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As an individual and on behalf of all other similarly
situated Class Members

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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By: Sen Yeung Shu, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

BRYAN RAGONE, as an individual and on
behalf of all other similarly situated Class
Members,

Plaintiff,

v.

U.S. AVIATION SERVICES CORP., a
Nevada Corporation; UNITED SERVICE
COMPANIES, INC., an Illinois
Corporation; and DOES 1-100, inclusive,

Defendants.

Case No.: CIVSB2409463

CLASS ACTION COMPLAINT FOR:

- 1. Recovery of Unpaid Minimum Wages
and Liquidated Damages**
- 2. Recovery of Unpaid Overtime Wages**
- 3. Failure to Provide Meal Periods or
Compensation in Lieu Thereof**
- 4. Failure to Provide Rest Periods or
Compensation in Lieu Thereof**
- 5. Failure to Furnish Accurate Itemized
Wage Statements**
- 6. Failure to Timely Pay All Wages Due
Upon Separation of Employment**
- 7. Failure to Reimburse Business Expenses
and**
- 8. Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, BRYAN RAGONE, (“PLAINTIFF”), as an individual and on behalf of all other
2 similarly situated Class Members (as defined below), hereby files this Complaint against Defendants
3 U.S. AVIATION SERVICES CORP., a Nevada Corporation; UNITED SERVICE COMPANIES,
4 INC., an Illinois Corporation; and DOES 1-100, inclusive, (collectively referred to herein as
5 “DEFENDANTS”). PLAINTIFF is informed and believes and thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of San Bernardino pursuant to California Code of Civil Procedure section
9 395.5 because DEFENDANTS transact business within this judicial district, DEFENDANTS
10 employed PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct
11 alleged by PLAINTIFF herein occurred in this this judicial district. Venue is also proper pursuant
12 to section 393 of the California Code of Civil Procedure because the cause, or some part of the
13 cause, arose in the County of San Bernardino.

14 **THE PARTIES**

15 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
16 California and a citizen of the State of California.

17 3. DEFENDANTS own, operate, manage and/or staff its employees to work at the
18 airport facilities and/or other facilities and/or other location(s) in California, including but not
19 limited to, the airport facilities and/or other facilities in Ontario, California. DEFENDANTS,
20 through its various s/other locations, serves the aviation and/or consumer services industry.

21 4. Defendant U.S. AVIATION SERVICES CORP. is a Nevada Corporation that, at all
22 relevant times, was authorized to do business within the State of California and is doing business in
23 the State of California.

24 5. Defendant UNITED SERVICE COMPANIES, INC. is an Illinois Corporation that,
25 at all relevant times, was authorized to do business within the State of California and is doing
26 business in the State of California.

27 6. DEFENDANTS own, operate, manage and/or staff its employees to work at the
28 airport facilities and/or other facilities and/or other location(s) in California, including but not

1 limited to, the airport facilities and/or other facilities in Ontario, California. DEFENDANTS,
2 through its various s/other locations, serves the aviation and/or consumer services industry.

3 7. The true names and capacities of the DOE Defendants sued herein as DOES 1
4 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
5 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
6 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
7 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
8 become known.

9 8. PLAINTIFF is further informed and believes that, at all relevant times, each
10 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
11 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
12 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
13 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
14 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
15 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
16 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
17 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
18 controlled, aided and abetted the conduct of all other Defendants.

19 **JOINT LIABILITY**

20 9. Under California law, the definition of the terms “to employ” are broadly construed
21 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
22 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
23 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
24 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
25 was to reach situations in which multiple entities control different aspects of the employment
26 relationship. Supervision of the work, in the specific sense of exercising control over how services
27 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
28 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a

1 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
2 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
3 California, applying a less stringent standard to what constitutes sufficient control by a business
4 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
5 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
6 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
7 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
8 employment,” *Id.* at 875 [emphasis added].

9 10. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
10 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
11 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
12 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
13 hours and working conditions of PLAINTIFF and the Class Members; (2) suffered or permitted
14 PLAINTIFF and Class Members to work for them; and (3) engaged PLAINTIFF and Class
15 Members to work for them.

16 11. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
17 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
18 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
19 across all of their locations/facilities and subjected all of the Class Members to these same policies
20 and practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
21 informed and believes that: (1) there is common ownership in, and financial control, in
22 DEFENDANTS’ companies, (2) DEFENDANTS utilize common management, who have control
23 over the day-to-day operations and employment matters, including the power to hire and fire, set
24 schedules, issue employee policies, and determine rates of compensation across its locations in
25 California; (3) DEFENDANTS utilize the same policies and procedures for all California
26 employees, including issuing the same employee handbooks and other form agreements; (4)
27 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
28 employment matters; and, (6) DEFENDANTS share employees.

1 12. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
2 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class
3 Members upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
4 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class Members' wages,
5 hours and working conditions, and/or suffered or permitted PLAINTIFF and the Class Members to
6 work so as to be considered the joint employers of PLAINTIFF and the Class Members.

7 13. For example, DEFENDANTS' website identifies both "U.S. Aviation Services
8 Corp." and "United Service Companies."

9 14. Also, per DEFENDANTS' website, United Service Companies' corporate
10 headquarters address is the same as U.S. Aviation Services Corp.'s principal place of business as
11 provided to the California Secretary of State.

12 15. Also, DEFENDANTS, and each of them, maintain the same agent for service of
13 process as provided to the California Secretary of State and/or the Secretary of State of the State of
14 Incorporation.

