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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNADINO

COLBY WILLIAMS, an individual, in his
representative capacity on behalf of the State
of California and fellow Aggrieved
Employees,

Plaintiffs,

v.

IDX CORPORATION, a Delaware

Case No. CIVSB2415904

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN
VIOLATION OF CAL. BUS. & PROF.
CODE § 17200 *et seq*;

corporation; and DOES 1-50, Inclusive,
Defendant.

- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510 *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CALIFORNIA LABOR CODE §2802.

DEMAND FOR A JURY TRIAL

1 Plaintiff COLBY WILLIAMS (“PLAINTIFF”), an individual, in his representative capacity and
2 on behalf of himself and all other similarly situated current and former employees, alleges on
3 information and belief, except for his own act and knowledge which are based on personal knowledge,
4 the following:

5 **THE PARTIES**

6 1. Defendant, IDX CORPORATION (“DEFENDANT”) is a Delaware Corporation that at
7 all relevant times mentioned herein conducted and continues to conduct substantial and regular business
8 in the state of California.

9 2. DEFENDANT owns and operates a consumer environment design and manufacturing
10 company with facilities located across North America as well as in Europe and Asia. DEFENDANT has
11 a global facility location in Ontario, California, where PLAINTIFF worked.

12 3. The true names and capacities, whether individual, corporate, subsidiary, partnership,
13 associate, or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to
14 PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc.
15 Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities
16 of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and
17 based on that information and belief alleges, that the Defendants named in this Complaint, including
18 DOES 1 through 50, inclusive, (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”) are
19 responsible in some manner for one or more of the events and happenings that proximately caused the
injuries and damages hereinafter alleged.

20 4. The agents, servants, and/or employees of the Defendants and each of them acting on
21 behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as the agent,
22 servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on
23 behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each
24 Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally

1 liable to PLAINTIFF and the other members of the CALIFORNIA CLASS, for the loss sustained as a
2 proximate result of the conduct of the Defendants' agents, servants and/or employees.

3 5. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
4 PLAINTIFF's employer, within the meaning of California Labor Code § 558, who violated or caused
5 to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating
6 hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to
7 civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

8 6. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of
9 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person, within
10 the meaning of the California Labor Code § 1197.1, who paid or caused to be paid to any employee a
11 wage less than the minimum fixed by California state law, and as such, are subject to civil penalties for
12 each underpaid employee.

13 7. PLAINTIFF was employed by DEFENDANT in California from October 2021 through
14 August 11, 2023, paid in part an hourly wage, non-discretionary bonuses, and entitled to minimum
15 wages, overtime pay and legally compliant meal periods.

16 8. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined
17 as all non-exempt employees employed by DEFENDANTS in California ("CALIFORNIA CLASS") at
18 any time during the period beginning four (4) years prior to the filing of this Complaint and ending on
19 the date as determined by the Court (the "CLASS PERIOD"). The amount in controversy for the
20 aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

21 9. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS
22 in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS
23 PERIOD caused by DEFENDANT's uniform policy and practice which failed to lawfully compensate
24 these employees.

1 10. DEFENDANT's uniform policy and practice alleged herein was unlawful, unfair and
2 deceptive business practice whereby DEFENDANT retained and continues to retain wages due
3 PLAINTIFF and the other members of the CALIFORNIA CLASS.

4 11. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
5 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the other
6 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past
7 and current unlawful conduct, and all other appropriate legal and equitable relief.

8 **JURISDICTION AND VENUE**

9 12. This Court has jurisdiction over this Action pursuant to California Code of Civil
10 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is
11 brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of DEFENDANT
12 pursuant to Cal. Code of Civ. Proc. § 382.

13 13. Venue is proper in this Court pursuant to California Code of Civil Procedure Section 395
14 and 395.5 because PLAINTIFF worked in this County for DEFENDANTS and DEFENDANTS (i)
15 currently maintain and at all relevant times maintained offices and facilities in this County and/or
16 conduct substantial business in this County, and (ii) committed wrongful conduct herein alleged in this
County against members of the CALIFORNIA CLASS.

17 **THE CONDUCT**

18 14. In violation of the applicable sections of the California Labor Code and the requirements
19 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
20 policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally
21 compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members of
22 the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other
23 members of the CALIFORNIA CLASS for all time worked, failed to compensate PLAINTIFF for off-
24 the-clock work, failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS

1 overtime, sick pay, and meal and rest premiums at the correct regular rate, and failed to reimburse
2 PLAINTIFF and the other members of the CALIFORNIA CLASS for business expenses, and failed to
3 issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
4 statements showing, among other things, all applicable hourly rates in effect during the pay periods and
5 the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and
6 practices are intended to purposefully avoid the accurate and full payment for all time worked as required
7 by California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
8 competitors who comply with the law. To the extent equitable tolling operates to toll claims by the
9 CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

10 **A. Meal and Rest Period Violations**

11 15. Pursuant to the Industrial Welfare Commission Wage Orders and the California Labor
12 Codes, an employer shall not employ an employee for a work period of more than five (5) hours per day
13 without providing the employee with a meal period of not less than thirty (30) minutes, except that if
14 the total work period per day of the employee is no more than six (6) hours, the meal period may be
15 waived by mutual consent of both the employer and employee. An employer shall not employ an
16 employee for a work period of more than ten (10) hours per day without providing the employee with a
17 second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more
18 than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and
19 the employee only if the first meal period was not waived. If an employer fails to provide an employee
20 with a mandated meal period, the employer shall pay the employee one (1) hour of pay at the employee's
21 regular rate of compensation for each workday that the meal period is not provided.

