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County of San Francisco
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9 Attorneys for Plaintiff PAUL GARVES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN FRANCISCO
12

13 PAUL GARVES, on behalf of himself and all
14 others similarly situated, and the general
public,

15 *Plaintiff,*

16 v.

17 SAN FRANCISCO FIRE CREDIT UNION, a
18 California corporation; and DOES 1 through
50, inclusive,

19 *Defendants.*
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Case No.: CGC-24-613197

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

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
4. Failure to Pay Proper Sick Pay (Lab. Code § 246);
5. Failure to Pay Proper Vacation Wages (Lab. Code § 227.3);
6. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
7. Failure to Indemnify (Lab. Code § 2802);
8. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*); and
9. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

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

3 **INTRODUCTION**

4 1. Plaintiff brings this class and representative action against Defendants SAN
5 FRANCISCO FIRE CREDIT UNION, a California corporation; and DOES 1 through 50, inclusive,
6 (collectively referred to as “Defendants”) for alleged violations of the California Labor Code and
7 California Business and Professions Code. As set forth below, Plaintiff alleges that Defendants have:

- 8 a. failed to pay them overtime wages at the correct rate;
- 9 b. failed to pay them double time wages at the correct rate;
- 10 c. failed to pay them overtime and/or double time wages by failing to include all
11 applicable remuneration in calculating the regular rate of pay;
- 12 d. failed to provide them with meal periods;
- 13 e. failed to provide them with rest periods;
- 14 f. failed to pay them premium wages for missed meal and rest periods;
- 15 g. failed to pay them proper sick time pay;
- 16 h. failure to pay proper vacation wages;
- 17 i. failed to provide them with accurate written wage statements; and
- 18 j. failed to reimburse them with necessary business expenditures.

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

22 **JURISDICTION AND VENUE**

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

26 3. Venue is proper in the County of San Francisco pursuant to Code of Civil Procedure
27 sections 395(a) and 395.5 in that liability arose this county because at least some of the transactions
28 that are the subject matter of this Complaint occurred therein and/or each defendant is found,

1 maintains offices, transacts business and/or has an agent therein.

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

5 **PARTIES**

6 5. Plaintiff PAUL GARVES is, and at all relevant times mentioned herein, an individual
7 residing in the State of California.

8 6. Plaintiff is informed and believes, and thereupon alleges that Defendant SAN
9 FRANCISCO FIRE CREDIT UNION is, and at all relevant times mentioned herein, a California
10 corporation doing business in the State of California.

11 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as
12 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff
13 will amend this Complaint to allege the true names and capacities of the DOE defendants when
14 ascertained. Plaintiff is informed and believes, and thereupon alleges that each of the fictitiously
15 named defendants are responsible in some manner for the occurrences, acts and omissions alleged
16 herein and that Plaintiff's alleged damages were proximately caused by these defendants, and each of
17 them. Plaintiff will amend this complaint to allege both the true names and capacities of the DOE
18 defendants when ascertained.

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

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

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

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

- a. **Hourly Employee Class:** All persons employed by Defendants, collectively or separately, and/or any staffing agencies and/or any other third parties in hourly or non-exempt positions in California four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Hourly Employee Class”).
- b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in a shift in excess of five hours during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a shift of at least three and one-half (3.5) hours the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.
- d. **Sick-Pay Class:** All persons employed by Defendants in California who, at any time from four years prior to the filing of this action and ending on the date that final judgment is entered in this action, worked for more than 30 days for Defendants, and were not paid for at least one hour of sick time for every 30 hours of work thereafter, or at least 3 days of sick time for every 12-month period of employment.
- e. **Vacation Pay Class:** All persons employed by Defendants in California who earned paid vacation time and/or paid time off without receiving compensation for all vested paid vacation time during the **Relevant Time Period**.
- f. **Wage Statement Class:** All persons employed by Defendants in California during the period beginning one year before the filing of this action and ending when final judgment is entered.
- g. **Expense Reimbursement Class:** All persons employed by Defendants in California who incurred business expenses during the **Relevant Time Period**.
- h. **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class** members employed by Defendants in California during the four years prior to the filing of this action and ending on the date that final judgment is entered in this action.

12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definitions with greater specificity, by further division into sub-classes and/or by limitation to particular issues.