15 16. Moreover, based on information and belief, DEFENDANTS use some of the same
16 human resources personnel and/or attorneys to oversee employment-related matters.

17 17. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
18 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
19 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
20 working conditions that were distributed to, and/or applied to PLAINTIFF and the Class Members,
21 and further that DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF
22 and the Class Members in a uniform manner. DEFENDANTS collectively represented to
23 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
24 that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and Class Members'
25 employment with or without cause. Upon information and belief, DEFENDANTS further
26 collectively represented to PLAINTIFF and Class Members in writing the details of their
27 compensation, and the manner in which they were to take meal and rest periods, the procedures
28 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable

1 to PLAINTIFF and Class Members by which DEFENDANTS collectively would evaluate the wage
2 rates of PLAINTIFF and Class Members.

3 18. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
4 and working conditions of PLAINTIFF and Class Members. As such, DEFENDANTS collectively
5 held the right to control virtually every aspect of PLAINTIFF's and the Class Members'
6 employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF
7 seeks relief in this Complaint.

8 19. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
9 control over, applied the same policies and practices, and engaged in the same acts and omissions
10 with regard to the other Class Members.

11 **CLASS ALLEGATIONS**

12 20. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
13 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
14 seeks to represent are defined as follows and referred to as the "Class" or "Class Members":

15 All current and former non-exempt employees that worked either
16 directly or via a staffing agency for any one or more of the
17 DEFENDANTS at any location in California at any time within the
18 four years prior to the filing of the initial Complaint ("Class Period").

19 a. Numerosity. While the exact number of Class Members is unknown to
20 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
21 all members is impractical under the circumstances of this case. PLAINTIFF is
22 informed and believes the Class consists of at least 100 individuals.

23 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
24 because common questions of law and fact predominate over individual issues.
25 Common questions include, but are not limited to, the following: (1) whether
26 DEFENDANTS understated hours worked and failed to pay all amounts due to
27 PLAINTIFF and the Class Members for wages earned, including minimum and
28 overtime wages, under California law; (2) whether DEFENDANTS provided

1 PLAINTIFF and the Class Members with all meal periods or premium payments
2 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
3 provided PLAINTIFF and the Class Members with all rest periods or premium
4 payments in lieu thereof, in compliance with California law; (4) whether
5 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
6 itemized wage statements in compliance with California law, displaying,
7 including but not limited to, the total hours worked during the pay period; (5)
8 whether DEFENDANTS timely paid PLAINTIFF and the Class Members all
9 wages due upon separation of employment; (6) whether DEFENDANTS failed
10 to reimburse PLAINTIFF and the Class Members for all business expenses; and
11 (7) whether DEFENDANTS violated California Business and Professions Code
12 sections 17200, *et seq.*

- 13 c. Ascertainable Class. The proposed Class is ascertainable as members can be
14 identified and located using information in DEFENDANTS' business, payroll
15 and personnel records.
- 16 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
17 PLAINTIFF suffered a similar injury as members of the Class as a result of
18 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
19 and pay all owed minimum and overtime wages, failure to provide proper meal
20 periods and rest periods or premium compensation in lieu thereof, failure to
21 provide accurate wage statements, failure to reimburse business expenses, and
22 failure to timely pay all wages due upon separation of employment.
- 23 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
24 Class Members. PLAINTIFF has no interests adverse to the interests of the other
25 Class Members. Counsel who represent PLAINTIFF are competent and
26 experienced in litigating similar class action cases and are California lawyers in
27 good standing. Counsel for PLAINTIFF have the experience and resources to
28 vigorously prosecute this case.

1 f. Superiority. A class action is superior to other available means for the fair and
2 efficient adjudication of this controversy since individual joinder of all members
3 of the class is impractical. Class action treatment will permit a large number of
4 similarly situated persons to prosecute their common claims in a single forum
5 simultaneously, efficiently, and without the unnecessary duplication of effort
6 and expense that numerous individual actions would engender. Furthermore, as
7 the damages suffered by each individual member of the Class may be relatively
8 small, the expenses and burden of individual litigation would make it difficult
9 or impossible for individual members of the Class to redress the wrongs done to
10 them, while an important public interest will be served by addressing the matter
11 as a class action. The cost to the court system of adjudication of such
12 individualized litigation would be substantial. Individualized litigation would
13 also present the potential for inconsistent or contradictory judgments. Finally,
14 the alternative of filing a claim with the California Labor Commissioner is not
15 superior, given the lack of discovery in such proceedings, the fact that there are
16 fewer available remedies, and the losing party has the right to a trial de novo in
17 the Superior Court.

18 **FACTUAL AND LEGAL ALLEGATIONS**

19 21. During the relevant period, PLAINTIFF, and each of the Class Members, worked for
20 DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised
21 control over PLAINTIFF and Class Members, and suffered and/or permitted them to work.

22 22. PLAINTIFF is a former employee of DEFENDANTS. PLAINTIFF worked for
23 DEFENDANTS as a non-exempt employee with a job title(s) of baggage handler and/or/ ramp agent
24 and/or a similar title(s) and/or job position(s) from in or around December 2022 through in or around
25 December 2023. PLAINTIFF worked for DEFENDANTS at DEFENDANTS' Ontario, California
26 location(s). PLAINTIFF regularly worked seven and one-half (7 ½) hours per day hours. At all
27 relevant times, PLAINTIFF was a non-exempt employee that was paid on an hourly basis for time
28 counted by DEFENDANTS as hours worked.

