

1 D.LAW, INC.
 Emil Davtyan (SBN 299363)
 2 emil@d.law
 David Yeremian (SBN 226337)
 3 d.yeremian@d.law
 David Keledjian (SBN 309135)
 4 d.keledjian@d.law
 Kevin Burns (SBN 352713)
 5 k.burns@d.law
 880 E. Broadway
 Glendale, CA 91205
 Telephone: (818) 962-6465
 Facsimile: (818) 962-6469

9 Attorneys for Plaintiff BRENT RAYMOND ABBOTT

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

13 BRENT RAYMOND ABBOTT, on behalf of
 14 himself and all others similarly situated, and
 the general public,

15 *Plaintiff,*

16 v.

17 WESTERN UNIVERSITY OF HEALTH
 SCIENCES, a California corporation; and
 18 DOES 1 through 50, inclusive,

19 *Defendants.*

Case No.: 24STCV09686

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

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION COMPLAINT**

1. Failure to Provide Meal Periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198);
2. Failure to Provide Rest Periods (Lab. Code §§ 204, 223, 226.7 and 1198);
3. Failure to Pay Hourly Wages and Overtime (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1197.1 and 1198);
4. Failure to Provide Accurate Written Wage Statements (Lab. Code §§ 226(a));
5. Failure to Timely Pay All Final Wages (Lab. Code §§ 201, 202 and 203);
6. Failure to Indemnify (Lab. Code § 2802);
7. Unfair Competition (Bus. & Prof. Code §§ 17200 *et seq.*);
8. Civil Penalties (Lab. Code § 2698, *et seq.*)

JURY TRIAL DEMANDED

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

3 **INTRODUCTION**

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

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

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

22 **JURISDICTION AND VENUE**

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

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

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

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

PARTIES

5. Plaintiff BRENT RAYMOND ABBOTT is, and at all relevant times mentioned herein, an individual residing in the State of California.

6. Plaintiff is informed and believes, and thereupon alleges that Defendant WESTERN UNIVERSITY OF HEALTH SCIENCES is, and at all relevant times mentioned herein, a California corporation doing business in the State of California.

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

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

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

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

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

- 7 a. **Hourly Employee Class:** All persons employed by Defendants, collectively or
8 separately, and/or any staffing agencies and/or any other third parties in hourly or
9 non-exempt positions in California four years prior to the filing of this action and
10 ending on the date that final judgment is entered in this action (“Hourly Employee
11 Class”).
- 12 b. **Meal Period Sub-Class:** All **Hourly Employee Class** members who worked in
13 a shift in excess of five hours during the four years prior to the filing of this action
14 and ending on the date that final judgment is entered in this action.
- 15 c. **Rest Period Sub-Class:** All **Hourly Employee Class** members who worked a
16 shift of at least three and one-half (3.5) hours the four years prior to the filing of
17 this action and ending on the date that final judgment is entered in this action.
- 18 d. **Waiting Time Penalties Sub-Class:** All **Hourly Employee Class** members who
19 separated from their employment with Defendants during the period beginning
20 three years before the filing of this action and ending when final judgment is
21 entered.
- 22 e. **Wage Statement Class:** All persons employed by Defendants in California during
the period beginning one year before the filing of this action and ending when final
judgment is entered.
- 23 f. **Expense Reimbursement Class:** All persons employed by Defendants in
California who incurred business expenses during the **Relevant Time Period**.
- 24 g. **UCL Class:** All **Hourly Employee Class** and **Expense Reimbursement Class**
25 members employed by Defendants in California during the four years prior to the
26 filing of this action and ending on the date that final judgment is entered in this
27 action.

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

 13. **Numerosity:** The class members are so numerous that the individual joinder of each
individual class member is impractical. While Plaintiff does not currently know the exact number of
class members, Plaintiff is informed and believes, and thereupon alleges that the actual number

1 exceeds the minimum required for numerosity under California law.

2 14. **Commonality and Predominance:** Common questions of law and fact exist as to all
3 class members and predominate over any questions which affect only individual class members.

