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County of Tuolumne
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on behalf of themselves and all others similarly situated

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

CHAD A. LEONHARDT, an individual;
TOOK BUCKSEN, an individual, on behalf of
themselves and others similarly situated,

Plaintiffs,

vs.

DODGE RIDGE MOUNTAIN RESORT,
LLC, a Delaware limited liability company;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: CV65934

CLASS ACTION

Assigned for All Purposes To:

Hon. Kevin M. Seibert

Dept.: 1

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
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(a);
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 Produce Requested Employment Records under Labor Code §§ 226, 1198.5;
11. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802;
12. Violation of Business & Professions Code § 17200 *et seq.*; and
13. Penalties under PAGA, Labor Code § 2698 *et seq.*

DEMAND FOR JURY TRIAL

Original Complaint filed: February 29, 2024

BY FAX

1 Plaintiffs CHAD A. LEONHARDT and TOOK BUCKSEN (hereinafter “Plaintiffs”), on
2 behalf of themselves and all other similarly situated non-exempt, hourly employees employed by
3 Defendants in California during the relevant period (collectively, “Employees”; individually,
4 “Employee”) complains of Defendants as follows:

5 **INTRODUCTION**

6 1. Plaintiffs bring this action on behalf of themselves and all current and former
7 Employees within the State of California who, at any time four years prior to the filing of this
8 lawsuit, are or were employed as non-exempt, hourly employees by Defendants DODGE RIDGE
9 MOUNTAIN RESORT, LLC, a Delaware limited liability company; and DOES 1 through 50 (all
10 defendants being collectively referred to herein as “Defendants”). Plaintiffs allege that Defendants
11 violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare
12 Commission (IWC), and California Business & Professions Code, and seek redress for these
13 violations.

14 2. Plaintiff LEONHARDT worked as a maintenance technician at one of Defendants’
15 facilities and locations in Pinecrest, California. Plaintiff BUCKSEN worked as a lift operator and
16 photographer/marketer for Defendants at the same Pinecrest location. They and the other Class
17 members were employed by Defendants as non-exempt, hourly employees at Defendants’
18 locations and facilities in California, including in positions related to providing recreational
19 services to Defendants’ customers at Defendants’ ski resort and campground facilities in
20 California. Plaintiffs worked at Defendants’ behest without being paid all wages due and without
21 being provided all required breaks. More specifically, Plaintiffs and the other similarly situated
22 Class members were employed by Defendants and (1) shared similar job duties and
23 responsibilities (2) were subjected to the same policies and practices (3) and endured similar
24 violations at the hands of Defendants as the other Employees who served in similar and related
25 positions.

26 3. Defendants required Plaintiffs and the Employees in the Class to work off the clock
27 and failed to record accurate time worked by these Employees, failed to pay them at the
28 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or

1 resignation, and provided Plaintiffs and the Class members with inaccurate wage statements that
2 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
3 Plaintiffs and the Class with lawful meal and rest periods, as Employees were required to remain
4 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
5 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
6 applicable paragraphs of the IWC Wage Orders.

7 4. Defendant DODGE RIDGE MOUNTAIN RESORT, LLC is a Delaware limited
8 liability company that lists its principal address with the California Secretary of State in Chicago,
9 Illinois. DODGE RIDGE MOUNTAIN RESORT, LLC is listed as the employer on the wage
10 statements issued to Plaintiffs by Defendants with a Pinecrest, California address, and upon
11 information and belief, the wage statements issued to other Class members listed the same
12 Pinecrest, California address. Upon information and belief, DODGE RIDGE MOUNTAIN
13 RESORT, LLC is a parent company that owns and operates various ski resorts and campgrounds,
14 including the Pinecrest facilities where Plaintiffs worked. DODGE RIDGE MOUNTAIN
15 RESORT, LLC's website explains: "Since it's [sic] opening season in 1950, Dodge Ridge has
16 been loved by generations of families with values that celebrate the skiers and riders who continue
17 to enjoy a life-long love of this sport."

18 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
20 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
21 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
22 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
23 obligations and liabilities giving rise to this lawsuit occurred at least in part in Tuolumne County,
24 where Defendants operate and provide recreational services to customers.

25 6. The true names and capacities, whether individual, corporate, associate, or
26 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
27 unknown to Plaintiffs, who therefore sues these Defendants by such fictitious names under Code
28 of Civil Procedure § 474. Plaintiffs are informed and believe and thereon allege that Defendants

1 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
2 some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend
3 this Complaint to reflect the true names and capacities of the Defendants designated herein as
4 Does 1 through 50 when their identities become known.

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

16 **FACTUAL BACKGROUND**

17 8. The Employees who comprise the Class, including Plaintiffs, are non-exempt
18 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
19 Commission ("IWC"). During the period of four years prior to the filing of this action through its
20 resolution, Plaintiffs and the Class members were either not paid by Defendants for all hours
21 worked or were not paid at the appropriate minimum, regular and overtime rates, including for
22 meal period and rest break premium payments. Plaintiffs also contend that Defendants failed to
23 pay Plaintiffs and the Class members all wages due and owing, including by miscalculating
24 wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and
25 failing to furnish accurate wage statements and timely pay all wages owed, all in violation of
26 various provisions of the California Labor Code and applicable paragraphs of the IWC Wage
27 Orders.

28 9. During the course of Plaintiffs and the Class members' employment with

1 Defendants, they were not paid all wages they were owed, including for all work performed
2 (resulting in “off the clock” work) and for all their overtime hours worked, or were not paid at the
3 correct rates. This has resulted in systematic and ongoing violations of the California Labor Code
4 and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-
5 exempt, hourly employees as recreational services workers based out of Defendants’ facilities in
6 California.

7 10. Plaintiff LEONHARDT was employed by Defendants as a maintenance technician
8 at Defendants’ ski resort and campground facilities in Pinecrest, California. Plaintiff
9 LEONHARDT worked over forty hours per week, five days per week, which resulted in shifts of
10 approximately eight hours or more in duration. Plaintiff LEONHARDT’s shifts were generally
11 scheduled from 7:00 a.m. to 3:00 p.m. Plaintiff BUCKSEN was employed as a lift operator and
12 photographer/marketer by Defendants at Defendants’ Pinecrest location. Plaintiff BUCKSEN
13 worked over forty hours per week, five days per week, which resulted in shifts of approximately
14 eight hours or more in duration. Plaintiff BUCKSEN’s shifts were generally scheduled from 8:00
15 a.m. to 4:00 p.m.

16 11. The nature of Defendants’ operations and its policies and practices require that
17 Employees endure significant off-the-clock work. Defendants’ campground facilities included
18 two timekeeping systems: (1) electronic recording of time punches by Employees scanning their
19 fingerprints on a scanner; and (2) paper timesheets where Employees manually recorded their
20 time entries. Defendants required that Employees use both systems daily to record their time
21 entries. However, Defendants’ timekeeping systems were dysfunctional and inaccurately
22 recorded Employees’ time worked. The fingerprint scanner for example, was located within a
23 kiosk inaccessible to most Employees who did not have keys to enter it. Several Employees were
24 stationed at the kiosk during business hours to register incoming customer guests. Only two
25 employees were provided keys to access the kiosk. Accordingly, if campground Employees such
26 as Plaintiff LEONHARDT arrived at the kiosk before it was open, they had to wait outside for an
27 employee with a key to arrive and unlock it. Similar issues arose at the end of Plaintiff
28 LEONHARDT’s shifts if the kiosk was locked. Plaintiff LEONHARDT frequently waited several

1 minutes for a kiosk employee to unlock the kiosk to gain entry. Once inside, Employees were
2 required to scan their fingerprints on the scanner which would mark their exact time of entry.
3 However, for the first few weeks of his employment, the scanner malfunctioned and failed to scan
4 Plaintiff LEONHARDT's fingerprint. Perhaps owing to Defendants' defective electronic
5 timekeeping system, Defendants also required that Employees record their time entries on paper
6 timesheets.