1 23. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
2 PLAINTIFF and Class Members for all hours worked, resulting in the underpayment of minimum
3 and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members for all
4 hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and
5 failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise
6 unlawful practices for missed or improper meal periods, as explained below.

7 24. Based on information and belief, DEFENDANTS implemented a policy and/or
8 practice of rounding meal period start and end times and/or automatically deducting at least thirty
9 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
10 PLAINTIFF and other Class Members were subject to DEFENDANTS' control during purported
11 meal periods and/or were otherwise not afforded lawful meal periods, depriving PLAINTIFF and
12 Class Members of all wages owed.

13 25. Based on information and belief, Class Members were not paid for all hours worked
14 due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked
15 instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

16 26. For example, PLAINTIFF was frequently required to respond to work-related calls
17 and/or messages before clocking in for the start of his shift and/or after clocking out for the end of
18 his shift and/or during unpaid meal periods and/or otherwise outside his scheduled shifts, resulting
19 in DEFENDANTS' failure to compensate PLAINTIFF for all work time and the underpayment of
20 wages owed to PLAINTIFF.

21 27. Based on information and belief, DEFENDANTS have a policy and practice of
22 requiring Class Members to also perform work tasks outside of scheduled shift times and/or during
23 unpaid meal periods, including but not limited to, responding to work-related communications
24 and/or completing other off-the-clock work tasks.

25 28. For example, based on information and belief, DEFENDANTS required Class
26 Members to be at their assigned workstations at the start of a scheduled shift, thereby forcing Class
27 Members to gather work-related equipment and/or safety gear, make any necessary adjustments to
28 tools/equipment and/or perform maintenance/cleaning tasks, don work clothing/uniforms and/or

1 protective equipment, and/or complete other work tasks prior to their scheduled shift and/or prior to
2 clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

3 29. Based on information and belief, at times, Class Members were required to stand in
4 line behind other employees to access DEFENDANTS' time-keeping system and/or were required
5 to spend time reinitiating DEFENDANTS' time-keeping system before they could clock in for the
6 start of their shifts and/or after completing a purported meal period.

7 30. Based on information and belief, Class Members were required to complete other
8 off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated
9 meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime
10 wages owed to Class Members.

11 31. For example, based on information and belief, DEFENDANTS required Class
12 Members to clock out for the end of their shifts but to continue working due to the need to
13 return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates
14 and/or debriefings and/or participate in work meetings, respond to work-related communications
15 and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages
16 and overtime wages owed to Class Members.

17 32. Based on information and belief, DEFENDANTS did not compensate Class
18 Members for all time spent donning and doffing personal protective equipment, safety equipment
19 and/or uniforms/work clothing (e.g., gloves, goggles/safety glasses, hats/bump caps/safety helmets
20 and/or face masks) during meal periods, before the start of a scheduled shift, and after completing a
21 scheduled shift, resulting in DEFENDANTS' failure to pay Class Members for all work time and
22 the underpayment of minimum wages and overtime wages owed to Class Members.

23 33. Based on information and belief, at times, DEFENDANTS' electronic employee
24 time-keeping system/app malfunctioned such that Class Members were required to either reinitiate
25 and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock
26 in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock
27 work and the underpayment of wages owed to Class Members. Based on information and belief,
28 Class Members experienced the same issues when clocking out for shifts and/or back in for meal

1 periods. This time spent under DEFENDANTS' control was not recorded and not compensated and
2 resulted in unpaid minimum wages owed to Class Members.

3 34. Based on information and belief, Class Members were required to undergo security
4 screenings and/or other mandated screenings before and/or after a scheduled shift and/or before or
5 after clocking in/out for work, resulting in pre-shift and/or post-shift off-the-clock work.

6 35. Based on information and belief, DEFENDANTS required Class Members to
7 undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their
8 scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

9 36. Based on information and belief, Class Members were also pressured to complete at
10 least some additional work tasks off-the-clock in order to meet DEFENDANTS' goals and
11 expectations.

12 37. For example, based on information and belief, Class Members were required to
13 complete off-the-clock work outside of scheduled shifts due to including but not limited to, work-
14 related phone calls and/or messages they received to their phones and/or mobile devices and were
15 required to respond to, including but not limited to, communications from supervisors regarding
16 scheduling and/or other work tasks, resulting in the underpayment of wages owed to Class Members.

17 38. Based on information and belief, DEFENDANTS failed to pay Class Members the
18 applicable minimum wage for the county and/or city within which the Class Member worked in
19 California.

20 39. For example, based on information and belief, at times, DEFENDANTS required
21 PLAINTIFF and/or other Class Members to work two separate shifts in the same day. Based on
22 information and belief, DEFENDANTS failed to pay PLAINTIFF and/or other Class Members split
23 shift compensation whenever PLAINTIFF's and/or other Class Members' work schedules were
24 interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a
25 violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an
26 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to
27 the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an
28 employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to

1 the minimum wage for that workday, except when the employee resides at the place of employment).

2 40. DEFENDANTS also failed to separately itemize these split shift premium wages on
3 PLAINTIFF's and/or other Class Members' wage statements, in violation of including but not
4 limited, Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See,
5 https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on
6 the pay stub provided to the employee, and it should be shown as a separate category such as "Split
7 Shift Premium" and should not be lumped into another category such as wages, bonus, etc.
8 DEFENDANTS failed to separately account for the split shift premiums earned by PLAINTIFF
9 and/or other Class Members on their wage statements.