1 13. **Numerosity**: The class members are so numerous that the individual joinder of each
2 individual class member is impractical. While Plaintiff does not currently know the exact number of
3 class members, Plaintiff is informed and believes, and thereupon alleges that the actual number
4 exceeds the minimum required for numerosity under California law.

5 14. **Commonality and Predominance**: Common questions of law and fact exist as to all
6 class members and predominate over any questions which affect only individual class members.
7 These common questions include, but are not limited to:

- 8 a. Whether Defendants maintained a policy or practice of failing to provide
9 employees with their rest periods;
- 10 b. Whether Defendants maintained a policy or practice of failing to provide
11 employees with their meal periods;
- 12 c. Whether Defendants failed to pay premium wages to class members when they
13 have not been provided with meal and rest periods at the appropriate rates of pay;
- 14 d. Whether Defendants failed to pay minimum and/or overtime wages to class
15 members for all time worked;
- 16 e. Whether Defendants failed to pay proper sick time pay;
- 17 f. Whether Defendants failed to pay proper vacation wages;
- 18 g. Whether Defendants failed to provide class members with accurate written wage
19 statements as a result of providing them with written wage statements with
20 inaccurate entries for, among other things, amounts of gross and net wages, and
21 total hours worked;
- 22 h. Whether Defendants failed to reimburse class members for all necessary business
23 expenses incurred during the discharge of their duties; and
- 24 i. Whether class members are entitled to restitution of money or property that
25 Defendants may have acquired from them through unfair competition.

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

1 Complaint.

2 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative and
3 has no interests that are adverse to, or otherwise conflict with, the interests of absent class members
4 and is dedicated to vigorously prosecuting this action on their behalf. Plaintiff will fairly and
5 adequately represent and protect the interests of the other class members.

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

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

20 **GENERAL ALLEGATIONS**

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

23 20. Defendants had a common policy and practice of systemically failing to pay Plaintiff
24 and Class Members proper wages and overtime for all hours worked at the proper rates of pay. First,
25 Defendants implemented an unlawful time-rounding policy and practice which rounded down and
26 reduced the actual working hours recorded by Plaintiff and Class Members, and upon which their pay
27 was based, and generally did so to the detriment of the Plaintiff and Class Members, and these
28 unlawfully rounded time entries were inputted into Defendants' payroll system from which wage

1 statements and payroll checks were created. Defendants did so with the ostensible intent of paying
2 Plaintiff and Class members only for the hours they were scheduled to work, rather than the hours
3 they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results,
4 over time, to the detriment of the Plaintiff and Class members by systematically undercompensating
5 them.

6 21. Next, Plaintiff and Class Members were also consistently required to perform work,
7 off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were
8 required to respond to e-mails and messages prior to clocking in. Additionally, Plaintiff and Class
9 had to spend time booting up their computers in order to clock in. On days the clock in system was
10 down, Plaintiff and Class Members needed to wait in line on the phone with Defendants in order to
11 clock in. Finally, Plaintiff and Class Members were required to perform work-relates activities during
12 unpaid meal periods. The forgoing and uncompensated working time was under the direction and
13 control of Defendants, for which no wages were paid.

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

17 23. Defendants also failed to pay Plaintiff and Class Members overtime wages at the
18 proper and applicable regular rates of pay. Specifically, Plaintiff and Class Members earned
19 performance-based non-discretionary bonuses in addition to their hourly pay. However, these
20 supplemental earnings were not accounted for when determining Plaintiff and Class Members'
21 regular rates of pay, and respective and proper overtime rates of pay.

22 24. Defendants had a common policy and practice of systemically denying Plaintiff and
23 Class Members the opportunity to take meal periods in compliance with the California Law.
24 Specifically, Plaintiff and Class Members were denied the opportunity to take timely meal periods
25 prior to the completion of their fifth hour of work, further delayed by the pre-shift and uncompensated
26 duties discussed herein. Furthermore, Plaintiff and Class Members were not relieved of all work
27 duties during unpaid meal periods and were required to keep working during meal breaks.

28 25. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)

1 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal
2 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
3 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
4 Defendants' practice of requiring putative class members to continue working through their meal and
5 rest periods due to the excessive workload.