22 16. From time-to-time during the CLASS PERIOD, as a result of understaffing and their
23 rigorous work schedules, PLAINTIFF and the other members of the CALIFORNIA CLASS were unable
24 to take thirty (30) minute off-duty meal breaks. PLAINTIFF and the other members of the
CALIFORNIA CLASS were also frequently required to cut short their thirty (30) minute off-duty meal

1 break to stand in line to clock back in for their shifts on time. PLAINTIFF and the other members of the
2 CALIFORNIA CLASS therefore forfeited meal breaks, and minimum wage and overtime compensation
3 in accordance with DEFENDANT's strict corporate policy and practice.

4 17. Further, pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
5 was required to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all their time
6 worked, meaning the time during which an employee is subject to the control of an employer, including
7 all the time the employee suffered or permitted to work. DEFENDANT required PLAINTIFF and the
8 other members of the CALIFORNIA CLASS to work without paying them for all the time they were
9 under DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to work during what
10 were supposed to be PLAINTIFF's off-duty meal and rest breaks due to understaffing and the rigorous
11 work schedule. PLAINTIFF was, from time to time, interrupted by work assignments while clicked out
12 for what should have been his off-duty meal or rest break. As a result, PLAINTIFF and the other
13 members of the CALIFORNIA CLASS forfeited minimum wage and overtime compensation by
14 working without their time being accurately recorded.

15 18. Pursuant to the Industrial Welfare Commission Wage Orders and the California Labor
16 Codes, an employer shall authorize and permit all employees to take a rest period, which so far as
17 practicable shall be in the middle of each work period. Generally, an employer must provide ten (10)
18 minutes of paid rest for every four hours or major fraction thereof. If an employer fails to provide an
19 employee a rest period, the employer shall pay the employee one (1) hour of pay at the employee's
20 regular rate of pay for each workday that the rest period is not provided.

21 19. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
22 CLASS were, from time to time, required to work in excess of four (4) hours without being provided
23 duty-free, uninterrupted ten (10) minute rest periods. Further, from time to time, DEFENDANT required
24 PLAINTIFF and the other members of the CALIFORNIA CLASS to maintain their personal cell phones
on them during what was supposed to be their off-duty rest break in order to receive and respond to

1 work-related communications. As a result, PLAINTIFF and the other members of the CALIFORNIA
2 CLASS were, from time to time, required to remain on the premises, on-duty and/or on-call during their
3 rest periods. PLAINTIFF and the other members of the CALIFORNIA CLASS were also not provided
4 with one-hour wages in lieu thereof.

5 20. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and the other
6 members of the CALIFORNIA CLASS for all time worked is evidenced by DEFENDANT's business
7 records.

8 **B. Regular Rate Violation – Overtime, Meal and Rest Period Premiums and Sick Pay**

9 21. State law provides that employees must be paid overtime at one-and-one-half times their
10 "regular rate of pay." PLAINTIFF and the other members of the CALIFORNIA CLASS were
11 compensated at an hourly rate, plus non-discretionary incentive pay that was tied to specific elements
12 of an employee's performance.

13 22. DEFENDANTS' non-discretionary bonus program provided the CALIFORNIA CLASS,
14 including PLAINTIFF, with bonus compensation when the employees met the various performance
15 goals set by DEFENDANT. However, when calculating the regular rate of pay, in those pay periods
16 where PLAINTIFF and the CALIFORNIA CLASS worked overtime and earned non-discretionary
17 bonus wages, DEFENDANT failed to accurately include the non-discretionary bonus compensation
18 and/or commission wages as part of the employees' "regular rate of pay."

19 23. Management and supervisors described the bonus program to potential and new
20 employees as part of the compensation package for the roles filled by PLAINTIFF and the other
21 members of the CALIFORNIA CLASS. As a matter of law, the incentive and bonus compensation
22 received by PLAINTIFF and the other members of the CALIFORNIA CLASS must be included and
23 correctly calculated into the "regular rate of pay" for purposes of overtime compensation, meal and rest
24 period premium payments, and sick pay. DEFENDANT's failure to do so has resulted in
DEFENDANT's systematic underpayment of overtime compensation, meal and rest period premium

1 payments, and sick pay to PLAINTIFF and the other members of the CALIFORNIA CLASS.
2 Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees
3 shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee
4 uses paid sick time, whether or not the employee actually works overtime in that workweek.
5 DEFENDANTS' conduct, as articulated herein, by failing to include the incentive compensation as part
6 of the "regular rate of pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code §
7 246 the underpayment of which is recoverable under Cal. Lab. Code §§ 201, 202, 203 and 204.