10 41. For example, DEFENDANTS typically required PLAINTIFF to work two separate
11 shifts in the same day, however, DEFENDANTS failed to pay PLAINTIFF split shift compensation
12 whenever PLAINTIFF's work schedule(s) was interrupted by non-paid non-working periods
13 established by DEFENDANTS. Based on further information and belief, DEFENDANTS also
14 failed to separately itemize these split shift premium wages on PLAINTIFF's wage statements, in
15 violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.

16 42. Based on information and belief, DEFENDANTS failed to pay Class Members for
17 time they were required to spend completing orientation, policy questionnaires, and/or time spent
18 completing the onboarding process including but not limited to reviewing various documents and
19 policies provided by DEFEDANTS. Based on information and belief, this work time was completed
20 off-the-clock and was not compensated.

21 43. Based on further information and belief, DEFENDANTS implemented a time-
22 rounding system that as applied systematically deprived PLAINTIFF and other Class Members of
23 compensable time because the time-rounding system implemented by DEFENDANTS would
24 almost always, if not always, result in understating actual compensable work time.

25 44. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
26 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
27 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
28 minimum wages owed to PLAINTIFF and Class Members as well as unpaid overtime wages for

1 those Class Members who worked more than eight (8) hours in a day and/or more than forty (40)
2 hours in a week.

3 45. Based on information and belief, DEFENDANTS had actual and/or constructive
4 knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to
5 provide lawful meal periods (as described below) and/or other off-the-clock work resulted in the
6 underpayment of minimum wages owed to PLAINTIFF and other Class Members, in violation of
7 California's minimum and overtime wage laws.

8 46. Based on information and belief, DEFENDANTS failed and continue to fail to pay
9 Class Members two times their regular rate of pay for time worked beyond twelve (12) hours per
10 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a
11 work week, in violation of California's overtime laws.

12 47. Based on information and belief, DEFENDANTS failed to incorporate all non-
13 discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or
14 other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s),
15 resulting in the miscalculation and underpayment of overtime wages owed to PLAINTIFF and other
16 Class Members.

17 48. **Meal Period Violations.** PLAINTIFF and other Class Members consistently worked
18 shifts of at least five and one-half hours or more, entitling them to at least one meal period. However,
19 PLAINTIFF and other Class Members would not receive legally compliant thirty (30) minute first
20 and second meal periods. Based on information and belief, Class Members were consistently unable
21 to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late
22 meal periods, interrupted meal periods, and/or work through part or all their meal periods due to
23 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
24 pressuring them to take non-compliant meal periods or skip meal periods completely.

25 49. For example, based on information and belief, Class Members were forced to take
26 late meal periods in order to complete assigned job duties.

27 50. Based on information and belief, Class Members were frequently interrupted during
28 purported meal periods and/or had meal periods cut short and/or restricted to DEFENDANTS'

1 premises due to the need to continue assigned job duties.

2 51. Based on information and belief, other Class Members were consistently suffered
3 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
4 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
5 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
6 the need to meet DEFENDANTS' goals and expectations.

7 52. Based on information and belief, DEFENDANTS implemented policies and/or
8 practices that failed to relieve Class Members of all duties and DEFENDANTS' control during
9 unpaid meal periods.

10 53. Based on information and belief, DEFENDANTS required Class Members to
11 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
12 into account when scheduling meal periods for Class Members. Based on information and belief,
13 meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

14 54. Based on information and belief, despite DEFENDANTS' failure to provide lawful
15 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
16 times of PLAINTIFF's and other Class Members' meal periods and/or automatically deducting at
17 least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite having
18 actual and/or constructive knowledge that PLAINTIFF and other Class Members did not receive
19 lawful meal periods.

20 55. Moreover, per DEFENDANTS' uniform policy and practice, Class Members who
21 worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute
22 second meal period.

23 56. For example, when PLAINTIFF worked more than ten (10) and/or twelve (12) hours
24 in a shift, PLAINTIFF was at times denied a compliant second meal period.

25 57. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
26 other Class Members as to the timing and duty-free nature of meal periods. Based on further
27 information and belief, DEFENDANTS did not have a written meal period policy, nor did
28 DEFENDANTS have any sort of compliant policy in practice.

1 58. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
2 records of the true start and end times of PLAINTIFF's and Class Members' meal periods. Based
3 on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
4 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other Class
5 Members not being paid for all time worked as well as late and/or shortened meal periods. *See*
6 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

7 59. Based on information and belief, DEFENDANTS had actual and/or constructive
8 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
9 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members, in violation
10 of California's meal period laws.

11 60. DEFENDANTS failed to pay PLAINTIFF and other Class Members, an additional
12 hour of wages at their respective regular rates of compensation for each workday a lawful meal
13 period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each
14 workday a lawful meal period was not provided and/or failed to pay the proper meal period premium
15 for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses,
16 shift differential pay and/or other non-discretionary compensation into the regular rate or
17 compensation for purposes of calculating the owed meal period premium.

18 61. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
19 PLAINTIFF and other Class Members with legally compliant rest periods at a rate of every four (4)
20 hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the
21 work period, as required by law.

