

D.LAW, INC.
Emil Davtyan (SBN 299363)
emil@d.law
David Yeremian (SBN 226337)
d.yeremian@d.law
David Keledjian (SBN 309135)
d.keledjian@d.law
Hrag Alexanian (SBN 333430)
h.alexanian@d.law
880 E. Broadway
Glendale, CA 91205
Telephone: (818) 962-6465
Facsimile: (818) 962-6469

Attorneys for Plaintiff THERESA MADRIGAL

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

THERESA MADRIGAL, on behalf of herself
and all others similarly situated, and the
general public,

Plaintiff,

v.

DPEP, INC., a California corporation;
PEDDER AUTO MANAGEMENT LLC, a
California corporation; PEDDER
AUTOMOTIVE, LLC, a California
corporation; PEDDER NISSAN, LLC, a
California corporation; LAKE ELSINORE
CHRYSLER DODGE JEEP RAM, LLC, a
business entity of unknown form; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CVRI2400722

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

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198);
4. Failure to Pay Proper Reporting Time Wages;
5. Failure to Pay Proper Vacation Wages (Lab. Code § 227.3);
6. Unlawful Receipt and Collection of Wages (Labor Code § 221);
7. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
8. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
9. Failure to Indemnify (Lab. Code § 2802);
10. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
11. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff THERESA MADRIGAL (“Plaintiff”), on behalf of herself, all others similarly
2 situated, the State of California, and the general public, complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants DPEP, INC., a
5 California corporation; LAKE ESLINORE CHRYSLER DODGE JEEP RAM, LLC, a business entity
6 of unknown form; and DOES 1 through 50, inclusive, (collectively referred to as “Defendants”) for
7 alleged violations of the California Labor Code and California Business and Professions Code. As set
8 forth below, Plaintiff alleges that Defendants have:

- 9 a. failed to pay them overtime wages at the correct rate;
- 10 b. failed to pay them double time wages at the correct rate;
- 11 c. failed to pay them overtime and/or double time wages by failing to include all
12 applicable remuneration in calculating the regular rate of pay;
- 13 d. failed to provide them with meal periods;
- 14 e. failed to provide them with rest periods;
- 15 f. failed to pay them premium wages for missed meal and rest periods;
- 16 g. failed to pay them proper reporting time pay;
- 17 h. failure to pay proper vacation wages;
- 18 i. made unlawful deductions from their wages;
- 19 j. failed to provide them with accurate written wage statements;
- 20 k. failed to reimburse them with necessary business expenditures;
- 21 l. failed to pay them all their final wages following separation of employment.

22 Based on these alleged Labor Code violations, Plaintiff now brings this class and
23 representative action to recover unpaid wages, liquidated damages, civil and statutory penalties,
24 restitution, and related relief on behalf of herself, all others similarly situated, and the general public.

25 **JURISDICTION AND VENUE**

26 2. This Court has subject matter jurisdiction to hear this case because the monetary
27 damages and restitution sought by Plaintiff from Defendants’ conduct exceeds the minimal
28 jurisdiction of the Superior Court of the State of California.

3. Venue is proper in the County of Riverside pursuant to Code of Civil Procedure sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains offices, transacts business and/or has an agent therein.

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

PARTIES

5. Plaintiff THERESA MADRIGAL is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant DPEP, INC. is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

7. Plaintiff is informed and believes, and thereupon alleges that Defendant PEDDER AUTO MANAGEMENT LLC is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

8. Plaintiff is informed and believes, and thereupon alleges that Defendant PEDDER AUTOMOTIVE, LLC is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

9. Plaintiff is informed and believes, and thereupon alleges that Defendant PEDDER NISSAN, LLC is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

10. Plaintiff is informed and believes, and thereupon alleges that Defendant LAKE ELSINORE CHRYSLER DODGE JEEP RAM, LLC is, and at all relevant times mentioned herein, a business entity of unknown form doing business in the State of California.

11. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE defendants when

1 ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously
2 named defendants are responsible in some manner for the occurrences, acts and omissions alleged
3 herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of
4 them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE
5 defendants when ascertained.

