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of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO

JUSTIN J. PUTNEY, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

SONIA, INC., a California corporation;
SONIA CORINA, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: CU24-00694

CLASS ACTION

Assigned for All Purposes To:
Hon. Tim P. Kam
Dept.: 7

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; and
11. Violation of Business & Professions Code § 17200 *et seq.*, and
12. Penalties under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: February 1, 2024
Trial Date: None Set

1 Plaintiff JUSTIN J. PUTNEY (hereinafter “Plaintiff”), on behalf of himself and other
2 similarly situated non-exempt, hourly employees employed by Defendants within the state of
3 California during the relevant time period (collectively, “Employees”; individually, “Employee”),
4 complains of Defendants, and each of them, as follows:

5 INTRODUCTION

6 1. Plaintiff brings this action on behalf of himself and all current and former
7 Employees within the State of California who, at any time from four years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees, including those employed as
9 respite workers and in similar and in similar and related positions, by Defendants SONIA, INC., a
10 California corporation; SONIA CORINA, INC., a California corporation, and DOES 1 through 50,
11 inclusive (all defendants being collectively referred to herein as “Defendants”). Plaintiff alleges
12 that Defendants, and each of them, violated various provisions of the California Labor Code,
13 relevant orders of the Industrial Welfare Commission (“IWC”), and the California Business &
14 Professions Code, and seeks redress for these violations.

15 2. Plaintiff and the Class Members worked as hourly, non-exempt Employees for
16 Defendants in positions generally pertaining to providing respite and caregiving services to
17 Defendants’ clients. Plaintiff, and upon information and belief the other similarly situated
18 Employees in the Class, were required to perform work tasks based out of Defendants’ clients’
19 homes throughout California. Plaintiff was employed by Defendants as a respite worker, and
20 Defendants tasked him with duties that included assisting clients with daily living activities,
21 including but not limited to feeding, socializing, performing hygiene tasks, and planning and
22 supervising activities.

23 3. Defendants employed other similarly situated Employees in similar and related
24 positions based out of Defendants’ clients’ homes and throughout California, including in Vallejo,
25 California. Plaintiff and the other similarly situated Class Members worked at Defendants’ behest
26 without being paid all wages due and without being provided all required breaks. More
27 specifically, Plaintiff and the other similarly situated Class Members were employed by
28 Defendants and (1) shared similar job duties and responsibilities, (2) were subjected to the same

1 policies and practices, and (3) endured similar violations at Defendants' hands.

2 4. Defendants required Plaintiff and the Employees in the Class to work off the clock
3 and failed to accurately record the hours they were on the clock, failed to pay them at the
4 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
5 resignation, and failed to provide Plaintiff and Class Members with accurate itemized wage
6 statements that prevented them from learning of these unlawful pay practices. Defendants also
7 failed to provide Plaintiff and the Class with lawful meal and rest periods, as Employees were
8 required to remain under Defendants' client' control and were not provided with the opportunity to
9 take full uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code
10 and the applicable paragraphs of the IWC Wage Orders.

11 5. Defendant SONIA, INC. is a California stock corporation that lists its principal
12 address in Brawley, California with the California Secretary of State. It lists a registered corporate
13 agent with an address in Brawley, California. Sonia Inc. ("Sonia") lists its type of business as
14 "nonmedical inhome respite care."

15 6. The wage statements issued to Plaintiff list Sonia, Inc. as his employer with an
16 address in Brawley, California. However, the name "Sonia Corina, Inc." is listed on different
17 policies provided by Defendant. Upon information and belief, Sonia, Inc. operates and does
18 business as Sonia Corina Inc., and is either a joint employer with Sonia Corina, Inc. or is a d/b/a or
19 a parent company or a predecessor for Sonia Corina, Inc. Plaintiff was employed by Defendants at
20 one of Defendants' clients homes in Vallejo, California and in Solano County, and upon
21 information and belief Defendants employed other Class Members in Solano County and
22 throughout California and placed them at the homes of Defendants' customers there.

23 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
24 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
25 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
26 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
27 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
28 obligations and liabilities giving rise to this lawsuit occurred at least in part in Solano County and

1 Defendants listed a principal address in Brawley, California. Defendants also employ Class
2 Members at other client's homes Solana County and throughout California.

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

11 9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
12 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
13 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
14 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
15 all respects as the employers or joint employers of Employees. Defendants, and each of them,
16 exercised control over the wages, hours, or working conditions of Employees, created and
17 implemented the policies and practices that governed the employment of Plaintiff and the Class
18 Members and dictated their job duties and responsibilities, or otherwise suffered or permitted
19 Plaintiff and the other Employee Class Members to work, or engaged them, thereby creating a
20 common law employment relationship with the Employee Class Members. Therefore, Defendants,
21 and each of them, employed or jointly employed the Employee Class Members.

22 **FACTUAL BACKGROUND**

23 10. The Employees who comprise the Class, including Plaintiff, are non-exempt
24 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission
25 ("IWC"). During the period of four years prior to the filing of this action through its resolution,
26 the Employee Class Members were employed by Defendants and worked in non-exempt
27 positions at the direction of Defendants in the State of California. Plaintiff and the Class
28 Members were either not paid by Defendants for all hours worked or were not paid at the

1 appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to
2 pay Plaintiff and the Class Members all wages due and owing, including compensation for off-
3 the-clock work, uncompliant meal, and rest breaks, and for Defendants' failure to furnish
4 accurate wage statements, all in violation of various provisions of the California Labor Code and
5 applicable paragraphs of the IWC Wage Orders.

6 11. During the course of Plaintiff and the Class Members' employment with
7 Defendants, they were not paid all wages they were owed, including for all work performed
8 (resulting in "off the clock" work) and for all their overtime hours worked, and they were not
9 paid at the required rates for overtime. This has resulted in systematic and ongoing violations of
10 the California Labor Code and relevant IWC Wage Orders. Upon information and belief,
11 Defendants employ other non-exempt, hourly employees as respite workers and in similar and
12 related positions based out of Defendants' clients' homes throughout California.

13 12. Plaintiff was generally scheduled to work four to five days per week for twelve
14 hours per shift, with shift times generally spanning from 12:00 a.m. through 12:00 p.m.
15 Defendants did not pay Plaintiff and the Class members for all their hours worked and would
16 instead only allow them to record a pre-approved the number of hours based on their assigned
17 client's allocated hours. Plaintiff and Class members were expected to work with their assigned
18 clients to ensure that they were scheduled to work within the client's allocated hours. In addition
19 to working long scheduled/permitted hours, Plaintiff was also required by Defendants to endure
20 substantial off-the-clock work before and after his scheduled shift hours.