8 24. In violation of the applicable sections of the California Labor Code and the requirements
9 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
10 policy, practice and procedure, intentionally and knowingly failed to compensate PLAINTIFF and the
11 other members of the CALIFORNIA CLASS at the correct rate of pay for all overtime compensation,
12 meal and rest period premium payments, and sick pay. This uniform policy and practice of
13 DEFENDANTS is intended to purposefully avoid the payment of the correct overtime compensation,
14 meal period premium payments, and sick pay as required by California law which allowed
15 DEFENDANTS to illegally profit and gain an unfair advantage over competitors who complied with
16 the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS members
17 against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

18 **C. Off-the-Clock Minimum Wage and Overtime Violations**

19 25. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
20 required to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all their time
21 worked, meaning the time during which an employee is subject to the control of an employer, including
22 all the time the employee is suffered or permitted to work. From time to time, DEFENDANTS required
23 PLAINTIFF and the other members of the CALIFORNIA CLASS to work without paying them for all
24 the time they were under DEFENDANTS' control.

1 26. For example, PLAINTIFF and the other members of the CALIFORNIA CLASS were
2 working for the benefit of DEFENDANT from the time they performed their first principal activity of
3 the workday, which was frequently standing in line before being able to clock in, both prior to the start
4 of their shifts and when returning from their meal periods. Additionally, PLAINTIFF and the other
5 members of the CALIFORNIA CLASS from time to time worked through their rest periods and all or
6 part of their meal periods when there were staffing shortages.

7 27. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited
8 minimum wage and overtime compensation by regularly working without their time being accurately
9 recorded and without compensation at the applicable minimum wage and overtime rates.
10 DEFENDANTS failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS
11 necessary wages for performing work at DEFENDANTS' direction, request, and benefit, while off-the-
12 clock. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and the other members of
13 the CALIFORNIA CLASS for all time worked is evidenced by DEFENDANTS' business records.

14 28. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock
15 work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

16 29. DEFENDANTS controlled the work schedules, duties, protocols, applications,
17 assignments, and employment conditions of PLAINTIFF and the other members of the CALIFORNIA
18 CLASS.

19 30. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
20 members of the CALIFORNIA CLASS spent working. However, DEFENDANTS failed to document,
21 track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all wages earned and
22 owed for all the work they performed, including pre-shift and meal period off-the-clock work.

23 31. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-exempt
24 employees, subject to the requirements of the California Labor Code.

1 32. DEFENDANTS' policies and practices deprived PLAINTIFF and the other members of
2 the CALIFORNIA CLASS of all minimum, regular, and overtime wages owed for the off-the-clock
3 work activities. Because PLAINTIFF and the other members of the CALIFORNIA CLASS typically
4 worked over 40 hours in a workweek, and more than eight (8) hours per day, DEFENDANTS' policies
5 and practices also deprived them of overtime pay.

6 33. DEFENDANTS knew or should have known that PLAINTIFF and the other members of
7 the CALIFORNIA CLASS performed off-the-clock work compensable under the law.

8 34. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited
9 wages due them for all hours worked at DEFENDANTS' direction, control and benefit for the time
10 spent working while off-the-clock. DEFENDANTS' uniform policy and practice to not pay PLAINTIFF
11 and the members of the CALIFORNIA CLASS wages for all hours worked in accordance with
12 applicable law is evidenced by DEFENDANTS' business records.

13 **D. Unreimbursed Business Expenses**

14 35. DEFENDANTS as a matter of corporate policy, practice, and procedure, intentionally,
15 knowingly, and systematically failed to reimburse and indemnify PLAINTIFF and the other members
16 of the CALIFORNIA CLASS for required business expenses incurred in direct consequence of
17 discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802, "an
18 employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the
19 employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the
20 directions of the employer, even though unlawful, unless the employee, at the time of obeying the
21 directions, believed them to be unlawful."

22 36. In the course of their employment, DEFENDANTS required PLAINTIFF and the other
23 members of the CALIFORNIA CLASS to use their personal cell phones as a result of and in furtherance
24 of their job duties as employees for DEFENDANT. But for the use of their personal cell phones,
PLAINTIFF and the other members of the CALIFORNIA CLASS could not complete their essential

1 job duties, including but not limited to, making and receiving work-related communications with
2 DEFENDANTS. However, DEFENDANTS unlawfully failed to reimburse PLAINTIFF and the other
3 members of the CALIFORNIA CLASS for use of their personal cell phones. As a result, in the course
4 of their employment with DEFENDANTS, PLAINTIFF and the other members of the CALIFORNIA
5 CLASS incurred unreimbursed business expenses that included, but were not limited to, costs related to
6 the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANTS.

7 **E. Wage Statement Violations**

8 37. California Labor Code Sections 226 and 226.2 require an employer to furnish its
9 employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours
10 worked, (3) all deductions, (4) net wages earned, (5) the inclusive dates of the period for which the
11 employee is paid, (6) the name of the employee and the last four digits of the employee's social security
12 number or an employee identification number other than a social security number, (7) the name and
13 address of the legal entity that is the employer, (8) all applicable hourly rates in effect during the pay
14 period and the corresponding number of hours worked at each hourly rate by the employee, (9) the total
15 hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for
16 those periods during the pay period, and (10) the total hours of other nonproductive time, the rate of
17 compensation, and the gross wages paid for that time during the pay period.