6 12. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
7 mentioned herein, some or all of the defendants were the representatives, agents, employees, partners,
8 directors, associates, joint venturers, joint employers, owners, principals or co-participants of some
9 or all of the other defendants, and in doing the things alleged herein, were acting within the course
10 and scope of such relationship and with the full knowledge, consent, and ratification by such other
11 defendants.

12 13. Plaintiff is informed and believes, and thereupon alleges that, at all relevant times
13 mentioned herein, some of the defendants pursued a common course of conduct, acted in concert and
14 conspired with one another, and aided and abetted one another to accomplish the occurrences, acts
15 and omissions alleged herein.

16 14. This action has been brought and may be maintained as a class action pursuant to Code
17 of Civil Procedure section 382 because there is a well-defined community of interest among the
18 persons who comprise the readily ascertainable classes defined below and because Plaintiff is
19 unaware of any difficulties likely to be encountered in managing this case as a class action.

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

- 22 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
23 separately, and/or any staffing agencies and/or any other third parties in hourly or
24 non-exempt positions in California four years prior to the filing of this action and
ending on the date that final judgment is entered in this action ("Hourly Employee
Class").
- 25 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
26 a shift in excess of five hours during the four years prior to the filing of this action
and ending on the date that final judgment is entered in this action.
- 27 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
28 shift of at least three and one-half (3.5) hours the four years prior to the filing of
this action and ending on the date that final judgment is entered in this action.

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- 2 d. **Unlawful Deduction Class:** All persons employed by Defendant in California
- 3 during the period beginning four years before the filing of this action and ending
- 4 when final judgment is entered.
- 5 e. **Reporting Time Pay Sub-Class:** All **Hourly Employee Class** members who
- 6 were required to call in or otherwise show up to work without being paid half of
- 7 their usual or scheduled day's work from four years prior to the filing of this action
- 8 and ending on the date that final judgment is entered in this action.
- 9 f. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
- 10 separated from their employment with Defendants during the period beginning
- 11 three years before the filing of this action and ending when final judgment is
- 12 entered.
- 13 g. **Vacation Pay Class:** All persons employed by Defendants in California who
- 14 earned paid vacation time and/or paid time off without receiving compensation for
- 15 all vested paid vacation time during the **Relevant Time Period**.
- 16 h. **Wage Statement Class:** All persons employed by Defendants in California during
- 17 the period beginning one year before the filing of this action and ending when final
- 18 judgment is entered.
- 19 i. **Expense Reimbursement Class:** All persons employed by Defendants in
- 20 California who incurred business expenses during the **Relevant Time Period**.
- 21 j. **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class**
- 22 members employed by Defendants in California during the four years prior to the
- 23 filing of this action and ending on the date that final judgment is entered in this
- 24 action.

16. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right

17 to amend or modify the class definitions with greater specificity, by further division into sub-classes

18 and/or by limitation to particular issues.

17. **Numerosity:** The class members are so numerous that the individual joinder of each

19 individual class member is impractical. While Plaintiff does not currently know the exact number of

20 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number

21 exceeds the minimum required for numerosity under California law.

18. **Commonality and Predominance:** Common questions of law and fact exist as to all

22 class members and predominate over any questions which affect only individual class members.

23 These common questions include, but are not limited to:

- 24 a. Whether Defendants maintained a policy or practice of failing to provide
- 25 employees with their rest periods;
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- b. Whether Defendants maintained a policy or practice of failing to provide employees with their meal periods;
- c. Whether Defendants failed to pay premium wages to class members when they have not been provided with meal and rest periods at the appropriate rates of pay;
- d. Whether Defendants failed to pay minimum and/or overtime wages to class members for all time worked;
- e. Whether Defendants maintained a policy or practice of failing to pay proper reporting time pay;
- f. Whether Defendants failed to pay proper vacation wages;
- g. Whether Defendants maintained a policy or practice of making unlawful deductions from class members' wages;
- h. Whether Defendants failed to provide class members with accurate written wage statements as a result of providing them with written wage statements with inaccurate entries for, among other things, amounts of gross and net wages, and total hours worked;
- i. Whether Defendants applied policies or practices that result in late and/or incomplete final wage payments;
- j. Whether Defendants failed to reimburse class members for all necessary business expenses incurred during the discharge of their duties;
- k. Whether Defendants are liable to class members for waiting time penalties under Labor Code section 203; and
- l. Whether class members are entitled to restitution of money or property that Defendants may have acquired from them through unfair competition;

19. **Typicality:** Plaintiff's claims are typical of the other class members' claims. Plaintiff is informed and believes, and thereupon alleges that Defendants have a policy or practice of failing to comply with the California Labor Code and Business and Professions Code as alleged in this Complaint.

20. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and

1 has no interests that are adverse to, or otherwise conflict with, the interests of absent class members
2 and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and
3 adequately represent and protect the interests of the other class members.

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

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

18 **GENERAL ALLEGATIONS**

19 23. Plaintiff worked for Defendants as a non-exempt employee during the relevant and
20 statutory periods.

21 24. Defendants had a common policy and practice of systemically failing to pay Plaintiff
22 and Class members proper wages and overtime for all hours worked, at the proper rates of pay.

23 25. Next, Plaintiff and Class Members were also consistently required to perform work,
24 off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were
25 required to spend time before clocking in entering the premises, turning on and booting up work
26 equipment, and assisting customers. Plaintiff and Class Members were also required to conduct work
27 activities after clocking out due to understaffing, such as helping customers and other employees.
28 Further, Defendants required Plaintiff and Class Members to use their personal vehicles for work-

1 related purposes, including traveling between company locations for two (2) to three (3) hours off the
2 clock. Finally, Plaintiff and Class Members were required to use their personal cell phones for work-
3 related activities off-the-clock, answering work calls and texts. The foregoing and uncompensated
4 time was under the control and direction of defendants, for which no wages were paid.

5 26. This uncompensated time caused Plaintiff and Class Members to work in excess of
6 eight (8), ten (10) and/or twelve (12) hours a day and/or forty (40) hours a week, entitling Plaintiff
7 and Class Members to minimum and overtime wages, which they were systemically denied.

8 27. Defendants also failed to Plaintiff and Class Members overtime wages at the proper
9 and applicable regular rates of pay. Specifically, Plaintiff and Class Members earned performance-
10 based non-discretionary bonuses in addition to their hourly pay. However, these supplemental
11 earnings were not accounted for when determining Plaintiff and Class Members' regular rates of pay,
12 and respective and proper overtime rates of pay.

13 28. Defendants had a common policy and practice of systemically denying Plaintiff and
14 Class Members the opportunity to take meal periods in compliance with the California Law.
15 Specifically, Plaintiff and Class Members were prohibited from leaving the work premises during
16 meal periods, when such meal periods were taken. Additionally, due to understaffing, heavy
17 workloads, and pre-shift uncompensated working hours Plaintiff and Class Members were denied the
18 opportunity to take timely meal periods prior to the completion of their fifth hour of work.
19 Furthermore, Plaintiff and Class Members were not relieved of all work duties during unpaid meal
20 periods and were required to keep working during meal breaks, including having to keep and monitor
21 their personal cell phones, and remain available for work calls during breaks.

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

28 30. Defendants had a common policy and practice of systemically denying Plaintiff and

1 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff
2 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)
3 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
4 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
5 no formal compliant written rest period policy that encouraged employees to take their rest periods,
6 or that properly advised Plaintiff and Class Members of their rest period rights; (3) Defendants' policy
7 and practice of requiring putative class members to continue working through their rest breaks due to
8 the excessive workload, including having to keep and monitor their personal cell phones, and remain
9 available for work calls during breaks.

10 31. Furthermore, Defendants failed to pay Plaintiff and Class Members premium pay
11 wages at their appropriate regular rates of pay for each meal and rest period denied.

12 32. Defendants also had a common policy and practice of failing to pay Plaintiff and Class
13 Members all reporting time pay to which they were entitled under California Law. Specifically,
14 Plaintiff and Class Members were required to call in or otherwise show up to work for less than two
15 (2) hours, but were not paid for their full scheduled shift.

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

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

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

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

1 37. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements
2 issues to Plaintiff and Class Members failed to state “the name and address of the legal entity that is
3 the employer.”

4 38. Defendants failed to comply with Labor Code section 226(a)(9) as “all applicable
5 hourly rates in effect during the pay period and the corresponding number of hours worked at each
6 hourly rate by the employee” were not accurately reflected in that: all hours worked, including
7 overtime, were not included.