21 13. Defendants' policy and practice of requiring systematic off-the-clock work flowed
22 in part from their unlawful timekeeping procedures. During the majority of time Plaintiff was
23 employed by Defendants, Defendants required Plaintiff to print out a timesheet, record his
24 scheduled hours, and drop off the timesheet at Defendants' office. Rather than implementing a
25 method of recording their actual hours worked, Defendants required Plaintiff and Class Members
26 to record their scheduled hours and ensure that those scheduled hours complied with the
27 customer's allocated hours. As a result, Plaintiff was required to endure substantial off-the-clock
28 work based on Defendants' uniformly applied and unlawful policies and practices.

1 14. Additionally, Defendants neglected to require Plaintiff and Class Members to
2 record the beginning and ending times for any meal periods they were provided. Instead,
3 Defendants required only that Plaintiff and Class Members record their scheduled hours and those
4 hours Defendants' customers' schedules allocated for them. Additionally, upon information and
5 belief, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from
6 each Employee's daily work shifts by deducting 30 minutes for a meal period that was generally
7 not lawfully provided, if at all.

8 15. Defendants also required Plaintiff to be prepared to begin work at his scheduled
9 shift start time, and he would be reprimanded if he was not. However, for Plaintiff to do so he had
10 to arrive at the home of his assigned customer well before Defendants' scheduled start time.
11 Plaintiff's work shifts generally were scheduled to start at 12:00 a.m., however, Plaintiff was
12 regularly compelled to arrive at Defendants' client's home well before the scheduled shift time,
13 sometimes even up to an hour prior. To avoid overtime, Defendants instructed Plaintiff to record
14 his scheduled hours so that they would be consistent with the client's allocated hours.

15 16. Defendants' managers and Defendants' clients also contacted Plaintiff by calling
16 his personal cell phone regarding work related matters, and would do so both throughout the
17 work day and during breaks and also after work hours. Plaintiff was also required to work off the
18 clock and assist his client after his scheduled shift end times, and he also was compelled to clock
19 out but continue working. Additional off-the-clock work occurred in the form of the unlawful
20 deduction of 30 minutes of hours worked for an alleged meal period that was provided generally
21 untimely if at all.

22 17. Overtime hours that were beyond a client's preapproved allocated hours were also
23 generally not allowed, and if Plaintiff worked beyond his scheduled hours, Defendants required
24 him to record fewer hours worked to avoid incurring overtime. Defendants' managers would also
25 alter timekeeping records to eliminate the unapproved overtime. Due to the nature of the job,
26 Plaintiff was compelled to work many hours off the clock and without compensation.
27 Additionally, upon information and belief, Defendants paid Plaintiff and the Class Members
28 bonuses. To whatever extent Defendants paid this and any other form of remuneration to

1 Employees in the Class, such as shift differentials and the like, Defendants failed to include it in
2 the regular rate used to calculate and pay the overtime that Defendants did pay.

3 18. Plaintiff was therefore not paid for all his hours worked at the required minimum,
4 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
5 and practice of requiring him to work off the clock and without pay. Defendants systematically
6 underpaid Plaintiff and the Class Members by failing to pay them at the required overtime rates
7 for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a
8 day at the required double time rate. Upon information and belief, the Class Members were bound
9 by similar scheduling and timekeeping policies and endured similar violations at Defendants'
10 hands as Plaintiff.

11 19. Defendants have either failed to maintain timekeeping records for Plaintiff that
12 would permit Plaintiff to discover the nature and extent of the off-the-clock work Defendants
13 required and the actual hours Plaintiff worked or the breaks received. By failing to pay for all
14 hours worked, and by under-recording regular hours to the detriment of the Class Members,
15 Defendants have committed knowing and intentional ongoing violations of the record-keeping
16 requirements under the Labor Code, including section 1174, by either failing to maintain records
17 or retaining inaccurate ones.

18 20. The failure to pay for all hours worked and underpayment of wages to Plaintiff
19 and the Class Members is and has been a direct consequence of Defendants' unlawful
20 compensation policies and practices, which upon information and belief applied uniformly to the
21 Class Members working based out of Defendants' clients' homes throughout California. As a
22 result of the above-described unlawful requirements to work off the clock, the failure to
23 accurately record all hours worked and pay wages at the correct rates, and the other wage
24 violations they endured at Defendants' hands, Plaintiff and the Class Members were not properly
25 paid all wages earned and all wages owed to them by Defendants, including when working more
26 than eight hours in any given day and/or more than forty hours in any given week.

27 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
28 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all

1 hours worked and failing to pay minimum wages for all time worked, as required by California
2 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
3 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
4 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
5 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
6 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

7 22. Defendants also failed to provide Plaintiff and the Class Members with their
8 required meal periods and at least two ten-minute rest breaks as required at a minimum for
9 Plaintiff's scheduled shift durations. The above-described off-the-clock work contributed to
10 Defendants' common policy of failing to provide lawful meal periods to Plaintiff and the Class
11 Members, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s).
12 Defendants similarly failed to authorize and permit Plaintiff and the employee Class Members to
13 take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
14 IWC Wage Order(s).

15 23. More specifically, Plaintiff worked shifts that entitled him to at least two meal
16 periods, but as addressed above, Defendants' managers did not require that Plaintiff record in his
17 timekeeping records that meal periods were taken. According to Plaintiff, Defendants failed to
18 inform him that his scheduled shift hours entitled him to at least two thirty-minute, uninterrupted
19 meal periods and Defendants failed to provide them or otherwise allocate time for Plaintiff to take
20 them. Additionally, even if Plaintiff attempted to take a meal period, the nature of the job
21 prohibited Plaintiff from taking one that complied with the Labor Code and IWC Wage Order(s).
22 Despite this operational reality, Defendants failed to secure an on-duty meal period agreement
23 from Plaintiff. Because Plaintiff was tasked with supervising and assisting one of Defendants'
24 customers with a major disability with daily living activities, Plaintiff was often compelled to not
25 take his meal periods because he was required to remain on-duty and attend to his respite job
26 demands and requirements. Generally, Plaintiff would eat what he could while also feeding
27 Defendants' customer at the same time. Plaintiff frequently worked through meal periods, or did
28 not take a meal period, or was required to remain under the client's control during meal periods.

1 24. Additionally, Plaintiff recalls that he was generally unable to take meal periods due
2 to the nature of the job, and if he did, the meal period was devoid of any duty-free time. Despite
3 this, and upon information and belief, Defendants automatically deducted at least a 30-minute
4 meal period on each work shift without regard to whether it was actually taken or was otherwise
5 unlawful.

6 25. Therefore, meal period violations systematically occurred ongoing throughout all
7 of Plaintiff's work shifts where Defendants both failed to provide a lawful meal period or penalty
8 payment and then also unlawfully deducted 30 minutes from Plaintiff's hours worked for the day.
9 To the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all
10 forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour
11 premium payment. Upon information and belief, the other Class Members were subjected to
12 similar unlawful policies and practices and endured similar violations at Defendants' hands as
13 Plaintiff.

