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Attorneys for Plaintiff Jorge Luis Zapata,
on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JORGE LUIS ZAPATA, an individual, on
behalf of himself and others similarly
situated,

Plaintiff,

vs.

HOLMAN LOGISTICS, a business entity of
unknown form; HOLMAN DISTRIBUTION
CENTER OF WASHINGTON, INC., a
Washington corporation; DIVERSIFIED
EMPLOYMENT SERVICES, LLC d/b/a
CORE STAFFING SOLUTIONS, a California
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CIVSB2410692

CLASS ACTION

Assigned for All Purposes To:
Hon. Jay H. Robinson
Dept.: S35 - SBJC

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a)
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Temperatures Under the Wage Order;
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: March 29, 2024
Trial Date: None Set

1 Plaintiff JORGE LUIS ZAPATA (hereinafter “Plaintiff”), on behalf of himself and all
2 other similarly situated non-exempt, hourly workers employed by Defendants in California
3 (collectively, “Employees”; individually, “Employee”) complains of Defendants, and each of
4 them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all other similarly situated
7 current and former Employees within the State of California who, at any time from four years
8 prior to the filing of this lawsuit, are or were employed at offices in California by Defendants
9 HOLMAN LOGISTICS, a business entity of unknown form; HOLMAN DISTRIBUTION
10 CENTER OF WASHINGTON, INC., a Washington corporation; DIVERSIFIED
11 EMPLOYMENT SERVICES, LLC d/b/a CORE STAFFING SOLUTIONS, a California limited
12 liability company; and DOES 1 through 50, inclusive (all defendants being collectively referred to
13 as “Defendants”). Plaintiff alleges that Defendants, and each of them, violated various provisions
14 of the California Labor Code, relevant orders of the Industrial Welfare Commission (“IWC”), and
15 the California Business & Professions Code, and seeks redress for these violations.

16 2. Plaintiff is a resident of California and San Bernardino County, and during the time
17 period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee
18 within the State of California. Plaintiff was initially placed as a temporary employee of
19 Defendants HOLMAN LOGISTICS and HOLMAN DISTRIBUTION CENTER OF
20 WASHINGTON, INC. (“Holman” Defendants) at their facility in Ontario, California and within
21 the County of San Bernardino prior to being hired directly by Holman. Upon information and
22 belief, the Holman Defendants operate out of several facilities in California and Defendant
23 DIVERSIFIED EMPLOYMENT SERVICES, LLC d/b/a CORE STAFFING SOLUTIONS
24 (hereinafter, “Core Staffing”) is a recruiting and temporary staffing company, which jointly
25 employs Employees it has placed at the Holman facilities. Plaintiff and the other similarly situated
26 Employees of Defendants worked in Defendants’ facilities at Defendants’ behest and without
27 being paid all wages due and without being provided all their required meal periods and rest
28 breaks. Upon information and belief, Plaintiff was employed by Defendants and shared similar job

1 duties and responsibilities, was subjected to the same policies and practices, and endured similar
2 violations at the hands of Defendants as the other Employee Class members who served in similar
3 and related positions at the Holman facilities in California, including both those Employees who
4 were directly hired by Holman and those hired through Core Staffing and placed with Holman.

5 3. Defendants failed to pay Plaintiff and the Employees in the Class for all their hours
6 worked and failed to record accurate times worked by these Employees, including by requiring off
7 the clock work, failed to pay them at the appropriate rates for all hours worked, failed to pay all
8 wages due and owing at termination or resignation, and provided Plaintiff and the Class members
9 with inaccurate wage statements that prevented them from learning of these unlawful pay
10 practices. Defendants also failed to provide Plaintiff and the Class with lawful meal and rest
11 periods, as Employees were required to remain under Defendants' control and take shortened or
12 late or interrupted meal periods and were not provided with the opportunity to take full
13 uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code and the
14 applicable paragraphs of the IWC Wage Orders.

15 4. Defendant HOLMAN LOGISTICS is a business entity of unknown form and is not
16 registered with the California Secretary of State. HOLMAN LOGISTICS is listed as an employer
17 on documents provided to Plaintiff and, upon information and belief, Class members, including
18 Plaintiff's paystubs, during the relevant time period that Plaintiff was employed with Defendants.
19 The address provided for HOLMAN LOGISTICS on Plaintiff's wage statements is 22430 76th
20 Avenue South, Kent, Washington 98032. On its website, holmanusa.com, HOLMAN LOGISTICS
21 states that it "provides public and contract warehousing in over 7 million sq. ft of warehousing
22 space," and "offers manufacturing logistics and transportation services for both consumer
23 packaged goods (CPG) and durable goods clients in facilities in every corner of the U.S. with
24 multiple operations in 8 states, while providing employment for more than 1400 full-time and
25 temporary employees." HOLMAN LOGISTICS operates and maintains warehouses in California,
26 including in Ontario, California. Plaintiff and the Class members were employed by HOLMAN
27 LOGISTICS at these warehouses throughout California, including in San Bernardino County.
28 Defendant HOLMAN LOGISTICS, upon information and belief, employs Employee Class

1 members at its California warehouses either directly or through temporary staffing agencies, such
2 as named Defendant Core Staffing, and Core Staffing, upon information and belief, employs and
3 places certain Employees in the Class, such as Plaintiff, at the HOLMAN LOGISTICS
4 warehouses in California.

5 5. Defendant HOLMAN DISTRIBUTION CENTER OF WASHINGTON, INC. is a
6 Washington corporation which lists with the California Secretary of State its principal executive
7 offices at 22430 76th Avenue South, Kent, Washington 98032. HOLMAN DISTRIBUTION
8 CENTER OF WASHINGTON, INC. is listed as an employer on documents provided to Plaintiff
9 and, upon information and belief, Class members, including Plaintiff's W-2, during the relevant
10 time period that Plaintiff was employed with Defendants. The address provided for HOLMAN
11 DISTRIBUTION CENTER OF WASHINGTON, INC. on Plaintiff's W-2 is 22430 76th Avenue
12 South, Kent, Washington 98032.

13 6. Defendant DIVERSIFIED EMPLOYMENT SERVICES, LLC d/b/a CORE
14 STAFFING SOLUTIONS ("Core Staffing") is a California limited liability company that lists
15 with the California Secretary of State its principal executive offices at 655 South Main Street, No.
16 200, PMB 199, Orange, California 92868. "DIVERSIFIED EMPLOYMENT SERVICES, LLC"
17 is listed as the registrant of the business name "Core Staffing Solutions" with the Orange County
18 Clerk Recorder. "Core Staffing Solutions" is listed as an employer on documents provided to
19 Plaintiff and, upon information and belief Class members, including Plaintiff's paystubs, during
20 the relevant time period that Plaintiff was employed with Defendants.