22 62. PLAINTIFF and other Class Members were not adequately informed, authorized,
23 instructed about, nor permitted an opportunity to take proper rest periods per California law. Based
24 on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of
25 duty-free rest periods.

26 63. Based on information and belief, DEFENDANTS did not have a have a compliant
27 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
28 practice.

1 64. For example, based on information and belief, Class Members were frequently if not
2 always unable to take compliant rest periods due to their need to complete assigned job duties and/or
3 were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest
4 periods restricted to DEFENDANTS' premises.

5 65. Based on information and belief, Class Members' rest periods were interrupted, cut
6 short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of
7 their job duties, and/or due to commentary from supervisors/managers pressuring them to skip rest
8 periods completely or otherwise take non-compliant rest periods.

9 66. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts
10 lasting longer than ten hours.

11 67. Based on information and belief, DEFENDANTS implemented policies and/or
12 practices that failed to relieve PLAINTIFF and other Class Members of all duties and
13 DEFENDANTS' control during rest periods.

14 68. Based on information and belief, Class Members were pressured to complete their
15 work duties according to a designated schedule such that rest periods were only taken once tasks
16 were completed, and/or as time permitted.

17 69. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
18 which PLAINTIFF and Class Members experienced a missed/unlawful rest period in violation of
19 California law. DEFENDANTS either failed to pay a rest period premium at all for each workday a
20 proper rest period was not provided and/or failed to pay the proper rest period premium for failure
21 to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift
22 differential pay, and/or other non-discretionary compensation into the regular rate of compensation
23 for purposes of calculating the owed rest period premium.

24 70. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
25 provide PLAINTIFF and other Class Members with accurate wage statements that complied with
26 Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Class Members with
27 meal and rest periods that complied with Labor section 226.7, the wage statements DEFENDANTS
28 issued to PLAINTIFF and Class Members failed and continue to fail to correctly set forth the gross

1 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
2 during the pay period and the corresponding number of hours worked at each hourly rate by the
3 employee.

4 71. DEFENDANTS issued wage statements to PLAINTIFF and Class Members that also
5 failed to indicate the earned gross and net wages earned during the pay period, the correct applicable
6 rates of pay for all hours worked, and the total hours worked by PLAINTIFF and Class Members
7 (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class
8 Members of all duties and employer control during unpaid meal periods, payment according to
9 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
10 and practices) which results in a violation of Labor Code section 226(a).

11 72. As described herein, based on information and belief, DEFENDANTS also failed to
12 incorporate all forms of non-discretionary compensation earned during the pay period into the
13 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
14 of overtime worked by PLAINTIFF and other Class Members.

15 73. Based on information and belief, wage statements issued by DEFENDANTS failed
16 to list the inclusive dates of the pay period for which the Class Member is being paid.

17 74. Based on information and belief, wage statements issued by DEFENDANTS failed
18 to list all applicable hourly rates in effect during the pay period and the corresponding number of
19 hours worked at hear hourly rate by the employee, in violation of including but not limited to, Labor
20 Code section 226(a)(9).

21 75. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
22 Members that were not accurate and did not include all of the statutorily required information. As
23 such, DEFENDANTS violated Labor Code section 226.

24 76. **Failure to Timely Pay All Wages Upon Separation of Employment.** Based on
25 information and belief, DEFENDANTS failed to timely pay Class Members all wages that were due
26 and owing upon termination or resignation. Based on information and belief, DEFENDANTS
27 untimely provide final wages to Class Members without regard to the timing requirements of Labor
28 Code sections 201-202.

1 77. Upon separation of employment, Class Members' final paychecks were not timely
2 provided and/or were not timely provided with all owed vacation pay and/or paid time off.
3 Moreover, PLAINTIFF's and Class Members' final paychecks, once provided, did not include all
4 wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime
5 wages, premium wages, vacation pay, and all owed sick leave and/or paid time off wages at the
6 properly accrued rates.

7 78. For example, DEFENDANTS did not furnish PLAINTIFF with any final paycheck
8 until at least approximately four (4) days following the separation of PLAINTIFF's employment,
9 and PLAINTIFF's late final paycheck is devoid of all wages owed, including but not limited to, all
10 owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or
11 paid time off wages at the properly accrued rates (including but not limited to, all owed vacation
12 pay/paid time off paid at the final rate including non-discretionary compensation, including but not
13 limited to, any shift differentials).

14 79. Based on further information and belief, DEFENDANTS failed to timely provide all
15 owed wages immediately upon discharge of employment. Based in information and belief, at times,
16 Class Members experienced breaks in employment caused by DEFENDANTS whereby Class
17 Members would not be called in for work for longer than a single pay period due to including but
18 not limited to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a
19 discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of
20 such periods of employment, in violation of including but not limited to Labor Code section 201-
21 202.

22 80. These violations subject DEFENDANTS to civil penalties under Labor Code section
23 203, 210, and/or 256.

24 81. **Unreimbursed Business Expenses.** Based on information and belief,
25 DEFENDANTS required PLAINTIFF and Class Members to incur business expenses as a direct
26 consequence of the performance of their job duties without providing reimbursement, in violation
27 of Labor Code section 2802. Based on information and belief, PLAINTIFF and Class Members
28 were improperly required to provide and maintain work tools that are supposed to be the

1 responsibility of the employer.