14 26. Defendants thus failed to provide all the legally required unpaid, off-duty meal
15 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
16 Members, as required by the applicable Wage Order and Labor Code. Plaintiff and other Class
17 Members were required to perform work as ordered by Defendants for more than five hours
18 during a shift without receiving compliant meal periods. Additionally, as addressed above,
19 Defendants followed a practice of requiring off the clock work in a manner that would impact their
20 capability to receive meal periods, and required them to respond to work inquiries and demands
21 during breaks, thus leading to further violations.

22 27. Upon information and belief, Defendants' systems did not automatically generate a
23 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
24 into a work shift or in the event the time sheets reflected a meal period of less than thirty minutes.
25 However, upon information and belief, in the event Defendants did pay any meal period
26 premiums, they did so at the employee's customary regular rate of hourly compensation without
27 including all forms of remuneration in that hourly rate calculation, for example by omitting
28 performance-based bonuses and the like from the rate at which meal premiums were paid.

1 28. Defendants thus followed uniformly applied policies of not providing all required
2 meal periods to their Employees. Meal periods were often not properly provided, as work
3 demands impermissibly shortened their breaks. Even when Plaintiff and the Class Members were
4 able to take a meal period, it was generally interrupted by work duties or was taken after the fifth
5 hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off
6 the clock work in a manner that would impact when Employees were to receive meal periods and
7 rest breaks, thus leading to further violations

8 29. As a result, Defendants' failure to provide Plaintiff and the Class Members with all
9 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
10 periods is and will be evidenced by Defendants' business records, or lack thereof. As further
11 detailed above, Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at
12 each Employee's effective regular hourly rate of compensation for each meal period or rest break
13 that Defendants failed to provide or deficiently provided.

14 30. Therefore, for at least four years prior to the filing of this action and through to the
15 present, Plaintiff and the Class Members were unable to take off-duty breaks or were otherwise
16 not provided with the opportunity to take required breaks as required under the Labor Code and
17 Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiff and the
18 Class Members were provided with a meal period, it was often untimely or interrupted, or was
19 impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.
20 Meal period violations thus occurred in one or more of the following manners:

- 21 (a) Class Members were not provided full thirty-minute duty free meal periods
22 for work days in excess of five hours and were not compensated one hour's
23 wages in lieu thereof, or were not compensated at the correct regular rate
24 of compensation, all in violation of, among others, Labor Code §§ 226.7,
25 512, and the applicable Industrial Welfare Commission Wage Order(s);
26 (b) Class Members were not provided second full thirty-minute duty free meal
27 periods for work days in excess of ten hours;
28 (c) Class Members were required to work through at least part of their daily

meal period(s);

(d) Meal periods were provided after five hours of continuous work during a shift; and

(e) Class Members were restricted in their ability to take a full thirty-minute meal period.

31. Similar violations resulted from Defendants' failure to authorize and permit Plaintiff and the Class Members to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. Plaintiff and the other similarly situated Class Members were either not authorized permitted the opportunity to take a rest break, or were required to remain under Defendants' client's control and attend to the client's needs and demands if and when they even attempted to take one. Upon information and belief, Defendants thus also failed to authorize and permit employees to leave the premises during rest breaks, evidencing Defendants' policy and practice of requiring Plaintiff and the Class Members to remain under their control during required off-duty rest break times.

32. Rest breaks were neither scheduled nor contemplated by Defendants. During Plaintiff's entire employment duration with Defendants, he cannot recall a time when he was authorized and permitted to take a rest break, despite being entitled to receive at least two paid, timely, uninterrupted, and duty-free ten minute rest breaks during each of his work shifts. As detailed above and upon information and belief, in addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or otherwise received without violation. This practice again unlawfully failed to pay Employees for rest break time, which must be compensated at the regular rate.

33. Defendants' uniformly applied policies and practices thus resulted in untimely and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class Members worked shifts of at least eight hours, which required at least two rest breaks, and often worked shifts over ten hours, which required at least three rest breaks. Throughout Plaintiff's employment with Defendant, Defendants failed to authorize and permit Plaintiff from taking any rest periods whatsoever.

1 34. During rest periods, employers must relieve employees of all duties and relinquish
2 control over how employees spend their time. Plaintiff and the Class Members were and are
3 under Defendants' clients' control when they are working through rest breaks and remaining
4 under Defendants' control. Defendants have also provided either impermissibly shortened or
5 untimely meal and rest breaks to Plaintiff and the Class Members. Plaintiff and the Employees in
6 the Class were thus not authorized and permitted to take lawful rest periods, were systematically
7 required by Defendants to work through or during breaks, and were not provided with one hour's
8 wages in lieu thereof. They were required to remain on-duty during breaks or portions of their
9 breaks, thus making them either untimely or shortened and on-duty, and they were also prevented
10 from leaving the premises and otherwise remain under Defendants' control during rest breaks
11 under Defendants' uniformly applied policies and practices. Rest period violations therefore arose
12 in one or more of the following manners:

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

21 35. From at least four years prior to the filing of this lawsuit and continuing to the
22 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
23 deducting the Employees' earned wages, including by the above described off the clock work and
24 on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest
25 breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely
26 provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal period
27 that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted
28 at least 30 minutes of hours worked from each Employee's daily work shifts. Upon information

1 and belief, Defendants' managers would also move Plaintiffs' clock in times to later ones as much
2 as needed to offset any unapproved overtime or to make a late meal period timely in order to avoid
3 unapproved overtime. By not compensating Employees for all hours worked, Defendants
4 unlawfully deducted wages earned in violation of Labor Code § 221.

5 36. Defendants also violated California Labor Code § 246 by not providing all
6 required paid sick days to Plaintiff and the Class Members. Labor Code § 246 provides that an
7 Employee who "works in California for the same employer for 30 or more days within a year
8 from the commencement of employment is entitled to paid sick days as specified in this section."
9 Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their
10 required and earned sick days, in violation of Labor Code § 246. Additionally and upon
11 information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to
12 the Class Members during the relevant time period, including by failing to provide two work
13 weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and
14 248.2 and including damages and penalties as these sections are enforced through Labor Code §
15 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid
16 sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250),
17 whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars
18 (\$4,000), shall be included in the administrative penalty." Plaintiff accordingly seeks this relief
19 available for Defendants' failure to provide Employees with all their required and earned sick
20 days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1,
21 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246,
22 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees
23 and costs pursuant to Labor Code § 2699(g)(1).

