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Attorneys for Plaintiffs JOSE E. VIDAL and
JENTILLA CALLAS, on behalf of themselves, the State
of California, and others similarly situated and aggrieved

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

JOSE E. VIDAL and JENTILLA CALLAS,
individuals, on behalf of themselves and
others similarly situated,

Plaintiffs,

vs.

SOUTH COAST WINERY, INC., a
California stock corporation; CARTER
HOSPITALITY GROUP, LLC, a Florida
Limited Liability Company; CARTER
ESTATE WINERY AND RESORT, LLC, a
California Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: CVRI2406840

CLASS ACTION

Assigned for All Purposes To:

Hon. Harold W. Hopp

Dept.: 1

**SECOND AMENDED CONSOLIDATED
CLASS ACTION COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and Secret Under Payment of Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Violation of Labor Code § 226;
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business

Expenses Under Labor Code § 2802;

11. Violation of Business & Professions Code
§ 17200 *et seq.*; and
12. Penalties under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: February 13, 2024
First Amended Complaint: April 17, 2024
Trial Date: None Set

Plaintiffs JOSE E. VIDAL and JENTILA CALLAS (hereinafter “Plaintiffs”), on behalf of themselves and other similarly situated and aggrieved non-exempt, hourly employees employed by Defendants within the state of California during the relevant time period (collectively, “Employees”; individually, “Employee”), complain of Defendants, and each of them, as follows:

INTRODUCTION

1. Plaintiff Vidal filed his original and then First Amended Complaint to correctly name Carter Hospitality Group, LLC and to add a claim under the Private Attorneys’ General Act (“PAGA”) in Orange County Superior Court (Case No.: 30-2024-01378750-CU-OE-CXC). The Parties stipulated to transfer this Action to Riverside County and it was assigned the present Riverside County Case No. CVRI2406840. The Parties have now agreed to consolidate the parties and claims from the PAGA Action entitled *Jentila Callas v Carter Hospitality Group, LLC* et al. (Riverside County Case No. CVRI2400874) into this Action in the present Second Amended Consolidated Complaint.

2. Plaintiffs bring this action on behalf of themselves and all current and former Employees of Defendants within the State of California who, at any time from four years prior to the filing of this lawsuit, are or were employed as non-exempt, hourly employees, including those employed as servers, bartenders, cooks, bussers, and those in similar and related positions by Defendants SOUTH COAST WINERY, INC., a California stock corporation; CARTER HOSPITALITY GROUP, LLC, a Florida limited liability company originally improperly named as Carter Hospitality Collections, Inc.; CARTER ESTATE WINERY AND RESORT, LLC, a California Limited Liability Company; and DOES 1 through 50, inclusive (all defendants being collectively referred to herein as “Defendants”). Plaintiffs allege that Defendants, and each of them,

1 violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare
2 Commission (“IWC”), and the California Business & Professions Code, and seek redress for these
3 violations.

4 3. Plaintiffs and the Class Members worked as hourly, non-exempt Employees for
5 Defendants in positions generally pertaining to providing hospitality related services to Defendants’
6 customers and guests. Plaintiffs, and upon information and belief the other similarly situated
7 Employees in the Class, were required to perform work tasks based out of Defendants’ hotels,
8 resorts, wineries, and banquet facilities in California. Plaintiff Vidal was employed by Defendants
9 as a server, and Defendants tasked him with duties that included taking food and beverage orders
10 from guests, delivering food and beverages, and collecting payments from guests and customers.
11 Plaintiff Callas was employed by Defendants as a non-exempt employee with a job title of head
12 cook from in or around 2022, through on or around October 15, 2023.

13 4. Defendants employed other similarly situated Employees in similar and related
14 positions based out of Defendants’ hotels, resorts, wineries, and banquet facilities throughout
15 California, including in the city of Temecula. Plaintiffs and the other similarly situated Class
16 Members worked at Defendants’ behest without being paid all wages due and without being
17 provided all required breaks. More specifically, Plaintiffs and the other similarly situated Class
18 Members were employed by Defendants and shared similar job duties and responsibilities, were
19 subjected to the same policies and practices, and endured similar violations at Defendants’ hands.

20 5. Defendants required Plaintiffs and the Employees in the Class to work off the clock
21 and failed to accurately record the hours they were on the clock, failed to pay them at the appropriate
22 rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and
23 failed to provide Plaintiffs and Class Members with accurate itemized wage statements that
24 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
25 Plaintiffs and the Class with lawful meal and rest periods, as Employees were required to remain
26 under Defendants’ control and were not provided with the opportunity to take full uninterrupted and
27 duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs
28 of the IWC Wage Orders.