6 26. Defendants had a common policy and practice of systemically denying Plaintiff and
7 Class Members the opportunity to take rest periods in compliance with the California Law. Plaintiff
8 and Class Members were not provided with rest periods of at least ten (10) minutes for each four (4)
9 hour work period, or major fraction thereof, due to (1) Defendants' policy of not scheduling each rest
10 period as part of each work shift, including second rest breaks for shifts of six (6) hours or more; (2)
11 no formal compliant written rest period policy that encouraged employees to take their rest periods,
12 or that properly advised Plaintiff and Class Members of their rest period rights; and (3) Defendants'
13 policy and practice of requiring putative class members to continue working through their rest breaks
14 due to the excessive workload.

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

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

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

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

28 31. Defendants failed to comply with Labor Code section 226(a)(5) as "net wages earned"

1 were not accurately reflected in that: all hours worked, including overtime, were not included.

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

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

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

13 35. Plaintiff and Class Members were not reimbursed for business expenses incurred in
14 executing their duties under Defendant’s employ. Specifically, Plaintiff and Class Members were
15 required to drive their personal cars during work hours and for work purposes, incurring fuel and
16 mileage expenses. Plaintiff and Class Members were not reimbursed for these necessary work-related
17 expenses.

18 36. Defendants also had a common policy and practice of systemically failing to pay
19 Plaintiff and Class Members the requisite and accrued vacation time pay in accordance with
20 California law. Specifically, Plaintiff and Class Members accrued vested vacation time and/or paid
21 time off. However, the vacation time paid to Plaintiff and Class Members did not account for the
22 performance-based non-discretionary bonuses, which were never factored into the rate upon which
23 vacation pay was accrued and paid.

24 37. Finally, Defendants has a common policy and practice of systemically failing to pay
25 Plaintiff and Class Members the requisite sick time pay in accordance with California law.
26 Specifically, Plaintiff and Class Members worked for Defendants for more than 30 days, but were not
27 paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every
28 12 month period of work. Additionally, the sick pay paid to Plaintiff and Class Members did not

1 account for the performance based non-discretionary bonuses, which were never factored into the rate
2 upon which sick pay was accrued and paid.

3 **FIRST CAUSE OF ACTION**

4 **FAILURE TO PROVIDE MEAL PERIODS**

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

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

7 38. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if
8 fully alleged herein.

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

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

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

21 42. Compensation for missed meal periods constitutes wages within the meaning of Labor
22 Code section 200.

23 43. Labor Code section 1198 makes it unlawful to employ a person under conditions that
24 violate the applicable Wage Order.

25 44. Section 11 of the applicable Wage Order states:

26 No employer shall employ any person for a work period of more than
27 five (5) hours without a meal period of not less than 30 minutes, except
28 that when a work period of not more than six (6) hours will complete
the day’s work the meal period may be waived by mutual consent of
the employer and employee. Unless the employee is relieved of all duty

1 during a 30 minute meal period, the meal period shall be considered an
2 'on duty' meal period and counted as time worked. An 'on duty' meal
3 period shall be permitted only when the nature of the work prevents an
4 employee from being relieved of all duty and when by written
agreement between the parties an on-the-job paid meal period is agreed
to. The written agreement shall state that the employee may, in writing,
revoke the agreement at any time.

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

8 46. Plaintiff alleges that, at all relevant times during the applicable limitations period,
9 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
10 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
11 hour work period, as required by Labor Code section 512 and the applicable Wage Order.
12 Specifically, Plaintiff and **Meal Period Sub-Class** Members were denied the opportunity to take
13 timely meal periods prior to the completion of their fifth hour of work, further delayed by the pre-
14 shift and uncompensated duties discussed herein.

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

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

25 49. Plaintiff alleges that, at all relevant times during the applicable limitations period,
26 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
27 **Sub-Class** with a second meal period when they worked shifts of ten (10) or more hours and failed
28 to pay them premium wages as required by Labor Code 512 and the applicable Wage Order.

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

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

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

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

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PROVIDE REST PERIODS**

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

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

16 54. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
17 herein.

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

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

25 57. Labor Code section 226.7 and Section 12 of the applicable Wage Order both prohibit
26 employers from requiring employees to work during required rest periods and require employers to
27 pay non-exempt employees an hour of premium wages at the employees' regular rates of pay, on each
28 workday that the employee is not provided with the required rest period(s).

1 58. Compensation for missed rest periods constitutes wages within the meaning of Labor
2 Code section 200.

3 59. Labor Code section 1198 makes it unlawful to employ a person under conditions that
4 violate the Wage Order.