24 37. Upon information and belief, Defendants also failed to provide Employees such as
25 Plaintiff at the time of his employment and thereafter with written notice complying with all the
26 requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer
27 shall provide to each employee a written notice, in the language the employer normally uses to
28 communicate employment-related information to the employee, containing" specific required

1 information. Upon information and belief, Defendants failed to provide this information to the
2 Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
3 provide Plaintiff and the aggrieved employee Class Members certain specific information upon
4 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with
5 any such information when he was hired, and upon information and belief Defendants committed
6 similar violations in connection with similarly situated and aggrieved Class Members.

7 38. As a result of these illegal policies and practices, Defendants also engaged in and
8 enforced the following additional unlawful practices and policies against Plaintiff and the Class
9 Members he seeks to represent:

- 10 a. failing to pay all wages owed to Class Members who either were discharged, laid
11 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
12 203;
- 13 b. failing to pay all wages owed to the Class Members twice monthly in accordance
14 with the requirements of Labor Code § 204;
- 15 c. failing to pay Class Members all wages owed, including all meal and rest period
16 premium wages, and failing to pay them at the regular rate of compensation;
- 17 d. failing to maintain accurate records of Class Members' hours worked and earned
18 wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section
19 7 of the applicable IWC Wage Orders; and
- 20 e. failing to produce timekeeping records in response to Plaintiff's timely and lawful
21 request to receive them under these authorities.

22 39. Defendants have also consistently failed to provide Class Members with timely,
23 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
24 including by the above-described requirement of off the clock work, failure to pay all overtime
25 and double time wages owed and failure to pay them at the appropriate premium rates, and failure
26 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
27 miscalculating any overtime or meal period or rest break premium wages and by the systematic
28 and unlawful deductions Defendants took from Employee wages. Defendants have also made it

1 difficult to account with precision for the unlawfully withheld wages and meal and rest period
2 compensation owed to Plaintiff and the Class, during the liability period, including because they
3 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
4 and because they did not implement and preserve a record-keeping method as required for non-
5 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
6 California Wage Orders. Upon information and belief, time records were not accurately
7 maintained for work shifts and meal periods, which were automatically presumed by Defendants
8 to have been lawfully provided when they were not. Defendants also failed to accurately record
9 and pay for all regular and overtime hours worked and submitted by Plaintiff and the Class
10 Members, including by failing to pay all overtime hours at the correctly calculated overtime
11 premium rate.

12 40. Defendants have thus also failed to comply with Labor Code § 226(a) by
13 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
14 Members, along with the appropriate applicable rates, among others requirements. Plaintiff and
15 Class Members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
16 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
17 applicable California IWC Wage Orders by failing to maintain time records showing when the
18 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
19 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from
20 payment of wages and accurately reporting total hours worked.

21 41. Defendants also required Plaintiff and the Class Members to work hours off the
22 clock for which they were not compensated. They were required to endure off the clock work
23 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
24 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
25 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
26 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
27 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
28 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-

1 two hours of their resignation, as required by California wage-and-hour laws, including Labor
2 Code § 203.

3 42. Additionally, from at least four years prior to the filing of this lawsuit and
4 continuing to the present, Defendants have regularly required Plaintiff and the Class Members to
5 incur necessary business expenses in the course of performing their required job duties without
6 reimbursement. These included the cell phone-related expenses Plaintiff incurred in responding to
7 calls from managers and Defendants' client, as well as internet costs incurred for participating in
8 mandatory, online work training. Plaintiff also purchased a computer and used his personal
9 hotspot to access the internet, respond to emails, and create reports. Plaintiff would also use his
10 computer and his printer to print timesheets as required by the job. Defendants failed to provide
11 Plaintiff with reimbursement for such items that were required for work-related purposes.
12 Additionally, Plaintiff was also required to drive to other locations during work shift hours but
13 Defendants neglected to reimburse him for mileage or related automobile expenses and usage.
14 Plaintiff and the Class Members must be reimbursed for these necessary business expenses under
15 Labor Code § 2802 and Defendants systematically failed to do so.

16 43. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
17 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
18 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
19 1194.2 1197, 1198, 1198.5, 1199, 2802, 2698 *et seq.*, and California Code of Regulations, Title 8,
20 section 11000 *et seq.*

21 44. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff
22 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
23 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
24 fraudulent practices alleged in this Complaint.

25 **CLASS ALLEGATIONS**

26 45. Plaintiff brings this class action on behalf of himself and all others similarly
27 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (often
28 referred to as "the Class" or "Class Members") defined as follows: "All individuals employed by

Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees by Defendants within the State of California.” This includes all types of respite workers and those in similar and related positions. Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

c. Subclass 3. Meal Period Subclass. All Class Members who were subject to Defendants’ policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee’s regular rate of pay in lieu thereof.

d. Subclass 4. Rest Break Subclass. All Class Members who were subject to Defendants’ policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee’s regular rate of pay in lieu thereof.

e. Subclass 5. Wage Statement Subclass. All Class Members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class Members who were subject to Defendants’ policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants’ policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

h. Subclass 8. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants’ policy and/or practice of failing to timely pay wages upon

1 termination.

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 Defendants
7 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

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

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

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

24 48. This action has been brought and may properly be maintained as a class action
25 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
26 of interest in this litigation and the proposed Class is easily ascertainable from the employment
27 records for Plaintiff and the Class Members that Defendants are required to maintain under
28 California law.

1 **A. Numerosity**

2 49. The potential members of the class as defined are so numerous that joinder of all
3 the member of the class is impracticable. While the precise number of Class Member has not been
4 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
5 time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy
6 the Class definition within the State of California. Plaintiff alleges that Defendants' employment
7 records will provide information as to the number and location of all Class Members.

8 **B. Commonality**

9 50. There are questions of law and fact common to the Class that predominate over any
10 questions affecting only individual Class Members. The common questions are numerous and
11 substantial and flow from Defendants' uniform policies and/or practices of violating the California
12 Labor Code addressed above. As such, these common questions predominate over individual
13 questions concerning each individual Class Member's showing as to his or her eligibility for
14 recovery or as to the amount of damages. These common questions of law and fact include:

- 15 a. Whether Defendants failed to pay Employees minimum wages;
- 16 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 17 c. Whether Defendants failed to pay Employees overtime as required under Labor
18 Code § 510;
- 19 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
20 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
21 premium pay in lieu thereof;
- 22 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
23 Orders, by failing to authorize and permit Employees to take requisite rest breaks
24 or provide premium pay in lieu thereof;
- 25 f. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
26 providing employees with all required sick days and COVID-19 supplemental sick
27 leave;
- 28 g. Whether Defendants violated Labor Code § 226(a) by providing Employees with

inaccurate wage statements;

h. Whether Defendants violated Labor Code § 221;

i. 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;

j. Whether Defendants' conduct was willful;

k. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class Members' earned wages and work periods;

l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;

m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;

n. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;

o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and

p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

51. The claims of the named plaintiff are typical of those of the other Employees. The Employee Class Members all sustained injuries and damages arising out of and caused by Defendants' common course of conduct and uniformly applied policies in violation of statutes, as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for the off the clock work and meal and rest violations he was required to endure are typical of those of the other Class Members.