8 39. Furthermore, Defendants failed to provide Plaintiff and Class Members with paper pay
9 stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE Opinion Letters.
10 Plaintiff’s and Class Members’ wage statement were only provided in electronic format in violation
11 of Labor Code § 226.

12 40. Plaintiff and Class Members were not reimbursed for business expenses incurred in
13 executing their duties under Defendant’s employ. Specifically, Plaintiff and Class Members were
14 required to use their personal cell phone for work both on and off the clock, incurring costs for phone
15 usage and maintenance. In addition, Plaintiff and Class Members were required to use their personal
16 vehicles for work-related purposes, incurring costs for gasoline, maintenance, and other transportation
17 costs. Defendants never paid Plaintiff and Class Members for these necessary work expenses.

18 41. Defendants had a common policy and practice of unlawfully receiving and/or
19 collecting wages from Plaintiff and Class Members. Specifically, Defendants’ deducted Plaintiff and
20 Class Members’ vested wages for unspecified and invalid reasons.

21 42. Defendants also had a common policy and practice of systemically failing to pay
22 Plaintiff and Class Members the requisite and accrued vacation time pay in accordance with
23 California Law. Specifically, Defendants maintained an illegal cap on vacation time. Further,
24 Defendants failed to pay Plaintiff and Class Members for accrued vacation time upon the separation
25 of employment.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

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

4 **(Plaintiff and Meal Period Sub-Class)**

5 43. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
6 fully alleged herein.

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

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

15 46. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare
16 Commission Wage Order ("Wage Order") both prohibit employers from requiring employees to work
17 during required meal periods and require employers to pay non-exempt employees an hour of
18 premium wages on each workday that the employee is not provided with the required meal period.

19 47. Compensation for missed meal periods constitutes wages within the meaning of Labor
20 Code section 200.

21 48. Labor Code section 1198 makes it unlawful to employ a person under conditions that
22 violate the applicable Wage Order.

23 49. Section 11 of the applicable Wage Order states:

24 No employer shall employ any person for a work period of more than
25 five (5) hours without a meal period of not less than 30 minutes, except
26 that when a work period of not more than six (6) hours will complete
27 the day's work the meal period may be waived by mutual consent of
28 the employer and employee. Unless the employee is relieved of all duty
during a 30 minute meal period, the meal period shall be considered an
'on duty' meal period and counted as time worked. An 'on duty' meal
period shall be permitted only when the nature of the work prevents an
employee from being relieved of all duty and when by written

1 agreement between the parties an on-the-job paid meal period is agreed
2 to. The written agreement shall state that the employee may, in writing,
revoke the agreement at any time.

3 50. At all relevant times, Plaintiff was not subject to a valid on-duty meal period
4 agreement. Plaintiff is informed and believes that, at all relevant times, **Meal Period Sub-Class**
5 members were not subject to valid on-duty meal period agreements with Defendants.

6 51. Plaintiff alleges that, at all relevant times during the applicable limitations period,
7 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
8 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
9 hour work period, as required by Labor Code section 512 and the applicable Wage Order.
10 Specifically, Plaintiff and **Meal Period Sub-Class** members were prohibited from leaving the work
11 premises during meal periods, when such meal periods were taken. Additionally, due to understaffing,
12 heavy workloads, and pre-shift uncompensated working hours Plaintiff and **Meal Period Sub-Class**
13 members were denied the opportunity to take timely meal periods prior to the completion of their fifth
14 hour of work. Furthermore, Plaintiff and **Meal Period Sub-Class** members were not relieved of all
15 work duties during unpaid meal periods and were required to keep working during meal breaks,
16 including having to keep and monitor their personal cell phones, and remain available for work calls
17 during breaks.

18 52. Plaintiff and **Meal Period Sub-Class** members were not provided with meal periods
19 of at least thirty (30) minutes for each five (5) hour work period due to (1) Defendants' policy of not
20 scheduling each meal period as part of each work shift; (2) no formal written meal policy that
21 encouraged employees to take their meal periods, or that advised **Meal Period Sub-Class** members
22 of their meal and rest period rights; and (3) Defendants' practice of requiring **Meal Period Sub-Class**
23 members to continue working through their meal and rest periods due to the excessive workload.

24 53. Plaintiff alleges that, at all relevant times during the applicable limitations period,
25 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**
26 **Class** members when they worked five (5) hours without clocking out for any meal period.

