically failed to pay for all hours worked, Defendants'
9 willful actions resulted in the systematic underpayment of wages to Class Members, including
10 underpayment of overtime pay to Class Members over the relevant time period. For example, the
11 above described off the clock work addressed above caused Plaintiff to begin receiving overtime
12 pay later than they should have.

13 17. As a result of the above described requirements to work off the clock and the other
14 wage violations they endured at Defendants' hands, Class Members were not properly paid all
15 wages earned and all wages owed to them by Defendants, including when working more than
16 eight (8) hours in any given day and/or more than forty (40) hours in any given week.

17 18. As a result of Defendants' unlawful policies and practices, Class Members incurred
18 overtime hours worked for which they were not adequately and completely compensated, in
19 addition to the hours they were required to work off the clock. To the extent applicable,
20 Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for
21 the first eight hours of the seventh consecutive work day in a week and overtime payments at the
22 rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work
23 day, as required under the Labor Code and applicable IWC Wage Orders.

24 19. Therefore, from at least four (4) years prior to the filing of this lawsuit and
25 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
26 Members for all hours worked and failing to pay minimum wages for all time worked, as required
27 by California law. Defendants thus failed to pay Class Members at least minimum wages for all
28 the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage

1 Orders as the actual times when Class Members were under the control and direction of
2 Defendants was under reported in the hours reflected on the timekeeping records. Furthermore,
3 Defendants' willful actions resulted in the systematic underpayment of wages to Class Members,
4 including underpayment of overtime pay to Class Members over a period of time.

5 20. Therefore, from at least four (4) years prior to the filing of this lawsuit and
6 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
7 Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit
8 and continuing to the present, Defendants also had a consistent policy or practice of failing to pay
9 Class Members their true and correct overtime compensation at premium overtime rates for all
10 hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time
11 rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510
12 and the corresponding sections of IWC Wage Orders.

13 21. Moreover, Defendant required Plaintiff and the Class Members to, on occasion,
14 report for a scheduled work day to be told whether work was available for them or not, and when
15 there was no work, Plaintiff and the Class members would be sent home after waiting for hours.
16 On such days when Defendant required Plaintiff and the Class Members to report to work only to
17 be sent home because work was not available, they were not paid required reporting time wages
18 for the hours they waited without receiving their regular hourly rate of pay for them.

19 22. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
20 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
21 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
22 ordered by Defendants for more than five (5) hours during a shift but were often required to do so
23 without receiving a lawful and timely meal break. In addition to untimely meal periods,
24 Defendants also required Class Members to respond to work demands. Defendants placed their
25 needs over Class Members lawful meal and rest breaks and this resulted in Class Members often
26 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
27 ones, because the demands of the job would not avail them the opportunity to take a lawfully
28 uninterrupted and off duty meal and/or rest break.

1 23. On the occasions when Class Members worked over 10 hours in a shift, Defendants
2 also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a
3 result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid
4 meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by
5 Defendants' business records, or lack thereof. Defendants also failed to pay Class Members
6 "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for
7 each meal period or rest break that Defendants failed to provide or deficiently provided.

8 24. Therefore, for at least four years prior to the filing of this action and through to the
9 present, Defendants have regularly required Class Members to work shifts in excess of five (5)
10 hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes,
11 and shifts in excess of (10) hours without providing them with second meal periods of not less
12 than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of
13 wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants
14 failed to provide or deficiently provided.

15 25. Meal period violations thus occurred in one or more of the following manners:

- 16 (a) Class Members were not provided full thirty-minute duty free meal periods
17 for work days in excess of five (5) hours and were not compensated one (1)
18 hour's wages in lieu thereof, all in violation of, among others, Labor Code
19 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage
20 Order(s);
- 21 (b) Class Members were not provided second full thirty-minute duty free meal
22 periods for work days in excess of ten (10) hours;
- 23 (c) Class Members were required to work through at least part of their daily
24 meal period(s);
- 25 (d) Meal periods were provided after five (5) hours of continuous work during
26 a shift; and
- 27 (e) Class Members were restricted in their ability to take a full thirty-minute
28 meal period.

1 26. Class Members were also not authorized and permitted to take lawful rest periods,
2 were systematically required by Defendants to work through or during breaks and were not
3 provided with one (1) hour's wages in lieu thereof. Class Members were restricted in their ability
4 to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest
5 periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the
6 present, Defendants have consistently failed to provide Class Members with paid rest breaks of not
7 less than ten minutes for every work period of four or more consecutive hours; or major fraction
8 thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest
9 breaks were not provided or were deficiently provided.

10 27. Rest period violations therefore arose in one or more of the following manners:

- 11 (a) Class Members were required to work without being provided a minimum
12 ten (10) minute rest period for every four (4) hours or major fraction
13 thereof worked and were not compensated one (1) hour of pay at their
14 regular rate of compensation for each workday that a rest period was not
15 provided;
- 16 (b) Class Members were not authorized and permitted to take timely rest
17 periods for every four hours worked, or major fraction thereof; and
- 18 (c) Class Members were required to remain on-duty during rest periods or
19 otherwise had their rest periods interrupted by work demands.