D. Adequacy of Representation

52. Plaintiff will fairly and adequately represent and protect the interest of the Employee Class Members. Counsel who represents Plaintiff and the Employees in the Class are

1 experienced and competent in litigating employment class actions.

2 **E. Superiority of Class Action**

3 53. A class action is superior to other available means for the fair and efficient
4 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
5 questions of law and fact common to all Employees predominate over any questions affecting only
6 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery
7 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

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

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

26 56. Defendants, as prospective and actual employers of the Employees in the Class,
27 had a special fiduciary duty to disclose to prospective Class Members the true facts surrounding
28 Defendants' pay practices, policies and working conditions imposed upon the similarly situated

1 Employees as well as the effect of any alleged arbitration agreements that may have been forced
2 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
3 and policies, most notably intentionally refusing to pay for all hours actually worked which should
4 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
5 agreements and policies and practices on the Employees and Class as a whole.

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

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

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

18 59. Defendants failed to pay Employees minimum wages for all hours worked.
19 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
20 would work hours and not receive wages, including as alleged above in connection with off-the-
21 clock work, including all the time required to remain on duty and under Defendants' client's
22 control during breaks and due to the work demands placed upon them by Defendants'
23 management and clients and by the unlawful deduction of hours or by paying what should have
24 been overtime hours as regular hours. Defendants' uniformly applied policies required systematic
25 off-the-clock work and underpayment of all wages owed to Employees over a period of time,
26 while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to
27 pay minimum wages to Plaintiff and the Class Members, including by requiring systematic off-
28 the-clock work. To the extent any local wage ordinances were also applicable to paying the

1 employees an hourly rate above the minimum wage rate, Defendants failed to comply with the
2 local wage ordinances. Defendants' uniform pattern of unlawful wage and hour practices
3 manifested, without limitation, applicable to the Class as a whole, as a result of implementing a
4 uniform policy and practice that denied accurate compensation to Plaintiff and the other members
5 of the Class as to minimum wage pay.

6 60. In California, employees must be paid at least the applicable state minimum wage
7 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
8 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
9 California Labor Code § 204, other applicable laws and regulations, and public policy, an
10 employer must timely pay its employees for all hours worked. Defendants failed to do so.

11 61. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
12 states: "The minimum wage for employees fixed by the commission is the minimum wage to be
13 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The
14 applicable minimum wage rate fixed by the commission for work during the relevant period is
15 found in the Wage Orders.

16 62. The minimum wage provisions of California Labor Code are enforceable by private
17 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
18 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
19 overtime compensation applicable to the employee is entitled to recover in a civil action the
20 unpaid balance of the full amount of this minimum wage or overtime compensation, including
21 interest thereon, reasonable attorney's fees and costs of suit."

22 63. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
23 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
24 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
25 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for
26 all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum rate in
27 the absence of a contractually agreed upon one.

28 64. In committing these violations of the California Labor Code, Defendants

1 inaccurately recorded, or required Plaintiff and the Class Members to input times that did not
2 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
3 time worked by Plaintiff and other members of the Class, including by requiring off the clock
4 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
5 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
6 Welfare Commission requirements and other applicable laws and regulations. As a result of these
7 violations, Defendants also failed to timely pay all wages earned in accordance with California
8 Labor Code § 1194.

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

13 66. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
14 1197.1, Plaintiff and Class Members are entitled to recover a penalty of \$100.00 for the initial
15 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
16 pay each employee minimum wages.

17 67. Pursuant to California Labor Code § 1194.2, Plaintiff and Class Members are
18 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
19 interest thereon.

20 68. Defendants have the ability to pay minimum wages for all time worked and have
21 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
22 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

23 69. Plaintiff and the Class Members are entitled to recover the unpaid minimum wages
24 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
25 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
26 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
27 members of the Class further request recovery of all unpaid wages, according to proof, interest,
28 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as

1 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
2 wage compensation is determined to be owed to the Class Members who have terminated their
3 employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore
4 these individuals are also be entitled to waiting time penalties under California Labor Code § 203,
5 which penalties are sought herein on behalf of these Class Members. Defendants' failure to timely
6 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
7 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
8 alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class
9 Members are entitled to seek and recover statutory costs.

10 **SECOND CAUSE OF ACTION**

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

12 **(Against All Defendants)**

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

15 71. California Labor Code § 1194 provides that "any employee receiving less than the
16 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
17 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
18 compensation, including interest thereon, reasonable attorney's fees, and costs of suit." The action
19 may be maintained directly against the employer in an employee's name without first filing a
20 claim with the Division of Labor Standards and Enforcement.

21 72. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
22 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
23 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
24 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
25 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
26 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
27 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
28 work in a workweek.

1 73. Defendants had a consistent policy of not paying Employees wages for all hours
2 worked, including by requiring off-the-clock work as addressed above, by unlawful deductions, by
3 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants
4 have also failed to include all forms of remuneration in the regular rate of pay used to calculate
5 and pay overtime and failed to begin paying overtime when it was incurred due to the off the clock
6 work, as detailed above.

7 74. Defendants thus had a consistent policy of not paying Employees wages for all
8 hours worked, including hours at their required regular, overtime, and double-time rates.
9 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
10 and/or, modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
11 Members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and
12 the Class Members all earned and owed straight time and overtime wages and other benefits, in
13 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
14 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
15 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
16 employees to work through meal periods or remain under Defendants' control when they were
17 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
18 respond to demands from clients and managers.

19 75. Therefore, Employees were not properly compensated, nor were they paid overtime
20 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.
21 Based on information and belief, Defendants did not make available to Employees a reasonable
22 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
23 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
24 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
25 Class Members to work through meal periods when they were required to be clocked out or to
26 otherwise work off the clock to complete their daily job duties.

27 76. Defendants' failure to pay Plaintiff and the Class Members the unpaid balance of
28 regular wages owed and overtime compensation for all hours worked, as required by California

1 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
2 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
3 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

4 77. Additionally, Labor Code § 558(a) provides “any employer or other person acting
5 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
6 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
7 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
8 pay period for which the employee was underpaid in addition to an amount sufficient to recover
9 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
10 underpaid employee for each pay period for which the employee was underpaid in addition to an
11 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
12 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
13 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
14 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
15 Wage Orders. Accordingly, Plaintiff and the Class Members seek the remedies set forth in Labor
16 Code § 558.