21 7. Upon information and belief, Holman hires Employees either directly or through
22 staffing agencies such as Core Staffing. Upon information and belief, Holman also maintains
23 control over key aspects of the employment of Plaintiff and the Class members, including
24 controlling their scheduled hours and working conditions, controlling when they receive meal
25 periods and rest breaks and when they are authorized to work overtime, and sets the policies and
26 practices which govern their employment. Although Plaintiff was paid by and received wage
27 statements from Core Staffing, it was an employer of Plaintiff along with Holman, who jointly
28 controlled the hours worked by Plaintiff and the Class members, including by setting and

1 controlling their wage rates and their daily working conditions and the policies and practices that
2 governed their daily employment. Holman did the same thing for any Class members it hired
3 directly (including Plaintiff) to work in its California facilities and for Class members hired
4 through other staffing agencies.

5 8. Additionally, under California Labor Code § 2810.3, Holman shares with Core
6 Staffing, and any other staffing agency it uses, in civil legal responsibility for all workers supplied
7 to Holman for their collective failure to pay all earned wages. California Labor Code § 2810.3
8 requires that “A client employer shall share with a labor contractor all civil legal responsibility and
9 civil liability for all workers supplied by that labor contractor for...the payment of wages.” A
10 “labor contractor” (here, e.g., Core Staffing), is defined as “an individual or entity that supplies,
11 either with or without a contract, a client employer with workers to perform labor within the client
12 employer’s usual course of business.” “Client employer” (here Holman) is defined as “a business
13 entity, regardless of its form, that obtains or is provided workers to perform labor within its usual
14 course of business from a labor contractor.” Upon information and belief, Defendant Holman is
15 and has been a client employer within the definition of Labor Code § 2810.3 and shares with Core
16 Staffing, the labor contractor, all civil legal responsibility and civil liability for failure to pay all
17 wages earned by Plaintiff and the Class Members.

18 9. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
20 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
21 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
22 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
23 obligations and liabilities giving rise to this lawsuit occurred, at least in part in San Bernardino
24 County, as Defendant Holman operates warehouses in Ontario, California in San Bernardino
25 County, which is also where Plaintiff and the Class members were placed and worked by
26 Defendants. Upon information and belief, Defendant Core Staffing also maintains offices and
27 facilities in San Bernardino County and throughout California and places Employees there.
28 Defendants therefore employ Plaintiff and other Class members in San Bernardino County and at

1 all the other offices and facilities Defendants maintain and operate throughout California,
2 including in Ontario, California, and venue is proper in San Bernardino County.

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

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

22 **FACTUAL BACKGROUND**

23 12. The Employees who comprise the Class, including Plaintiff, are non-exempt
24 employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare
25 Commission ("IWC"). During the period of four years prior to the filing of this action through its
26 resolution, Plaintiff and the Class members were either not paid by Defendants for all hours
27 worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also
28 contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing,

1 including by under-recording of hours worked, requiring off the clock work, failing to provide
2 meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages
3 owed, all in violation of various provisions of the California Labor Code and applicable
4 paragraphs of the IWC Wage Orders.

5 13. During the course of Plaintiff's and the Class members' employment with
6 Defendants, they were not paid all wages they were owed, including for all work performed
7 (resulting in "off the clock" work) and for all their overtime hours worked. This has resulted in
8 systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders.
9 Upon information and belief, Defendants employ other non-exempt, hourly Employees at their
10 warehouses in California. Upon information and belief, Defendants' employment of Plaintiff and
11 the Class members is not governed under a collective bargaining agreement.

12 14. Plaintiff's position included driving a forklift, pallet work, wrapping pallets,
13 inserting items in boxes, packing food, offloading containers, order picking, loading and clean up.
14 Plaintiff was generally scheduled to work the shift starting at 1:30 p.m. and ending at 10:30 p.m.
15 However, upon information and belief, there was usually a shift ending when another was
16 starting. Therefore, it was common for Plaintiff and Class members to stand in line at the
17 timeclock when clocking in/out for shifts. As such, in order for Plaintiff and Class members to
18 begin work promptly at their scheduled shift start time, Plaintiff, and upon information and belief
19 the other Class members, began working or were otherwise under Defendants' control at least
20 five to ten minutes before their scheduled shift start time.

21 15. Several times per week, Plaintiff and upon information and belief other Class
22 members worked beyond their scheduled shifts to complete the job duties and work tasks
23 Defendants required of them and/or to respond to work related calls, texts, and/or messages on
24 their personal cell phones. Therefore, upon information and belief, Defendants failed to
25 compensate Plaintiff and the Class members for the time they were working and performing job
26 duties or otherwise under Defendants' control outside their scheduled shift start time. At the end
27 of the work shift, Plaintiff was also typically compelled to remain past the end of his scheduled
28 shift time to complete his work.

1 16. Defendants did this, upon information and belief, in connection with other
2 Employees in a concerted effort to limit and restrict overtime incurred by Plaintiff and the other
3 Class members. However, given the off the clock work and issues with meal periods and their
4 timing (discussed below), Plaintiff worked beyond eight hours. As a result of the above-described
5 off the clock work, Defendants failed to pay Plaintiff and Class members overtime for finishing
6 tasks at the end of work shifts, which Defendants did not record in timekeeping.

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

18 18. Defendants have either failed to maintain timekeeping records for Plaintiff that
19 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants'
20 required and the actual hours Plaintiff worked, or have otherwise declined to produce them to
21 Plaintiff in response to a timely and lawful request. By editing time records, or requiring Plaintiff
22 and the Class member to clock in and out for time periods showing less hours than were actually
23 worked or reflecting compliant meal periods that were not provided, and by failing to pay for all
24 hours worked, Defendants have committed knowing and intentional ongoing violations of the
25 record keeping requirements under the Labor Code §§ 226 and 1174.

26 19. On September 22, 2023, Plaintiff's Counsel requested his payroll and personnel
27 files from the Defendants. On November 9, 2023, Plaintiff's Counsel made a second request.
28 Both requests were ignored. As of the date of this filing, Defendants have also failed to produce

1 Plaintiff's entire personnel file despite multiple requests to that end. Defendants have either
2 failed to maintain timekeeping records for Plaintiff that would permit Plaintiff to discover the
3 nature and extent of the off the clock work Defendants' required and the actual hours Plaintiff
4 worked, or have otherwise declined to produce them to Plaintiff in response to a timely and
5 lawful request. By failing to pay for all hours worked, Defendants have committed knowing and
6 intentional ongoing violations of the record keeping requirements under the Labor Code §§ 226
7 and 1174.