20 28. Defendants also consistently failed to issue accurate itemized wage statements as
21 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed
22 to accurately account for unpaid wages and overtime because their actual hours worked were
23 under-reported due to off the clock work. Additionally, the wage statements given to Class
24 Members failed to accurately account for premium pay for deficiently provided meal periods and
25 rest breaks.

26 29. From at least four (4) years prior to filing this lawsuit and continuing to the present,
27 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class
28 Members at the time of their termination of within seventy-two (72) hours of their resignation, as

1 required by California wage-and-hour laws. Specifically, Class Members were not paid all regular
2 and overtime wages because Defendants failed to pay for all hours worked by requiring off the
3 clock work,. Additionally, Defendants failed to pay premium wages owed for unprovided meal
4 periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said
5 wages within the required time was willful within the meaning of Labor Code § 203.

6 30. Additionally, from at least four (4) years prior to the filing of this lawsuit and
7 continuing to the present, Defendants have regularly required Plaintiff to incur business expenses
8 in the course of performing her required job duties for Defendants including for cell phone and
9 materials for use at the restaurant. Plaintiff was required to use her personal cell phone to
10 communicate with management regarding work related matters. Upon information and belief,
11 Class Members incurred similar costs. These expenses incurred by Plaintiff and Class Members
12 were necessary and required of them in performing their assigned job duties, but Defendants failed
13 to reimburse Plaintiff and Class Members for all such necessary expenditures, thus entitling them
14 to reimbursement according to proof as required under Labor Code § 2802 and the applicable
15 provisions of the IWC Wage Orders.

16 31. From at least four (4) years prior to filing this lawsuit and continuing to the present,
17 Defendants have thus also had a consistent policy of failing to provide Class Members with their
18 records pertaining to their employment, upon reasonable request within twenty-one calendar days
19 from the date of the request.

20 32. From at least four (4) years prior to filing this lawsuit and continuing to the present
21 Defendants have thus also had a consistent policy of failing to provide Class Members with a copy
22 of their personnel records, upon reasonable request, within thirty (30) calendar days from the date
23 of the request.

24 33. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
25 *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 551, 552, 558,
26 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1198.5, 1199, 2802, 2698 et seq.
27 and California Code of Regulations, Title 8, section 11000 et seq.

28 34. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff

1 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
2 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
3 fraudulent practices alleged in this Complaint.

4 **CLASS ALLEGATIONS**

5 35. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

6 a. Subclass 1. Minimum Wages Subclass. All Class Members who were not
7 compensated for all hours worked for Defendants at the applicable minimum wage.

8 b. Subclass 2. Wages and Overtime Subclass. All Class Members who were not
9 compensated for all hours worked for Defendants at the required rates of pay, including for all
10 hours worked in excess of eight in a day and/or forty in a week.

11 c. Subclass 3. Reporting Time Pay Subclass. All Class Members who, within the
12 applicable limitations period, were not paid reporting time pay.

13 d. Subclass 4. Meal Period Subclass. All Class Members who were subject to
14 Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-
15 free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

16 e. Subclass 5. Rest Break Subclass. All Class Members who were subject to
17 Defendants' policy and/or practice of failing to authorize and permit Class Members to take
18 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
19 thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu
20 thereof.

21 f. Subclass 6. Wage Statement Subclass. All Class Members who, within the
22 applicable limitations period, were not provided with accurate itemized wage statements.

23 g. Subclass 7. Termination Pay Subclass. All Class Members who, within the
24 applicable limitations period, either voluntarily or involuntarily separated from their employment
25 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
26 termination.

27 h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class
28 Members who were subject to Defendants' policy and practice of not timely paying all wages

1 earned when they were due and payable at least twice monthly.

2 i. Subclass 9. Payroll Records Subclass. All Class members who were subject to
3 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
4 by California wage-and-hour laws.

5 j. Subclass 10. Expense Reimbursement Subclass. All Class Members who incurred
6 necessary and reasonable expenses in connection with performing their job duties for Defendant
7 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

8 k. Subclass 11. Failure to Produce Requested Employment Records Subclass. All
9 Class Members who within the applicable limitations period, were denied the right to inspect and
10 receive all of their payroll records, timecards, and personnel records.

11 l. Subclass 12. UCL Subclass. All Class Members who are owed restitution as a
12 result of Defendants' business acts and practices, to the extent such acts and practices are found to
13 be unlawful, deceptive, and/or unfair.

14 36. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
15 modify the class description with greater particularity or further division into subclasses or
16 limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
17 against Defendants, the Class Period should be adjusted accordingly.

18 37. Defendants, as a matter of company policy, practice and procedure, and in violation
19 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
20 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
21 in a practice whereby Defendants failed to correctly calculate compensation for the time worked
22 by Class Members, even though Defendants enjoyed the benefit of this work, required Class
23 Members to perform this work and permitted or suffered to permit this work. Defendants have
24 uniformly denied these Class Members wages to which these employees are entitled and failed to
25 provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
26 competition and unlawfully profit.

27 38. This action has been brought and may properly be maintained as a class action
28 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community

of interest in litigation and proposed class is easily ascertainable.

A. Numerosity

39. The potential members of the class as defined are so numerous that joinder of all the member of the class is impracticable. While the precise number of class member has not been determined at this time, Plaintiff is informed and believes that Defendants employ or, during the time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within the State of California.