1 6. Defendant SOUTH COAST WINERY, INC. is a California stock corporation which
2 lists its principal address in Santa Ana, California with the California Secretary of State. It lists a
3 registered corporate agent with an address in Santa Ana, California and in Orange County. South
4 Coast Winery, Inc. lists its type of business as “Hospitality.” The wage statements issued to Plaintiff
5 Vidal list “South Coast Winery” as his employer. Defendant CARTER ESTATE WINERY AND
6 RESORT, LLC is a California Limited Liability Company that, at all relevant times, was authorized
7 to do business within the State of California and is doing business in the State of California.

8 7. Upon information and belief, CARTER HOSPITALITY GROUP, LLC (“Carter
9 Hospitality”) owns or otherwise operates as South Coast Winery, Inc. and is either a joint employer
10 with South Coast Winery, Inc., is a d/b/a of South Coast Winery, Inc., or is a parent company of
11 South Coast Winery, Inc. Carter Hospitality is not registered with the California Secretary of State
12 but lists it list a principal address in Kissimmee, Florida and a mailing address in Santa Ana,
13 California with Florida’s Division of Corporations. Carter Hospitality’s website explains,
14 “[e]stablished in 2011, Carter Hospitality Group, LLC. is a family-owned hospitality company with
15 4 hotels and resorts as well as 3 wineries across the United States. Based in Orange County,
16 California, the company manages and owns a portfolio of luxury properties including South Coast
17 Winery Resort & Spa, Temecula, California; Carter Estate Winery and Resort, Temecula California;
18 and Carter Creek Winery Resort & Spa, Hill Country, Texas.”

19 8. Plaintiffs were employed by Defendants in Temecula, California and Riverside
20 County, and Defendants employed other Class Members in Temecula and at the other hotels, resorts,
21 wineries, and banquet facilities throughout California. The website for Cater Hospitality explains,
22 “Based in Orange County, California, the company manages and owns a portfolio of luxury
23 properties including South Coast Winery Resort & Spa, Temecula, California; Carter Estate Winery
24 and Resort, Temecula California; and Carter Creek Winery Resort & Spa, Hill Country, Texas.
25 Carter Hospitality Group also serves as the owner-franchisee for Red Lion Hotel Orlando Lake
26 Buena Vista South, Orlando Florida. The company also owns the South Coast Winery in Temecula
27 California, Carter Estate Winery in Temecula California...”

28 9. This Court has jurisdiction over this Action pursuant to California Code of Civil

1 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as
2 a Class Action on behalf of similarly situated Employees of Defendants pursuant to California Code
3 of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant to
4 California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and
5 liabilities giving rise to this lawsuit occurred at least in part in Riverside County. Defendants also
6 employ Class Members at hotels, resorts, wineries, and banquet facilities throughout California.

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

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

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1 **FACTUAL BACKGROUND**

2 12. The Employees who comprise the Class, including Plaintiffs, are non-exempt
3 employees pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”).
4 During the period of four years prior to the filing of this action through its resolution, the Employee
5 Class Members were employed by Defendants and worked in non-exempt positions at the direction
6 of Defendants in the State of California. Plaintiffs and the Class Members were either not paid by
7 Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime
8 rates. Plaintiffs also contend that Defendants failed to pay Plaintiffs and the Class Members all
9 wages due and owing, including compensation for off the clock work, noncompliant meal and rest
10 breaks, and Defendants’ failure to furnish accurate wage statements, all in violation of various
11 provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

12 13. During the course of Plaintiffs and the Class Members’ employment with
13 Defendants, they were not paid all wages they were owed, including for all work performed
14 (resulting in “off the clock” work) and for all their overtime hours worked, and they were not paid
15 at the required rates for overtime. This has resulted in systematic and ongoing violations of the
16 California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants
17 employ other non-exempt, hourly employees as servers, bartenders, line cooks, bussers, and in
18 similar and related positions based out of their hotels, resorts, wineries, and banquets in California.