18 38. From time to time during the CLASS PERIOD, DEFENDANT furnished PLAINTIFF
19 and the other members of the CALIFORNIA CLASS written wage statements that failed to accurately
20 show (1) gross wages earned, (2) total hours worked, (3) net wages earned, (4) all applicable hourly
21 rates in effect during the pay period and the corresponding number of hours worked at each hourly rate
22 by the employee, (5) the total hours of compensable rest and recovery periods, the rate of compensation,
23 and the gross wages paid for those periods during the pay period, and (6) the total hours of other
24 nonproductive time, the rate of compensation, and the gross wages paid for that time during the pay
period.

1 39. In addition to the violations described above, DEFENDANTS, from time to time, failed
2 to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with wage statements that
3 comply with Cal. Lab. Code § 226.

4 40. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
5 CALIFORNIA CLASS wage statements that violate Cal. Lab. Code §§ 226 and 226.2.

6 41. DEFENDANTS' violations were knowing and/or intentional, were not isolated, and were
7 not due to an unintentional payroll error due to clerical error or inadvertent mistake.

8 **F. Violations for Untimely Payment of Wages**

9 42. Pursuant to California Labor Code section 204, PLAINTIFF and the other members of
10 the CALIFORNIA CLASS were entitled to timely payment of wages during their employment.
11 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive payment of all wages,
12 including, but not limited to, all minimum, regular, overtime, and meal period premium wages within
13 the permissible time period.

14 **G. Timekeeping Manipulation**

15 43. During the CLASS PERIOD, DEFENDANTS did not have an immutable timekeeping
16 system to accurately record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS
17 for the actual time they worked each day, including regular time, overtime, sick pay, and meal periods.
18 As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally alter the time
19 recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other members of the
20 CALIFORNIA CLASS in order to avoid paying the employees for all hours worked, applicable overtime
21 compensation, applicable sick pay and missed meal period time.

22 44. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS, from
23 time-to-time, forfeited time worked by working without their time being accurately recorded and without
24 compensation at applicable pay rates.

1 45. The mutability of the timekeeping system also allowed DEFENDANTS to alter
2 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
3 timekeeping system so as to create the appearance that PLAINTIFF and the other members of the
4 CALIFORNIA CLASS clocked out for their thirty (30) minute off-duty meal breaks which in fact the
5 employees were not at all times provided their full thirty (30) minute break. This practice is a direct
6 result of DEFENDANTS' uniform policy and practice of denying employees uninterrupted thirty (30)
7 minute off-duty meal breaks each day or otherwise compensating them for missed meal period time.

8 46. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited
9 wages due them for all hours worked at DEFENDANTS' direction, control, and benefit for the time not
10 properly recording by DEFENDANTS' timekeeping system. DEFENDANTS' uniform policy and
11 practice to not pay PLAINTIFF and the other members of the CALIFORNIA CLASS wages for all
12 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business records.

13 **H. Violations for Untimely Payment of Wages**

14 47. Pursuant to California Labor Code section 204, PLAINTIFF and the CALIFORNIA
15 CLASS members were entitled to timely payment of wages during their employment. PLAINTIFF and
16 the other members of the CALIFORNIA CLASS, from time to time, did not receive payment of all
17 wages, including, but not limited to, minimum, regular, overtime, and meal period premium wages
18 within the permissible time period.

19 48. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the wages
20 earned and unpaid at the time of discharge are due and payable immediately." Pursuant to Cal. Lab.
21 Code § 202, if an employee quits his or her employment, "his or her wages shall become due and payable
22 not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her
23 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."
24 PLAINTIFF and certain of the other members of the CALIFORNIA CLASS were not timely provided

1 the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of
2 Cal Lab. Code. §§ 201 and 202.

3 49. As such, PLAINTIFF and certain of the other members of the CALIFORNIA CLASS
4 demand up to thirty days of pay as penalty to DEFENDANTS for not timely paying all wages due at
5 time of termination and/or quitting.

6 **THE CALIFORNIA CLASS**

7 50. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
8 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq. (the “UCL”) as a Class Action,
9 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of all current and former non-exempt employees
10 employed by DEFENDANT in California (“CALIFORNIA CLASS”) at any time during the period
11 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by
12 the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claims of
13 CALIFORNIA CLASS member is under five million dollars (\$5,000,000.00).

14 51. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
15 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

16 52. PLAINTIFF and the other members of the CALIFORNIA CLASS have uniformly been
17 deprived of wages from unpaid minimum, regular, overtime, and meal period premiums being earned
18 and due but not paid. DEFENDANTS further failed to reimburse for business expenses, failed to
19 compensate for off-the-clock work, and failed to maintain required records.

20 53. The members of the class are so numerous that joinder of all members of the
21 CALIFORNIA CLASS is impracticable.