7 12. Defendants' paper timesheets were also located within the kiosk and likewise
8 required that Employees wait for the doors to be unlocked to access them. Each campground
9 Employee had a weekly timesheet formatted to include Employees' shift start and end times and
10 meal period start and end times. Employees were required to contemporaneously record time
11 entries on the timesheets while scanning their fingerprints on the scanner. However, Employees
12 were only permitted to record meal period entries on the paper timesheets and not on the
13 fingerprint scanner. When Employees attempted to record their shift start/end times they were
14 precluded from recording all their actual time worked. Instead, Employees were required to round
15 their time and record their entries according to their scheduled shifts which were limited to eight
16 hours per day. Thus, Employees were not able to record all their time worked, including all their
17 time worked, including the time spent under Defendants' control, waiting for the kiosks to open
18 to access the scanner and timesheets. On information and belief, Defendants paid Employees'
19 wages based on the rounded and restricted time entries made on the timesheets rather than the
20 time entries captured on the fingerprint scanners which at least in theory, could record
21 employees' time entries to the exact minute. Meal period entries were similarly restricted.
22 Employees were expressly admonished to record thirty-minute meal periods from 11:00 a.m. to
23 11:30 a.m., regardless of the time they took their meal periods. On information and belief,
24 Defendants did this to avoid the appearance of meal period violations and payment of meal
25 premiums.

26 13. Similar timekeeping issues arose for Plaintiff BUCKSEN and other winter resort
27 Employees. Defendants also utilize two forms of timekeeping for these Employees. Lift operators
28 are required to clock in on a digital time clock located within the locker room. They are required

1 to enter the last four of their social security numbers on the time clock upon entering the locker
2 room and before donning their work uniform. A long line of other operators would routinely form
3 as Defendants only provided a single time clock in the locker room. Thus, Employees were
4 delayed by several minutes in recording time spent under Defendants' control. A manager was
5 also present in the locker room and was responsible for manually recording Employees' arrival
6 times on a timesheet. On information and belief, the time entries recorded by managers were
7 inaccurately recorded. A manager was likewise also present in the locker room at the end of
8 Employees' shifts. Lift workers would return to the locker room to doff their work uniforms and
9 subsequently clock out. On information and belief, managers recorded on a timesheet the exact
10 time Employees entered the locker room, before doffing their uniforms. Thus, managers under-
11 recorded Employees' total time worked by failing to account for the several minutes Employees
12 spent doffing their uniforms. Additionally, Defendants never informed Employees if their
13 compensation was based on the time records recorded by management or time entries recorded by
14 Employees. Through the above-referenced practices, Defendants underreported and underpaid
15 Lift Employees for all their time worked.

16 14. Recording of meal periods for Lift Employees was equally problematic. After
17 donning their uniforms, Lift Employees must walk or be transported to their assigned chair lift.
18 Chairs 1, 3 and 6 were approximately a ten-minute walk from the locker room. Chairs 4, 5, 7, and
19 8 required transportation either via the lift or by snowmobile and could take anywhere from over
20 ten minutes to an hour to get to because of the distances and altitude. To take a meal period or
21 rest breaks, Lift Employees require a "Relief Operator" to come and relieve them from duty.
22 Defendants utilize a "Lift Log" where the lead operator is tasked with recording Employees' meal
23 period entries.

24 15. Defendants' policy and practice of using "Relief Operators" to relieve Employees'
25 for meal periods and rest breaks is inherently violative of California Labor law. Defendants begin
26 to count meal periods from the moment of the Relief Operators' arrival at the covered
27 Employees' chair lift. It is from that moment that Employees' 30-minute meal period begins to
28 run. However, Employees are not free from Employer control as soon as their meal periods

1 purportedly begin. Instead, Lift Employees experience severely interrupted/shortened meal
2 periods for Employees on Chairs 1, 3, and 6 it takes approximately ten minutes to walk back to
3 the locker room and another ten minutes to return to the lift. Accordingly, these Employees
4 receive meal periods that are far less than thirty minutes.

5 16. For Employees assigned to Chairs, 4,5,7, and 8, Defendants did not permit them to
6 leave their stations at all. Long distances did not permit Employees to walk and return to their lift
7 workstations within thirty minutes and Defendants declined to provide any transportation during
8 meal periods for Employees to be able to descend. Additionally, Defendants prohibited
9 Employees from using the chair lifts while on duty as a safety precaution. Accordingly,
10 Employees working at the higher lifts were required to take their meal periods in a metal shack
11 with a single stool located within walking distance of the lifts. Notably, the shacks did not contain
12 any amenities for Employees to refrigerate their meals or warm them up during their meal
13 periods. Frequently the shacks did not have working heaters, so Employees were relegated to
14 using them in extremely cold weather. Defendants' unlawful meal period practices cause
15 Employees to receive on-duty meal periods and substantially less than 30 minutes for their meal
16 periods and to receive late meal periods.

17 17. Additionally, because Relief Operators can only leave to cover the next Employee
18 once the current one returns if an Employee is delayed in returning from their meal period, this
19 results in the Relief Operator falling behind schedule in covering the subsequent Employees.
20 Accordingly, Employees whose meal periods approximate the fifth hour of work do not receive
21 coverage to take their meal periods until after the fifth hour. This results in Employees receiving
22 late meal periods.

23 18. Lift Employees were also denied proper rest breaks. Due to a shortage of Relief
24 Operators, Employees were frequently unable to take one or both of their rest breaks. Even if
25 theoretically there was adequate coverage, Defendants did not provide transportation for
26 Employees to leave their work premises and return within ten minutes. Defendants also failed to
27 provide any "break room" or bathrooms to Employees during their entire shifts. Only Chair Lift 8
28 had an outhouse in its vicinity, but Employees in neighboring lifts would have to trek at least 30

1 minutes to get to the outhouse. Employees were required to urinate in bottles or nearby trees. For
2 female employees, this was particularly difficult, and most Employees simply avoided going to
3 the bathroom at all and only during emergency circumstances were able to summon
4 transportation to go to the bathroom.

5 19. The failure to maintain accurate timekeeping and payroll records perpetrated by
6 Defendants has also been exacerbated by other off the clock work Defendants required their
7 Employees to endure. Due to the heavy volume of work and personnel shortages, Plaintiff
8 LEONHARDT was compelled to work after the end of his scheduled shifts to clean up trash. On
9 several occasions, Plaintiff LEONHARDT was also ordered by a supervisor to pick up and drop
10 off a coworker at his home as he had no mode of transportation to attend work. Moreover,
11 Plaintiff LEONHARDT and other campground Employees' meal periods and rest breaks were
12 routinely interrupted or not provided at all due to pressing work demands. Defendants provided
13 campground Employees with radios and required that they always keep them on during their
14 shifts including meal periods and rest breaks. Plaintiff LEONHARDT's meal periods and rest
15 breaks were frequently interrupted with pressing calls from coworkers and management regarding
16 customer complaints about the bathrooms and other amenities. Additionally, Defendants had
17 bathroom supplies delivered to the main lodge facility and required that Plaintiff LEONHARDT
18 drive during his rest breaks to the lodge located several minutes away to pick up the supplies.
19 When Plaintiff LEONHARDT complained to management that he needed to take his rest break,
20 he was told that the drive to the lodge was considered a rest break. This comment, coupled with
21 Defendants' frequent interruptions of Plaintiff LEONHARDT's meal periods and rest breaks
22 provided a clear indication that Defendants' uniformly applied policy and procedure was that
23 work should be prioritized over breaks.