19 14. Plaintiff Vidal was generally scheduled to work five to six days per week for eight
20 to nine hours per shift. Plaintiff Vidal was generally scheduled to work Monday and Tuesday from
21 10 a.m. to 5 p.m., Wednesday at 7:30 a.m. to 4:30 p.m. or 5:00 p.m., and Saturday and Sunday at
22 9:00 a.m. to 4:30 p.m. or 5:00 p.m.. On many occasions, Plaintiff Vidal was also required to work
23 longer shifts with an additional hour or two of time if approved by Defendants to be paid at overtime
24 premium rates. However, Plaintiff Vidal was also required by Defendants to endure substantial off
25 the clock work before and after his scheduled shift hours. Plaintiff Callas was employed at
26 Defendants’ Temecula, California location(s) and regularly worked at least nine (9) to ten (10) hours
27 per shift, at times working shifts lasting at least fourteen (14) hours per day.

28 15. Defendants’ policy and practice of requiring systematic off the clock work flowed

1 in part from their unlawful timekeeping procedures. Defendants required that clock in and clock
2 out times, as well as meal period clock in and clock out times, be inputted using their employee ID
3 or finger print in a time clock. Defendants instructed Plaintiffs and the Class Members to clock out
4 for thirty minutes for a meal period and to do so before the fifth hour of work as required under the
5 Labor Code and Wage Orders. Defendants instructed Plaintiffs and the Class Members to thus
6 record compliant meal breaks without regard to whether they were actually taken on time or for the
7 full duration or were interrupted by customer, guests, and management demands and other work
8 requirements. Additionally, on many occasions, Defendants gave Plaintiff Vidal verbal warnings
9 when his clock in and clock out time records failed to reflect compliance with Defendants'
10 timekeeping instructions. By deducting 30 minutes for a meal period that was generally not
11 lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of
12 hours worked from each Employee's daily work shifts.

13 16. Plaintiffs were also required to work off the clock after they clocked out for a meal
14 period. Plaintiffs frequently juggled tables and cooking duties and attended to the needs of guests
15 and customers during their meal periods, especially if Defendants were understaffed on any given
16 shift. Plaintiffs estimate that at least three of their meal periods during a workweek were interrupted
17 by work related demands and tasks. Thus, off the clock work occurred in the form of the unlawful
18 deduction of 30 minutes of hours worked for an alleged thirty-minute-long meal period that was
19 provided generally untimely if at all. Additional off the clock work occurred in the instances where
20 Plaintiffs and Class Members were required to wait in line to clock in for their shifts or clock in for
21 lunch.

22 17. Additionally, Defendants paid performance-based bonuses, "BQT" payments,
23 service charges, and other form of remuneration besides hourly rates to Employees in the Class,
24 and upon information and belief, Defendants failed to include these additional forms of
25 remuneration in the regular rate used to calculate and pay the overtime that Defendants did pay.
26 Defendants also unlawfully secretly lowered Plaintiffs' pay wages while purporting to pay a higher
27 wage, and failed to inform Plaintiffs before doing so. Defendants thus failed to provide notice as
28 required by the California Labor Code, including § 223.

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

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

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

25 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
26 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
27 hours worked and failing to pay minimum wages for all time worked, as required by California law.
28 Also, from at least four years prior to the filing of this lawsuit and continuing to the present,

1 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
2 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
3 week and double-time rates for all hours worked in excess of twelve hours a day, in violation of
4 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

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

13 23. More specifically, Plaintiffs worked shifts that entitled them to at least one meal
14 period. As addressed above, Defendant's managers required Plaintiffs and the Class Members to
15 clock out for 30 minutes for a meal period and would deduct that time from hours worked for the
16 shift. To whatever extent there was ever a schedule for meal periods, it went by the wayside quickly
17 as there always seemed to be a customer or guest to attend to. This led to systematically late meal
18 periods, if they were provided at all, and on-duty meal periods that were incessantly interrupted by
19 customer, guest, and management demands and required job duties and tasks to be performed, which
20 required Employees to remain under Defendants' control during breaks. Management expectations,
21 along with understaffing of employees, contributed to Employees working through meal periods or
22 not taking them or taking them late so work could be accomplished or they were required to remain
23 under Defendants' control during meal periods.

24 24. Additionally, Defendants instructed Plaintiffs and the Class Members to clock out
25 for at least 30 minutes for a meal period and to do so before the fifth hour of work as required under
26 the Labor Code and Wage Orders. Defendants instructed Plaintiffs and the Class Members to thus
27 record compliant meal breaks without regard to whether they were actually taken on time or for the
28 full duration or were interrupted by customer, guest, and management demands and other work

1 requirements. Plaintiffs recall that at least three of their meal periods per week were interrupted with
2 work related demands, and despite that fact, Defendants automatically deducted thirty minutes for
3 meal period on each work shift without regard to whether it was lawful.