40. Accounting for employee turnover during the relevant time period increases this number substantially. Plaintiff alleges that Defendants' employment records will provide information as to the number and location of all Class Members.

B. Commonality

41. There are questions of law and fact common to the Class that predominates over any questions affecting only individual Class Members. These common questions of law and fact include:

- a. Whether Defendants failed to pay Class Members minimum wages;
- b. Whether Defendants failed to pay Class Members wages for all hours worked;
- c. Whether Defendants failed to pay Class Members overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Class Members to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;
- g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;

- 1 h. Whether Defendants' conduct was willful;
- 2 i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage
- 3 Orders by failing to maintain accurate records of Class Members' earned wages and
- 4 work periods;
- 5 j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class
- 6 Members during the relevant time period for all hours worked, whether regular or
- 7 overtime;
- 8 k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- 9 l. Whether Defendants failed to pay reporting time pay;
- 10 m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all
- 11 necessary business expenses Defendants required them to incur in performing their
- 12 job duties;
- 13 n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 14 o. Whether Defendants failed to provide Class Members with copies of their
- 15 personnel and employment records in a timely fashion upon reasonable request.
- 16 p. Whether Class Members are entitled to equitable relief pursuant to Business and
- 17 Professions Code § 17200 *et seq.*

18 **C. Typicality**

19 42. The claims of the named plaintiff is typical of those of Class Members. The Class

20 Members all sustained injuries and damages arising out of and caused by Defendants' common

21 course of conduct in violation of statutes, as well as regulations that have the force and effect of

22 law, as alleged herein.

23 **D. Adequacy of Representation**

24 43. Plaintiff will fairly and adequately represent and protect the interest of the Class

25 Members. Counsel who represents Class Members are experienced and competent in litigating

26 employment class actions.

27 **E. Superiority of Class Action**

28 44. A class action is superior to other available means for the fair and efficient

1 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
2 questions of law and fact common to all Class Members predominate over any questions affecting
3 only individual Class Members. Each Class Member has been damaged and is entitled to recovery
4 by reason of Defendants' illegal policies or practices of failing to compensate Class Members
5 properly.

6 45. As to the issues raised in this case, a class action is superior to all other methods for
7 the fair and efficient adjudication of this controversy, as joinder of all Class Members is
8 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
9 Members. Further, as the economic or other loss suffered by vast numbers of Class Members may
10 be relatively small, the expense and burden of individual actions makes it difficult for the Class
11 Members to individually redress the wrongs they have suffered. Moreover, in the event
12 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
13 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
14 managing this case as a class action, and proceeding on a class-wide basis will permit Class
15 Members to vindicate their rights for violations they endured which they would otherwise be
16 foreclosed from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to
17 them.

18 46. Class action treatment will allow those persons similarly situated to litigate their
19 claims in the manner that is most efficient and economical for the parties and the judicial system.
20 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
21 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would
22 set forth the subject and nature of the instant action. The Defendants' own business records can be
23 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
24 that any further notice is required additional media and/or mailings can be used.

25 47. Defendants, as prospective and actual employers of the Class Members, had a
26 special fiduciary duty to disclose to prospective Class Members the true facts surrounding
27 Defendants' pay practices, policies and working conditions imposed upon Class Members as well
28 as the effect of any alleged arbitration agreements that may have been forced upon them. In

1 addition, Defendants knew they possessed special knowledge about pay practices and policies,
2 most notably intentionally refusing to pay for all hours actually worked which should have been
3 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements
4 and policies and practices on Class Members.

5 48. Class Members did not discover the fact that they were entitled to all pay under the
6 Labor Code until shortly before the filing of this lawsuit nor was there ever any discussion about
7 Plaintiff's and the Class' waiver of their Constitutional rights of trial by jury, right to collectively
8 organize and oppose unlawful pay practices under California law as well as obtain injunctive relief
9 preventing such practices from continuing. As a result, the applicable statutes of limitation were
10 tolled until such time as Plaintiff and the Class Members discovered their claims.

11 **FIRST CAUSE OF ACTION**
12 **FAILURE TO PAY MINIMUM WAGES**
13 **(Against All Defendants)**

14 49. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
15 full herein.

16 50. Defendants failed to pay Class Members minimum wages for all hours worked.
17 Defendants had a consistent policy of misstating Class Members' time records and failing to pay
18 Class Members for all hours worked. Class Members would work hours and not receive wages,
19 including as alleged above in connection with off the clock work. Defendants, and each of them,
20 have intentionally and improperly changed, adjusted and/or modified the hours of Class Members,
21 which resulted in off the clock work and underpayment of all wages owed to Class Members over
22 a period of time, while benefiting Defendants. During the relevant time period, Defendants thus
23 regularly failed to pay minimum wages to Class Members, to their detriment. Additionally,
24 Defendants had a consistent policy of failing to pay Class Members for hours worked during
25 alleged meal and rest periods for which Class Members were consistently denied, as also
26 addressed herein. Defendants' uniform pattern of unlawful wage and hour practices manifested,
27 without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy
28 and practice that denied accurate compensation to Class Members as to minimum wage pay.