22 54. Common questions of law and fact regarding DEFENDANTS’ conduct, including but
23 not limited to, requiring off-the-clock work, suffering and permitting unpaid and/or incorrect meal
24 period premiums, failing to provide legally compliant meal periods, failure to reimburse for business
expenses, and failure to ensure PLAINTIFFS and the other members of the CALIFORNIA CLASS were

1 paid correct minimum, regular, and overtime wages, exist as to all members of the class and predominate
2 over any questions affecting any individual members of the CALIFORNIA CLASS. Specifically, the
3 questions of law and fact common to the class are:

- 4 a. Whether DEFENDANTS maintained legally compliant meal period policies and
5 practices;
- 6 b. Whether DEFENDANTS failed to pay PLAINTIFF and the other members of the
7 CALIFORNIA CLASS accurate premium payments for off-the-clock meal period time;
- 8 c. Whether DEFENDANTS failed to pay PLAINTIFF and the other members of the
9 CALIFORNIA CLASS accurate overtime wages;
- 10 d. Whether DEFENDANTS failed to pay PLAINTIFF and the other members of the
11 CALIFORNIA CLASS at least minimum wage for all hours worked;
- 12 e. Whether DEFENDANTS failed to compensate PLAINTIFF and the other members of
13 the CALIFORNIA CLASS for required business expenses;
- 14 f. Whether DEFENDANTS committed an act of unfair competition by systematically
15 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
16 CLASS for all time worked;
- 17 g. Whether DEFENDANTS committed an act of unfair competition by systematically
18 failing to record all meal periods missed by PLAINTIFF and the other members of the
19 CALIFORNIA CLASS, even though DEFENDANTS enjoyed the benefit of this work,
20 and suffered and permitted, if not required employees to perform this work;
- 21 h. Whether DEFENDANTS committed an act of unfair competition in violation of the UCL
22 by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS
23 with the legally required meal period.

24 55. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result
of DEFENDANTS' conduct and actions alleged herein.

1 56. PLAINTIFF's claims are typical of the claims of the class and PLAINTIFF has the same
2 interests as the other members of the class.

3 57. PLAINTIFF will fairly and adequately represent and protect the interests of the other
4 members of the CALIFORNIA CLASS.

5 58. PLAINTIFF retained able class counsel with extensive experience in class action
6 litigation.

7 59. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests
8 of the other members of the CALIFORNIA CLASS.

9 60. There is a strong community of interest among PLAINTIFF and the other members of
10 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are
11 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
12 sustained.

13 61. A class action is superior to other available methods for the fair and efficient adjudication
14 of this controversy because joinder of all class members is impracticable. Moreover, as the damages
15 suffered by individual members of the class may be relatively small, the expense and burden of
16 individual litigation makes it nearly impossible for the members of the CALIFORNIA CLASS to
17 individually redress the wrongs done them. Without class certification and determination of declaratory,
18 injunctive, statutory and other legal questions within the class format, prosecution of separate actions
19 by individual members of the CALIFORNIA CLASS would create the risk of:

- 20 a. Inconsistent or varying adjudications with respect to individual members of the
21 CALIFORNIA CLASS, which would establish incompatible standards of conduct for the
22 parties opposing the CALIFORNIA CLASS; and/or
23 b. Adjudication with respect to individual members of the CALIFORNIA CLASS would,
24 as a practical matter, be dispositive of the interests of the other members not party to the

1 adjudication, or could substantially impair or impede their ability to protect their
2 interests.

3 62. Class treatment provides manageable judicial treatment calculated to bring an efficient
4 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of
5 DEFENDANTS.

6 **FIRST CAUSE OF ACTION**

7 **Unlawful Business Practices**

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

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 63. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

12 64. DEFENDANT is a “person” as that term is defined under Cal Bus. and Prof. Code §
13 17021.

14 65. California Business & Professions Code §§ 17200, et. Seq. (the “UCL”) defines unfair
15 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorized
16 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

17 Any person who engages, has engaged, or proposes to engage in unfair
18 competition may be enjoined in any court of competent jurisdiction. The
19 court may make such orders or judgments, including the appointment of a
20 receiver, as may be necessary to prevent the use or employment by any
21 person of any practice which constitutes unfair competition, as defined in
22 this chapter, or as may be necessary to restore to any person in interest any
23 money or property, real or personal, which may have been acquired by
24 means of such unfair competition.

Cal. Bus. & Prof. Code § 17203.

21 66. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a
22 business practice which violates California law, including but not limited to, the applicable Industrial
23 Wage Order(s), the California Code of Regulations and the California Labor Code, for which this Court
24

1 should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may
2 be necessary to prevent and remedy the conduct held to constitute unfair competition, including
3 restitution of wages wrongfully withheld.

4 67. By the conduct alleged herein, DEFENDANT's practices were unlawful and unfair in
5 that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous or
6 substantially injurious to employees, and were without valid justification or utility for which this Court
7 should issue equitable and injunctive relief pursuant to Section 17203 of the California Business &
8 Professions Code, including restitution of wages wrongfully withheld.

9 68. By the conduct alleged herein, DEFENDANT's practices were deceptive and fraudulent
10 in that DEFENDANT's uniform policy and practice failed to pay all minimum, regular and overtime
11 wages due, failed to provide the legally mandated meal periods, failed to pay the required amount of
12 compensation for missed meal periods and missed meal period time, and failed to reimburse necessary
13 business expense incurred due to a systematic business practice that cannot be justified, pursuant to the
14 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal. Bus.
15 Code §§ 17200, et seq., and for which this Court should issue injunctive and equitable relief, pursuant
16 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

17 69. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
18 deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the other members of
19 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

20 70. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
21 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide all legally
22 required off-duty meal periods to PLAINTIFF and the other members of the CALIFORNIA CLASS as
23 required by Cal. Lab. Code §§ 226.7 and 512.