2 82. Based on information and belief, DEFENDANTS shifted the costs of doing business
3 onto PLAINTIFF and other Class Members requiring them to pay for business expenses, including
4 but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear and the use
5 of Class Members' personal cell phones/mobile devices, internet and/or data usage for work-related
6 purposes, including but not limited to, to receive and respond to work-related messages and/or phone
7 calls.

8 83. For example, based on information and belief, Class Members were required to
9 receive and respond to work-related calls and/or messages from supervisors and/or other Class
10 Members regarding scheduling and/or other work tasks but were not reimbursed by DEFENDANTS
11 at all and/or in full for these business expenses.

12 84. For example, PLAINTIFF was required to use his personal cell phone / mobile device
13 for work, including but not limited to, for responding to off-the-clock work-related calls and/or
14 messages from PLAINTIFF's manager(s), without being provided any and/or full reimbursement
15 from DEFENDANTS for the business expenses PLAINTIFF incurred in connection with being
16 required to use his personal cell phone/mobile device for work.

17 85. Based on information and belief, Class Members were not reimbursed for the cost of
18 purchasing and/or maintaining their own hand tools and/or equipment required to perform their
19 assigned job duties and/or for the costs of purchasing and/or maintaining work
20 uniforms/clothing/shoes and/or protective gear (e.g., gloves and/or face masks).

21 86. For example, PLAINTIFF was required to purchase his own steel toe boots and/or
22 protective eyewear and/or gloves and/or sunscreen and/or water and/or hearing protection and/or
23 other uniforms and/or work clothing and/or work shoes/boots and/or protective and/or safety gear
24 and/or hand tools and/or work equipment required to carry out his assigned job duties, however,
25 DEFENDANTS did not reimburse PLAINTIFF at all and/or in full for the business expenses
26 PLAINTIFF incurred in connection with the purchase and/or maintenance of DEFENDANTS'
27 required uniforms and/or work clothing and/or work shoes/boots and/or protective and/or safety
28 gear and/or hand tools and/or work equipment.

1 87. Based on information and belief, at times, Class Members were not reimbursed for
2 the business use of their personal vehicles, including mileage, wear and tear and/or cost of fuel when
3 they were required to drive around and/or between job sites, and/or otherwise use their personal
4 vehicles in carrying out the duties assigned by DEFENDANTS. As such, DEFENDANTS failed to
5 compensate Class Members at the legally mandated Internal Revenue Service (IRS) per mile
6 compensation rates in effect during the relevant period.

7 88. As explained above, based on information and belief, Class Members were not
8 reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of
9 purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety
10 gear and/or hand tools and/or other work equipment required to carry out their assigned job duties.

11 89. Based on information and belief, DEFENDANTS regularly failed to reimburse and
12 indemnify Class Members for business expenses. Pursuant to California Labor Code section 2802,
13 PLAINTIFF and Class Members were entitled to be reimbursed for all reasonable expenses
14 associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by
15 DEFENDANTS.

16 90. DEFENDANTS' failure to provide Class Members with full reimbursement for all
17 reasonable expenses associated with carrying out their duties required that Class Members
18 subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

19 91. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
20 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
21 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

22 **FIRST CAUSE OF ACTION**

23 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
24 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

25 92. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

26 93. It is fundamental that an employer must pay its employees for all time worked.
27 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
28 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 224 only
permits deductions from wages when the employer is required or empowered to do so by state or

1 federal law or when the deduction is expressly authorized in writing by the employee for specified
2 purposes that do not have the effect of reducing the agreed upon wage. Labor Code section 223
3 prohibits the pay of less than a statutory or contractual wage scale.

4 94. Pursuant to California Labor Code sections 1194 and 1197, and the Industrial Wage
5 Commission (“IWC”) Wage Orders, an employer must pay its employees for all hours worked, up
6 to 40 hours per week or 8 hours per day, at a regular rate no less than the mandated minimum wage.
7 Payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
8 period is unlawful.

9 95. DEFENDANTS violated California’s minimum wage laws by failing to compensate
10 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
11 DEFENDANTS’ time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
12 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
13 and/or payment according to scheduled hours worked rather than actual hours worked (described
14 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
15 wages.

16 96. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
17 Class Members for all hours worked.

18 97. Based on information and belief, DEFENDANTS had actual or constructive
19 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
20 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
21 periods, policy and practice of payment according to scheduled work time rather than actual work
22 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
23 owed to PLAINTIFF and other Class Members.

24 98. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
25 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
26 attorney's fees and costs, in an amount to be proved at trial.

27 **SECOND CAUSE OF ACTION**

28 **Recovery of Unpaid Overtime Wages
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

1 99. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

2 100. Employees in California must be paid overtime, equal to one and one-half times the
3 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
4 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
5 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
6 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
7 consecutive day of work in a workweek, unless they are exempt.

8 101. PLAINTIFF and the Class Members worked overtime hours for which they were not
9 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
10 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
11 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
12 scheduled hours worked rather than actual hours worked (described above), and/or other unlawful
13 policies and/or practices described above which resulted in unpaid minimum and overtime wages
14 which resulted in the failure to account for all hours worked and thus the denial of all owed overtime
15 wages.

16 102. Based on information and belief, DEFENDANTS failed to pay twice Class
17 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
18 time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in
19 violation of California's overtime laws.

20 103. Based on information and belief, DEFENDANTS further violated California's
21 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
22 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
23 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
24 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
25 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
26 other Class Members.

27 104. DEFENDANTS' conduct described above is in violation of California Labor Code
28 sections 510 and 1194 and all applicable Wage Orders.