1 51. In California, employees must be paid at least the then applicable state minimum
2 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
3 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
4 timely pay its employees for all hours worked. Defendants failed to do so.

5 52. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:
6 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to
7 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

8 53. The applicable minimum wages fixed by the commission for work during the
9 relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

10 54. The minimum wage provisions of California Labor Code are enforceable by private
11 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
12 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
13 overtime compensation applicable to the employee is entitled to recover in a civil action the
14 unpaid balance of the full amount of this minimum wage or overtime compensation, including
15 interest thereon, reasonable attorney’s fees and costs of suit.”

16 55. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
17 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
18 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
19 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
20 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
21 be used as a credit against a minimum wage obligation.

22 56. In committing these violations of the California Labor Code, Defendants
23 inaccurately recorded, or required Class Members to input times that did not reflect their actual
24 hours worked, or calculated the correct time worked and consequently underpaid the actual time
25 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all
26 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
27 Commission requirements and other applicable laws and regulations. As a result of these
28 violations, Defendant also failed to timely pay all wages earned in accordance with California

1 Labor Code § 1194.

2 57. California Labor Code § 1194.2 also provides for the following remedies: “In any
3 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
4 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
5 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

6 58. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
7 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
8 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
9 employee minimum wages.

10 59. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to
11 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

12 60. Defendants have the ability to pay minimum wages for all time worked and have
13 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
14 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Class Members.

15 61. Wherefore, Class Members are entitled to recover the unpaid minimum wages
16 (including double minimum wages), liquidated damages in an amount equal to the minimum
17 wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant
18 to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request
19 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
20 assessment of any statutory penalties against Defendants, in a sum as provided by the California
21 Labor Code, including § 558, and/or other applicable statutes.

22 **SECOND CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

24 **(Against All Defendants)**

25 62. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
26 full herein.

27 63. California Labor Code § 1194 provides that “any employee receiving less than the
28 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to

1 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
2 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
3 may be maintained directly against the employer in an employee's name without first filing a
4 claim with the Division of Labor Standards and Enforcement.

5 64. By their conduct, as set forth herein, Defendants violated California Labor Code §
6 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class
7 Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8)
8 hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours
9 worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for
10 hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of
11 eight (8) hours on any seventh day of work in a workweek.

12 65. Defendants had a consistent policy of not paying Class Members wages for all
13 hours worked, including by requiring off the clock work as addressed above. Defendants have also
14 required Class Members to work through portions of their meal period. Therefore, Class Members
15 were not properly compensated, nor were they paid overtime rates for hours worked in excess of
16 eight hours in a given day, and/or forty hours in a given week.

17 66. Defendants' failure to pay Class Members the unpaid balance of regular wages
18 owed and overtime compensation, as required by California law, violates the provisions of Labor
19 Code §§ 510 and 1198, and is therefore unlawful.

20 67. Additionally, Labor Code § 558(a) provides "any employer or other person acting
21 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
22 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
23 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
24 pay period for which the employee was underpaid in addition to an amount sufficient to recover
25 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
26 underpaid employee for each pay period for which the employee was underpaid in addition to an
27 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
28 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in

1 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
2 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
3 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
4 Code § 558.

5 68. Defendants’ failure to pay compensation in a timely fashion also constituted a
6 violation of California Labor Code § 204, which requires that all wages shall be paid
7 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
8 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
9 and overtime compensation earned by Class Members. Each such failure to make a timely
10 payment of compensation to Class Members constitutes a separate violation of California Labor
11 Code § 204.

12 69. Class Members have been damaged by these violations of California Labor Code
13 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

14 70. Consequently, pursuant to the California Labor Code, including Labor Code §§
15 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
16 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
17 compensation, with interest, plus their reasonable attorneys’ fees and costs, as well as the
18 assessment of any statutory penalties against Defendants, and each of them, and any additional
19 sums as provided by the Labor Code and/or other statutes.

20 **THIRD CAUSE OF ACTION**

21 **FAILURE TO PAY REPORTING TIME PAY**

22 **(Against all Defendants)**

23 71. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
24 full herein.

25 72. Section 5(A) of the applicable Wage Order(s), requires that for “[E]ach workday an
26 employee is required to report for work and does report, but is not put to work or is furnished less
27 than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the
28 usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4)

1 hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

2 73. As addressed in detail above, Defendants followed a uniform policy of failing to
3 pay reporting time pay on in accordance with the applicable IWC Wage Order requirements. For
4 example, Defendant required Plaintiff and the Class members to, on occasion, report for a
5 scheduled work day to be told whether work was available for them or not, and when there was no
6 work, Plaintiff and the Class members would be sent home after waiting for hours. On such days
7 when Defendant required Plaintiff and the Class Members to report to work only to be sent home
8 because work was not available, they were not paid required reporting time wages for the hours
9 they waited without receiving their regular hourly rate of pay for them.

10 74. Plaintiff brings this claim for failure to pay reporting time pay as required by
11 Section 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which
12 instructs that: "the maximum hours of work and the standard conditions of labor fixed by the
13 commission shall be the maximum hours of work and the standard conditions of labor for
14 employees. The employment of any employee for longer hours than those fixed by the order or
15 under conditions of labor prohibited by the order is unlawful."