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

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

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

18 63. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself
19 and **Rest Period Sub-Class** members, seeks to recover unpaid premium wages, interest thereon, and
20 costs of suit.

21 64. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
22 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and **Rest**
23 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

24 **THIRD CAUSE OF ACTION**

25 **FAILURE TO PAY HOURLY AND OVERTIME WAGES**

26 **(Lab. Code §§ 223, 510, 1194, 1197 and 1198)**

27 **(Plaintiff and Hourly Employee Class)**

28 65. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged

1 herein.

2 66. At all relevant times, Plaintiff and **Hourly Employee Class** members are or have been
3 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
4 applicable Wage Order.

5 67. Section 2 of the applicable Wage Order defines “hours worked” as “the time during
6 which an employee is subject to the control of the employer, and includes all the time the employee
7 is suffered or permitted to work, whether or not required to do so.”

8 68. Section 4 of the applicable Wage Order requires an employer to pay non-exempt
9 employees at least the minimum wage set forth therein for all hours worked, which consist of all hours
10 that an employer has actual or constructive knowledge that employees are working.

11 69. Labor Code section 1194 invalidates any agreement between an employer and an
12 employee to work for less than the minimum or overtime wage required under the applicable Wage
13 Order.

14 70. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
15 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
16 to the underlying unpaid minimum wages and interest thereon.

17 71. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
18 than the minimum wage required under the applicable Wage Order for all hours worked during a
19 payroll period.

20 72. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
21 person acting either individually or as an officer, agent or employee of another person, to pay an
22 employee, or cause an employee to be paid, less than the applicable minimum wage.

23 73. Labor Code section 1198 makes it unlawful for employers to employ employees under
24 conditions that violate the applicable Wage Order.

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

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

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

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

12 78. Plaintiff is informed and believes that, at all relevant times, Defendants have applied
13 centrally devised policies and practices to him and **Hourly Employee Class** members with respect to
14 working conditions and compensation arrangements.

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

18 80. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
19 overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful
20 time-rounding policy and practice which rounded down and reduced the actual working hours
21 recorded by Plaintiff and **Hourly Employee Class**, and upon which their pay was based, and
22 generally did so to the detriment of the Plaintiff and **Hourly Employee Class**, and these unlawfully
23 rounded time entries were inputted into Defendants' payroll system from which wage statements and
24 payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiff and
25 **Hourly Employee Class** members only for the hours they were scheduled to work, rather than the
26 hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and
27 results, over time, to the detriment of the Plaintiff and **Hourly Employee Class** members by
28 systematically undercompensating them.

1 81. Next, Plaintiff and **Hourly Employee Class** Members were also consistently required
2 to perform work, off-the-clock, for which they were not paid wages. Specifically, Plaintiff and
3 **Hourly Employee Class** Members were required to respond to e-mails and messages prior to
4 clocking in. Additionally, Plaintiff and **Hourly Employee Class** Members had to spend time booting
5 up their computers in order to clock in. On days the clock in system was down, Plaintiff and **Hourly**
6 **Employee Class** Members needed to wait in line on the phone with Defendants in order to clock in.
7 Finally, Plaintiff and **Hourly Employee Class** Members were required to perform work-relates
8 activities during unpaid meal periods. The forgoing and uncompensated working time was under the
9 direction and control of Defendants, for which no wages were paid.

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

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

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

23 85. Pursuant to Labor Code sections 204, 218.6, 223, 510, 1194 and 1194.2, Plaintiff, on
24 behalf of himself and **Hourly Employee Class** members, seeks to recover unpaid straight time and
25 overtime wages, interest thereon and costs of suit.

26 86. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
27 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
28 **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

FOURTH CAUSE OF ACTION
FAILURE TO PAY PROPER SICK PAY
(Lab. Code § 246)
(Plaintiff and Sick Pay Class)

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

88. Labor Code Section 246 affords an employee “who works in California for 30 or more days within a year from the commencement of employment [] paid sick days . . . of not less than one hour per every 30 hours worked” and “no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.”

89. Additionally, Subsection (l) of Section 246 provides:

For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

90. Defendants had a common policy and practice of systemically failing to pay Plaintiff and **Sick Pay Class** Members the requisite sick time pay in accordance with California Law. Specifically, Plaintiff and **Sick Pay Class** Members worked for Defendants for more than 30 days, but were not paid at least one hour of sick pay for every 30 hours of work, or at least 3 days of sick time for every 12 month period of work. Additionally, the sick pay paid to Plaintiff and **Sick Pay Class** Members did not account for the performance-based non-discretionary bonuses, which were never factored into the rate upon which sick pay was accrued and paid.

91. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties pursuant to Labor Code § 558(a).

FIFTH CAUSE OF ACTION
FAILURE TO PAY VACATION WAGES
(Lab. Code § 227.3)
(Plaintiff and Vacation Pay Class)

92. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

93. California Labor Code section 227.3 provides:

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

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

95. However, Defendants implemented a common policy and practice of failing to pay Plaintiff and **Vacation Pay Class** members for all accrued vacation wages upon separation of employment, in violation of Labor Code 227.3. Specifically, Plaintiff and **Vacation Pay Class** Members accrued vested vacation time and/or paid time off. However, the vacation time paid to Plaintiff and **Vacation Pay Class** Members did not account for the performance-based non-discretionary bonuses, which were never factored into the rate upon which vacation pay was accrued and paid.

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

97. Plaintiff, on behalf of himself and the members of the **Vacation Pay Class**, seeks interest thereon pursuant to California Labor Code section 218.6, costs pursuant to California Labor Code section 218.6, and reasonable attorneys' fees pursuant to California Code of Civil

1 Procedure section 1021.5.

2 **SIXTH CAUSE OF ACTION**

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

4 **(Lab. Code § 226)**

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

6 98. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
7 herein.

8 99. Labor Code section 226(a) states:

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

100. The Division of Labor Standards Enforcement ("DLSE") has sought to harmonize the
"detachable part of the check" provision and the "accurate itemized statement in writing" provision
of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
retains the right to elect to receive a written paper stub or record and that those who are provided with

1 electronic wage statements retain the ability to easily access the information and convert the electronic
2 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

3 101. Plaintiff is informed and believes that, at all relevant times during the applicable
4 limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members
5 with written wage statements as described above. Additionally, the wage statements issued to class
6 members failed to account for the unpaid minimum wages, overtime, and premium pay wages
7 described above.

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

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

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

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

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

22 107. Defendants failed to comply with Labor Code section 226(a)(9) as "all applicable
23 hourly rates in effect during the pay period and the corresponding number of hours worked at each
24 hourly rate by the employee" were not accurately reflected in that: all hours worked, including
25 overtime, were not included.

26 108. Plaintiff is informed and believes that Defendants' failure to provide Plaintiff and
27 **Wage Statement Class** members with accurate written wage statements was intentional in that
28 Defendants have the ability to provide them with accurate wage statements but have intentionally

1 provided them with written wage statements that Defendants have known do not comply with Labor
2 Code section 226(a).

3 109. Plaintiff and **Wage Statement Class** members have suffered injuries, in that
4 Defendants have violated their legal rights to receive accurate wage statements and have misled them
5 about their actual rates of pay and wages earned. In addition, inaccurate information on their wage
6 statements has prevented immediate challenges to Defendants' unlawful pay practices, has required
7 discovery and mathematical computations to determine the amount of wages owed, has caused
8 difficulty and expense in attempting to reconstruct time and pay records, and/or has led to the
9 submission of inaccurate information about wages and deductions to federal and state government
10 agencies.

11 110. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
12 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in
13 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
14 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
15 \$4000.00 per class member, as well as awards of reasonable attorneys' fees and costs.

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO INDEMNIFY**

18 **(Lab. Code § 2802)**

19 **(Plaintiff and Reimbursement Class)**

20 111. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
21 herein.

22 112. Labor Code section 2802(a) states:

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

28 113. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff
and **Expense Reimbursement Class** Members were required to drive their personal cars during work

1 hours and for work purposes, incurring fuel and mileage expenses. Plaintiff and **Expense**
2 **Reimbursement Class** Members were not reimbursed for these necessary work-related expenses.

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

6 115. Plaintiff, on behalf of himself, and **Expense Reimbursement Class** members, seeks
7 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and
8 costs pursuant to Code of Civil Procedure section 1021.5.

9 **EIGHTH CAUSE OF ACTION**

10 **UNFAIR COMPETITION**

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

12 **(Plaintiff and UCL Class)**

13 116. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
14 herein.

15 117. Business and Professions Code section 17200 defines "unfair competition" to include
16 any unlawful business practice.