24 71. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each member of
the CALIFORNIA CLASS, one (1) hour of pay for each workday in which an off-duty meal period was

1 not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in
2 which a second off-duty meal period was not timely provided for each ten (10) hours of work.

3 72. By and through the unlawful and unfair business practices described herein,
4 DEFENDANT has obtained valuable property, money, and services from PLAINTIFF and the other
5 members of the CALIFORNIA CLASS, including earned wages for all time worked; and has deprived
6 them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
7 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete against
8 competitors who comply with the law.

9 73. All the acts describe herein as violations of, among other things, the Industrial Welfare
10 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were
11 unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous, were
12 deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation of Cal.
13 Bus. & Prof. Code §§ 17200, et seq.

14 74. PLAINTIFF and the other members of the CALIFORNIA CLASS were entitled to and
15 do seek such relief as may be necessary to restore to them the money and property which DEFENDANT
16 has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been
17 deprived, by means of the above described unlawful and unfair business practices, including earned but
18 unpaid wages for all time worked.

19 75. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,
20 and do seek a declaration that the described business practices are unlawful, unfair and deceptive, and
21 that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and
22 unfair business practices in the future.

23 76. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy
24 and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT.
Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful

1 and unfair business practices described herein, PLAINTIFF and the other members of the
2 CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm
3 unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair business
4 practices.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Pay Minimum Wages**

7 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

8 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

9 77. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
10 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

11 78. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
12 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
13 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay
14 minimum wages.

15 79. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
16 policy, an employer must timely pay its employees for all hours worked.

17 80. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
18 commission, and the payment of a lesser wage than the minimum so fixed is unlawful.

19 81. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
20 including minimum wage compensation and interest thereon, together with the costs of suit.

21 82. As set forth above, during the CLASS PERIOD, DEFENDANT maintained a uniform
22 wage practice of paying PLAINTIFF and the other members of the CALIFORNIA CLASS without
23 regard to the correct amount of time they worked. As set for the herein, DEFENDANT's uniform policy
24 and practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and
the other members of the CALIFORNIA CLASS.

1 83. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
3 uniform policy and practice that denied accurate compensation to PLAINTIFF and other members of
4 the CALIFORNIA CLASS regarding minimum wage pay.

5 84. In committing these violations of the California Labor Code, DEFENDANT inaccurately
6 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF
7 and the other members of the CALIFORNIA CLASS. DEFENDANT acted in an illegal attempt to avoid
8 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
9 Industrial Welfare Commission requirements and other applicable laws and regulations.

10 85. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
11 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct minimum
12 wage compensation for their time worked for DEFENDANT.

13 86. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
14 CLASS did not receive the correct minimum wage compensation for their time worked for
15 DEFENDANT.

16 87. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
17 CLASS were paid less for time worked than they were entitled to, constituting a failure to pay all earned
18 wages.

19 88. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation
20 to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked,
21 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to
22 suffer an economic injury in amounts which are presently unknown to them and which will be
23 ascertained according to proof at trial.

24 89. DEFENDANT knew or should have known that PLAINTIFF and the other members of
the CALIFORNIA CLASS were undercompensated for their time worked. DEFENDANT

1 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
2 employees for their labor as a matter of uniform company policy, practice, and procedure, and
3 DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
4 members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

5 90. In performing the acts and practices herein alleged in violation of California labor laws,
6 and refusing to compensate the members of the CALIFORNIA CLASS for all time worked,
7 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously toward
8 PLAINTIFF and the other members of the CALIFORNIA CLASS with a conscious and utter disregard
9 for their legal rights, or the consequences to them, and with the despicable intent of depriving them of
10 their property and legal rights, and otherwise causing them injury in order to increase company profits
11 at the expense of these employees.

12 91. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
13 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of
14 any statutory penalties against DEFENDANT, in a sum as provided by the California Labor Code and/or
15 other applicable statutes. To the extent minimum wage compensation is determined to be owed to the
16 members of the CALIFORNIA CLASS who have terminated their employment, DEFENDANT's
17 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also entitled to
18 waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these
19 CALIFORNIA CLASS members.

20 92. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
21 PLAINTIFF and the other members of the CALIFORNIA CLASS are therefore entitled to seek and
22 recover statutory costs.

23 **THIRD CAUSE OF ACTION**

24 **Failure to Pay Overtime Compensation**

(Cal. Lab. Code §§ 510, 1194 and 1198)

1 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

2 93. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
3 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

4 94. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
5 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
6 Welfare Commission requirements for DEFENDANTS' failure to properly compensate the members of
7 the CALIFORNIA CLASS for all overtime worked, including work performed in excess of eight (8)
8 hours in a workday and/or forty (40) hours in any workweek during the CLASS PERIOD.

9 95. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
10 policy, an employer must timely pay its employees for all hours worked.

11 96. Cal. Lab. Code § 510 further provides that employees in California shall not be employed
12 more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless they
13 receive additional compensation beyond their regular wages in amount specified by law.

14 97. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
15 including overtime compensation and interest thereon, together with the costs of suit. Cal Lab. Code §
16 1198 further states that the employment of an employee for longer hours than those fixed by the
17 Industrial Welfare Commission is unlawful.

18 98. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
19 CLASS were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
20 they worked, including overtime work.