17 78. Defendants’ failure to pay compensation in a timely fashion also constituted a
18 violation of California Labor Code § 204, which requires that all wages shall be paid
19 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
20 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
21 and overtime compensation earned by Employees. Each such failure to make a timely payment of
22 compensation to Employees constitutes a separate violation of California Labor Code § 204.

23 79. Employees have been damaged by these violations of California Labor Code §§
24 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
25 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
26 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
27 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
28 minimum fixed by an order of the commission” or “violates...any provision of this chapter or

any order or ruling of the commission.”

80. Consequently, pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation for all their hours worked, with interest, plus their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

82. Employees regularly worked shifts greater than five (5) hours and in some instances, greater than ten (10) hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC Wage Order, an employer may not employ someone for a shift of more than five (5) hours without providing him or her with a meal period of not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or her with a second meal period of not less than thirty (30) minutes.

83. Defendants failed to provide Employees with meal periods as required under the Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required to work or to otherwise remain under Defendants’ control during meal periods, or Defendants provided them after Employees worked beyond the fifth hour of their shifts or Employees otherwise had them shortened and interrupted by work demands and requirements to perform off the clock work and remain under Defendants’ control. Furthermore, upon information and belief, on the occasions when Employees worked more than ten hours in a given shift, they did so without receiving a second uninterrupted thirty-minute meal period as required by law.

84. Defendants thus failed to provide Plaintiff and the Class Members with meal

1 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
2 including by not providing them with the opportunity to take meal breaks, by providing them late
3 or for less than thirty minutes, or by requiring them to perform work during breaks.

4 85. Moreover, Defendants failed to compensate Employees for each meal period not
5 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
6 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
7 employee a meal period in accordance with this section, the employer shall pay the employee one
8 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
9 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
10 period premiums, they upon information and belief underpaid them by miscalculating the regular
11 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
12 compensate the Employees in the Class for each meal period not provided or inadequately
13 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
14 Wage Order.

15 86. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the
16 applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal
17 to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or
18 deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory
19 penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and
20 other statutes and applicable IWC Wage Order paragraphs.

21 **FOURTH CAUSE OF ACTION**

22 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

23 **(Against All Defendants)**

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

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

1 89. Employees consistently worked consecutive four hour shifts and were generally
2 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
3 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
4 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
5 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
6 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
7 to schedule or otherwise authorize and permit Plaintiff and the Class Members to take lawful rest
8 breaks. Employees were often required to work or to otherwise remain under Defendants' control
9 during rest periods, including by responding to work requirements, and had breaks provided
10 untimely as a result of the above described off the clock work. Plaintiff and the Class Members
11 were also not permitted to leave their work premises during rest breaks.

12 90. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
13 Orders provide that if an employer fails to provide an employee rest period in accordance with this
14 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
15 compensation for each workday that the rest period is not provided. Defendants failed to do so.

16 91. Defendants, and each of them, have therefore intentionally and improperly denied
17 rest periods to Plaintiff and the Class Members in violation of Labor Code §§ 226.7 and 512 and
18 paragraph 12 of the applicable IWC Wage Orders.

19 92. Defendants failed to authorize and permit Plaintiff and the Class Members to take
20 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
21 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
22 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
23 12 and 20 of the applicable IWC Wage Orders.

24 93. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
25 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one hour
26 of wages at their effective hourly rates of pay for each day worked without the required rest
27 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against
28 Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Against All Defendants)

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

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

96. Defendants failed to provide Plaintiff and the similarly situated Employee Class Members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including for all overtime and double time hours worked and for deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

97. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiff and the Class Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (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 pursuant to Labor

1 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
2 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
3 Members with such timely and accurate wage and hour statements.

4 98. Plaintiff and the Class Members suffered injury as a result of Defendants'
5 knowing and intentional failure to provide them with the wage and hour statements as required by
6 law and are presumed to have suffered injury and entitled to penalties under Labor Code §
7 226(e), as the Defendants have failed to provide an accurate wage statement, failed to provide
8 accurate and complete information as required by any one or more of items Labor Code § 226
9 (a)(1) to (9), inclusive, and the Plaintiff and Class Members cannot promptly and easily
10 determine from the wage statement alone one or more of the following: (i) The amount of the
11 gross wages or net wages paid to the employee during the pay period or any of the other
12 information required to be provided on the itemized wage statement pursuant to items (2) to (4),
13 inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross
14 wages to determine the net wages paid to the employee during the pay period, (iii) The name and
15 address of the employer and, (iv) The name of the employee and only the last four digits of his or
16 her social security number or an employee identification number other than a social security
17 number. For purposes of Labor Code § 226(e) "promptly and easily determine" means a
18 reasonable person [i.e. an objective standard] would be able to readily ascertain the information
19 without reference to other documents or information.

20 99. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
21 are required "to pay each employee, on the established payday for the period involved, not less
22 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
23 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order
24 or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class Members
25 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
26 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
27 IWC Wage Orders.

28 100. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code

1 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
2 Class suffered injuries, including among other things confusion over whether they received all
3 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
4 them to make mathematical computations to analyze whether the wages paid in fact compensated
5 them correctly for all hours worked.

6 101. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
7 IWC Wage Order, Plaintiff and the Employee Class Members are entitled to recover the greater of
8 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
9 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
10 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
11 an award of costs and reasonable attorneys' fees.

12 **SIXTH CAUSE OF ACTION**
13 **VIOLATION OF LABOR CODE § 221**
14 **(Against All Defendants)**

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

17 103. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
18 receive from an employee any part of wages theretofore paid by said employer to said employee."
19 Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and
20 public policy, an employer must timely pay its employees for all hours worked. Defendants failed
21 to do so.

22 104. Defendants unlawfully received and/or collected wages from the Employees in the
23 Class by requiring off the clock work, by miscalculating overtime, and by automatically deducting
24 time for meal periods when they were not lawfully provided and not paying one hour of pay at the
25 regular rate of compensation for every meal and rest period violation endured by Plaintiff and the
26 other Class Members, as alleged above. In addition to failing to authorize and permit rest breaks,
27 Defendants unlawfully deducted up to 30 minutes meal periods that were rarely provided or
28 otherwise received without violation. Thus, by deducting 30 minutes for a meal period, that was

generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee's daily work shifts. Additionally, and upon information and belief, Defendants' managers would offset any unapproved overtime or to make a late meal period timely. By not compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

105. As a direct and proximate cause of the unauthorized deductions, Employees have been damaged, in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

107. Labor Code § 204 instructs that: "All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month." Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period." As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. Defendants similarly failed to pay all wages earned by not more than seven calendar days following the close of the payroll period.

108. All wages due and owing to Plaintiff and the Class Members, including as required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages

1 required by Labor Code § 1194 and other sections became due and payable to each employee in
2 each pay period that he or she was not provided with a meal period or rest period or paid straight
3 or overtime wages to which he or she was entitled.