8 20. As a result of the above-described unlawful requirements to work off the clock,
9 the failure to accurately record all hours worked, and the other wage violations they endured at
10 Defendants' hands, Plaintiff and the Class members were not properly paid all wages earned and
11 all wages owed to them by Defendants, including when working more than eight hours in any
12 given day and/or more than forty hours in any given week. As a result of Defendants' unlawful
13 policies and practices, Plaintiff and Class members incurred overtime hours worked for which
14 they were not adequately and completely compensated, in addition to the hours they were
15 required to work off the clock at their regular rates.

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

28

1 22. Defendants also failed to provide Plaintiff and the Class members with their
2 required first and second meal periods, and their first, second, and third required rest breaks. The
3 many and different work demands from managers did not permit those working to take their
4 required breaks or complete all required work within the scheduled times. The above described
5 off the clock work and failure to pay for all hours worked also contributed to Defendants'
6 common policy of failing to provide lawful meal periods to Plaintiff and the Class members, as
7 required under the Labor Code and Paragraph 11 of the applicable IWC Wage Order(s).
8 Defendants similarly systematically failed to authorize and permit Plaintiff and the employee
9 Class Members to take all required 10-minute rest breaks, as required under the Labor Code and
10 Paragraph 12 of the IWC Wage Order(s).

11 23. Defendants thus also failed to schedule rest breaks and meal periods and failed to
12 ensure there was adequate staffing so that Employees could take proper meal periods and rest
13 breaks. Due to the volume of work and demands from managers, Plaintiff and Class members
14 were often unable to take a timely meal period before the start of the fifth hour of work.
15 Moreover, on days when Employees worked beyond ten hours, Defendants failed to provide them
16 with an opportunity to take a second meal period or a third rest breaks. Even when Plaintiff was
17 able to receive a timely first meal period or able to take both rest breaks, these would be
18 interrupted by phone calls, texts, and/or group chat messages he received to his mobile phone
19 from managers and work personnel regarding work-related matters. Defendants' unlawful
20 communications often compelled Plaintiff and Class members to cut their meal periods and rest
21 breaks short to complete urgent work tasks at the expense of their breaks. Upon information and
22 belief, Defendants failed to compensate Plaintiff and the Class members for the time they were
23 under control of Defendants during their meal periods and rest breaks.

24 24. When it came time for a meal period or break, Plaintiff had to ensure that he had
25 completed all his work in a timely manner. Often, the volume of work was so heavy was that it
26 would be impossible for Plaintiff to finish his tasks on time if he took all his required rest breaks.
27 Likewise, due to fast paced nature of the work, Plaintiff was on occasion unable to take a meal
28 period until after his fifth hour of work. On work shifts when Plaintiff typically worked more

1 than ten (10) hours, he was not provided a second meal period or third rest break. Even when
2 Plaintiff was able to take rest breaks or was able to take a timely meal period, his meal periods
3 and rest breaks would be interrupted by phone calls, texts, and/or group chat messages from his
4 supervisors and peers. These communications routinely required that Plaintiff cut his meal
5 periods and rest breaks short to respond to them. Therefore, even when Plaintiff and Class
6 members were provided with timely meal periods and rest breaks, these would frequently be
7 interrupted by work-related calls, texts, or messages which they had to respond to. Accordingly,
8 Defendants' practices and policies often resulted in late and/or interrupted meal periods and
9 missed and/or interrupted rest breaks.

10 25. Defendants thus failed to provide all the legally required unpaid, off-duty meal
11 periods and all the legally required paid, off-duty rest periods to Plaintiff and the other Class
12 members, as required by the applicable Wage Orders and Labor Code. Defendants did not have a
13 policy or practice which provided or recorded all the legally required unpaid, off-duty meal
14 periods and all the legally required paid, off-duty rest periods to the Plaintiff and the other Class
15 members. Plaintiff and other Class members were required to perform work as ordered by
16 Defendants or otherwise remain under Defendants' control for more than five hours during a shift,
17 or ten hours in a shift, but were often required to do so without receiving a lawful, timely, and
18 duty-free 30-minute meal break. Additionally, as addressed above, Defendants followed a practice
19 of requiring off the clock work in a manner that would impact when Employees were to receive
20 meal periods and rest breaks, thus leading to further violations.

21 26. As a result, Defendants' failure to provide Plaintiff and the Class members with all
22 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
23 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants have
24 either failed to maintain required records of when meal periods were actually provided or failed to
25 produce them in response to Plaintiff's timely and lawful requests, or else maintained inaccurate
26 and incomplete records. Defendants also failed to pay Employees "premium pay," i.e. one hour of
27 wages at each Employee's effective hourly rate of pay, for each meal period or rest break that
28 Defendants failed to provide or deficiently provided.

1 27. Therefore, for at least four years prior to the filing of this action and through to the
2 present, Plaintiff and the Class members were unable to take off-duty breaks or were otherwise not
3 provided with the opportunity to take required meal breaks due to Defendants' policies and
4 practices. On the occasions when Plaintiff and the Class members were provided with a meal
5 period, it was often untimely or interrupted, or was impermissibly shortened, and Employees were
6 not provided with one hour's wages in lieu thereof. Meal period violations thus occurred in one or
7 more of the following manners:

- 8 (a) Class members were not provided full thirty-minute duty free meal periods
9 for work days in excess of five hours and were not compensated one hour's
10 wages in lieu thereof, all in violation of, among others, Labor Code §§
11 226.7, 512, and the applicable Industrial Welfare Commission Wage
12 Order(s);
- 13 (b) Class members were not provided second full thirty-minute duty free meal
14 periods for work days in excess of ten hours;
- 15 (c) Class members were required to work through at least part of their daily
16 meal period(s);
- 17 (d) Meal periods were provided after five hours of continuous work during a
18 shift; and
- 19 (e) Class members were restricted in their ability to take a full thirty-minute
20 meal period.

21 28. Defendants also failed to authorize and permit Plaintiff and the Class members to
22 take duty-free, net ten minute rest breaks for ever four hours of shift work, or major fraction
23 thereof. There were similar issues with the required net ten-minute rest breaks Plaintiff and the
24 Class members were not authorized and permitted to take as with meal periods. The work
25 demands placed upon Plaintiff, and the unlawful rounding of and failure to pay for all their hours
26 worked, also manifested in Defendants' failure to authorize and permit duty-free, net ten-minute
27 rest periods.