24 20. In his role as photographer/marketer, Plaintiff BUCKSEN also experienced off-
25 the-clock work during interrupted meal periods when his manager would call him and after
26 clocking out for his shifts regarding work-related matters. Additionally, Plaintiff was not
27 provided a break room where he could take his meal periods. While initially he was permitted to
28 use the Lift Employees' locker room to consume his meals, Plaintiff BUCKSEN was eventually

1 prohibited from using the facilities and was told to use the lodge's dining facilities. However, the
2 lodge dining facilities were always full of guest patrons and Plaintiff BUCKSEN was frequently
3 unable to locate an empty chair and table to take his breaks.

4 21. Additionally, Plaintiffs and the Class members were also required to work or
5 otherwise remain under Defendants' control after their shift end times, including on-site and
6 through after-hours work-related communications and other work requirements. Plaintiff
7 BUCKSEN and other Lift Employees were required to walk approximately one mile from the
8 assigned Employee parking lot to the lodge where the locker room was located. Accordingly,
9 Employees were required to arrive at work well before their scheduled start time to account for
10 the approximately ten-minute walk it would take to get from the parking lot to the locker room.
11 Lift Employees were also required to spend an additional ten minutes walking back to the lot
12 after their shifts.

13 22. Defendants followed similar unlawful practices, upon information and belief, in
14 connection with other Employees in a concerted effort to limit and restrict regular and overtime
15 hours earned by and owing to Plaintiffs and the other Class members. Time worked off the clock
16 also caused Plaintiffs and other Class members to work beyond eight hours in a shift. As a result
17 of the above-described off the clock work, Defendants failed to pay Plaintiffs and Class members
18 overtime for several minutes at the end of work shifts which Defendants did not record in any
19 timekeeping or payroll records.

20 23. Defendants also required that Plaintiffs provide their own tools for the
21 performance of their duties. Plaintiff LEONHARDT was required to provide tools such as an
22 impact drill, wrench, and hammer. Plaintiff BUCKSEN was required to provide his own boots,
23 skis, helmet, goggles, gloves, jacket ski equipment, camera and lenses. However, Defendants
24 failed to pay Plaintiffs twice the minimum wage as required under the relevant wage order which
25 states that when tools or equipment are required by the employer or are necessary to the
26 performance of a job, such tools and equipment shall be provided and maintained by the
27 employer, except that an employee whose wages are at least two (2) times the minimum wage
28 provided herein may be required to provide and maintain hand tools and equipment customarily

1 required by the trade or craft. *See* IWC Wage Order 1-2001(9)(B). Defendants paid Plaintiff
2 LEONHARDT an hourly wage of \$17 per hour and paid Plaintiff BUCKSEN \$17.50 as a Lift
3 Operator and \$20 per hour as a photographer/marketer, well below twice the minimum wage of
4 California in 2022 and 2023.

5 24. Plaintiffs were therefore not paid for all their hours worked at the required
6 minimum, overtime and double time wage rates due to Defendants' policy and practice of
7 requiring them to work off the clock and without pay. With work shifts generally scheduled for
8 eight hours or more, this unpaid off the clock work resulted in Plaintiffs and the Class members
9 working past eight hours on a shift, which required that they be paid at the correct overtime rate
10 of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiffs and the Class
11 members by failing to pay them at the required overtime rates for all hours over eight in a work
12 shift or over forty in a work week, and all hours over twelve in a day at the required double time
13 rate. Upon information and belief, the Class members were bound by similar scheduling and
14 work policies which Defendants required them to follow and endured similar violations at
15 Defendants' hands as Plaintiffs.

16 25. Defendants have either failed to maintain timekeeping records for Plaintiffs that
17 would permit Plaintiffs to discover the nature and extent of the off the clock work Defendants'
18 required and the actual hours Plaintiffs worked, or have otherwise declined to produce them to
19 Plaintiffs in response to a timely and lawful request. By failing to pay for all hours worked,
20 Defendants have committed knowing and intentional ongoing violations of the record keeping
21 requirements under the Labor Code §§ 226 and 1174.

22 26. As a result of the above-described unlawful requirements to work off the clock,
23 the failure to accurately record all hours worked and the other wage violations they endured at
24 Defendants' hands, Plaintiffs and the Class members were not properly paid all wages earned and
25 all wages owed to them by Defendants, including when working more than eight hours in any
26 given day and/or more than forty hours in any given week. As a result of Defendants' unlawful
27 policies and practices, Plaintiffs and Class members incurred overtime hours worked for which
28 they were not adequately and completely compensated, in addition to the hours they were

1 required to work off the clock at their regular rates.

2 27. The failure to pay for all hours worked and underpayment of wages to Plaintiffs
3 and the Class members is and has been a direct consequence of Defendants' unlawful
4 compensation policies and practices, which upon information and belief applied uniformly to the
5 Class members working at Defendants' locations and facilities. As a result of the above-described
6 unlawful requirements to work off the clock, the failure to accurately record all hours worked and
7 pay wages at the correct rates, the failure to compensate employees for time under Defendants'
8 control and the other wage violations they endured at Defendants' hands, Plaintiffs and the Class
9 members were not properly paid all wages earned and all wages owed to them by Defendants,
10 including when working more than eight hours in any given day and/or more than forty hours in
11 any given week.

12 28. Therefore, from at least four years prior to the filing of this lawsuit and continuing
13 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
14 hours worked and failing to pay minimum wages for all time worked, as required by California
15 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
16 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
17 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
18 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
19 Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants
20 paid Plaintiffs and the Class members bonuses and shift differentials and other forms of
21 remuneration above and beyond their hourly pay, upon information and belief Defendants
22 miscalculated and therefore underpaid any overtime they paid during these pay periods by failing
23 to include all forms of remuneration in the regular rate used to calculate and pay overtime.

24 29. Defendants also failed to provide Plaintiffs and the Class members with their
25 required meal periods and the at least two ten-minute rest breaks required for scheduled shifts of
26 eight hours. Demanding workloads and short-staffing contributed to Defendants' common policy
27 of failing to provide lawful meal periods to Plaintiffs and the Class members, as required under
28 the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly

1 systematically failed to authorize and permit Plaintiffs and the employee Class Members to take
2 all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the
3 IWC Wage Order(s).

4 30. More specifically, Plaintiffs worked shifts that entitled them to at least one meal
5 period, but Defendants' managers required Plaintiffs and the Class members to prioritize work
6 over taking lawful meal periods. As noted above, Defendants required that campground
7 Employees carry portable radios on at all times. Constant work demands led to systematically late
8 meal periods, and on-duty meal periods that were incessantly interrupted by customer and
9 management demands and required job duties and tasks. Additionally, campground Employees
10 were not provided with suitable resting facilities where Employees could take their meal periods.
11 The heavy workload and management expectations also contributed to Employees working
12 through meal periods or not taking them or taking them late so work could be accomplished or
13 they were otherwise required to remain under Defendants' control during meal periods.