27 54. Plaintiff alleges that, at all relevant times during the applicable limitations period,
28 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**

1 **Sub-Class** with a second meal period when they worked shifts of ten (10) or more hours and failed
2 to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

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

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

8 57. Pursuant to Labor Code section 204, 218.6, 226.7 and 512, Plaintiff, on behalf of
9 herself and the **Meal Period Sub-Class** members, seeks to recover unpaid premium wages, interest
10 thereon, and costs of suit.

11 58. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
12 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and the
13 **Meal Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PROVIDE REST PERIODS**

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

17 **(Plaintiff and Rest Period Sub-Class)**

18 59. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
19 herein.

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

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

27 62. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
28 employers from requiring employees to work during required rest periods and require employers to

1 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
2 workday that the employee is not provided with the required rest period(s).

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

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

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

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

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

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

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

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1 conditions that violate the applicable Wage Order.

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

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

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

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

17 83. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
18 centrally devised policies and practices to her and **Hourly Employee Class** members with respect to
19 working conditions and compensation arrangements.

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

23 85. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
24 overtime for all hours worked, at the proper rates of pay.

25 86. Plaintiff and **Hourly Employee Class** members were consistently required to perform
26 work, off-the-clock for which they were not paid wages. Specifically, Plaintiff and **Hourly Employee**
27 **Class** members were required to spend time before clocking in entering the premises, turning on and
28 booting up work equipment, and assisting customers. Plaintiff and **Hourly Employee Class** members

1 were also required to conduct work activities after clocking out due to understaffing, such as helping
2 customers and other employees. Further, Defendants required Plaintiff and **Hourly Employee Class**
3 members to use their personal vehicles for work-related purposes, including traveling between
4 company locations for two (2) to three (3) hours off the clock. Finally, Plaintiff and **Hourly Employee**
5 **Class** members were required to use their personal cell phones for work-related activities off-the-
6 clock, answering work calls and texts. The foregoing and uncompensated time was under the control
7 and direction of defendants, for which no wages were paid. This uncompensated time caused Plaintiff
8 and **Hourly Employee Class** members to work in excess of eight (8), ten (10), and twelve (12) hours
9 a day and/or forty (40) hours a week, entitling Plaintiff and **Hourly Employee Class** members to
10 minimum and overtime wages, which they were systemically denied.

11 87. Defendants also failed to Plaintiff and **Hourly Employee Class** members overtime
12 wages at the proper and applicable regular rates of pay. Specifically, Plaintiff and **Hourly Employee**
13 **Class** members earned performance-based non-discretionary bonuses in addition to their hourly pay.
14 However, these supplemental earnings were not accounted for when determining Plaintiff and **Hourly**
15 **Employee Class** members' regular rates of pay, and respective and proper overtime rates of pay.

16 88. As a result of Defendants' unlawful conduct, Plaintiff and **Hourly Employee Class**
17 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
18 full amount of wages earned during each pay period during the applicable limitations period,
19 including overtime wages.

20 89. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
21 behalf of herself and **Hourly Employee Class** members, seeks to recover unpaid straight time and
22 overtime wages, interest thereon and costs of suit.

23 90. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
24 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of herself and
25 **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

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1 **FOURTH CAUSE OF ACTION**

2 **RECOVERY OF REPORTING TIME PAY**

3 **(Plaintiff and Reporting Time Pay Sub-Class)**

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

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

9 93. Plaintiff is informed and believes and thereon alleges that all or substantially all the
10 **Reporting Time Pay Sub-Class** are subject to Defendants' policies and practices requiring them to
11 call in or otherwise show up to work but not being paid half said their usual or scheduled day's work.
12 Specifically, Plaintiff and **Reporting Time Pay Sub-Class** Members were required to call in or
13 otherwise show up to work for less than two (2) hours, but were not paid for their full scheduled shift.

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

18 **FIFTH CAUSE OF ACTION**

19 **FAILURE TO PAY VACATION WAGES**

20 **(Lab. Code § 227.3)**

21 **(Plaintiff and Vacation Pay Class)**

22 95. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

23 96. California Labor Code section 227.3 provides:

24 Unless otherwise provided by a collective-bargaining agreement,
25 whenever a contract of employment or employer policy provides for
26 paid vacations, and an employee is terminated without having taken off
27 his vested vacation time, all vested vacation shall be paid to him as
28 wages at his final rate in accordance with such contract of employment
or employer policy respecting eligibility or time served; provided,
however, that an employment contract or employer policy shall not
provide for forfeiture of vested vacation time upon termination. The
Labor Commissioner or a designated representative, in the resolution

1 of any dispute with regard to vested vacation time, shall apply the
2 principles of equity and fairness.