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

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

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

26 28. Defendants thus followed uniformly applied policies of not providing all required
27 meal periods to their Employees. Meal periods were often not properly provided, as work and
28 customer demands impermissibly shortened their breaks. Even when Plaintiffs and the Class

Members were able to take a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off the clock work in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

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

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

- (a) Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five hours and were not compensated one hour's wages in lieu thereof, or were not compensated at the correct regular rate of compensation, all in violation of, among others, Labor Code §§ 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

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

3 31. Similar violations resulted from Defendants' failure to authorize and permit
4 Plaintiffs and the Class Members to take duty-free, net ten minute rest breaks for every four hours
5 of shift work, or major fraction thereof. Plaintiffs and the other similarly situated Class Members
6 were either not authorized permitted the opportunity to take a rest break, or were required to remain
7 under Defendants' control and respond to calls and instructions from management, guest, customer,
8 and job demands if and when they even attempted to take one. Upon information and belief,
9 Defendants thus also failed to authorize and permit employees to leave the premises during rest
10 breaks, evidencing Defendants' policy and practice of requiring Plaintiffs and the Class Members
11 to remain under their control during required off-duty rest break times.

12 32. Rest breaks were not scheduled or were often received a rest break with a violation.
13 Defendants' uniformly applied policies and practices resulted in untimely and shortened or on-duty
14 rest breaks when they were authorized and permitted. Plaintiffs and the Class Members worked
15 shifts of at least eight hours, which required at least two rest breaks, and often worked shifts over
16 ten hours, which required at least three rest breaks. Even on the occasions when Defendants
17 authorized and permitted Plaintiffs to take a first rest break, they were not permitted to take a second
18 or a third break, and those that were provided were often late and generally interrupted by job duties
19 and requirements. During Plaintiffs' entire employment duration with Defendants, they cannot
20 recall a time when they took a second or third rest break even when they were scheduled to work
21 for over 10 hours.

22 33. During rest periods, employers must relieve employees of all duties and relinquish
23 control over how employees spend their time. Plaintiffs and the Class Members were and are under
24 Defendants' control when they are working through rest breaks and remaining under Defendants'
25 control. Defendants have also provided either impermissibly shortened or untimely meal and rest
26 breaks to Plaintiffs and the Class Members. Plaintiffs and the Employees in the Class were thus not
27 authorized and permitted to take lawful rest periods, were systematically required by Defendants
28 to work through or during breaks, and were not provided with one hour's wages in lieu thereof.

1 They were required to remain on-duty during breaks or portions of their breaks, thus making them
2 either untimely or shortened and on-duty, and they were also prevented from leaving the premises
3 and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly
4 applied policies and practices. Rest period violations therefore arose in one or more of the following
5 manners:

- 6 (a) Class Members were required to work without being provided a minimum
7 ten minute rest period for every four hours or major fraction thereof worked
8 and were not compensated one hour of pay at their regular rate of
9 compensation for each workday that a rest period was not provided;
- 10 (b) Class Members were not authorized and permitted to take timely rest periods
11 for every four hours worked, or major fraction thereof;
- 12 (c) Class Members were required to remain on-duty during rest periods or
13 otherwise had their rest periods interrupted by work demands; and
- 14 (d) Class Members were required to remain under Defendants' control during
15 rest breaks.

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

26 35. Defendants also violated California Labor Code § 246 by not providing all required
27 paid sick days to Plaintiffs and the Class Members. Labor Code § 246 provides that an Employee
28 who "works in California for the same employer for 30 or more days within a year from the

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

17 36. As a result of these illegal policies and practices, Defendants also engaged in and
18 enforced the following additional unlawful practices and policies against Plaintiffs and the Class
19 Members they seek to represent:

- 20 (a) failing to pay all wages owed to Class Members who either were discharged,
21 laid off, or resigned in accordance with the requirements of Labor Code §§
22 201, 202, 203;
- 23 (b) failing to pay all wages owed to the Class Members twice monthly in
24 accordance with the requirements of Labor Code § 204;
- 25 (c) failing to pay Class Members all wages owed, including all meal and rest
26 period premium wages, and failing to pay them at the regular rate of
27 compensation;
- 28 (d) failing to maintain accurate records of Class Members’ hours worked and

1 earned wages and meal periods in violation of Labor Code §§ 226 and
2 1174(d) and section 7 of the applicable IWC Wage Orders; and
3 (e) failing to produce timekeeping records in response to Plaintiffs' timely and
4 lawful request to receive them under these authorities.