14 31. Additionally, Defendants required Plaintiff BUCKSEN and the Lift Employee
15 Class members to go through a series of steps before being able to take lawful meal periods. To
16 whatever extent there was ever a schedule for meal periods, it went by the wayside quickly as
17 Employees had to await a "Relief Operator" to arrive to relieve them for their meal periods. The
18 practice of using Relief Operators led to systematically late meal periods if they were provided at
19 all, and on-duty meal periods due to Defendants' policy of not providing transportation to
20 Employees working on higher chair lifts, effectively prohibiting Employees from leaving their
21 premises. Moreover, having to walk long distances in and out of the work premises shortened
22 Employees' meal periods.

23 32. Therefore, meal period violations systematically occurred throughout all of
24 Plaintiffs' work shifts where Defendants failed to provide both a lawful meal period and meal
25 premium payment. To the extent Defendants ever did pay Plaintiffs a meal period premium, they
26 failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to
27 pay the one-hour premium payment. Upon information and belief, the other Class members were
28 subjected to similar unlawful policies and practices and endured similar violations as Plaintiffs.

1 33. Defendants thus failed to provide all the legally required unpaid, off-duty meal
2 periods and all the legally required paid, off-duty rest periods to Plaintiffs and the other Class
3 members, as required by the applicable Wage Order and Labor Code. Plaintiffs and other Class
4 members were required to perform work as ordered by Defendants or otherwise remain under
5 Defendants' control for more than five hours during a shift, or ten hours in a shift, but were often
6 required to do so without receiving a lawful, timely, and duty-free 30-minute meal breaks.
7 Additionally, as addressed above, Defendants followed a practice of requiring off the clock work,
8 in a manner that would impact when Employees were to receive meal periods and rest breaks,
9 thus leading to further violations.

10 34. As a result, Defendants' failure to provide Plaintiffs and the Class members with all
11 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
12 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also
13 failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's effective
14 hourly rate of pay, for each meal period or rest break that Defendants failed to provide or
15 deficiently provided. Upon information and belief, if and when Defendants did pay any meal
16 period premiums, they failed to include all forms of remuneration in the regular rate used to
17 calculate and pay it.

18 35. Therefore, for at least four years prior to the filing of this action and through to the
19 present, Plaintiffs and the Class members were unable to take off-duty breaks or were otherwise
20 not provided with the opportunity to take required meal breaks due to Defendants' policies and
21 practices. On the occasions when Plaintiffs and the Class members were provided with a meal
22 period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were
23 not provided with one hour's wages in lieu thereof. Meal period violations thus occurred in one or
24 more of the following manners:

- 25 (a) Class members were not provided full thirty-minute duty free meal periods
26 for work days in excess of five hours and were not compensated one hour's
27 wages in lieu thereof, all in violation of, among others, Labor Code §§
28 226.7, 512, and the applicable Industrial Welfare Commission Wage

Order(s);

- (b) Class members were not provided second full thirty-minute duty free meal periods for work days in excess of ten hours;
- (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 and were not permitted to leave their work premises during meal periods and were otherwise required to remain under Defendants' control during meal periods.

36. Defendants also failed to authorize and permit Plaintiffs and the Class members to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. There were similar issues with the required net ten-minute rest breaks that Plaintiffs and the Class members were unable to take as with meal periods. Defendants required that campground Employees carry portable radios on at all times. Defendants also failed to provide adequate coverage for Lift Employees to be relieved for their rest breaks and failed to provide transportation so their rest breaks would not be shortened by the long distances they would need to walk to the break room. Defendants made no efforts or provided no emphasis on authorizing and permitting Employees to take net ten-minute rest breaks for every four hours of work. Additionally, Employees were not provided with suitable resting facilities where Employees could take their meal periods.

37. Given the constant and ongoing job demands they faced and Defendants' failure to adequately staff its facilities to permit employees to take breaks, Plaintiffs were compelled to remain on the premises performing job-related duties while also remaining under Defendants' control during times when they were supposed to be enjoying a duty-free rest break. By uniformly requiring Plaintiffs and the other similarly situated co-workers to remain under Defendants' control and on premises during rest breaks, Defendants committed systematic and

1 ongoing rest break violations. To the extent Defendants paid any rest break premium payments
2 under Labor Code § 226.7 to Plaintiffs or Class members these payments failed to include all
3 forms of remuneration, including shift differentials and bonuses and premium payments to
4 Plaintiffs, in the regular hourly rate at which they paid the rest break premiums.

5 38. Defendants' management did not emphasize the requirement to provide at least
6 one ten-minute duty-free rest period for each four-hour duty period, or major fraction thereof. If
7 and when Plaintiffs were permitted to take a ten-minute rest break on a shift, they were not
8 permitted to take a second one or a third one or any breaks were untimely or impermissibly
9 shortened. Further violations occurred as Plaintiffs and the Class members were required to
10 remain under Defendants' control by Defendants' requirement that they remain ready to respond
11 to work requirements and job demands.

12 39. Therefore, Defendants failed to authorize and permit Class members to take all
13 their required rest breaks. Plaintiffs and the other similarly situated Class members were either
14 not authorized permitted the opportunity to take a rest break, or were required to remain under
15 Defendants' control and respond to instructions and job demands. Defendants also failed to
16 authorize and permit Employees to leave the property premises during rest breaks, or else
17 prevented them from doing so, thus further evidencing Defendants' policy and practice of
18 requiring Plaintiffs and the Class members to remain under their control during required off-duty
19 rest breaks.

20 40. Defendants' policies and practices thus systematically deny and denied Plaintiffs
21 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
22 periods. The California Supreme Court has instructed that the rest period requirement obligates
23 employers to permit and authorize employees to take-off-duty rest periods. That is, during rest
24 periods employers must relieve employees of all duties and relinquish control over how
25 employees spend their time. Plaintiffs and the Class members were and are under Defendants'
26 control when they are working through rest breaks, and Defendants failed to schedule or account
27 for required first, second, and third rest breaks during the shifts Plaintiffs and the Class members
28 generally worked.

1 41. Plaintiffs and the Employees in the Class were not authorized and permitted to
2 take lawful rest periods, were systematically required by Defendants to work through or during
3 breaks, and were not provided with one hour's wages in lieu thereof. They were required to
4 remain on duty during breaks or portions of their breaks, thus making them either untimely or
5 shortened and on-duty, and they were also prevented from leaving the premises during rest breaks
6 under Defendants' policies and practices. Rest period violations therefore arose in one or more of
7 the following manners:

8 (a) Class members were required to work without being provided a minimum
9 ten minute rest period for every four hours or major fraction thereof worked
10 and were not compensated one hour of pay at their regular rate of
11 compensation for each workday that a rest period was not provided, and to
12 the extent Defendants paid any premiums, they failed to include all forms of
13 remuneration in the regular rate used to calculate and pay them.

14 (b) Class members were not authorized and permitted to take timely rest periods
15 for every four hours worked, or major fraction thereof; and

16 (c) Class members were required to remain on duty and under Defendants'
17 control during rest periods or otherwise had their rest periods interrupted by
18 work demands.