1 105. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
2 wages, plus attorney's fees and costs, in an amount to be proved.

3 **THIRD CAUSE OF ACTION**

4 **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
5 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 106. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 107. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
8 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
9 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
10 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
11 waived, but only under the following circumstances: (1) if an employee's total work period in a day
12 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
13 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
14 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
15 waived by mutual consent of the employer and employee, but only if the first meal period was not
16 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
17 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
18 done so.

19 108. Employers must pay employees an additional hour of wages at the employees'
20 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
21 meal period, first meal period provided after five (5) hours, second meal period provided after 10
22 hours). Lab. Code § 226.7.

23 109. As explained above, PLAINTIFF and other Class Members were consistently unable
24 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
25 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
26 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
27 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
28 completely.

 110. Based on information and belief, DEFENDANTS had and continue to have a policy

1 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
2 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
3 Members did not receive compliant meal periods.

4 111. Moreover, based on information and belief, Class Members did not receive a timely,
5 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

6 112. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
7 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
8 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
9 violation of California's meal period laws.

10 113. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
11 periods in violation of California law and/or failed to pay the proper meal period premium for failure
12 to incorporate all non-discretionary remuneration including but not limited to, bonuses, shift
13 differential pay and/or other non-discretionary compensation into the regular rate or compensation
14 for purposes of calculating the owed meal period premium.

15 114. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
16 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
17 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
18 all in an amount to be proved at trial.

19 **FOURTH CAUSE OF ACTION**

20 **Failure to Provide Rest Periods or Compensation in Lieu Thereof (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

21 115. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

22 116. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
23 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
24 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
25 "insofar as practicable." In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the
26 California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts
27 from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10
28 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029).

1 The rest period requirement obligates employers to permit and authorize employees to take off-duty
2 rest periods, meaning employers must relieve employees of all duties and relinquish control over
3 how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

4 117. If the employer fails to provide any required rest period, the employer must pay the
5 employee one hour of pay at the employee's regular rate of compensation for each workday the
6 employer did not provide at least one legally required rest period, pursuant to Labor Code section
7 226.7.

8 118. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
9 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
10 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
11 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
12 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
13 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
14 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
15 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
16 "onus is on the employer to clearly communicate the authorization and permission [to take rest
17 periods] to its employees.").

18 119. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-
19 minute rest periods for every four (4) hours worked or major fraction thereof. As explained above,
20 any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to
21 DEFENDANTS' control due to the nature and constraints of Class Members' job duties,
22 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to
23 skip rest periods completely or otherwise take non-compliant rest periods.

24 120. Based on information and belief, DEFENDANTS implemented policies and/or
25 practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer
26 control during rest periods. Based on further information and belief, Class Members were pressured
27 to complete their work duties according to a designated schedule such that rest periods were only
28 taken once tasks were completed, and/or as time permitted.

121. As a result, PLAINTIFF and Class Members did not receive legally compliant first, second, or third rest periods as required by California law.

122. Moreover, based on information and belief, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and other Class Members for each workday in which there was a missed or otherwise unlawful rest period. Based on further information and belief, when a rest premium was paid, DEFENDANTS failed to include non-discretionary compensation including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of determining the owed rest period premium.

123. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one hour of additional pay at the regular rate of compensation for each workday that a required rest period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at trial.

FIFTH CAUSE OF ACTION
Failure to Furnish Accurate Itemized Wage Statements
(By PLAINTIFF and the Class Members Against all DEFENDANTS)

124. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

125. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized wage statement accurately stating the following:

(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 piece-rate 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 itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

1 126. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with
2 meal and rest periods that complied with Labor Code section 226.7, the wage statements
3 DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to
4 correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the
5 total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages
6 earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect
7 during the pay period and the corresponding number of hours worked at each hourly rate by the
8 employee, in violation of Labor Code section 226(a)(9).

9 127. Moreover, due to violations detailed above, including but not limited to,
10 DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide
11 meal and rest break premiums, and failure to pay all sick leave wages at the proper rates,
12 DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish
13 PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross
14 and net wages earned and the correct applicable rates of pay for all hours worked. Based on
15 information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary
16 compensation earned during the pay period into the regular rate of pay for purposes of calculating
17 the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of
18 overtime worked by PLAINTIFF and other Class Members.

19 128. As explained above, wage statements issued by DEFENDANTS failed to list the
20 "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries,
21 automatic deduction for meal periods/failure to relieve Class Members of all duties and employer
22 control during unpaid meal periods, payment according to scheduled hours worked rather than actual
23 hours worked, and/or other off-the-clock work policies and practices all described in greater detail
24 *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on
25 a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v.*
26 *Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

27 129. Separately, and independent from the above allegations, DEFENDANTS issued
28 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by

1 failing to list the correct name and/or address of the legal entity that is the employer.

2 130. Based on information and belief, wage statements issued by DEFENDANTS failed
3 to list the inclusive dates of the pay period for which the Class Member is being paid.

4 131. DEFENDANTS' failure to accurately list all hours worked on all wage statements
5 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
6 Members over whether they received all wages owed to them.

7 132. As a result, PLAINTIFF and other Class Members have suffered injury as they could
8 not easily determine whether they received all wages owed to them and whether they were paid for
9 all hours worked.

10 133. Based on information and belief, wage statements issued by DEFENDANTS failed
11 to list all applicable hourly rates in effect during the pay period and the corresponding number of
12 hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

13 134. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
14 Class Members with accurate, itemized wage statements.