5 37. Defendants have also consistently failed to provide Class Members with timely,
6 accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws,
7 including by the above-described requirement of off the clock work, failure to pay all overtime and
8 double time wages owed and failure to pay them at the appropriate premium rates, and failure to
9 pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating
10 any overtime or meal period or rest break premium wages and by the systematic and unlawful
11 deductions Defendants took from Employee wages. Defendants have also made it difficult to
12 account with precision for the unlawfully withheld wages and meal and rest period compensation
13 owed to Plaintiffs and the Class, during the liability period, including because they did not calculate
14 the regular rate of pay correctly when paying overtime or meal period premiums and because they
15 did not implement and preserve a record-keeping method as required for non-exempt employees by
16 California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders.
17 Defendants also failed to list the employee's name, social security or employee ID, and address on
18 the paystub, and failed to indicate the pay period on Plaintiffs' paystubs. Defendants also failed to
19 accurately record and pay for all regular and overtime hours worked and submitted by Plaintiffs and
20 the Class Members, including by failing to pay all overtime hours at the correctly calculated
21 overtime premium rate. Defendants also failed to list the name of the actual employer and on wage
22 statements issued in violation of Labor Code § 226(a)(8).

23 38. Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately
24 reporting total hours worked and total wages earned by Plaintiffs and the Class Members, along
25 with the appropriate applicable rates, among others requirements. Plaintiffs and Class Members are
26 therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code §
27 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California IWC
28 Wage Orders by failing to maintain time records showing when the employee begins and ends each

1 work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours
2 worked by itemizing in wage statements all deductions from payment of wages and accurately
3 reporting total hours worked.

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

12 40. Additionally, from at least four years prior to the filing of this lawsuit and continuing
13 to the present, Defendants have regularly required Plaintiffs, and upon information and belief the
14 other Class Members, to incur necessary business expenses, including by requiring them to launder
15 their uniforms at their own expense. Plaintiffs and the Class Members must be reimbursed for these
16 necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do
17 so.

18 41. In light of the foregoing, Plaintiffs and the Employees in the Class bring this action
19 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 212, 213, 218, 218.5, 218.6, 221, 223,
20 226, 226.4, 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185,
21 1194, 1194.2 1197, 1198, 1198.5, 1199, and 2802, 2698 *et seq.*, and California Code of Regulations,
22 Title 8, section 11000 *et seq.*

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

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28 ///

CLASS ALLEGATIONS

43. Plaintiffs bring 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 (often referred to as “the Class” or “Class Members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees by Defendants within the State of California.” This includes all types of servers, bartenders, line cooks, bussers, and those in similar and related positions. Further, Plaintiffs seek to represent the Subclasses composed of and defined as follows:

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

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

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

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

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

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

g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class Members who were subject to Defendants’ policy and practice of not timely paying all wages earned

1 when they were due and payable at least twice monthly.

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

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

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

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

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

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

28 ///

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

5 **A. Numerosity**

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

12 **B. Commonality**

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

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

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

23 **C. Typicality**

24 49. The claims of the named Plaintiffs are typical of those of the other Employees. The
25 Employee Class Members all sustained injuries and damages arising out of and caused by
26 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
27 well as regulations, that have the force and effect of law, as alleged herein. Plaintiffs' claims for the
28 off the clock work and meal and rest violations they were required to endure are typical of those of

1 the other Class Members.

2 **D. Adequacy of Representation**

3 50. Plaintiffs will fairly and adequately represent and protect the interest of the Employee
4 Class Members. Counsel who represents Plaintiffs and the Employees in the Class are experienced
5 and competent in litigating employment class actions.

6 **E. Superiority of Class Action**

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

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

23 53. Class action treatment will allow those persons similarly situated to litigate their
24 claims in the manner that is most efficient and economical for the parties and the judicial system.
25 Plaintiffs are unaware of any difficulties in managing this case that should preclude class treatment.
26 Plaintiffs contemplate the eventual issuance of notice to the proposed Class Members that would set
27 forth the subject and nature of the instant action. The Defendants' own business records can be
28 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that

1 any further notice is required additional media and/or mailings can be used.

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

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

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY MINIMUM WAGES AND SECRET UNDERPAYMENT OF WAGES**

19 **(Against All Defendants)**

20 56. Plaintiffs re-alleges and incorporates all preceding paragraphs, as though set forth in
21 full herein.