1 29. Due to the off the clock work addressed above, rest periods were often provided
2 late and were untimely, or Plaintiff and the Class members were required to work through their
3 breaks or remain under Defendants' control during them. Therefore, the job requirements and
4 duties required of Plaintiff and the Class members manifested in a failure to authorize and permit
5 Class members to take all their required rest breaks. Plaintiff and the other similarly situated
6 Class members were either not authorized and permitted the opportunity to take a rest break, or
7 were required to remain under Defendants' control during them or otherwise had them
8 impermissibly shortened.

9 30. Defendants' policies and practices thus systematically deny and denied Plaintiff
10 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
11 periods. Employers must permit and authorizes employees to take off-duty rest periods. That is,
12 during rest periods employers must relieve employees of all duties and relinquish control over
13 how employees spend their time. Plaintiff and the Class members were and are under Defendants'
14 control when they are working through rest breaks or receiving them late or shortened.

15 31. Plaintiff and the Defendants' Employees in the Class were therefore not authorized
16 and permitted to take lawful rest periods, were systematically required by Defendants to work
17 through or during breaks, and were not provided with one hour's wages in lieu thereof. They
18 were required to remain on-duty during breaks or portions of their breaks, thus making them
19 either untimely or shortened and on-duty, and they were also effectively prevented from leaving
20 the premises during rest breaks under Defendants' policies and practices. Rest period violations
21 therefore arose in one or more of the following manners:

- 22 (a) Class members were required to work without being provided a minimum
23 ten minute rest period for every four hours or major fraction thereof
24 worked and were not compensated one hour of pay at their regular rate of
25 compensation for each workday that a rest period was not provided;
- 26 (b) Class members were not authorized and permitted to take timely rest
27 periods for every four hours worked, or major fraction thereof; and
- 28 (c) Class members were required to remain on-duty and perform work tasks or

1 remain under Defendants' control during rest periods or otherwise had
2 their rest periods interrupted by work demands.

3 32. From at least four years prior to the filing of this lawsuit and continuing to the
4 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or
5 deducting the Employees' earned wages, including by the above described off the clock work and
6 on-duty work while on unpaid meal breaks and by Defendants' policy and practice of editing
7 records or requiring Plaintiff and the Class members to create time punch records that did not
8 reflect their actual hours worked. By not compensating Employees for all hours worked,
9 Defendants unlawfully deducted wages earned by and owed to Plaintiff and the Class members, in
10 violation of Labor Code § 221.

11 33. As a result of the above described illegal policies and practices, Defendants
12 engaged in and enforced the following additional unlawful practices and policies against Plaintiff
13 and the Class members he seeks to represent:

- 14 (a) failing to pay all wages owed to Class members who either were
15 discharged, laid off, or resigned in accordance with the requirements of
16 Labor Code §§ 201, 202, 203;
- 17 (b) failing to pay all wages owed to the Class members twice monthly in
18 accordance with the requirements of Labor Code § 204;
- 19 (c) failing to pay Class members all wages owed, including all meal and rest
20 period premium wages;
- 21 (d) failing to maintain accurate records of Class members' earned wages and
22 meal periods in violation of Labor Code §§ 226 and 1174(d) and section 7
23 of the applicable IWC Wage Orders; and
- 24 (e) failing to produce timekeeping records in response to Plaintiff's timely and
25 lawful request to receive them under these authorities.

26 34. From at least four years prior to the filing of this lawsuit, and continuing to the
27 present, Defendants have also consistently failed to provide Employees with timely, accurate, and
28 itemized wage statements, in writing, as required by California wage-and-hour laws, including by

1 the above-described requirement of off the clock work, unlawful rounding, failure to pay all
2 overtime or pay it at the correct rate, and failure to pay premium wages for unprovided or
3 otherwise unlawful meal and rest breaks. Defendants have also made it difficult to account with
4 precision for the unlawfully withheld wages and meal and rest period compensation owed to
5 Plaintiff and the Class, during the liability period, because they did not implement and preserve a
6 record-keeping method as required for non-exempt employees by California Labor Code §§ 226,
7 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief,
8 time clock punches were not maintained or were not accurately maintained for work shifts and
9 meal periods, which were automatically presumed by Defendants to have been lawfully provided
10 when they were not. Defendants also failed to accurately record and pay for all regular and
11 overtime hours worked by Plaintiff and the Class members. Plaintiff was not provided with the
12 opportunity to review his timekeeping records for accuracy and to ensure that he was being paid
13 correctly. Upon information and belief, the other similarly situated Class members endured similar
14 violations at Defendants' hands.

15 35. Defendants have thus also failed to comply with Labor Code § 226(a) by failing to
16 issue any wage statements and by issuing wage statements that inaccurately reported total hours
17 worked and total wages earned by Plaintiff and the Class members, along with the appropriate
18 applicable rates, among other requirements. Plaintiff and Class members are therefore entitled to
19 penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code § 226(b). Defendants
20 have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by
21 failing to maintain time records showing when the employee begins and ends each work period,
22 meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by
23 itemizing in wage statements all deductions from payment of wages and accurately reporting total
24 hours worked by the Class members. Upon information and belief, Defendants Core Staffing and
25 Holman also failed to provide Employees such as Plaintiff with written notice complying with all
26 the requirements of Labor Code § 2810.5.

27 36. Defendants also required Plaintiff and the Class members to work hours off the
28 clock for which they were not compensated, including during interrupted or otherwise on-duty

1 meal and rest periods. Defendants also failed to pay all overtime premium wages owed for work
2 conducted on a work shift and a workday, as addressed above. Therefore, from at least four years
3 prior to filing this lawsuit and continuing to the present, Defendants have also followed a uniform
4 and consistent policy of failing to pay all wages owed to Plaintiff and other similarly situated
5 Employees at the time of their termination or within seventy-two hours of their resignation, as
6 required by California wage-and-hour laws. In view of the above addressed violations, Defendants
7 have also failed to pay all wages owed to Plaintiff and the Class members twice monthly in
8 accordance with the requirements of Labor Code § 204. Additionally, upon information and belief,
9 Defendant Holman is and has been a client employer within the definition of Labor Code §
10 2810.3. Therefore, Core Staffing, the labor contractor, must share all civil legal responsibility and
11 civil liability for the payment of all wages earned by Plaintiff and the Class Members with
12 Holman.