4 109. Defendants violated Labor Code § 204 by systematically refusing to timely 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.

13 110. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
14 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
15 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
16 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
17 applicable IWC Wage Orders.

18 **EIGHTH CAUSE OF ACTION**
19 **VIOLATION OF LABOR CODE § 203**
20 **(Against All Defendants)**

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

23 112. Plaintiff and numerous Class Members are no longer employed by Defendants;
24 they either quit Defendants’ employ or were fired therefrom.

25 113. Defendants failed to pay these Employees all wages due and certain at the time of
26 termination or within seventy-two hours of resignation.

27 114. The wages withheld from these Employees by Defendants remained due and owing
28 for more than thirty days from the date of separation from employment. Additionally, Defendants

1 provided Plaintiff with a check that bounced and failed to replace that check within 72 hours of his
2 termination.

3 115. Defendants thus failed to pay Plaintiff and the Class Members without abatement,
4 all wages as defined by applicable California law. Among other things, these Employees were not
5 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked
6 or requiring off-the-clock work or by unlawfully under-recording time entries to the detriment of
7 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
8 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
9 required time was willful within the meaning of Labor Code § 203.

10 116. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
11 are required "to pay each employee, on the established payday for the period involved, not less
12 than the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor
13 Code § 1198, "[t]he employment of any employee for longer hours than those fixed by the order
14 or under conditions of labor prohibited by the order is unlawful." Plaintiff and the Class Members
15 may therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph
16 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
17 IWC Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and
18 Defendants are subject to a fine of not less than \$100 for causing Employees "to work for longer
19 hours than those fixed, or under conditions of labor prohibited by an order of the commission" or
20 if the employer pays "a wage less than the minimum fixed by an order of the commission" or
21 "violates...any provision of this chapter or any order or ruling of the commission."

22 117. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former
23 Employee Class Members to penalties under Labor Code § 203 and the applicable paragraphs of
24 the IWC Wage Orders as addressed above, including the requirement that an employee's wages
25 shall continue until paid for up to thirty (30) days from the date they were due.

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS, LABOR CODE §§ 1174, 1174.5**

3 **(Against All Defendants)**

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

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

10 120. During the course of Plaintiff's and Employees' employment, Defendants
11 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
12 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
13 premium pay as discussed above and failing to document and pay for actual hours worked.

14 121. Defendants are also required by the California Labor Code § 1198 and the
15 applicable Wage Order to maintain a tracking system that accurately records the times during
16 which Employees work.

17 122. Defendants have maintained a common unlawful policy and practice of failing to
18 accurately record all hours worked and all meal period start and end times and by adjusting or
19 otherwise rounding and shaving them down.

20 123. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
21 knew wages to be due but failed to pay them.

22 124. Accordingly, Defendants are liable for civil penalties pursuant to the California
23 Labor Code including § 1174.5, for the three years prior to the filing of this Complaint.

24 **TENTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**

26 **(Against All Defendants)**

27 125. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in
28 full herein.

1 126. Plaintiff is informed and believes and based thereon alleges that throughout the
2 period applicable, Defendants required Plaintiff and the Class Members to pay for necessary work-
3 related expenses they incurred. Defendants required Plaintiff and the Class Members to use their
4 cellular phones to conduct work-related assignments and failed to reimburse for mileage, as
5 addressed above. Additionally, Plaintiff utilized his personal computer, internet, and printer to
6 access and print time sheets at the end of each pay period. Plaintiff and the Class Members must
7 be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants
8 systematically failed to do so.

9 127. Defendants thus followed a uniform policy and practice of failing to reimburse
10 Employees for these necessary work-related expenses or losses incurred in direct discharge of
11 their job duties during employment with Defendants and at the direction of the Defendants
12 pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

13 128. Defendants' knowing and willful failure to reimburse lawful necessary work-
14 related expenses and losses to Plaintiff and the Class Members resulted in damages because,
15 among other things, Defendants did not inform employees of their right to be reimbursed for those
16 work related expenses. As Defendants failed to inform and misled Plaintiff and the Class Members
17 with regard to their rights, Plaintiff and the Class Members were led to believe that incurring those
18 lawful and necessary expenses was an expected and essential function of their employment with
19 Defendants and that failure to incur those expenses would have adverse consequences on their
20 employment.

21 129. Therefore, Plaintiff and the Class Members are entitled to reimbursement for any
22 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
23 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
24 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
25 from the date Plaintiff and the Class Members incurred those expenses. Further, Plaintiff and the
26 Class Members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

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1 **ELEVENTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

3 **(Against All Defendants)**

4 130. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth
5 in full herein. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
6 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
7 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
8 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
9 the public interest within the meaning of Code of Civil Procedure § 1021.5.

10 131. Plaintiff is a “person” within the meaning of Business & Professions Code
11 § 17204, has suffered injury, and therefore has standing to bring this cause of action for
12 injunctive relief, restitution, and other appropriate equitable relief.

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

22 133. Wage-and-hour laws express fundamental public policies. Paying employees their
23 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental
24 public policies of California. Labor Code § 90.5(a) articulates the public policies of this State
25 vigorously to enforce minimum labor standards, to ensure that employees are not required or
26 permitted to work under substandard and unlawful conditions, and to protect law-abiding
27 employers and their employees from competitors who lower costs to themselves by failing to
28 comply with minimum labor standards.

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

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

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

13 137. By the conduct alleged herein, Defendants have engaged and continue to engage in
14 a business practice which violates California and federal law, including but not limited to, the
15 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
16 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
17 Court should issue declaratory and other equitable relief pursuant to California Business &
18 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
19 constitute unfair competition, including restitution of wages wrongfully withheld.

20 138. As a proximate result of the above-mentioned acts of Defendants, Employees have
21 been damaged, in a sum to be proven at trial.

22 139. Unless restrained by this Court Defendants will continue to engage in such
23 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
24 should make such orders or judgments, including the appointment of a receiver, as may be
25 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
26 deceptive practice prohibited by the Business & Professions Code, including but not limited to
27 the disgorgement of such profits as may be necessary to restore Employees to the money
28 Defendants have unlawfully failed to pay.

1 **TWELVE CAUSE OF ACTION**

2 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***

3 **(Against All Defendants)**

4 140. Plaintiff realleges and incorporate all preceding paragraphs, as though set forth in
5 full herein.

6 141. Plaintiff and the Employees in the Class are also aggrieved employees as defined
7 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
8 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
9 period.

10 142. In failing to pay Aggrieved Employees minimum wages and overtime, not
11 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
12 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
13 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
14 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
15 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
16 paragraph 7 of the applicable IWC Wage Orders.