22 57. Defendants failed to pay Employees minimum wages for all hours worked.
23 Defendants had a consistent policy of failing to pay Employees for all hours worked. Employees
24 would work hours and not receive wages, including as alleged above in connection with off the
25 clock work, including all the time required to remain on duty and under Defendants' control during
26 breaks and due to the work demands placed upon them by Defendants' management, guests,
27 customers and by the unlawful deduction of hours or by paying what should have been overtime
28 hours as regular hours. Defendants' uniformly applied policies required systematic off the clock

1 work and underpayment of all wages owed to Employees over a period of time, while benefiting
2 Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum
3 wages to Plaintiffs and the Class Members, including by requiring systematic off the clock work.
4 To the extent any local wage ordinances were also applicable to paying the employees an hourly
5 rate above the minimum wage rate, Defendants failed to comply with the local wage ordinances.
6 Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation,
7 applicable to the Class as a whole, as a result of implementing a uniform policy and practice that
8 denied accurate compensation to Plaintiffs and the other members of the Class as to minimum
9 wage pay.

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

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

20 60. California Labor Code § 223 requires that an employer maintain the designated
21 wage scale if contract requires an employer to do so. Section 223 makes it unlawful to secretly pay
22 a lower wage while purporting to pay the wage designed in the contract. Upon information and
23 belief, Defendants unlawfully lowered wages without providing notice to its employees.

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

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

3 62. 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 63. 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 reflect
11 their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual time
12 worked by Plaintiffs and other members of the Class, including by requiring off the clock work as
13 addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of all earned
14 wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
15 Commission requirements and other applicable laws and regulations. As a result of these violations,
16 Defendants also failed to timely pay all wages earned in accordance with California Labor Code §
17 1194.

18 64. 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 65. 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 66. Pursuant to California Labor Code § 1194.2, Plaintiffs and Class Members are further
27 entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest
28 thereon.

67. 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.

68. 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)

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

70. 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 claim

1 with the Division of Labor Standards and Enforcement.

2 71. 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 one
7 workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in
8 any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a
9 workweek.

10 72. 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 have
13 also failed to include all forms of remuneration in the regular rate of pay used to calculate and pay
14 overtime and failed to begin paying overtime when it was incurred due to the off the clock work, as
15 detailed above.

16 73. Defendants thus had a consistent policy of not paying Employees wages for all hours
17 worked, including hours at their required regular, overtime, and double-time rates. Defendants have
18 also violated these provisions by requiring Plaintiffs and other similarly situated non-exempt
19 employees to work through meal periods or remain under Defendants' control when they were
20 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
21 respond to demands from customers, guests, and managers.

22 74. Therefore, Employees were not properly compensated, nor were they paid overtime
23 rates for hours worked in excess of eight hours in a given day and/or forty hours in a given week.
24 Defendants have also violated these provisions by requiring Plaintiffs and other similarly situated
25 Class Members to work through meal periods when they were required to be clocked out or to
26 otherwise work off the clock to complete their daily job duties.

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

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

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

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

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

1 fixed by an order of the commission” or “violates...any provision of this chapter or any order or
2 ruling of the commission.”

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

10 **THIRD CAUSE OF ACTION**

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

12 **(Against All Defendants)**

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

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

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

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

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

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

FOURTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

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

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

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

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

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

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

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

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

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

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

96. Throughout the liability period, Defendants intentionally failed to furnish to Plaintiffs and the Class Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor Code

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

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

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

27 99. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
28 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the

1 Class suffered injuries, including among other things confusion over whether they received all
2 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
3 them to make mathematical computations to analyze whether the wages paid in fact compensated
4 them correctly for all hours worked.

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

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

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

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

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

1 deducted at least 30 minutes of hours worked from each Employee's daily work shifts, not
2 compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in
3 violation of Labor Code § 221.

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

6 **SEVENTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 204**
8 **(Against All Defendants)**

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

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

24 107. All wages due and owing to Plaintiffs and the Class Members, including as required
25 under Labor Code § 510, were therefore not timely paid by Defendants. Additionally, wages
26 required by Labor Code § 1194 and other sections became due and payable to each employee in
27 each pay period that he or she was not provided with a meal period or rest period or paid straight or
28 overtime wages to which he or she was entitled.

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

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

EIGHTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

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

111. Plaintiffs and numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

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

113. The wages withheld from these Employees by Defendants remained due and owing for more than thirty days from the date of separation from employment. Additionally, Defendants failed to pay Plaintiffs their final check at the time of their termination.

114. Defendants thus failed to pay Plaintiffs and the Class Members without abatement, all wages as defined by applicable California law. Among other things, these Employees were not

1 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked or
2 requiring off the clock work or by unlawfully under-recording time entries to the detriment of
3 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and
4 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
5 required time was willful within the meaning of Labor Code § 203.