13 37. Defendants also failed to maintain facilities or take procedures to relieve Plaintiff
14 and the Class members from the high temperatures they were required to endure during hot
15 weather. By failing to maintain temperatures providing reasonable comfort levels consistent with
16 industry-wide standards for the nature and process of the work performed, Defendants violated
17 paragraph 15 of the applicable IWC Wage Orders, and are entitled to civil penalties as appropriate.

18 38. Additionally, from at least four years prior to the filing of this lawsuit and
19 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
20 incur necessary business expenses in the course of performing their required job duties without
21 reimbursement. These included the cell phone related expenses Plaintiff incurred in responding to
22 calls, texts and messages from managers and colleagues as well as protective gear maintenance
23 whereby Plaintiff and Class Members laundered their company vest with the company logo
24 without compensation. Plaintiff and the Class members must be reimbursed for these necessary
25 business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

26 39. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
27 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.7, 510,
28 511, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698 *et. seq.* and California Code of

Regulations, Title 8, section 11000 *et seq.* and applicable provisions of the IWC Wage Orders.

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

CLASS ALLEGATIONS

41. Plaintiff brings this class action on behalf of himself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four 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 at Defendants’ facilities within the State of California.” Further, Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

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

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

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

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

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

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

11 i. Subclass 9. Failure to Maintain Reasonable Temperature Subclass: All Class
12 members who, within the applicable limitations period, were required by Defendants to work in
13 areas with temperatures that were not maintained to provide reasonable comfort consistent with
14 applicable standards.

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

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

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

25 43. Defendants, as a matter of company policy, practice and procedure, and in violation
26 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,
27 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
28 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time

1 worked by the Plaintiff and the other members of the Class, even though Defendants enjoyed the
2 benefit of this work, required Employees to perform this work and permitted or suffered to permit
3 this work. Defendants have uniformly denied these Class members wages to which these
4 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
5 order to unfairly cheat the competition and unlawfully profit.

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

11 **A. Numerosity**

12 45. The potential members of the Class as defined are so numerous that joinder of all
13 the Class members is impracticable. While the precise number of Class member has not been
14 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
15 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
16 Class definition within the State of California. Plaintiff alleges that Defendants' employment
17 records will provide information as to the number and location of all Class members.

18 **B. Commonality**

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

- 25 a. Whether Defendants failed to pay Employees minimum wages;
- 26 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 27 c. Whether Defendants failed to pay Employees overtime as required under Labor
28 Code § 510;

- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements;
- g. Whether Defendants violated Labor Code § 221;
- h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- i. Whether Defendants' conduct was willful;
- j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- m. Whether Defendants violated Labor Code § 1198 and paragraph 15 of the applicable IWC Wage Orders by failing to maintain work area temperatures at a reasonable comfort level consistent with industry standards;
- n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*;
- o. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*; and
- p. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;

1 q. Whether Core Staffing should share with Holman responsibility for all workers
2 placed at Holman's California facilities under California Labor Code § 2810.3.

3 **C. Typicality**

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

10 **D. Adequacy of Representation**

11 48. Plaintiff will fairly and adequately represent and protect the interest of the
12 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
13 experienced and competent in litigating employment class actions.

14 **E. Superiority of Class Action**

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

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

1 to vindicate their rights for violations they endured which they would otherwise be foreclosed
2 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

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

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

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

24 **FIRST CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM WAGES**

26 **(Against All Defendants)**

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

1 55. Defendants failed to pay Employees minimum wages they were owed, including
2 by their consistent policy of failing to pay Employees for all hours worked. Employees would
3 work hours and not receive wages, including as alleged above in connection with off the clock
4 work, including all the time required to remain on duty and under Defendants' control and during
5 breaks and due to the work demands placed upon them by Defendants' management, all
6 addressed in detail above. Defendants, and each of them, have also intentionally and improperly
7 rounded, changed, adjusted and/or modified Employee hours, and/or required Employees to do
8 so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Class
9 members, which resulted in off the clock work and underpayment of all wages owed to
10 Employees over a period of time, while benefiting Defendants. Defendants' uniform pattern of
11 unlawful wage and hour practices manifested, without limitation, applicable to the Class as a
12 whole, as a result of implementing a uniform policy and practice that denied accurate
13 compensation to Plaintiff and the other members of the Class as to minimum wage pay.

14 56. In California, employees must be paid at least the then applicable state minimum
15 wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014,
16 and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H)
17 of the applicable IWC Wage Orders defines "Hours Worked" as "the time during which an
18 employee is subject to the control of an employer, and includes all the time the employee is
19 suffered or permitted to work, whether or not required to do so." Additionally, pursuant to
20 California Labor Code § 204, other applicable laws and regulations, and public policy, an
21 employer must timely pay its employees for all hours worked. Defendants failed to do so.

22 57. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"
23 states: "The minimum wage for employees fixed by the commission is the minimum wage to be
24 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

25 58. The applicable minimum wage rate fixed by the commission for work during the
26 relevant period is found in the Wage Orders.

27 59. The minimum wage provisions of California Labor Code are enforceable by private
28 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to

1 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
2 overtime compensation applicable to the employee is entitled to recover in a civil action the
3 unpaid balance of the full amount of this minimum wage or overtime compensation, including
4 interest thereon, reasonable attorney's fees and costs of suit."

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

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

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

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

28

1 64. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
2 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
3 interest thereon.

4 65. Also, California Labor Code §1198 instructs that: states, “the maximum hours of
5 work and the standard conditions of labor fixed by the commission shall be the maximum hours of
6 work and the standard conditions of labor for employees. The employment of any employee for
7 longer hours than those fixed by the order or under conditions of labor prohibited by the order is
8 unlawful.” Paragraph 4 of the applicable IWC Wage Orders require the payment of minimum
9 wages for all hours worked, and that all wages earned in a pay period be paid during that period.
10 Defendants’ policies and practices violated these IWC Wage Order requirements. Under Section
11 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class members are entitled to recover
12 civil penalties, in addition to other penalties, for each underpaid Employee for violation of Section
13 4 of the IWC Wage Orders in the amount of \$50 for the initial violation and \$100 for subsequent
14 violations during each relevant pay period when Defendants failed wages for all hours worked.
15 These violations also give rise to violations of Labor Code §§ 203 and 226.