3 97. At all relevant times during the applicable limitations period, Plaintiff and members
4 of the **Vacation Pay Class** accrued vacation time, and/or paid time off, during their employment
5 with Defendants.

6 98. However, Defendants implemented a common policy and practice of failing to pay
7 Plaintiff and **Vacation Pay Class** members for all accrued vacation wages upon separation of
8 employment, in violation of Labor Code 227.3. Specifically, Defendants maintained an illegal cap
9 on vacation time. Further, Defendants failed to pay Plaintiff and **Vacation Pay Class** members for
10 accrued vacation time upon the separation of employment.

11 99. By reason of the above, Plaintiff and the members of the **Vacation Pay Class** are
12 entitled to restitution for all unpaid amounts due and owing to within four (4) years of the date of
13 the filing of the original Complaint until the date of entry of judgment.

14 100. Plaintiff, on behalf of herself and the members of the **Vacation Pay Class**, seeks
15 interest thereon pursuant to California Labor Code section 218.6, costs pursuant to California
16 Labor Code section 218.6, and reasonable attorneys' fees pursuant to California Code of Civil
17 Procedure section 1021.5.

18 **SIXTH CAUSE OF ACTION**

19 **UNLAWFUL RECEIPT AND COLLECTION OF WAGES**

20 **(Lab. Code § 221)**

21 **(Plaintiff and Unlawful Deduction Class)**

22 101. Plaintiffs reallege and incorporate all preceding paragraphs, as though set forth in
23 full herein.

24 102. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or
25 receive from an employee any part of wages theretofore paid by said employer to said employee."

26 103. Defendants had a common policy and practice of unlawfully receiving and/or
27 collecting wages from Plaintiff and **Unlawful Deduction Class** members. Specifically, Defendants'
28 deducted Plaintiff and **Unlawful Deduction Class** members' vested wages for unspecified and

1 invalid reasons.

2 104. Accordingly, Plaintiff and **Unlawful Deduction Class** members are entitled to all
3 unlawfully deducted, received, and/or collected amounts due and owing to within four years of the
4 date of the filing of the Complaint and until the date of entry of judgment.

5 105. Plaintiff, on behalf of himself, and **Unlawful Deduction Class** members, seeks
6 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees
7 pursuant to Code of Civil Procedure section 1021.5.

8 **SEVENTH CAUSE OF ACTION**

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

10 **(Lab. Code § 226)**

11 **(Plaintiff and Wage Statement Penalties Sub-Class)**

12 106. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
13 herein.

14 107. Labor Code section 226(a) states:

15 An employer, semimonthly or at the time of each payment of wages,
16 shall furnish to his or her employee, either as a detachable part of the
17 check, draft, or voucher paying the employee's wages, or separately if
18 wages are paid by personal check or cash, an accurate itemized
19 statement in writing showing (1) gross wages earned, (2) total hours
20 worked by the employee, except as provided in subdivision (j), (3) the
21 number of piece-rate units earned and any applicable piece rate if the
22 employee is paid on a piece-rate basis, (4) all deductions, provided that
23 all deductions made on written orders of the employee may be
24 aggregated and shown as one item, (5) net wages earned, (6) the
25 inclusive dates of the period for which the employee is paid, (7) the
26 name of the employee and only the last four digits of his or her social
27 security number or an employee identification number other than a
28 social security number, (8) the name and address of the legal entity that
is the employer and, if the employer is a farm labor contractor, as
defined in subdivision (b) of Section 1682, the name and address of the
legal entity that secured the services of the employer, and (9) all
applicable hourly rates in effect during the pay period and the
corresponding number of hours worked at each hourly rate by the
employee and, beginning July 1, 2013, if the employer is a temporary
services employer as defined in Section 201.3, the rate of pay and the
total hours worked for each temporary services assignment. The
deductions made from payment of wages shall be recorded in ink or
other indelible form, properly dated, showing the month, day, and year,
and a copy of the statement and the record of the deductions shall be
kept on file by the employer for at least three years at the place of
employment or at a central location within the State of California. For

1 purposes of this subdivision, ‘copy’ includes a duplicate of the itemized
2 statement provided to an employee or a computer-generated record that
accurately shows all of the information required by this subdivision.