17 143. As such, Employees seek wages and penalties under Labor Code §§ 2698 and
18 2699 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5,
19 including the penalty provisions, without limitation, based, inter alia, on the following California
20 Labor Code sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7, 432.5, 510, 512, 558, 1174,
21 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et seq.

22 144. More specifically, after complying with the notice procedures of Labor Code §
23 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
24 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above
25 addressed underlying claims and seeking penalties as specified by the applicable corresponding
26 provisions, including as follows:

27 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all earned
28 regular pay and minimum wages for regular hours worked and for failure to pay overtime

1 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
2 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s)
3 seeking all civil and statutory penalties available and applicable, and wages, under Labor Code §§
4 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs
5 pursuant to Labor Code § 2699(g)(1);

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

14 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
15 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
16 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
17 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s)
18 seeking all civil and statutory penalties and wages available and applicable under Labor Code §§
19 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage
20 Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More
21 specifically, by providing inaccurate wage statements and failing to maintain records as required
22 under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil
23 penalties under Labor Code §226.3, which in addition to other penalties provided by law, subjects
24 Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per
25 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation
26 in a subsequent citation, ...";

27 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least
28 semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,

226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

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

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

145. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also seeks the penalties and remedies set forth in Labor Code § 558, which states:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages...

(b) If upon inspection or investigation the Labor Commissioner determines that a person had

1 paid or caused to be paid a wage for overtime work in violation of any provision of this chapter,
2 or any provision regulating hours and days of work in any order of the Industrial Welfare
3 Commission, the Labor Commissioner may issue a citation. The procedures for issuing,
4 contesting, and enforcing judgments for citations or civil penalties issued by the Labor
5 Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

6 (c) The civil penalties provided for in this section are in addition to any other civil or criminal
7 penalty provided by law.

8 146. Plaintiff has exhausted his administrative remedies by submitting a certified letter
9 to the LWDA and Defendants on January 31, 2024 (LWDA-CM-1008478-24) addressing in detail
10 the specific provisions of the Labor Code Defendants have violated and addressing the facts and
11 legal theories to support the alleged violations and requested penalties. The LWDA has not
12 provided notice of its intent to investigate the alleged violations within 65 calendar days of the
13 postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the
14 violations addressed herein and in the PAGA Notice letter and the original Complaint.

15 **RELIEF REQUESTED**

16 WHEREFORE, Plaintiff prays for the following relief:

- 17 1. For an order certifying this action as a class action;
- 18 2. For compensatory damages in the amount of the unpaid minimum wages for work
19 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
20 the filing of this action, as may be proven;
- 21 3. For liquidated damages in the amount equal to the unpaid minimum wage and
22 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 23 4. For compensatory damages in the amount of all unpaid wages, including overtime
24 and double-time pay, as may be proven;
- 25 5. For compensatory damages in the amount of the hourly wage made by Employees
26 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
27 years prior to the filing of this action, as may be proven;
- 28 6. For compensatory damages in the amount of the hourly wage made by Employees

1 for each day requisite rest breaks were not provided or were deficiently provided where no
2 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
3 be proven;

4 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

5 8. For restitution and/or damages and penalties for Defendants' failure to pay all
6 wages due twice monthly under Labor Code § 204, as may be proven;

7 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
8 for all Class Members in violation of Labor Code § 221, as may be proven;

9 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
10 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

11 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

12 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

13 13. For damages and restitution for failure to reimburse all reasonable and necessary
14 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

15 14. For restitution for unfair competition pursuant to Business & Professions Code
16 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

17 15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

18 16. For penalties under Labor Code § 558, as may be proven;

19 17. For an order enjoining Defendants and their agents, servants, and employees, and
20 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
21 duties adumbrated in this Complaint;

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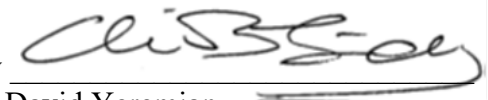
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18. For other wages and penalties under the Labor Code as may be proven;
19. For all general, special, and incidental damages as may be proven;
20. For an award of pre-judgment and post-judgment interest;
21. For an award providing for the payment of the costs of this suit;
22. For an award of attorneys' fees; and
23. For such other and further relief as this Court may deem proper and just.

DATED: May 6, 2024

D.LAW, INC.

By



David Yeremian
Alvin B. Lindsay
Melissa Rodriguez
Attorneys for Plaintiff JUSTIN J, PUTNEY
and all others similarly situated

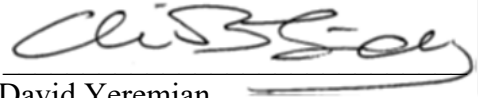
DEMAND FOR JURY TRIAL

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

DATED: May 6, 2024

D.LAW, INC.

By



David Yeremian

Alvin B. Lindsay

Melissa Rodriguez

Attorneys for Plaintiff JUSTIN J, PUTNEY
and all others similarly situated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

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

On May 6, 2024, I served the foregoing: **FIRST AMENDED CLASS ACTION COMPLAINT** on Interested Parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Galen M. Lichtenstein
glichtenstein@littler.com
Littler Mendelson, P.C.
101 Second Street, Suite 1000
San Francisco, CA 94105

☒ **(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.

☒ **(BY ELECTRONIC SERVICE)** I caused the document(s) described herein to be served on the person(s) noted above by electronic mail to their E-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. [Pursuant to Civil Code Procedure 1010.6]

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

Executed on May 6, 2024, at Glendale, California.


Sasha Zambrano

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Solano Branch Name: Mailing Address: 580 Texas St City, State and Zip Code: Fairfield CA 94533	
SHORT TITLE: Justin J. Putney vs. Sonia, Inc., a California corporation et al NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: CU24-00694

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of Solano. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
 Reference Number: 9739870_2024_05_06_19_26_12_181_1
 Submission Number: 24SO00011201
 Court Received Date: 05/06/2024
 Court Received Time: 12:47 pm
 Case Number: CU24-00694
 Case Title: Justin J. Putney vs. Sonia, Inc., a California corporation et al
 Location:
 Case Type: Civil Unlimited
 Case Category: Employment: Other (15)
 Jurisdictional Amount: Not Applicable
 Notice Generated Date: 05/06/2024
 Notice Generated Time: 4:38 pm

Documents Electronically Filed/Received

Status

Complaint: Amended-First

Accepted

Notice

Rejected

Reject Reason(s):
 Other: Pursuant to CRC 3.250 this document is not accepted for filing. Additionally, it looks like plaintiff has already paid jury fee deposit as of 02/01/24.
 Other: Pursuant to CRC 3.250 this document is not accepted for filing. Additionally, it looks like plaintiff has already paid jury fee deposit as of 02/01/24.

Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect

Contact: Legal Connect

Phone: (800) 909-6859