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

19 67. Additionally, under California Labor Code § 2810.3, Holman shares with Core
20 Staffing, and any other staffing agency it uses, in civil legal responsibility for all workers
21 supplied to Holman for their collective failure to pay all earned wages. California Labor Code §
22 2810.3 requires that “A client employer shall share with a labor contractor all civil legal
23 responsibility and civil liability for all workers supplied by that labor contractor for...the
24 payment of wages.” A “labor contractor” (here, e.g., Core Staffing) is defined as “an individual
25 or entity that supplies, either with or without a contract, a client employer with workers to
26 perform labor within the client employer's usual course of business.” “Client employer” (here
27 Holman) is defined as “a business entity, regardless of its form, that obtains or is provided
28 workers to perform labor within its usual course of business from a labor contractor.” Upon

1 information and belief, Defendant Holman is and has been a client employer within the
2 definition of Labor Code § 2810.3 and shares with Core Staffing, the labor contractor, all civil
3 legal responsibility and civil liability for the payment of all wages earned by Plaintiffs and the
4 Class Members. Holman is a joint employer of Plaintiff and some of the Class Members with
5 Core Staffing, including for the reasons set forth above. Holman also directly hires some Class
6 members, including Plaintiff, who were subject to similar policies and practices as those
7 Employees placed with Holman by Core Staffing.

8 68. Wherefore, Plaintiff and the Employee Class members are entitled to recover the
9 unpaid minimum wages (including double minimum wages), liquidated damages in an amount
10 equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees
11 and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of
12 the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs,
13 as well as the assessment of any statutory and/or civil penalties against Defendants, in a sum as
14 provided by the California Labor Code, including § 558, and/or other applicable statutes. To the
15 extent minimum wage compensation is determined to be owed to the Class members who have
16 terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202,
17 and therefore these individuals are also be entitled to waiting time penalties under California
18 Labor Code § 203, which penalties are sought herein on behalf of these Class members.
19 Defendants' failure to timely pay all wages owed also violated Labor Code § 204 for failure to pay
20 all wages owed twice monthly, and resulted in violations of Labor Code § 226 because they
21 resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was
22 willful, intentional and not in good faith. Further, Plaintiff and other Class members are entitled to
23 seek and recover statutory costs.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

26 **(Against All Defendants)**

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

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

7 71. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
8 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
9 Industrial Welfare Commission) by failing to pay Employees for all their hours worked, including:
10 (a) time and one-half their regular hourly rates for hours worked in excess of eight hours in a
11 workday or in excess of forty hours in any workweek or for the first eight hours worked on the
12 seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked
13 in excess of twelve hours in any one day or for hours worked in excess of eight hours on any
14 seventh day of work in a workweek. Defendants had a consistent policy of not paying Employees
15 wages for all hours worked, including by requiring off the clock work, as addressed above, and by
16 under-reporting actual hours worked. With work shifts generally being scheduled for eight hours
17 or more, this unpaid off the clock work resulted in Plaintiff and the Class members working past
18 eight hours on a shift, which required that they be paid at the correct overtime rate of 1.5 times
19 their regular rate.

20 72. Defendants thus had a consistent policy of not paying Employees wages for all
21 hours worked, including hours at their required regular, overtime, and double-time rates.
22 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
23 and/or modified certain employees’ hours, including Plaintiff’s, and/or required Plaintiff and the
24 Class members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff
25 and the Class members all earned and owed straight time and overtime wages and other benefits,
26 in violation of the California Labor Code, the California Code of Regulations and the IWC Wage
27 Orders and guidelines set forth by the Division of Labor Standards and Enforcement.

28

1 73. Defendants have also violated these provisions by requiring Plaintiff and other
2 similarly situated non-exempt employees to work through meal periods when they were required
3 to be clocked out or to otherwise work off the clock to complete their daily job duties. Based on
4 information and belief, Defendants did not make available to Employees a reasonable protocol for
5 correcting time records when Employees worked overtime hours or to fix incorrect time entries or
6 those that Defendants unlawfully under-recorded to the Employee's detriment.

7 74. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
8 regular wages owed and overtime compensation for all hours worked, as required by California
9 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
10 IWC Wage Order, and is therefore unlawful.

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

24 76. Defendants' failure to pay compensation in a timely fashion also constituted a
25 violation of California Labor Code § 204, which requires that all wages shall be paid
26 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
27 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
28 and overtime compensation earned by Employees. Each such failure to make a timely payment of

1 compensation to Employees constitutes a separate violation of California Labor Code § 204.

2 77. Employees have been damaged by these violations of California Labor Code §§
3 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
4 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
5 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
6 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
7 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
8 any order or ruling of the commission.”

9 78. Additionally, under California Labor Code § 2810.3, Holman shares with Core
10 Staffing, and any other staffing agency it uses, in civil legal responsibility for all workers
11 supplied to Holman for their collective failure to pay all earned wages. California Labor Code §
12 2810.3 requires that “A client employer shall share with a labor contractor all civil legal
13 responsibility and civil liability for all workers supplied by that labor contractor for...the
14 payment of wages.” A “labor contractor” (here, e.g., Core Staffing) is defined as “an individual
15 or entity that supplies, either with or without a contract, a client employer with workers to
16 perform labor within the client employer's usual course of business.” “Client employer” (here
17 Holman) is defined as “a business entity, regardless of its form, that obtains or is provided
18 workers to perform labor within its usual course of business from a labor contractor.” Upon
19 information and belief, Defendant Holman is and has been a client employer within the
20 definition of Labor Code § 2810.3 and shares with Core Staffing, the labor contractor, all civil
21 legal responsibility and civil liability for the payment of all wages earned by Plaintiffs and the
22 Class Members. Holman is a joint employer of Plaintiff and other Class Members, with Core
23 Staffing, including for the reasons set forth above.

24 79. Consequently, pursuant to the California Labor Code, including Labor Code §§
25 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders,
26 including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full
27 amount of all their unpaid wages and overtime compensation for all their hours worked, with
28 interest, plus their reasonable attorneys’ fees and costs, as well as the assessment of any statutory

1 penalties against Defendants, and each of them, and any additional sums as provided by the
2 Labor Code and/or other statutes.

3 **THIRD CAUSE OF ACTION**

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

5 **(Against All Defendants)**

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

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

13 82. Defendants failed to provide Employees with meal periods as required under the
14 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were often required
15 to work or to otherwise remain under Defendants' control during meal periods, or Defendants
16 provided them after Employees worked beyond the fifth hour of their shifts or Employees
17 otherwise had them shortened and interrupted by work demands and requirements to remain under
18 Defendants' control. Furthermore, upon information and belief, on the occasions when Employees
19 worked more than ten hours in a given shift, they did so without receiving a second uninterrupted
20 thirty-minute meal period as required by law.