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

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

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

18 111. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements
19 issues to Plaintiff and **Wage Statement Class** Members failed to state “the name and address of the
20 legal entity that is the employer.”

21 112. Plaintiff is informed and believes that Defendants’ failure to provide Plaintiff and
22 **Wage Statement Class** members with accurate written wage statements was intentional in that
23 Defendants have the ability to provide them with accurate wage statements but have intentionally
24 provided them with written wage statements that Defendants have known do not comply with Labor
25 Code section 226(a).

26 113. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
27 Defendants have violated their legal rights to receive accurate wage statements and have misled them
28 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage

1 statements has prevented immediate challenges to Defendants' unlawful pay practices, has required
2 discovery and mathematical computations to determine the amount of wages owed, has caused
3 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
4 submission of inaccurate information about wages and deductions to federal and state government
5 agencies.

6 114. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of herself and **Wage**
7 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in
8 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
9 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
10 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

11 **EIGHTH CAUSE OF ACTION**

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

13 **(Lab. Code §§ 201-203)**

14 **(Plaintiff and Waiting Time Penalties Sub-Class)**

15 115. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

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

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

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

25 119. Plaintiff is informed and believes that, at all relevant times during the applicable
26 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
27 members all their final wages in accordance with the Labor Code.

28 120. Plaintiff is informed and believes that, at all relevant times during the applicable

1 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
2 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
3 sections 201 or 202 by failing to timely pay them all final wages.

4 121. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to
5 timely pay all final wages to her and **Waiting Time Penalties Sub-Class** members has been willful
6 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
7 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
8 requirements.

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

12 123. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
13 and/or the common fund doctrine, Plaintiff, on behalf of herself and **Waiting Time Penalties Sub-**
14 **Class** members, seeks awards of reasonable attorneys' fees and costs.

15 **NINTH CAUSE OF ACTION**

16 **FAILURE TO INDEMNIFY**

17 **(Lab. Code § 2802)**

18 **(Plaintiff and Reimbursement Class)**

19 124. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
20 herein.

21 125. Labor Code section 2802(a) states:

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

27 126. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
28 business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff
and **Expense Reimbursement Class** members were required to use their personal cell phone for work
both on and off the clock, incurring costs for phone usage and maintenance. In addition, Plaintiff and

1 **Expense Reimbursement Class** members were required to use their personal vehicles for work-
2 related purposes, incurring costs for gasoline, maintenance, and other transportation costs. Defendants
3 never paid Plaintiff and **Expense Reimbursement Class** members for these necessary work
4 expenses.

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

8 128. Plaintiff, on behalf of herself, and **Expense Reimbursement Class** members, seeks
9 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and
10 costs pursuant to Code of Civil Procedure section 1021.5.

11 **TENTH CAUSE OF ACTION**

12 **UNFAIR COMPETITION**

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

14 **(Plaintiff and UCL Class)**

15 129. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
16 herein.

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

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

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

26 133. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,
27 THIRD, FOURTH, FIFTH, SIXTH and NINTH causes of action herein.

28 134. Plaintiff lost money or property as a result of the aforementioned unfair competition.

1 135. Defendants have or may have acquired money by means of unfair competition.

2 136. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor
3 Code violations described in this Complaint, Defendants violated Labor Code sections 215, 216, 221,
4 225, 226.6, 226.7, 227.3, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
5 1199, and 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit the
6 violations alleged herein.

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

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

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

20 140. Plaintiff is informed and believes that other similarly situated persons have been
21 subject to the same unlawful policies or practices of Defendants.