16 75. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class
17 members, despite the fact that they were required by Defendants to report for work and were under
18 Defendants' control during these times and were unable to use their time for their own purposes.
19 The failure to pay for reporting time pay is a violation of the California wage orders and is a
20 failure to pay all wages owed, which is a violation of Labor Code §1198.

21 76. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class
22 members are entitled to recover civil penalties, in addition to other penalties, for each underpaid
23 Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50 for the initial
24 violation and \$100 for subsequent violations during each relevant pay period when Defendants
25 failed to pay reporting time pay. These reporting time pay violations also give rise to violations of
26 Labor Code §§ 203, 226, and under the PAGA.

27 77. Accordingly, Plaintiff seeks to recover unpaid reporting time pay which Defendants
28 failed to pay Plaintiff and the Class members pursuant to Sections 5(A) and 20(A) of the

1 applicable IWC Wage Orders and civil penalties and attorneys' fees and costs as may be
2 authorized.

3 **FOURTH CAUSE OF ACTION**

4 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

5 **(Against All Defendants)**

6 78. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
7 full herein.

8 79. Class Members regularly worked shifts greater than five (5) hours and in some
9 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
10 someone for a shift of more than five (5) hours without providing him or her with a meal period of
11 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
12 her with a second meal period of not less than thirty (30) minutes.

13 80. Defendants failed to provide Class Members with meal periods as required under
14 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
15 resulted in Class Members consistently having to work through their scheduled meal breaks
16 because the demands of the job would not avail them the opportunity to take a lawfully
17 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
18 when Class Members worked more than ten (10) hours in a given shift, they did so without
19 receiving a second uninterrupted thirty (30) minute meal period as required by law.

20 81. Defendants thus failed to provide Class Members with meal periods as required by
21 the Labor Code, including by not providing them with the opportunity to take meal breaks, by
22 providing them late or for less than thirty (30) minutes, or by requiring them to perform work
23 during breaks.

24 82. Moreover, Defendants failed to compensate Class Members for each meal period
25 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of
26 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee
27 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of
28 pay at the employee's regular rate of compensation for each workday that the meal period is not

provided. Defendants failed to compensate Class Members for each meal period not provided or inadequately provided, as required under Labor Code § 226.7.

83. Therefore, pursuant to Labor Code § 226.7 and the applicable IWC Wage Order, paragraph 11, Class Members are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes.

FIFTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

84. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

85. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes net rest time per four (4) work hours.

86. Class Members consistently worked consecutive four (4) hour shifts and were generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants placed their needs over Class Members lawful rest breaks and this resulted in Class Members consistently having to work through their scheduled rest breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break. Thus, Class Members were consistently denied of their rest breaks.

87. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that if an employer fails to provide an employee rest period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of

1 compensation for each workday that the rest period is not provided.

2 88. Defendants, and each of them, have therefore intentionally and improperly denied
3 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
4 the applicable IWC Wage Orders.

5 89. Defendants failed to authorize and permit Class Members to take rest periods, as
6 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
7 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
8 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

9 90. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
10 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
11 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
12 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
13 of them, in a sum as provided by the Labor Code and/or other statutes.

14 **SIXTH CAUSE OF ACTION**
15 **VIOLATION OF LABOR CODE § 226(a)**
16 **(Against All Defendants)**

17 91. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
18 full herein.

19 92. California Labor Code § 226(a) requires an employer to furnish each of his or her
20 employees with an accurate, itemized statement in writing showing the gross and net earnings,
21 total hours worked, and the corresponding number of hours worked at each hourly rate; these
22 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
23 serves to pay the employee's wages; or, if wages are paid by cash or personal check, these
24 statements may be given to the employee separately from the payment of wages; in either case the
25 employer must give the employee these statements twice a month or each time wages are paid.

26 93. Defendants failed to provide Class Members with accurate itemized wage
27 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
28 Class Members failed to accurately account for unpaid wages and overtime because their actual

1 hours worked were under-reported due to off the clock work. Additionally, the wage statements
2 given to Class Members failed to accurately account for premium pay for deficiently provided
3 meal periods and rest breaks.

4 94. Throughout the liability period, Defendants intentionally failed to furnish to Class
5 Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages
6 earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any
7 applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
8 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
9 only the last four digits of his or her social security number or an employee identification number
10 other than a social security number, (8) the name and address of the legal entity that is the
11 employer and (9) all applicable hourly rates in effect during the pay period and the corresponding
12 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,
13 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
14 Class Members with such timely and accurate wage and hour statements.

15 95. Class Members suffered injury as a result of Defendants' knowing and intentional
16 failure to provide them with the accurate wage and hour statements as required by law and are
17 presumed to have suffered injury and be entitled to penalties under Labor Code § 226(e), as the
18 Defendants have failed to provide wage statements with accurate and complete information as
19 required by any one or more of items Labor Code § 226 (a)(1) to (9), inclusive, and Class
20 Members cannot promptly and easily determine from the wage statement alone one or more of the
21 following: (i) The amount of the gross wages or net wages paid to the employee during the pay
22 period or any of the other information required to be provided on the itemized wage statement
23 pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the
24 employer made from gross wages to determine the net wages paid to the employee during the pay
25 period, (iii) The name and address of the employer and, (iv) The name of the employee and only
26 the last four digits of his or her social security number or an employee identification number other
27 than a social security number. For purposes of Labor Code § 226(e) "promptly and easily
28 determine" means a reasonable person [i.e. an objective standard] would be able to readily

ascertain the information without reference to other documents or information.

96. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Class Members suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

97. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

98. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

99. Numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

100. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

101. The wages withheld from these Class Members by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

102. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Plaintiff and Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked by requiring off the clock work. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, in addition to unpaid overtime and minimum wages as further detailed in

1 this Complaint. Defendants' failure to pay said wages within the required time was willful within
2 the meaning of Labor Code § 203.

3 103. Defendants' failure to pay wages, as alleged entitles these Class Members to
4 penalties under Labor Code § 203, which provides that an employee's wages shall continue until
5 paid for up to thirty (30) days from the date they were due.

6 **EIGHTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 204**
8 **(Against All Defendants)**

9 104. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
10 full herein.

11 105. Labor Code § 204 instructs that: "All wages, ...earned by any person in any
12 employment are due and payable twice during each calendar month, on days designated in
13 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
14 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
15 during which the labor was performed, and labor performed between the 16th and the last day,
16 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
17 month." Additionally, the requirements of this section shall be deemed satisfied by the payment of
18 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
19 calendar days following the close of the payroll period." As detailed above, Defendants
20 maintained a consistently applied policy and practice of not paying all wages earned between the
21 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
22 between the 16th and the last day of the month between the 1st and 10th day of the following month.
23 Defendants similarly failed to pay all wages earned by not more than seven calendar days
24 following the close of the payroll period. These failures all arose from either Defendants' failure to
25 pay for all hours worked or failure to pay all earned commission wages.

26 106. All wages due and owing to Plaintiff and the Class Members, including as required
27 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
28 above. Additionally, wages required by Labor Code § 1194 and other sections became due and

1 payable to each Class Member in each pay period that he or she was not provided with a meal
2 period or rest period or paid straight or overtime wages or commissions to which he or she was
3 entitled.

4 107. Defendants thus violated Labor Code § 204 by systematically refusing to pay
5 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
6 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
7 payday for the period involved, not less than the applicable minimum wage for all hours worked in
8 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
9 hours than those fixed by the order or under conditions of labor prohibited by the order is
10 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
11 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including
12 penalties under paragraph 20 of the applicable IWC Wage Orders.

13 108. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to
14 represent they have been deprived of wages in amounts to be determined at trial, and they are
15 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
16 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
17 applicable IWC Wage Orders.

18 **NINTH CAUSE OF ACTION**

19 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
20 **AND 1174.5**

21 **(Against All Defendants)**

22 109. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in
23 full herein.

24 110. California Labor Code § 1174 requires that all employers shall keep accurate time
25 and wage records for all employees. California Labor Code § 1174.5 further requires that any
26 employee suffering injury due to a willful violation of the aforementioned obligations may seek
27 damages, including civil penalties, from the employer.

28 111. During the course of Plaintiff’s and Class Members’ employment, Defendants

1 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
2 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper
3 wages, overtime, and premium pay as discussed above.

4 112. Accordingly, Defendants are liable for civil penalties pursuant to the California
5 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

6 **TENTH CAUSE OF ACTION**

7 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

8 **(Against All Defendants)**

9 113. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in
10 full herein.

11 114. Under Labor Code § 2802(a) an employer must indemnify its employees for all
12 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
13 of his or her duties, or of his or her obedience to the directions of the employer.

14 115. Defendants have regularly required Plaintiff to incur business expenses in the course
15 of performing her required job duties for Defendants including for cell phone expenses and materials
16 for use at the restaurant. Upon information and belief, Class Members incurred similar costs. These
17 expenses incurred by Plaintiff and Class Members were necessary and required of them in
18 performing their assigned job duties, but Defendants failed to reimburse Plaintiff and Class
19 Members for all such necessary expenditures. Class Members were not reimbursed for those lawful
20 and necessary work related expenses or losses incurred in direct discharge of their job duties during
21 employment with Defendants and at the direction of the Defendants pursuant to Labor Code §
22 2802(a) and the applicable IWC Wage Orders, paragraph 9.

23 116. As a result of the unlawful acts of Defendants, Class Members have been deprived
24 of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,
25 plus interest and penalties thereon, attorneys' fees, and costs.

26 ///

27 ///

28 ///

ELEVENTH CAUSE OF ACTION
FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198
(Against All Defendants)

117. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

118. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one calendar days from the date of the request.

119. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty calendar days from the date the employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

120. Plaintiff sent written requests through his counsel to Defendants for their payroll records, timecards, and personnel records. However, Plaintiff has not received all of his requested records as of the date of this Complaint.

121. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely produce the required records requested by Plaintiff.

122. On information and belief, Defendants' failure to provide Plaintiff with all of his requested employment records is not an isolated incident, but was instead consistent with Defendants' policy and practice that applied to Plaintiff and Employees.

123. Pursuant to California Labor Code § 1198.5, Plaintiff and Employees are entitled to a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and costs.