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

25 84. Moreover, Defendants failed to compensate Employees for each meal period not
26 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
27 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
28 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
2 is not provided. Defendants failed to compensate the Employees in the Class for each meal period
3 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11
4 and 20 of the applicable IWC Wage Orders. To the extent Defendants did pay any meal period
5 premium, upon information and belief they also failed to include all forms of remuneration,
6 including bonuses, in the regular rate used to calculate and pay the premium.

7 85. Upon information and belief, Defendant Holman is and has been a client employer
8 within the definition of Labor Code § 2810.3. Therefore, Core Staffing, the labor contractor, must
9 share all civil legal responsibility and civil liability for the payment of all wages earned by
10 Plaintiff and the Class Members, with Holman, including the premium penalty wages owed for
11 Defendants' failure to provide meal periods.

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

18 **FOURTH CAUSE OF ACTION**

19 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

20 **(Against All Defendants)**

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

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

26 89. Employees consistently worked consecutive four hour shifts and were generally
27 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
28 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable

1 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
2 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
3 breaks of not less than ten minutes for each consecutive four hour shift. Employees were often
4 required to work or to otherwise remain under Defendants' control during rest periods, and had
5 breaks provided untimely as a result of the above described off the clock work. Plaintiff and the
6 Class members were also not permitted to leave their work premises during rest breaks.

7 90. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
8 Orders provide that if an employer fails to provide an employee rest period in accordance with this
9 section, the employer shall pay the employee one hour of pay at the employee's regular rate of
10 compensation for each workday that the rest period is not provided.

11 91. Defendants, and each of them, have therefore intentionally and improperly denied
12 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
13 paragraph 12 of the applicable IWC Wage Orders.

14 92. Defendants failed to authorize and permit Plaintiff and the Class members to take
15 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
16 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
17 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
18 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants did pay any rest break
19 premium, upon information and belief they also failed to include all forms of remuneration,
20 including bonuses, in the regular rate used to calculate and pay the premium.

21 93. Upon information and belief, Defendant Holman is and has been a client employer
22 within the definition of Labor Code § 2810.3. Therefore, Core Staffing, the labor contractor, must
23 share all civil legal responsibility and civil liability for the payment of all wages earned by
24 Plaintiff and the Class Members, with Holman, including the premium penalty wages owed for
25 Defendants' failure to provide rest breaks.

26 94. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
27 applicable IWC Wage Orders, Employee Class members are entitled to damages in an amount
28 equal to one (1) hour of wages at their effective hourly rates of pay for each day worked without

1 the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory
2 penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or
3 other statutes.

4 **FIFTH CAUSE OF ACTION**
5 **VIOLATION OF LABOR CODE § 226(a)**
6 **(Against All Defendants)**

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

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

16 97. Defendants also failed to provide Plaintiff and the similarly situated Employee
17 Class members with accurate itemized wage statements in writing, as required by the Labor Code
18 and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements given to
19 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
20 including by failing to pay for all overtime hours worked at the correct rate of pay and for
21 providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably
22 should have known were owed to the Employees, as alleged above.

23 98. Throughout the liability period, Defendants intentionally failed to furnish to
24 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
25 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
26 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
27 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
28 the employee and only the last four digits of his or her social security number or an employee

1 identification number other than a social security number, (8) the name and address of the legal
2 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
3 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
4 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
5 requirements. Defendants knowingly and intentionally failed to provide Plaintiff and the Class
6 members with such timely and accurate wage and hour statements.

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

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

1 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
2 IWC Wage Orders.

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

9 102. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
10 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater of
11 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
12 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
13 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e), and are entitled to
14 recover further penalties pursuant to paragraphs 4(B) and 20 of the applicable IWC Wage Orders.
15 They are also entitled to an award of costs and reasonable attorneys' fees.

16 **SIXTH CAUSE OF ACTION**
17 **VIOLATION OF LABOR CODE § 221**
18 **(Against All Defendants)**

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

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

26 105. Defendants unlawfully received and/or collected wages from the Employees in the
27 Class by implementing a policy understating the hours worked by Employees, by requiring off the
28 clock work and by failing to pay overtime and premiums at the required and correctly calculated

1 regular rate, and by automatically deducting time for meal periods when they were not lawfully
2 provided, as alleged above.

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

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

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

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

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

1 or overtime wages to which he or she was entitled.

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

11 111. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
12 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
13 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
14 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
15 applicable IWC Wage Orders.

16 **EIGHTH CAUSE OF ACTION**
17 **VIOLATION OF LABOR CODE § 203**
18 **(Against All Defendants)**

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

21 113. Plaintiff and numerous Class members are no longer employed by Defendants; they
22 either quit Defendants’ employ or were fired therefrom.

23 114. Defendants failed to pay these Employees all wages due and certain at the time of
24 termination or within seventy-two hours of resignation, as addressed in detail above.

25 115. The wages withheld from these Employees by Defendants remained due and owing
26 for more than thirty days from the date of separation from employment.

27 116. Defendants failed to pay Plaintiff and the Class members without abatement, all
28 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
2 or requiring off the clock work or by unlawfully under-recording time entries to the detriment of
3 Employees and failing to pay Employees at the correctly calculated rate for overtime, and
4 Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as
5 further detailed in this Complaint. Defendants' failure to pay said wages within the required time
6 was willful within the meaning of Labor Code § 203.

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

19 118. Upon information and belief, Defendant Holman is and has been a client employer
20 within the definition of Labor Code § 2810.3. Therefore, Core Staffing, the labor contractor, must
21 share all civil legal responsibility and civil liability for the payment of all wages earned by
22 Plaintiff and the Class Members, with Holman, including the failure to pay all wages due and
23 owing upon termination or separation from Defendants' employment.

24 119. Defendants' failure to pay wages, as alleged, entitles Plaintiff and these former
25 Employee Class members to penalties under Labor Code § 203 and the applicable paragraphs of
26 the IWC Wage Orders as addressed above, including the requirement that an employee's wages
27 shall continue until paid for up to thirty (30) days from the date they were due.
28

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO MAINTAIN TEMPERATURES UNDER THE WAGE ORDERS**

3 **(Against All Defendants)**

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

6 121. Under Labor Code § 1198, “[t]he employment of any employee for longer hours
7 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
8 Additionally, paragraph 15 of the applicable IWC Wage Orders requires the following regarding
9 the temperatures maintained at employers facilities within California: “(A) The temperature
10 maintained in each work area shall provide reasonable comfort consistent with industry-wide
11 standards for the nature of the process and the work performed. (B) If excessive heat or humidity
12 is created by the work process, the employer shall take all feasible means to reduce such excessive
13 heat or humidity to a degree providing reasonable comfort...”