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

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

24 120. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,
25 THIRD, FOURTH, FIFTH, AND SEVENTH causes of action herein.

26 121. Plaintiff lost money or property as a result of the aforementioned unfair competition.

27 122. Defendants have or may have acquired money by means of unfair competition.

28 123. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor

1 Code violations described in this Complaint, Defendants violated Labor Code sections, 215, 216, 225,
2 226.6, 226.7, 227.3, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
3 1199, and 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit the
4 violations alleged herein.

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

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

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

18 127. Plaintiff is informed and believes that other similarly situated persons have been
19 subject to the same unlawful policies or practices of Defendants.

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

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

26 130. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
27 Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
28 Defendants, and each of them, and their agents and employees, from further violations of the Labor

1 Code and applicable Wage Orders.

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

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

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

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

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

23 **NINTH CAUSE OF ACTION**

24 **CIVIL PENALTIES**

25 **(Lab. Code §§ 2698, *et seq.*)**

26 136. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

27 137. During the applicable limitations period, Defendants have violated Labor Code §§
28 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 246, 510, 512, 515, 558, 558.1, 1174, 1174.5,

1 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.¹

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

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

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

18 141. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
19 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a),
20 227.3, 246, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 21 a. For violations of Labor Code §§ 201, 202, 203, 226.7, 227.3, 246, 1174, 1194,
22 1198 and 2802, one hundred dollars (\$100) for each employee per pay period for
23 each initial violation and two hundred dollars (\$200) for each employee per pay
24 period for each subsequent violation (penalties set by Labor Code § 2699(f)(2));

25
26 ¹ Plaintiff hereby reserves the right to seek penalties on behalf of all Aggrieved Employees,
27 for Defendants’ violations of the applicable provisions of the Labor Code, suffered by Aggrieved
28 Employees, but not directly suffered by Plaintiff under *Huff v. Securitas Security Services USA, Inc.*
(2018) 23 Cal.App.5th 745.

- 1 b. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
2 (30) days' pay as waiting time (penalties set by Labor Code § 256);
- 3 c. For violations of Labor Code § 204, one hundred dollars (\$100) for each
4 employee for each initial violation that was neither willful nor intentional, two
5 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
6 withheld from each employee, for each initial violation that was either willful or
7 intentional, and two hundred dollars (\$200) for each employee, plus twenty-five
8 percent (25%) of the amount unlawfully withheld from each employee, for each
9 subsequent violation, regardless of whether the subsequent violation was either
10 willful or intentional (penalties set by Labor Code § 210);
- 11 d. For violations of Labor Code § 223, one hundred dollars (\$100) for each
12 employee for each initial violation that was neither willful nor intentional, two
13 hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of the
14 amount unlawfully withheld from each employee, for each initial violation that
15 was either willful or intentional, and two hundred dollars (\$200) for each
16 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
17 from each employee, for each subsequent violation, regardless of whether the
18 subsequent violation was either willful or intentional (penalties set by Labor
19 Code § 225.5);
- 20 e. For violations of Labor Code § 226(a), if this action is deemed to be an initial
21 citation, two hundred and fifty dollars (\$250) for each employee for each
22 violation. Alternatively, if an initial citation or its equivalent occurred before the
23 filing of this action, one thousand dollars (\$1,000) for each employee for each
24 violation (penalties set by Labor Code § 226.3);
- 25 f. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each
26 employee for each initial pay period for which the employee was underpaid, and
27 one hundred dollars (\$100) for each employee for each subsequent pay period for
28 which the employee was underpaid (penalties set by Labor Code § 558);

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

2 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general
3 public, prays for relief and judgment against Defendants as follows:

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

19
20 Dated: August 5, 2024

D.LAW, INC.

21
22 /s/ David Keledjian

23 Emil Davtyan
24 David Yeremian
25 David Keledjian
26 David Arakelyan
27 Attorneys for Plaintiff
28 PAUL GARVES, and the putative class

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DEMAND FOR JURY TRIAL

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

Dated: August 5, 2024 D.LAW, INC.

/s/ David Keledjian
Emil Davtyan
David Yeremian
David Keledjian
David Arakelyan
Attorneys for Plaintiff
PAUL GARVES, and the putative class

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

Amber A. Eklof
GORDON REES SCULLY MANSUKHANI, LLP
 315 Pacific Avenue
 San Francisco, CA 94111
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[] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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


Jordan Floyd