6 115. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
7 are required "to pay each employee, on the established payday for the period involved, not less than
8 the applicable minimum wage for all hours worked in the payroll period, ..." Under Labor Code §
9 1198, "[t]he employment of any employee for longer hours than those fixed by the order or under
10 conditions of labor prohibited by the order is unlawful." Plaintiffs and the Class Members may
11 therefore pursue damages and penalties for violations of Labor Code § 203 and paragraph 4(B) of
12 the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC
13 Wage Orders. Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants
14 are subject to a fine of not less than \$100 for causing Employees "to work for longer hours than
15 those fixed, or under conditions of labor prohibited by an order of the commission" or if the
16 employer pays "a wage less than the minimum fixed by an order of the commission" or
17 "violates...any provision of this chapter or any order or ruling of the commission."

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

22 **NINTH CAUSE OF ACTION**

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

24 **(Against All Defendants)**

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

27 118. California Labor Code § 1174 requires that all employers shall keep accurate time
28 and wage records for all employees. California Labor Code § 1174.5 further requires that any

1 employee suffering injury due to a willful violation of the aforementioned obligations may seek
2 damages, including civil penalties, from the employer.

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

7 120. Defendants are also required by the California Labor Code § 1198 and the applicable
8 Wage Order to maintain a tracking system that accurately records the times during which Employees
9 work.

10 121. Defendants have maintained a common unlawful policy and practice of failing to
11 accurately record all hours worked and all meal period start and end times and by adjusting or
12 otherwise rounding and shaving them down.

13 122. Defendants' failure to pay wages, as alleged above, was willful in that Defendants
14 knew wages to be due but failed to pay them.

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

17 **TENTH CAUSE OF ACTION**

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

19 **(Against All Defendants)**

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

22 125. Plaintiffs are informed and believe and based thereon allege that throughout the
23 period applicable, Defendants required Plaintiffs and the Class Members to pay for necessary work
24 related expenses they incurred. Defendants required Plaintiffs and the Class Members to launder
25 their uniform and failed to reimburse them for such expenses, as addressed above. Plaintiffs and the
26 Class Members must be reimbursed for these necessary business expenses under Labor Code § 2802
27 and Defendants systematically failed to do so.

28 ///

126. 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.

127. 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.

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

ELEVENTH CAUSE OF ACTION

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

(Against All Defendants)

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

130. Plaintiffs are a "person" within the meaning of Business & Professions Code § 17204, have suffered injury, and therefore have standing to bring this cause of action for

1 injunctive relief, restitution, and other appropriate equitable relief.

2 131. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
3 practices. By the conduct alleged herein, Defendants' practices were deceptive and fraudulent in that
4 Defendants' policy and practice failed to provide the required amount of compensation for missed
5 meal and rest breaks, and failed to adequately compensate Plaintiffs and Class Members for all hours
6 worked, due to systematic business practices as alleged herein that cannot be justified, pursuant to
7 the applicable California Labor Code and Industrial Welfare Commission requirements in violation
8 of California Business and Professions Code §§ 17200, *et seq.*, and for which this Court should issue
9 injunctive and equitable relief, pursuant to California Business & Professions Code § 17203,
10 including restitution of wages wrongfully withheld.

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

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

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

26 135. Defendants, by engaging in the conduct herein alleged, by failing to pay wages and
27 overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise of
28 reasonable care should have known that their conduct was unlawful; therefore, their conduct

1 violates the Business & Professions Code § 17200 *et seq.*

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

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

11 138. Unless restrained by this Court Defendants will continue to engage in such unlawful
12 conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make
13 such orders or judgments, including the appointment of a receiver, as may be necessary to prevent
14 the use by Defendants or their agents or employees of any unlawful or deceptive practice prohibited
15 by the Business & Professions Code, including but not limited to the disgorgement of such profits
16 as may be necessary to restore Employees to the money Defendants have unlawfully failed to pay.

17 **TWELTH CAUSE OF ACTION**

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

19 **(Against All Defendants)**

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

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

25 141. In failing to pay Aggrieved Employees minimum wages and overtime, not providing
26 proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to
27 pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants
28 failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor

Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders.