19 42. From at least four years prior to the filing of this lawsuit and continuing to the
20 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
21 deducting the Employees' earned wages, including by requiring off the clock work during breaks
22 and before and after work shifts and by miscalculating the regular rate and accordingly
23 underpaying overtime wages and meal and rest break premiums. By not compensating Employees
24 for all hours worked and under Defendants' control at the correct rates, Defendants unlawfully
25 deducted wages earned by and owed to Plaintiffs and the Class members, in violation of Labor
26 Code § 221.

27 43. Defendants also violated California Labor Code § 246 by not providing all
28 required paid sick days to Plaintiffs and the similarly aggrieved Employees. Labor Code § 246

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

21 44. Upon information and belief, Defendants also failed to provide Employees such as
22 Plaintiffs at the time of his employment and thereafter with written notice complying with all the
23 requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer
24 shall provide to each employee a written notice, in the language the employer normally uses to
25 communicate employment-related information to the employee, containing” specifically required
26 information. Upon information and belief, Defendants failed to provide this information to the
27 Class Members as required under Labor Code § 2810.5. Defendants were required to provide
28 Plaintiffs and the Class members certain specific information upon hiring pursuant to California

1 Labor Code § 2810.5. Defendants failed to provide Plaintiffs with all such information when
2 they were hired, or have failed to produce it, and upon information and belief, Defendants
3 committed similar violations in connection with similarly situated Class members.

4 45. As a result of these illegal policies and practices, Defendants also engaged in and
5 enforced the following additional unlawful practices and policies against Plaintiffs and the Class
6 members they seek to represent:

- 7 (a) failing to pay all wages owed to Class members who either were discharged,
8 laid off, or resigned in accordance with the requirements of Labor Code §§
9 201, 202, 203 and 227.3;
- 10 (b) failing to pay all wages owed to the Class members twice monthly in
11 accordance with the requirements of Labor Code § 204;
- 12 (c) failing to pay Class members all wages owed, including all meal and rest
13 period premium wages, and failing to pay them at the regular rate of
14 compensation;
- 15 (d) failing to maintain accurate records of Class members' hours worked and
16 earned wages and meal periods in violation of Labor Code §§ 226 and
17 1174(d) and section 7 of the applicable IWC Wage Orders; and
- 18 (e) failing to produce timekeeping records in response to Plaintiffs' timely and
19 lawful request to receive them under these authorities.

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

1 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
2 and because they did not implement and preserve a record-keeping method as required for non-
3 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
4 California Wage Orders. Upon information and belief, time clock punches were not maintained or
5 were not accurately maintained for work shifts and meal periods. Defendants also failed to
6 accurately record and pay for all regular and overtime hours worked and submitted by Plaintiffs
7 and the Class members, including by failing to pay all overtime hours at the correctly calculated
8 overtime premium rate.

9 47. Defendants also provided Plaintiffs and the Class members with wage statements
10 that failed to accurately report all hours worked and applicable hourly rates for all hours worked.
11 For the same reasons as explained above, Plaintiffs and the Class members were provided with
12 unlawful wage statements that failed to reflect all hours worked and failed to pay for all overtime
13 hours or failed to pay overtime wages at the correct overtime premium rate, and Defendants
14 miscalculated meal and rest break premiums, and sick time if and when they did pay them.
15 Defendants followed this unlawful policy and practice even though both Plaintiffs and Defendants
16 were aware that Plaintiffs and the Class members worked more total hours than were reflected on
17 the wage statements, including overtime hours, and were underpaid by regular rate miscalculation.
18 Plaintiffs and the Employees in the Class were unable to discern from their wage statements alone
19 the actual hours they worked in total during a pay period and the rates they were paid for those
20 hours worked.

21 48. Defendants have thus also failed to comply with Labor Code § 226(a) by
22 inaccurately reporting total hours worked and total wages earned by Plaintiffs and the Class
23 members, along with the appropriate applicable rates, among others requirements. Plaintiffs and
24 Class members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
25 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
26 applicable California IWC Wage Orders by failing to maintain time records showing when the
27 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
28 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from

1 payment of wages and accurately reporting total hours worked.

2 49. Defendants also required Plaintiffs and the Class members to work hours off the
3 clock for which they were not compensated. They were also required to endure off the clock work
4 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
5 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
6 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
7 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
8 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
9 Plaintiffs and other similarly situated Employees at the time of their termination or within seventy-
10 two hours of their resignation, as required by California wage-and-hour laws, including under
11 Labor Code § 203.

12 50. From at least four years prior to the filing of this lawsuit and continuing to the
13 present, Defendants have regularly required Plaintiffs and the Class members to incur necessary
14 business expenses in the course of performing their required job duties without reimbursement.
15 These included the cell phone-related expenses Plaintiff LEONHARDT incurred in responding to
16 communications from management on his personal phone, protective gear such as gloves and
17 goggles, and tools such as an impact drill, wrench, and hammer. Plaintiff BUCKSEN incurred
18 costs in purchasing protective gear such as ski boots, helmet, goggles, gloves, ski jacket and ski
19 equipment for his role as Lift Operator. In his role as photographer/marketer, Plaintiff BUCKSEN
20 also purchased and/or used his personal photography equipment such as a camera, lenses, and iPad
21 and used his cell phone to text supervisors and post to social media. Plaintiffs and the Class
22 members must be reimbursed for these necessary business expenses under Labor Code § 2802,
23 and Defendants systematically failed to do so.

24 51. In light of the foregoing, Plaintiffs and the Employees in the Class bring this action
25 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
26 226.7, 227.3, 246, 248.1, 248.2, 248.5, 351, 354, 510, 511, 512, 558, 558.1, 1174, 1174.5,
27 1182.12, 1185, 1194, 1194.2 1197, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 *et seq.*, and
28 California Code of Regulations, Title 8, section 11000 *et seq.*

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

CLASS ALLEGATIONS

53. Plaintiffs brings this class action on behalf of themselves and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a Class (or “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 within the State of California.” This includes all hourly recreational services employees and those in similar and related positions. Further, Plaintiffs 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

1 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
2 including by requiring off the clock work.

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

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

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

13 j. Subclass 10. Expense Reimbursement Subclass. All Class members who incurred
14 necessary and reasonable expenses in connection with performing their job duties for Defendants
15 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

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

19 54. Plaintiffs reserve the right under California Rule of Court 3.765 to amend or
20 modify the class description with greater particularity or to provide further division into subclasses
21 or limitation to particular issues. To the extent equitable tolling operates to toll claims by the Class
22 against Defendants, the Class Period should be adjusted accordingly.

23 55. Defendants, as a matter of company policy, practice and procedure, and in violation
24 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
25 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
26 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
27 worked by Plaintiffs and the other members of the Class, even though Defendants enjoyed the
28 benefit of this work, required Employees to perform this work and permitted or suffered to permit

1 this work. Defendants have uniformly denied these Class members wages to which these
2 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
3 order to unfairly cheat the competition and unlawfully profit.

4 56. This action has been brought and may properly be maintained as a class action
5 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
6 of interest in this litigation and the proposed Class is easily ascertainable from the employment
7 records for Employees that Defendants are required to maintain under California law.

8 **A. Numerosity**

9 57. The potential members of the Class as defined are so numerous that joinder of all
10 the Class members is impracticable. While the precise number of Class member has not been
11 determined at this time, Plaintiffs are informed and believe that Defendants employ or, during the
12 time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy
13 the Class definition within the State of California. Plaintiffs allege that Defendants' employment
14 records will provide information as to the number and location of all Class members.