124. Pursuant to California Labor Code § 226(f), Plaintiff is entitled to a penalty of seven hundred fifty dollars (\$750) from Defendants and attorneys' fees and cost, and the other Class members similarly situated are similarly entitled.

TWELFTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.*
(Against All Defendants)

125. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in full herein.

126. Plaintiff, on behalf of himself, Class Members, and the general public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class Members and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

127. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

128. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices. By the conduct alleged herein, Defendants’ practices were deceptive and fraudulent in that Defendants’ policy and practice failed to provide the required amount of compensation for missed meal and rest breaks, and failed to adequately compensate Class Members for all hours worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare Commission requirements in violation of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

129. Wage-and-hour laws express fundamental public policies. Paying employees their

1 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
2 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
3 vigorously to enforce minimum labor standards, to ensure that employees are not required or
4 permitted to work under substandard and unlawful conditions, and to protect law-abiding
5 employers and their employees from competitors who lower costs to themselves by failing to
6 comply with minimum labor standards.

7 130. Defendants have violated statutes and public policies. Through the conduct alleged
8 in this Complaint Defendants have acted contrary to these public policies, have violated specific
9 provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in
10 violation of Business & Professions Code § 17200 *et seq.*; which conduct has deprived Plaintiff,
11 and all persons similarly situated, and all interested persons, of the rights, benefits, and privileges
12 guaranteed to all employees under the law.

13 131. Defendants' conduct, as alleged above, constitutes unfair competition in violation
14 of the Business & Professions Code § 17200 *et seq.*

15 132. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
16 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
17 reasonable care should have known that their conduct was unlawful; therefore their conduct
18 violates the Business & Professions Code § 17200 *et seq.*

19 133. By the conduct alleged herein, Defendants have engaged and continue to engage in
20 a business practice which violates California and federal law, including but not limited to, the
21 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
22 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court
23 should issue declaratory and other equitable relief pursuant to California Business & Professions
24 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
25 competition, including restitution of wages wrongfully withheld.

26 134. As a proximate result of the above-mentioned acts of Defendants, Class Members
27 have been damaged, in a sum to be proven at trial.

28 135. Unless restrained by this Court Defendants will continue to engage in such

1 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
2 should make such orders or judgments, including the appointment of a receiver, as may be
3 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
4 deceptive practice prohibited by the Business & Professions Code, including but not limited to the
5 disgorgement of such profits as may be necessary to restore Class Members to the money
6 Defendants have unlawfully failed to pay.

7 **THIRTEENTH CAUSE OF ACTION**
8 **VIOLATION OF LABOR CODE § 2698, ET SEQ.**
9 **(Against All Defendants)**

10 136. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
11 full herein.

12 137. Plaintiff and the Employees in the Class are also Class Members as defined under
13 Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were
14 or are employed by the alleged violators, Defendants (“Class Members”) during the relevant time
15 period.

16 138. In failing to pay Class Members minimum wages and overtime, not providing
17 proper meal and rest periods, failing to provide accurate wage statements, and failing to Pay
18 Employees upon termination or timely upon resignation, all discussed above, Defendants failed to
19 timely pay Class Members wages on a semimonthly basis as required under Labor Code § 204.
20 Defendants also failed to maintain records showing accurate hours worked daily and the wages
21 paid to Class Members, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC
22 Wage Orders.

23 139. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
24 for Defendants’ violation of Labor Code provisions included under Labor Code 2699.5, including
25 the penalty provisions, without limitation, based, inter alia, on the following California Labor
26 Code sections: 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194,
27 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, and 2698 *et seq.*

28 140. More specifically, after complying with the notice procedures of Labor Code §

1 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
2 and other similarly Class Members, a PAGA claim for violations of the above addressed
3 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
4 including as follows:

5 (a) Wage Claims: For failure to provide Plaintiff and the Class Members all earned
6 regular pay and minimum wages for regular hours worked and for failure to pay overtime
7 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
8 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
9 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
10 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
11 to Labor Code § 2699(g)(1);

12 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Class
13 Members off-duty, timely, and unpaid meal periods and permit them to take off-duty, timely, and
14 paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198,
15 and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all
16 civil and statutory penalties available and applicable, including under paragraph 20 of the
17 applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections
18 558(a)(1)-(3), 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code
19 § 2699(g)(1);

20 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
21 provide Plaintiff and Class Members with accurate, itemized wage statements and failure to
22 maintain employment records for Plaintiff and Class Members under Labor Code §§ 226, 1174,
23 and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all
24 civil and statutory penalties and wages available and applicable under Labor Code §§ 226€, 226.3,
25 558, 1174.5, 1199, 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for
26 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing
27 inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a),
28 Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3,

1 which in addition to other penalties provided by law, subjects Defendants to “a penalty in the
2 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
3 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”

4 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
5 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
6 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
7 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
8 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code
9 § 2699(g)(1);

10 (e) Failure to Reimburse Necessary Business Expenses: For Defendants’ failure to
11 reimburse the necessary work related expenses incurred under Labor Code §§ 1197, 1197.1, 1198,
12 and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil
13 penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5,
14 and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs
15 pursuant to Labor Code § 2699(g)(1);

16 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code
17 Sections: For any above addressed violation of the applicable provisions of the IWC Wage
18 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §
19 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
20 paragraph 20 of the applicable IWC Wage Orders, and for attorneys’ fees and costs pursuant to
21 Labor Code § 2699(g)(1).