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

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

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

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

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

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

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

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

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

25 **ELEVENTH CAUSE OF ACTION**

26 **CIVIL PENALTIES**

27 **(Lab. Code §§ 2698, *et seq.*)**

28 149. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

1 150. During the applicable limitations period, Defendants have violated Labor Code §§
2 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 515, 558, 558.1, 1174, 1174.5,
3 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.¹

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

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

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

19 154. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
20 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a),
21 227.3, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 22 a. For violations of Labor Code §§ 201, 202, 203, 226.7, 227.3, 246 1174, 1194,
23 1198 and 2802, one hundred dollars (\$100) for each employee per pay period for
24 each initial violation and two hundred dollars (\$200) for each employee per pay

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

- 1 period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));
- 2 b. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
- 3 (30) days' pay as waiting time (penalties set by Labor Code § 256);
- 4 c. For violations of Labor Code § 204, one hundred dollars (\$100) for each
- 5 employee for each initial violation that was neither willful nor intentional, two
- 6 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
- 7 withheld from each employee, for each initial violation that was either willful or
- 8 intentional, and two hundred dollars (\$200) for each employee, plus twenty-five
- 9 percent (25%) of the amount unlawfully withheld from each employee, for each
- 10 subsequent violation, regardless of whether the subsequent violation was either
- 11 willful or intentional (penalties set by Labor Code § 210);
- 12 d. For violations of Labor Code § 223, one hundred dollars (\$100) for each
- 13 employee for each initial violation that was neither willful nor intentional, two
- 14 hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the
- 15 amount unlawfully withheld from each employee, for each initial violation that
- 16 was either willful or intentional, and two hundred dollars (\$200) for each
- 17 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
- 18 from each employee, for each subsequent violation, regardless of whether the
- 19 subsequent violation was either willful or intentional (penalties set by Labor
- 20 Code § 225.5);
- 21 e. For violations of Labor Code § 226(a), if this action is deemed to be an initial
- 22 citation, two hundred and fifty dollars (\$250) for each employee for each
- 23 violation. Alternatively, if an initial citation or its equivalent occurred before the
- 24 filing of this action, one thousand dollars (\$1,000) for each employee for each
- 25 violation (penalties set by Labor Code § 226.3);
- 26 f. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
- 27 employee for each initial pay period for which the employee was underpaid, and
- 28 one hundred dollars (\$100) for each employee for each subsequent pay period for

- 1 which the employee was underpaid (penalties set by Labor Code § 558);
- 2 g. For violations of Labor Code § 1197, one hundred dollars (\$100) for each
- 3 aggrieved employee for each initial violation of Labor Code § 1197 that was
- 4 intentional and two hundred and fifty dollars (\$250) for each aggrieved employee
- 5 per pay period for each subsequent violation of Labor Code § 1197, regardless of
- 6 whether the initial violation was intentional (penalties set by Labor Code §
- 7 1197.1);
- 8 h. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable
- 9 attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the general

12 public, prays for relief and judgment against Defendants as follows:

- 13 a. An order that the action be certified as a class action;
- 14 b. An order that Plaintiff be appointed class representative;
- 15 c. An order that counsel for Plaintiff be appointed class counsel;
- 16 d. Unpaid wages and overtime;
- 17 e. Actual damages;
- 18 f. Liquidated damages;
- 19 g. Unreimbursed expenses;
- 20 h. Restitution;
- 21 i. Declaratory relief;
- 22 j. Pre-judgment interest;
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- k. Statutory penalties;
- l. Civil penalties;
- m. Costs of suit;
- n. Reasonable attorneys' fees; and
- o. Such other relief as the Court deems just and proper.

Dated: April 10, 2024

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Hrag Alexanian
Attorneys for Plaintiff
THERESA MADRIGAL, and the putative class

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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself, all other similarly situated, and the general public, hereby demands a jury trial on all issues so triable.

Dated: April 10, 2024

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Hrag Alexanian
Attorneys for Plaintiff
THERESA MADRIGAL, and the putative class

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

DPEP, Inc.

Pedder Auto Management LLC

Pedder Automotive, LLC

Pedder Nissan, LLC

Lake Elsinore Chrysler Dodge Jeep Ram, LLC

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

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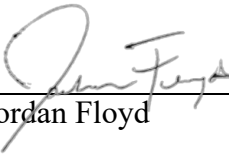
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1 ☐ **(COURTESY COPY BY ELECTRONIC TRANSMISSION)** by use of email by
2 scanning the documents and any and all documents and emailing them to email addresses above.

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

5 Executed on April 10, 2024, at Glendale, California.

6 
7 _____
8 Jordan Floyd