21 99. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
22 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
23 uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and the
24 other members of the CALIFORNIA CLASS, and denied accurate compensation to PLAINTIFF and

1 the other members of the CALIFORNIA CLASS for overtime worked, including the work performed
2 in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

3 100. In committing these violations of the California Labor Code, DEFENDANT acted in an
4 illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California
5 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and regulations.

6 101. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
7 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for
8 all overtime worked.

9 102. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the
10 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other
11 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the
12 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude
13 the causes of action contained herein this Complaint. Rather, Plaintiff brings this Action on behalf of
14 himself and the CALIFORNIA CLASS based on DEFENDANT's violations of non-negotiable, non-
15 waivable rights provided by the State of California.

16 103. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
17 CLASS were paid less for time worked than they were entitled to, constituting a failure to pay all earned
18 wages.

19 104. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
20 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum
21 hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 and 1198, even though
22 PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work, and did in
23 fact, work overtime as to which DEFENDANT failed to accurately record and pay using the applicable
24 overtime rate as evidenced by DEFENDANT's business records and witnessed by employees.

1 105. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation
2 to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked,
3 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to
4 suffer an economic injury in amounts which are presently unknown to them and which will be
5 ascertained according to proof at trial.

6 106. DEFENDANT knew or should have known that PLAINTIFF and the other members of
7 the CALIFORNIA CLASS were undercompensated for their overtime worked. DEFENDANT
8 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
9 employees for their labor as a matter of uniform company policy, practice, and procedure, and
10 DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
11 members of the CALIFORNIA CLASS the applicable overtime rate.

12 107. In performing the acts and practices herein alleged in violation of California labor laws,
13 and refusing to compensate the members of the CALIFORNIA CLASS for all time worked,
14 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously toward
15 PLAINTIFF and the other members of the CALIFORNIA CLASS with a conscious and utter disregard
16 for their legal rights, or the consequences to them, and with the despicable intent of depriving them of
17 their property and legal rights, and otherwise causing them injury in order to increase company profits
18 at the expense of these employees.

19 108. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
20 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as
21 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
22 California Labor Code and/or other applicable statutes. To the extent overtime compensation is
23 determined to be owed to the members of the CALIFORNIA CLASS who have terminated their
24 employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore these

1 individuals are also entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are
2 sought herein on behalf of these CALIFORNIA CLASS members.

3 109. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
4 PLAINTIFF and the other members of the CALIFORNIA CLASS are therefore entitled to seek and
5 recover statutory costs.

6 **FOURTH CAUSE OF ACTION**

7 **Failure to Provide Required Meal Periods**

8 **(Cal. Lab. Code §§ 226.7 and 512)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 110. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

12 111. During the CLASS PERIOD, DEFENDANT failed to provide all the legally required
13 off-duty meal periods to PLAINTIFF and the other members of the CALIFORNIA CLASS as required
14 by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and
15 the other members of the CALIFORNIA CLASS did not prevent these employees from being relieved
16 of all their duties for the legally required off-duty meal periods. As a result of their rigorous work
17 schedules and understaffing, PLAINTIFF and the other members of the CALIFORNIA CLASS were
18 often not fully relieved of duty by DEFENDANT for their meal periods. As a result, PLAINTIFF and
19 the other members of the CALIFORNIA CLASS therefore forfeited meal periods and/or meal period
20 time without additional compensation and in accordance with DEFENDANT's strict corporate policy
21 and practice.

22 112. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC
23 Wage Order by failing to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS
24 who were not provided a meal period, in accordance with the applicable Wage Order, one additional

1 hour of compensation at each employee's regular rate of pay for each workday that a meal period was
2 not provided.

3 113. As a proximate result of the aforementioned violations, PLAINTIFF and the other
4 members of the CALIFORNIA CLASS have been damaged in an amount according to proof at trial,
5 and seek all wages earned and due, interest, penalties, expenses, and costs of suit.

6 **FIFTH CAUSE OF ACTION**

7 **Failure to Provide Required Rest Periods**

8 **(Cal. Lab. Code §§ 226.7 and 512)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 114. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

12 115. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
13 CLASS were also required to work in excess of four (4) hours without being provided ten (10) minute
14 rest periods. PLAINTIFF and the other members of the CALIFORNIA CLASS were also not provided
15 with one-hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and the
16 other members of the CALIFORNIA CLASS were periodically denied their proper rest periods by
17 DEFENDANT and DEFENDANT's managers.

18 116. DEFENDANT further violated California Labor Code §§226.7 and the applicable IWC
19 Wage Order by failing to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS
20 who were not provided a rest period, in accordance with the applicable Wage Order, one additional hour
21 of compensation at each employee's regular rate of pay for each workday that rest period was not
22 provided.

23 117. As a proximate result of the aforementioned violations, PLAINTIFF and the other
24 members of the CALIFORNIA CLASS have been damaged in an amount according to proof at trial,
and seek all wages earned and due, interest, penalties, expenses and costs of suit.