22 141. As also addressed above, Plaintiff, on behalf of the Class Members, also seeks the
23 penalties and remedies set forth in Labor Code § 558, which states:

24 (a) Any employer or other person acting on behalf of an employer who violates, or
25 causes to be violated, a section of this chapter or any provision regulating hours and days
26 of work in any order of the Industrial Welfare Commission shall be subject to a civil
27 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
28 employee for each pay period for which the employee was underpaid in addition to an

1 amount sufficient to recover underpaid wages. (2) For each subsequent violation, one
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the
3 employee was underpaid in addition to an amount sufficient to recover underpaid wages.

4 (3) Wages recovered pursuant to this section shall be paid to the affected employee.

5 (b) If upon inspection or investigation the Labor Commissioner determines that a
6 person had paid or caused to be paid a wage for overtime work in violation of any
7 provision of this chapter, or any provision regulation hours and days of work in any order
8 of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The
9 procedures for issuing, contesting, and enforcing judgments for citations or civil penalties
10 issued by the Labor Commissioner for a violation of this chapter shall be the same as those
11 set out in Section 1197.1.

12 (c) The penalties provided for in this section are in addition to any other civil or
13 criminal penalty provided by law. Plaintiff has exhausted her administrative remedies by
14 sending a certified letter to the LWDA and Defendants postmarked on December 1, 2023,
15 addressing in detail the specific provisions of the Labor Code Defendants have violated
16 and addressing the facts and legal theories to support the alleged violations and requested
17 penalties. The LWDA has not provided notice of its intent to investigate the alleged
18 violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this
19 claim seeking penalties under the PAGA for the violations addressed herein and in the
20 PAGA Notice Letter and the original Complaint.

21 142. Plaintiff has exhausted her administrative remedies by sending a certified letter to
22 the LWDA and Defendants postmarked on **December 20, 2023**, addressing in detail the specific
23 provisions of the Labor Code Defendants have violated and addressing the facts and legal theories
24 to support the alleged violations and requested penalties. The LWDA has not provided notice of
25 its intent to investigate the alleged violations within 65 calendar days of the postmark date of the
26 letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed
27 herein and in the PAGA Notice Letter and the original Complaint.

28 **RELIEF REQUESTED**

1 WHEREFORE, Plaintiff prays for the following relief:

- 2 1. For an order certifying this action as a class action;
- 3 2. For compensatory damages in the amount of the unpaid minimum wages for work
4 performed by Class Members and unpaid overtime compensation from at least four (4) years prior
5 to the filing of this action, as may be proven;
- 6 3. For liquidated damages in the amount equal to the unpaid minimum wage and
7 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 8 4. For compensatory damages in the amount of all unpaid wages, including overtime
9 and double-time pay, as may be proven;
- 10 5. For compensatory damages in the amount of the hourly wage made by Class
11 Members for each missed or deficient meal period where no premium pay was paid therefor from
12 four (4) years prior to the filing of this action, as may be proven;
- 13 6. For compensatory damages in the amount of the hourly wage made by Class
14 Members for each day requisite rest breaks were not provided or were deficiently provided where
15 no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as
16 may be proven;
- 17 7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be
18 proven;
- 19 8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were
20 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
- 21 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
22 for all class members in violation of Labor Code § 204, as may be proven;
- 23 10. For restitution and/or damages for all amounts unlawfully withheld from the wages
24 for all Class Members in violation of Labor Code § 2802, as may be proven;
- 25 11. For restitution for unfair competition pursuant to Business & Professions Code
26 § 17200 *et seq.*, including disgorgement or profits, as may be proven;
- 27 12. For an order enjoining Defendants and their agents, servants, and employees, and
28 all persons acting under, in concert with, or for them, from acting in derogation of any rights or

1 duties adumbrated in this Complaint;

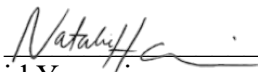
- 2 13. For penalties pursuant to Labor Code § 2698 et seq., as may be proven;
- 3 14. For other wages and penalties under the Labor Code as may be proven;
- 4 15. For all general, special, and incidental damages as may be proven;
- 5 16. For an award of pre-judgment and post-judgment interest;
- 6 17. For an award providing for the payment of the costs of this suit;
- 7 18. For an award of attorneys' fees; and
- 8 19. For such other and further relief as this Court may deem proper and just.

9

10 DATED: February 26, 2024

D.LAW, INC.

11

12 By:  _____

13 David Yeremian

14 Natalie Haritonian

15 Matthew J. Carraher

16 Attorneys for Plaintiff COURTNEY

17 BROOKS, and all others similarly situated

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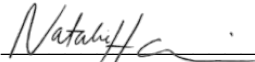
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

DATED: February 26, 2024

D.LAW, INC.

By: 
David Yermian
Natalie Haritonian
Matthew J. Carraher
Attorneys for Plaintiff COURTNEY
BROOKS, and all others similarly situated

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 880 E Broadway, Glendale, CA 91205.

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

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


Silvia Pimentel