14 122. Under Labor Code §1199: “Every employer or other person acting either
15 individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and
16 is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less
17 than 30 days, or by both, who does any of the following: (a) Requires or causes any employee to
18 work for longer hours than those fixed, or under conditions of labor prohibited by an order of the
19 commission. (b) Pays or causes to be paid to any employee a wage less than the minimum fixed by
20 an order of the commission...”

21 123. During the relevant time period, as detailed above, Defendants violated Labor Code
22 §§ 1198 and 1199 and paragraph 15 of the IWC Wage Orders by failing to provide Plaintiff and
23 other aggrieved employees with reasonable comfort. Defendants failed to maintain facilities or
24 take procedures to relieve Plaintiff and the Class members from the high temperatures they were
25 required to endure during hot weather. While there were guard sheds or shacks at many of the
26 outdoor postings, Plaintiff and the impacted Class members were unable to sit in them unless for
27 brief periods given their traffic control and other duties that had to be performed outside of any
28 cover or shelter.

124. These practices and policies resulted in Defendants' failure to maintain temperature providing reasonable comfort in violation of Labor Code §§ 1198 and 1199 and paragraph 15 of the applicable IWC Wage Orders. Plaintiff and the Class members may therefore pursue damages and penalties for violations of Labor Code §§ 1198 and 1199 and paragraph 15 of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable IWC Wage Orders, in an amount to be determined at trial.

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802

(Against All Defendants)

125. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

126. Plaintiff is informed and believes and based thereon alleges that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. Defendants required Plaintiff and the Class members to use their cellular phones to conduct work related business, as well as protective gear maintenance whereby Plaintiff and Class Members laundered their company vest with the company logo without compensation as addressed above. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

127. 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.

128. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff 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 Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and

1 necessary expenses was an expected and essential function of their employment with Defendants
2 and that failure to incur those expenses would have adverse consequences on their employment.

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

9 **ELEVENTH CAUSE OF ACTION**
10 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***
11 **(Against All Defendants)**

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

14 131. Plaintiff, on behalf of himself, the Employees in the Class, and the general public,
15 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
16 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
17 harmful to Employees and the general public. Plaintiff seeks to enforce important rights affecting
18 the public interest within the meaning of Code of Civil Procedure § 1021.5.

19 132. Plaintiff is a "person" within the meaning of Business & Professions Code
20 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
21 relief, restitution, and other appropriate equitable relief.

22 133. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
23 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
24 fraudulent in that Defendants' policy and practice failed to provide the required amount of
25 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
26 Class members for all hours worked, due to systematic business practices as alleged herein that
27 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
28 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*

1 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California
2 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

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

TWELFTH CAUSE OF ACTION

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

(Against All Defendants)

141. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

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

143. In failing to pay Aggrieved Employees minimum wages and overtime, not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants 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.

144. 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.

145. More specifically, after complying with the notice procedures of Labor Code § 2699.3, Plaintiff asserts, 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 Plaintiff 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 Plaintiff 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);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,

1 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by
2 providing inaccurate wage statements and failing to maintain records as required under Labor
3 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor
4 Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a
5 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial
6 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
7 citation, ...";

8 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
9 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
10 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
11 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
12 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
13 § 2699(g)(1);

14 (e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For
15 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the
16 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
17 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
18 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
19 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs
20 pursuant to Labor Code § 2699(g)(1);

21 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code Sections:
22 For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of
23 which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking
24 penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the
25 applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code §
26 2699(g)(1).

27 146. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also
28 seeks the penalties and remedies set forth in Labor Code § 558, which states:

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

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

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

11 147. Plaintiff has exhausted his administrative remedies by submitting a certified letter to
12 the LWDA and Defendants on March 29, 2024 (LWDA-CM-1019455-24) addressing in detail the
13 specific provisions of the Labor Code Defendants have violated and addressing the facts and legal
14 theories to support the alleged violations and requested penalties. The LWDA has not provided
15 notice of its intent to investigate the alleged violations within 65 calendar days of the postmark
16 date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations
17 addressed herein and in the PAGA Notice letter and the original Complaint.

18 **RELIEF REQUESTED**

19 WHEREFORE, Plaintiff prays for the following relief:

- 20 1. For an order certifying this action as a class action;
- 21 2. For compensatory damages in the amount of the unpaid minimum wages for work
22 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
23 the filing of this action, as may be proven;
- 24 3. For liquidated damages in the amount equal to the unpaid minimum wage and
25 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 26 4. For compensatory damages in the amount of all unpaid wages, including overtime
27 and double-time pay, as may be proven;

1 5. For compensatory damages in the amount of the hourly wage made by Employees
2 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
3 years prior to the filing of this action, as may be proven;

4 6. For compensatory damages in the amount of the hourly wage made by Employees
5 for each day requisite rest breaks were not provided or were deficiently provided where no
6 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
7 be proven;

8 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

9 8. For restitution and/or damages and penalties for Defendants' failure to pay all
10 wages due twice monthly under Labor Code § 204, as may be proven;

11 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
12 for all class members in violation of Labor Code § 221, as may be proven;

13 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
14 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

15 11. For damages and civil penalties as appropriate under Labor Code §§ 1198 and 1199
16 and paragraphs 15 and 20 of the applicable IWC Wage Orders for Defendants' failure to maintain
17 reasonable temperatures in the workplace, as may be proven;

18 12. For restitution for unfair competition pursuant to Business & Professions Code
19 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

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

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

22 15. For an order enjoining Defendants and their agents, servants, and employees, and
23 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
24 duties adumbrated in this Complaint;

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

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

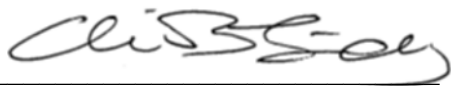
27 18. For an award of pre-judgment and post-judgment interest;

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- 19. For an award providing for the payment of the costs of this suit;
- 20. For an award of attorneys' fees; and
- 21. For such other and further relief as this Court may deem proper and just.

DATED: June 4, 2024

D.LAW, INC.

By 
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Jorge Luis Zapata and all
others similarly situated

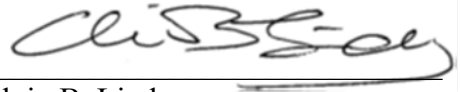
DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

DATED: June 4, 2024

D.LAW, INC.

By



Alvin B. Lindsay

Jean Hopkins Power

Attorneys for Jorge Luis Zapata and all
others similarly situated

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