15 **B. Commonality**

16 58. There are questions of law and fact common to the Class that predominate over any
17 questions affecting only individual Class members. The common questions are numerous and
18 substantial and flow from Defendants' uniform policies and/or practices of violating the California
19 Labor Code addressed above. As such, these common questions predominate over individual
20 questions concerning each individual Class Member's showing as to his or her eligibility for
21 recovery or as to the amount of damages. These common questions of law and fact include:

- 22 a. Whether Defendants failed to pay Employees minimum wages;
- 23 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 24 c. Whether Defendants failed to pay Employees overtime as required under Labor
25 Code § 510;
- 26 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
27 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
28 premium pay in lieu thereof;

- 1 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
2 Orders, by failing to authorize and permit Employees to take requisite rest breaks
3 or provide premium pay in lieu thereof;
- 4 f. Whether Defendants violated Labor Code § 226(a) by providing Employees with
5 inaccurate wage statements and wage statements that omitted many of the Section
6 226(a) requirements.
- 7 g. Whether Defendants violated Labor Code § 221;
- 8 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
9 wages and compensation due and owing at the time of termination of employment;
- 10 i. Whether Defendants' conduct was willful;
- 11 j. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the
12 IWC Wage Orders by failing to maintain accurate records of Class members'
13 earned wages and work periods;
- 14 k. Whether Defendants violated Labor Code § 1194 by failing to compensate all
15 Employees during the relevant time period for all hours worked, whether regular or
16 overtime;
- 17 l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
18 wages earned at least twice monthly;
- 19 m. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary
20 business expenses incurred by Employees;
- 21 n. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
22 providing employees with all required sick days and COVID-19 supplemental sick
23 leave;
- 24 o. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 25 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 26 q. Whether Employees are entitled to equitable relief pursuant to Business and
27 Professions Code § 17200 *et seq.*
28

1 **C. Typicality**

2 59. The claims of the named Plaintiffs are typical of those of the other Employees. The
3 Employee Class members all sustained injuries and damages arising out of and caused by
4 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
5 well as regulations, that have the force and effect of law, as alleged herein. Plaintiffs' claims for
6 the off the clock work and meal and rest violations they were required to endure are typical of
7 those of the other Class members.

8 **D. Adequacy of Representation**

9 60. Plaintiffs will fairly and adequately represent and protect the interest of the
10 Employee Class members. Counsel who represents Plaintiffs and the Employees in the Class are
11 experienced and competent in litigating employment class actions.

12 **E. Superiority of Class Action**

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

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

1 63. Class action treatment will allow those persons similarly situated to litigate their
2 claims in the manner that is most efficient and economical for the parties and the judicial system.
3 Plaintiffs are unaware of any difficulties in managing this case that should preclude class
4 treatment. Plaintiffs contemplate the eventual issuance of notice to the proposed Class members
5 that would set forth the subject and nature of the instant action. The Defendants' own business
6 records can be utilized for assistance in the preparation and issuance of the contemplated notices.
7 To the extent that any further notice is required additional media and/or mailings can be used.

8 64. Defendants, as prospective and actual employers of the Employees in the Class,
9 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
10 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
11 Employees as well as the effect of any alleged arbitration agreements that may have been forced
12 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
13 and policies, most notably intentionally refusing to pay for all hours actually worked which should
14 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
15 agreements and policies and practices on the Employees and Class as a whole.

16 65. Plaintiffs and the Employees in the Class did not discover the fact that they were
17 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
18 any discussion about Plaintiffs' and the Class members' waiver of their Constitutional rights of
19 trial by jury, to collectively organize and oppose unlawful pay practices under California law as
20 well as obtain injunctive relief preventing such practices from continuing. As a result, the
21 applicable statutes of limitation tolled until such time as Plaintiffs and the Class members
22 discovered their claims.

23 **FIRST CAUSE OF ACTION**
24 **FAILURE TO PAY MINIMUM WAGES**
25 **(Against All Defendants)**

26 66. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
27 full herein.

28 67. Defendants failed to pay Employees minimum wages for all hours worked.

1 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
2 would work hours and not receive wages, including as alleged above in connection with off the
3 clock work, including all the time required to remain on duty and under Defendants' control
4 during breaks and due to the work demands placed upon them by Defendants' management and
5 patients and by paying what should have been overtime hours as regular hours. Defendants'
6 uniformly applied policies required systematic off the clock work and underpayment of all wages
7 owed to Employees over a period of time, while benefiting Defendants. During the relevant time
8 period, Defendants thus regularly failed to pay minimum wages to Plaintiffs and the Class
9 members, including by requiring systematic off the clock work. To the extent any wage orders
10 and local wage ordinances were also applicable to paying the employees an hourly rate above the
11 minimum wage rate, Defendants failed to comply with the local wage ordinances. Defendants'
12 uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to
13 the Class as a whole, as a result of implementing a uniform policy and practice that denied
14 accurate compensation to Plaintiffs and the other members of the Class as to minimum wage pay.

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

20 69. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
21 states: "The minimum wage for employees fixed by the commission is the minimum wage to be
22 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The
23 applicable minimum wage rate fixed by the commission for work during the relevant period is
24 found in the Wage Orders.

25 70. The minimum wage provisions of California Labor Code are enforceable by private
26 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
27 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
28 overtime compensation applicable to the employee is entitled to recover in a civil action the

1 unpaid balance of the full amount of this minimum wage or overtime compensation, including
2 interest thereon, reasonable attorney's fees and costs of suit."

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

9 72. In committing these violations of the California Labor Code, Defendants
10 inaccurately recorded, or required Plaintiffs and the Class members to input times that did not
11 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
12 time worked by Plaintiffs and other members of the Class, including by requiring off the clock
13 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
14 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
15 Welfare Commission requirements and other applicable laws and regulations. As a result of these
16 violations, Defendants also failed to timely pay all wages earned in accordance with California
17 Labor Code § 1194.

18 73. California Labor Code § 1194.2 also provides for the following remedies: "In any
19 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
20 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
21 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

22 74. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
23 1197.1, Plaintiffs and Class members are entitled to recover a penalty of \$100.00 for the initial
24 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
25 pay each employee minimum wages.

26 75. Pursuant to California Labor Code § 1194.2, Plaintiffs and Class members are
27 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
28 interest thereon.

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

77. Plaintiffs and the Class members are entitled to recover the unpaid minimum wages (including double minimum wages) and local wage ordinance wages and liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiffs and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes. To the extent minimum wage compensation is determined to be owed to the Class members who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Class members. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional, and not in good faith. Further, Plaintiffs and other Class members are entitled to seek and recover statutory costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

78. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

79. California Labor Code § 1194 provides that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” The action may be maintained directly against the employer in an employee’s name without first filing a

1 claim with the Division of Labor Standards and Enforcement.

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

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

16 82. Defendants thus had a consistent policy of not paying Employees wages for all
17 hours worked, including hours at their required regular, overtime, and double-time rates.
18 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
19 and/or modified certain employees' hours, including Plaintiffs', or required Plaintiffs and the
20 Class members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiffs
21 and the Class members all earned and owed straight time and overtime wages and other benefits,
22 in violation of the California Labor Code, the California Code of Regulations and the IWC Wage
23 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
24 have also violated these provisions by requiring Plaintiffs and other similarly situated non-exempt
25 employees to work through meal periods or remain under Defendants' control when they were
26 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
27 respond to demands from customers and managers.