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

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

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

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

1 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
2 Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements and failure to
3 maintain employment records for Plaintiffs and Aggrieved Employees under Labor Code §§ 226,
4 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
5 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
6 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
7 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
8 providing inaccurate wage statements and failing to maintain records as required under Labor Code
9 § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code
10 §226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in
11 the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
12 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

13 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
14 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
15 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages, under
16 Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the
17 applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code §
18 2699(g)(1);

19 (e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For
20 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the
21 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802,
22 and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
23 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
24 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs
25 pursuant to Labor Code § 2699(g)(1);

26 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code
27 Sections: For any above addressed violation of the applicable provisions of the IWC Wage Orders,
28 each of which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and

1 seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the
2 applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code
3 § 2699(g)(1).

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

6 (a) Any employer or other person acting on behalf of an employer who violates, or
7 causes to be violated, a section of this chapter or any provision regulating hours and days of work
8 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1)
9 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
10 which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
11 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
12 each pay period for which the employee was underpaid in addition to an amount sufficient to
13 recover underpaid wages...
14

15 (b) If upon inspection or investigation the Labor Commissioner determines that a person
16 had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter,
17 or any provision regulating hours and days of work in any order of the Industrial Welfare
18 Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting,
19 and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a
20 violation of this chapter shall be the same as those set out in Section 1197.1.
21

22 (c) The civil penalties provided for in this section are in addition to any other civil or
23 criminal penalty provided by law.
24

25 145. Plaintiff Vidal exhausted his administrative remedies by submitting a certified letter
26 to the LWDA and Defendants on February 12, 2024 (LWDA-CM-1010496-24) addressing in detail
27 the specific provisions of the Labor Code Defendants have violated and addressing the facts and
28 legal theories to support the alleged violations and requested penalties. The LWDA did not provide
notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date

1 of the letter, and Plaintiff Vidal added his PAGA claim seeking penalties under the PAGA for the
2 violations addressed in the First Amended Complaint and in the PAGA Notice letter and the original
3 Complaint. Plaintiff Callas provided a PAGA Notice Letter to the LWDA and mailed it to
4 Defendants on November 30, 2024. The time for the LWDA to elect to take on the PAGA claim
5 passed and Plaintiff Callas filed her PAGA complaint. The allegations in that PAGA Complaint,
6 and PAGA Notice Letter to the LWDA by Plaintiff Callas, are also incorporated herein by
7 reference, and the PAGA claims against Defendants as alleged by Plaintiff Callas are now being
8 consolidated into this Action.

9 **RELIEF REQUESTED**

10 WHEREFORE, Plaintiffs pray for the following relief:

- 11 1. For an order certifying this action as a class action;
- 12 2. For compensatory damages in the amount of the unpaid minimum wages for work
13 performed by Employees and unpaid overtime compensation from at least four (4) years prior to the
14 filing of this action, as may be proven;
- 15 3. For liquidated damages in the amount equal to the unpaid minimum wage and interest
16 thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 17 4. For compensatory damages in the amount of all unpaid wages, including overtime
18 and double-time pay, as may be proven;
- 19 5. For compensatory damages pursuant to Labor Code § 223, as may be proven;
- 20 6. For compensatory damages in the amount of the hourly wage made by Employees
21 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
22 years prior to the filing of this action, as may be proven;
- 23 7. For compensatory damages in the amount of the hourly wage made by Employees
24 for each day requisite rest breaks were not provided or were deficiently provided where no premium
25 pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
- 26 8. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 27 9. For restitution and/or damages and penalties for Defendants' failure to pay all wages
28 due twice monthly under Labor Code § 204, as may be proven;

10. 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;

11. 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;

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

13. For penalties pursuant to Labor Code §§ 226, as may be proven;

14. 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;

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

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

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

18. 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;

19. For other wages and penalties under the Labor Code as may be proven;

20. For all general, special, and incidental damages as may be proven;

21. For an award of pre-judgment and post-judgment interest;

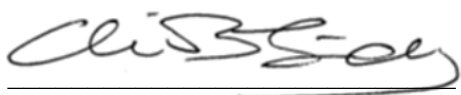
22. For an award providing for the payment of the costs of this suit;

23. For an award of attorneys' fees; and

24. For such other and further relief as this Court may deem proper and just.

DATED: July 30, 2026

D.LAW, INC.
CROSNER LEGAL, PC

By: 

Alvin B. Lindsay
Brandon Brouillette
Zachary M. Crosner
Attorneys for Plaintiffs JOSE E. VIDAL and
JENTILLA CALLAS, on behalf of
themselves, the State of California, and
others similarly situated and aggrieved

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DATED: July 30, 2026

By:

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themselves, the State of California, and
others similarly situated and aggrieved