15 135. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
16 have suffered injury. The absence of accurate information on their wage statements has prevented
17 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
18 mathematical computations to determine the amount of wages owed, and will cause difficulty and
19 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
20 submission of inaccurate information about wages and amounts deducted from wages to state and
21 federal government agencies. As a result, PLAINTIFF and Class Members are required to
22 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
23 and pay records than if DEFENDANT had complied with its legal obligations.

24 136. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
25 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
26 violation occurred and one hundred dollars per employee per violation for each subsequent pay
27 period, not to exceed an aggregate penalty of four thousand dollars per employee.

28 137. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are

1 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
2 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
3 provide currently employed Class Members with inaccurate wage statements in violation of
4 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
5 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
6 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
7 with California Labor Code § 226(a).

8 138. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
9 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
10 attorneys' fees, and costs of suit.

11 **SIXTH CAUSE OF ACTION**

12 **Failure to Timely Pay All Wages Due Upon Separation of Employment (By PLAINTIFF and the Class Members Against all DEFENDANTS)**

13 139. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

14 140. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
15 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
16 payable immediately."

17 141. California Labor Code section 202(a) provides, in relevant part, that "[i]f an
18 employee not having a written contract for a definite period quits his or her employment, his or her
19 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
20 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
21 to his or her wages at the time of quitting."

22 142. Based in information and belief, DEFENDANTS failed and continue to fail to timely
23 pay final wages to PLAINTIFF and Class Members upon separation of employment in violation of
24 Labor Code section 201-202. Moreover, final paychecks once provided to PLAINTIFF and Class
25 Members do not include all wages owed as they are devoid of, including but not limited to, all owed
26 minimum wages, overtime wages, premium wages, vacation pay, and all owed sick leave and/or
27 paid time off wages at the properly accrued rates.

28 143. Under Labor Code section 203, PLAINTIFF and the Class Members who are no

1 longer employed by DEFENDANTS are entitled to recover waiting time penalties of up to 30 days’
2 pay, plus attorney’s fees and costs, in an amount to be proved at trial.

3 **SEVENTH CAUSE OF ACTION**

4 **Failure to Reimburse Business Expenses**

5 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

6 144. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

7 145. California law requires employers to indemnify their employees for all necessary
8 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
9 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
10 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
11 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
12 incurred by the employee enforcing the rights granted by this section.”

13 146. Among other things, under California law, when employees must use their personal
14 cellphones for work-related purposes, the employer must reimburse them for a reasonable
15 percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228
16 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
17 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
18 *Id.* 1144-1145.

19 147. As described above, PLAINTIFF and the Class Members were improperly required
20 to pay for business expenses that are legally the responsibility of the employer.

21 148. DEFENDANTS’ failure to provide PLAINTIFF and the Class Members with full
22 reimbursement for all reasonable expenses associated with carrying out their duties required that
23 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
24 violation of Labor Code section 2802.

25 149. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Class
26 Members have suffered injury in that they were not completely reimbursed as mandated by
27 California law.

28 150. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable

1 attorneys' fees, and costs of suit.

2 **EIGHTH CAUSE OF ACTION**

3 **Unfair Competition**

4 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

5 151. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

6 152. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
7 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
8 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
9 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
10 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
11 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
12 wage statements; DEFENDANTS' failure to reimburse business expenses; DEFENDANTS' failure
13 to timely pay all wages owed upon separation of employment; and DEFENDANTS' failure to
14 provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due to,
15 including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
16 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
17 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
18 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
19 and practices).

20 153. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
21 California Labor Code, DEFENDANTS have gained a competitive advantage over other
22 comparable companies doing business in the State of California that comply with their obligations
23 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
24 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
25 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
26 minimum and overtime wages and to pay all wages due upon separation of employment of their
27 employees.

28 154. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
and Class Members have suffered injury in fact and lost money or property, as described in more

1 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
2 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
3 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
4 unlawful and unfair business practices.

5 155. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
6 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
7 engaging in each of the unlawful practices and policies set forth herein.

8 156. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc
9 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
10 by law.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and
3 Class Members as follows:

- 4 1. For an order that the action be certified as a class action;
5 2. For an order that PLAINTIFF be appointed as class representative;
6 3. For an order that counsel for PLAINTIFF be appointed as class counsel;
7 4. For compensatory damages according to proof;
8 5. For liquidated damages according to proof;
9 6. For penalties according to proof;
10 7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully
11 withheld from PLAINTIFF and the Class Members;
12 8. For an order finding DEFENDANTS have engaged in unfair competition in violation of
13 section 17200, *et seq.*, of the California Business and Professions Code;
14 9. For an order enjoining DEFENDANTS from further acts of unfair competition;
15 10. For pre-judgment interest as permitted by law;
16 11. For attorney's fees and costs reasonably incurred; and
17 12. For such other and further relief that the Court deems just and proper.

18
19 Dated: March 21, 2024

CROSNER LEGAL, PC

20
21 By: _____


22 Jamie K. Serb, Esq.
23 Brandon Brouillette, Esq.
24 Zachary M. Crosner, Esq.
25 Attorneys for Plaintiff,
26 BRYAN RAGONE
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Dated: March 21, 2024

By:

Jamie K. Serb, Esq.
Brandon Brouillette, Esq.
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BRYAN RAGONE