28 83. Therefore, Employees were not properly compensated, nor were they paid overtime

1 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
2 Based on information and belief, Defendants did not make available to Employees a reasonable
3 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
4 time entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
5 Defendants have also violated these provisions by requiring Plaintiffs and other similarly situated
6 Class members to work through meal periods when they were required to be clocked out or to
7 otherwise work off the clock to complete their daily job duties.

8 84. Defendants' failure to pay Plaintiffs and the Class members the unpaid balance of
9 regular wages owed and overtime compensation for all hours worked, as required by California
10 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
11 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
12 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

13 85. Additionally, Labor Code § 558(a) provides "any employer or other person acting
14 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
15 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
16 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
17 pay period for which the employee was underpaid in addition to an amount sufficient to recover
18 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
19 underpaid employee for each pay period for which the employee was underpaid in addition to an
20 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
21 be paid to the affected employee." Labor Code § 558(c) states, "the civil penalties provided for in
22 this section are in addition to any other civil or criminal penalty provided by law." Defendants
23 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
24 Wage Orders. Accordingly, Plaintiffs and the Class members seek the remedies set forth in Labor
25 Code § 558.

26 86. Defendants' failure to pay compensation in a timely fashion also constituted a
27 violation of California Labor Code § 204, which requires that all wages shall be paid
28 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct

1 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
2 and overtime compensation earned by Employees. Each such failure to make a timely payment of
3 compensation to Employees constitutes a separate violation of California Labor Code § 204.

4 87. Employees have been damaged by these violations of California Labor Code §§
5 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
6 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
7 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
8 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
9 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
10 any order or ruling of the commission.”

11 88. Consequently, pursuant to the California Labor Code, including Labor Code §§
12 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
13 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
14 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
15 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
16 against Defendants, and each of them, and any additional sums as provided by the Labor Code
17 and/or other statutes.

18 **THIRD CAUSE OF ACTION**

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

20 **(Against All Defendants)**

21 89. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
22 full herein.

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

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

9 92. Defendants thus failed to provide Plaintiffs and the Class members with meal
10 periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order,
11 including by not providing them with the opportunity to take meal breaks, by providing them late
12 or for less than thirty minutes, or by requiring them to perform work during breaks.

13 93. Moreover, Defendants failed to compensate Employees for each meal period not
14 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
15 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
16 employee a meal period in accordance with this section, the employer shall pay the employee one
17 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
18 period is not provided. As detailed above, when Defendants paid any meal period premiums, they
19 upon information and belief underpaid them by miscalculating the regular rate of compensation by
20 not including all forms of remuneration in it. Defendants thus failed to compensate the Employees
21 in the Class for each meal period not provided or inadequately provided, as required under Labor
22 Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

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

1 **FOURTH CAUSE OF ACTION**

2 **REST BREAK LIABILITY UNDER LABOR CODE § 226.7**

3 **(Against All Defendants)**

4 95. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
5 full herein.

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

9 97. Employees consistently worked consecutive four hour shifts and were generally
10 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
11 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
12 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
13 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
14 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
15 to authorize and permit Plaintiffs and the Class members to take lawful rest breaks. Employees
16 were often required to work or to otherwise remain under Defendants' control during rest periods,
17 including by responding to work requirements, and had breaks provided untimely as a result of the
18 above described off the clock work.

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

23 99. Defendants, and each of them, have therefore intentionally and improperly denied
24 rest periods to Plaintiffs and the Class members in violation of Labor Code §§ 226.7 and 512 and
25 paragraph 12 of the applicable IWC Wage Orders.

26 100. Defendants failed to authorize and permit Plaintiffs and the Class members to take
27 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
28 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed

1 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
2 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break
3 premiums, they upon information and belief, underpaid them by miscalculating the regular rate of
4 compensation by not including all forms of remuneration in it. Defendants thus failed to
5 compensate the Employees in the Class for each rest period not provided or inadequately
6 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
7 Wage Order.

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

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

16 102. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
17 full herein.

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

25 104. Defendants failed to provide Plaintiffs and the similarly situated Employee Class
26 members with accurate itemized wage statements in writing, as required by the Labor Code and
27 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
28 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,

1 including for all overtime and double time hours worked and for deficient meal periods and rest
2 breaks, all of which Defendants knew or reasonably should have known were owed to the
3 Employees, as alleged above.

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

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

1 number. For purposes of Labor Code § 226(e) “promptly and easily determine” means a
2 reasonable person [i.e. an objective standard] would be able to readily ascertain the information
3 without reference to other documents or information.

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

11 108. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
12 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
13 Class suffered injuries, including among other things confusion over whether they received all
14 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
15 them to make mathematical computations to analyze whether the wages paid in fact compensated
16 them correctly for all hours worked.

17 109. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
18 IWC Wage Order, Plaintiffs and the Employee Class members are entitled to recover the greater
19 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
20 and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
21 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
22 an award of costs and reasonable attorneys’ fees.

23 **SIXTH CAUSE OF ACTION**
24 **VIOLATION OF LABOR CODE § 221**
25 **(Against All Defendants)**

26 110. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
27 full herein.

28 111. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or

1 receive from an employee any part of wages theretofore paid by said employer to said employee.”
2 Pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy,
3 an employer must timely pay its employees for all hours worked. Defendants failed to do so.

4 112. Defendants unlawfully received and/or collected wages from the Employees in the
5 Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of
6 pay at the regular rate of compensation for every meal and rest period violation endured by
7 Plaintiffs and the other Class members, as alleged above. By not compensating Employees for all
8 hours worked and meal and rest period premiums, Defendants unlawfully deducted wages earned
9 in violation of Labor Code § 221.

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

12 **SEVENTH CAUSE OF ACTION**
13 **VIOLATION OF LABOR CODE § 204**
14 **(Against All Defendants)**

15 114. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
16 full herein.

17 115. Labor Code § 204 instructs that: “All wages, ...earned by any person in any
18 employment are due and payable twice during each calendar month, on days designated in
19 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
20 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
21 during which the labor was performed, and labor performed between the 16th and the last day,
22 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
23 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment
24 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
25 calendar days following the close of the payroll period.” As detailed above, Defendants
26 maintained a consistently applied policy and practice of not paying all wages earned between the
27 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
28 between the 16th and the last day of the month between the 1st and 10th day of the following month.

1 Defendants similarly failed to pay all wages earned by not more than seven calendar days
2 following the close of the payroll period.

3 116. All wages due and owing to Plaintiffs and the Class members, including as required
4 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
5 required by Labor Code § 1194 and other sections became due and payable to each employee in
6 each pay period that he or she was not provided with a meal period or rest period or paid straight
7 or overtime wages to which he or she was entitled.

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

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

22 **EIGHTH CAUSE OF ACTION**
23 **VIOLATION OF LABOR CODE § 203**
24 **(Against All Defendants)**

25 119. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
26 full herein.

27 120. Plaintiffs and numerous Class members are no longer employed by Defendants;
28 they either quit Defendants’ employ or were fired therefrom.

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

3 122. The wages withheld from these Employees by Defendants remained due and owing
4 for more than thirty days from the date of separation from employment. Additionally, Defendants
5 failed to pay Plaintiffs their final check at the time of his separation from Defendants'
6 employment.

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

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

26 125. Defendants' failure to pay wages, as alleged, entitles Plaintiffs and these former
27 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
28 the IWC Wage Orders as addressed above, including the requirement that an employee's wages

1 shall continue until paid for up to thirty (30) days from the date they were due.