1 **SIXTH CAUSE OF ACTION**

2 **Failure to Provide Accurate Itemized Statements**

3 **(Cal. Lab. Code §§ 226.7 and 512)**

4 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

5 118. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

7 119. Cal. Labor Code §226 provides that an employer must furnish employees with an
8 “accurate itemized” statement in writing showing: (1) Gross wages earned; (2) Total hours worked by
9 the employee, except for any employee whose compensation is solely based on a salary and who is
10 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the
11 Industrial Wage Commission; (3) All deductions, provided that all deductions made on written orders
12 of the employee may be aggregated and shown as one item; (4) Net wages earned; (5) The inclusive
13 dates of the period for which the employee is paid; (6) The name of the employee and his or her social
14 security number or an employee identification number other than a social security number may be shown
15 on the itemized statement; (7) The name and address of the legal entity that is the employer; and (8) All
16 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
17 at each hourly rate by the employee.

18 120. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the
19 other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed
20 to accurately show, among other things, (1) Gross wages earned; (2) Total hours worked by the
21 employee; (3) Net wages earned; and (4) All applicable hourly rates in effect during the pay period and
the corresponding number of hours worked at each hourly rate.

22 121. Further, during the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF
23 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements in
24 compliance with Cal. Labor Code § 226.2, which failed to accurately show, among other things: (1) the

1 total ours of compensable rest and recovery periods; and (2) the total hours of other nonproductive time,
2 the rate of compensation for the nonproductive time and the gross wages paid for the nonproductive
3 time during the applicable pay period.

4 122. PLAINTIFF and the other members of the CALIFORNIA CLASS were injured by
5 DEFENDANTS' violations in that they could not promptly and easily determine from the wage
6 statement alone, the amount of gross or net wages paid, the total hours worked, all applicable hourly
7 rates in effect during the pay period and the corresponding number of hours worked at each hourly rate
8 to the employee during the applicable pay period.

9 123. DEFENDANTS violations of Cal. Labor Code §§ 226 and 226.2 were knowing and
10 intentional in that DEFENDANTS willfully intended to issue wage statements that were out of
11 compliance with the Code.

12 124. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §§
13 226 and 226.2, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
14 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for
15 the overtime worked and the amount of employment taxes which were not properly paid to state and
16 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other
17 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
18 for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
19 violation in a subsequent pay period pursuant to Cal. Labor Code § 226, and all other damages and
20 penalties available pursuant to Cal. Labor Code § 226.2(a)(6), all in an amount according to proof at the
21 time of trial (but in no event more than four thousand dollars (\$4,000.000) for PLAINTIFF and each
22 respective member of the CALIFORNIA CLASS.

23 **SEVENTH CAUSE OF ACTION**

24 **Failure to Pay Wages When Due**

(Cal. Lab. Code § 203)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

125. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

126. Cal. Lab. Code § 200 provides in relevant part:

As used in this article: (a) “Wages” includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation. (b) “Labor” includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

127. Cal. Lab. Code § 201 provides, in relevant part, that “[I]f an employer discharged an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

128. Cal. Lab. Code § 202 provides in relevant part:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

129. There was no definite term in PLAINTIFF’s or any member of the CALIFORNIA CLASS’s employment contract.

130. Cal. Lab. Code § 203 provides, in relevant part:

If an employer willingly fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202 and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.

131. The employment of PLAINTIFF and many of the members of the CALIFORNIA CLASS terminated and DEFENDANT has not tendered payment of all wages owed as required by law.

132. Therefore, as provided by Cal. Lab. Code § 203, on behalf of himself and the members of the CALIFORNIA CLASS whose employment has terminated and who have unpaid minimum and/or overtime wages and/or missed meal periods without being paid the legally required penalties by DEFENDANT, PLAINTIFF demands up to thirty (30) days of pay as penalty for not timely paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD plus interest and statutory costs as allowed by law.

EIGHTH CAUSE OF ACTION

Failure to Reimburse Employees for Required Expenses

(Cal. Lab. Code § 2802)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

133. PLAINTIFF and the other members of the CALIFORNIA CLASS reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

134. Cal. Lab. Code § 2802 provides in relevant part:
An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

135. From time to time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit. DEFENDANTS failed to reimburse for expenses which included, but were not limited to, costs related to using their personal cellular phones on behalf of and for the

benefit of DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expense resulting from using their personal cellular phones for DEFENDANTS within the course and scope of their employment. DEFENDANTS are estopped by their conduct to assert any waiver of their expectation. Although these expenses were necessarily incurred by PLAINTIFF and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and regulations of California.

136. PLAINTIFF therefore demands reimbursement on behalf of the members of the CALIFORNIA CLASS for expenditures or losses incurred in the discharge of their job duties and on behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANTS, with interest at the statutory rate, and costs under Cal. Lab. Code § 2802.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:
 - a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;
 - c. An order requiring DEFENDANT to pay all overtime wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and

- d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and the other members of the CALIFORNIA CLASS.
2. On behalf of the CALIFORNIA CLASS:
- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation and separately owed rest periods, due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Orders;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code §226.
- e. The wages of all terminated employees and/or employees that quit from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
3. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

1 Dated: May 2, 2024

2 Respectfully Submitted,
3 /s/ Kevin J. Stoops
4 Kevin J. Stoops (State Bar # 332200)
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11 *Attorneys for Plaintiffs and proposed*
12 *Collective and Class Members*

13 **DEMAND FOR A JURY TRIAL**

14 PLAINTIFF demands a jury trial on issues triable to a jury.

15 Dated: May 2, 2024

16 Respectfully Submitted,
17 /s/ Kevin J. Stoops
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