2 **NINTH CAUSE OF ACTION**

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

4 **(Against All Defendants)**

5 126. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
6 full herein.

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

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

15 129. Defendants are also required by the California Labor Code § 1198 and Wage
16 Orders to maintain a tracking system to accurately record the hours Employees worked.

17 130. 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.

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

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

23 **TENTH CAUSE OF ACTION**

24 **FAILURE TO PRODUCE REQUESTED RECORDS, LABOR CODE §§ 226 and 1198**

25 **(Against All Defendants)**

26 133. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
27 full herein.

28 134. Pursuant to California Labor Code § 226, current and former employees have the

1 right to inspect or receive a copy of their records pertaining to their employment, upon reasonable
2 request to their employer. Under this statute, an employer that receives a request to inspect or
3 receive a copy of records pertaining to a current or former employee must comply with the request
4 as soon as practicable, but no later than twenty-one calendar days from the date of the request.

5 135. Pursuant to California Labor Code § 1198.5(a), every current and former employee,
6 or his or her representative, has the right to inspect and receive a copy of the personnel records
7 that the employer maintains relating to the employee's performance or to any grievance concerning
8 the employee. Under this statute, upon written request from a current or former employee or his or
9 her representative, an employer must make the contents of those personnel records available for
10 inspection or provide a copy of the personnel records to the current or former employee, or his or
11 her representative, not later than thirty calendar days from the date the employer receives the
12 written request, subject to some limited exceptions. Failure to comply with these requests allows
13 for a civil penalty seven hundred fifty dollars (\$750), pursuant to Labor Code §§ 1198.5(k) and
14 226(f).

15 136. Plaintiffs sent written requests through their counsel to Defendants for their payroll
16 records, timecards, and personnel records. However, Plaintiffs have not received all of their
17 requested records as of the date of this Complaint.

18 137. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely
19 produce the required records requested by Plaintiffs.

20 138. On information and belief, Defendants' failure to provide Plaintiffs with all of their
21 requested employment records is not an isolated incident, but was instead consistent with
22 Defendants' policy and practice that applied to Plaintiffs and Employees.

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

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

28 ///

ELEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802
(Against All Defendants)

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

142. Plaintiffs are informed and believe and based thereon allege that throughout the period applicable, Defendants required Plaintiffs and the Class members to pay for necessary work related expenses they incurred. These included the cell phone-related expenses Plaintiff LEONHARDT incurred in responding to communications from management on his personal phone, protective gear such as gloves and goggles, and tools such as an impact drill, wrench, and hammer. Plaintiff BUCKSEN incurred costs in purchasing protective gear such as ski boots, helmet, goggles, gloves, ski jacket, and ski equipment for his role as Lift Operator. In his role as photographer/marketer, Plaintiff BUCKSEN also purchased and/or used his personal photography equipment such as a camera, lenses, and iPad, and used his cell phone to text supervisors and post to social media. Plaintiffs and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

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

144. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiffs and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiffs and the Class members with regard to their rights, Plaintiffs and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

145. Therefore, Plaintiffs and the Class members are entitled to reimbursement for any

1 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph 9
2 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
3 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
4 from the date Plaintiffs and the Class members incurred those expenses. Further, Plaintiffs and the
5 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

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

9 146. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in
10 full herein. Plaintiffs, on behalf of themselves, the Employees in the Class, and the general
11 public, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
12 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
13 harmful to Employees and the general public. Plaintiffs seek to enforce important rights affecting
14 the public interest within the meaning of Code of Civil Procedure § 1021.5.

15 147. Plaintiffs are a "person" within the meaning of Business & Professions Code
16 § 17204, have suffered injury, and therefore have standing to bring this cause of action for
17 injunctive relief, restitution, and other appropriate equitable relief.

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

27 149. Wage-and-hour laws express fundamental public policies. Paying employees their
28 wages and overtime, providing them with meal periods and rest breaks, etc., are fundamental

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

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

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

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

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

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

27 155. Unless restrained by this Court Defendants will continue to engage in such
28 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court

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

6 **THIRTEENTH CAUSE OF ACTION**
7 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***
8 **(Against All Defendants)**

9 156. Plaintiffs reallege and incorporate all preceding paragraphs, as though set forth in
10 full herein.

11 157. Plaintiffs and the Employees in the Class are also aggrieved employees as defined
12 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
13 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
14 period.

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

22 159. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
23 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5,
24 including the penalty provisions, without limitation, based, inter alia, on the following California
25 Labor Code sections: §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 351,
26 354, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802,
27 2810.5, 2698, and 2699, *et seq.*

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

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

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

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

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

Code §226.3, which in addition to other penalties provided by law, subjects Defendants to “a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...”;

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable 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 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) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants’ failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §2810.5, and any above addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting 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).

1 161. As also addressed above, Plaintiffd, on behalf of the Aggrieved Employees, also
2 seek the penalties and remedies set forth in Labor Code § 558, which states:

3 (a) Any employer or other person acting on behalf of an employer who
4 violates, or causes to be violated, a section of this chapter or any provision
5 regulating hours and days of work in any order of the Industrial Welfare
6 Commission shall be subject to a civil penalty as follows: (1) For any initial
7 violation, fifty dollars (\$50) for each underpaid employee for each pay period for
8 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...

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

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

14 162. Plaintiffs have exhausted their administrative remedies by submitting a certified
15 letter to the LWDA and Defendants on February 28, 2024 (LWDA Case No. LWDA-CM-
16 1013748-24) and submitting an amended Notice on April 1, 2024, addressing in detail the specific
17 provisions of the Labor Code Defendants have violated and addressing the facts and legal theories
18 to support the alleged violations and requested penalties. The LWDA has not provided notice of its
19 intent to investigate the alleged violations within 65 calendar days of the postmark date of the
20 letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed
21 herein and in the PAGA Notice letter and the original Complaint.

22 **RELIEF REQUESTED**

23 WHEREFORE, Plaintiffs pray for the following relief:

- 24 1. For an order certifying this action as a class action;
- 25 2. For compensatory damages in the amount of the unpaid minimum wages for work
26 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
27 the filing of this action, as may be proven;
- 28

3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
8. For restitution and/or damages and penalties for Defendants' failure to pay all wages due twice monthly under Labor Code § 204, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 221, as may be proven;
10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
14. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
15. For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
16. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

- 1 17. For penalties under Labor Code § 558, as may be proven;
2 18. For other wages and penalties under the Labor Code as may be proven;
3 19. For all general, special, and incidental damages as may be proven;
4 20. For an award of pre-judgment and post-judgment interest;
5 21. For an award providing for the payment of the costs of this suit;
6 22. For an award of attorneys' fees; and
7 23. For such other and further relief as this Court may deem proper and just.

8 DATED: October 07, 2024

D.LAW, INC.

9
10 By


Emil Davtyan
David Yermian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiffs Chad A. Leonhardt,
Took Bucksen, and the putative class

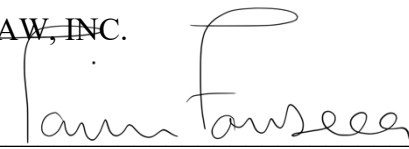
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

DATED: October 07, 2024

D.LAW, INC.

By


Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiffs Chad A. Leonhardt,
Took Bucksen, 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 450 N Brand Blvd., Ste 840, Glendale, CA 91203.

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[X] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

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


Sasha Zambrano

Sasha Zambrano