4 These common questions include, but are not limited to:

- 5 a. Whether Defendants maintained a policy or practice of failing to provide
6 employees with their rest periods;
- 7 b. Whether Defendants maintained a policy or practice of failing to provide
8 employees with their meal periods;
- 9 c. Whether Defendants failed to pay premium wages to class members when they
10 have not been provided with meal and rest periods at the appropriate rates of pay;
- 11 d. Whether Defendants failed to pay minimum and/or overtime wages to class
12 members for all time worked;
- 13 e. Whether Defendants failed to provide class members with accurate written wage
14 statements as a result of providing them with written wage statements with
15 inaccurate entries for, among other things, amounts of gross and net wages, and
16 total hours worked;
- 17 f. Whether Defendants applied policies or practices that result in late and/or
18 incomplete final wage payments;
- 19 g. Whether Defendants failed to reimburse class members for all necessary business
20 expenses incurred during the discharge of their duties;
- 21 h. Whether Defendants are liable to class members for waiting time penalties under
22 Labor Code section 203; and
- 23 i. Whether class members are entitled to restitution of money or property that
24 Defendants may have acquired from them through unfair competition;

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

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

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

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

19 **GENERAL ALLEGATIONS**

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

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

1 Plaintiff and Class members only for the hours they were scheduled to work, rather than the hours
2 they were actually under Defendants' control. Plaintiff contends this policy is not neutral and results,
3 over time, to the detriment of the Plaintiff and Class members by systematically undercompensating
4 them.

5 21. Next, Plaintiff and Class Members were also consistently required to perform work,
6 off-the-clock, for which they were not paid wages. Specifically, Plaintiff and Class Members were
7 systemically required to conduct COVID checks off-the-clock. Defendants also required Plaintiff and
8 Class Members to conduct work activities before clocking in, including reviewing orders, sending
9 emails, answering messages, and other activities. Further, Defendants required Plaintiff and Class
10 Members to use their personal cell phone for work activities, such as communications with clients,
11 coworkers, and supervisors. Finally, Defendants required Plaintiff and Class Members to work during
12 unpaid, off-the-clock meal periods, discussed herein. The foregoing and uncompensated work time
13 was under the control and direction of Defendants, for which no wages were paid.

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

17 23. Defendants had a common policy and practice of systemically denying Plaintiff and
18 Class Members the opportunity to take meal periods in compliance with the California Law.
19 Specifically, due to understaffing and heavy workloads, Plaintiff and Class Members were denied the
20 opportunity to take timely meal periods prior to the completion of their fifth hour of work.
21 Furthermore, Plaintiff and Class Members were not relieved of all work duties during unpaid meal
22 periods and were required to keep working during meal breaks.

23 24. Plaintiff and Class Members were not provided with meal periods of at least thirty (30)
24 minutes for each five (5) hour work period due to (1) Defendants' policy of not scheduling each meal
25 period as part of each work shift; (2) no formal written meal policy that encouraged employees to
26 take their meal periods, or that advised Class Members of their meal and rest period rights; and (3)
27 Defendants' practice of requiring putative class members to continue working through their meal and
28 rest periods due to the excessive workload.

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

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

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

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

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

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

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

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

33. Plaintiff and Class Members were not reimbursed for business expenses incurred in executing their duties under Defendant's employ. Specifically, Defendants required Plaintiff and Class Members to use their personal cell phones for work-related activities, incurring costs for phone use, internet, and phone maintenance. Additionally, Defendants required Plaintiff and Class Members to use their personal vehicles for work-related activities, incurring costs for gasoline, car maintenance, and other various transportation costs. Defendants never reimbursed Plaintiff and Class Members for these necessary work-related activities.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

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

(Plaintiff and Meal Period Sub-Class)

34. Plaintiff incorporates by reference the preceding paragraphs of the Complaint as if fully alleged herein.

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

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

37. Labor Code section 226.7 and Section 11 of the applicable Industrial Welfare Commission Wage Order (“Wage Order”) both prohibit employers from requiring employees to work during required meal periods and require employers to pay non-exempt employees an hour of

1 premium wages on each workday that the employee is not provided with the required meal period.

2 38. Compensation for missed meal periods constitutes wages within the meaning of Labor
3 Code section 200.

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

6 40. Section 11 of the applicable Wage Order states:

7 No employer shall employ any person for a work period of more than
8 five (5) hours without a meal period of not less than 30 minutes, except
9 that when a work period of not more than six (6) hours will complete
10 the day's work the meal period may be waived by mutual consent of
11 the employer and employee. Unless the employee is relieved of all duty
12 during a 30 minute meal period, the meal period shall be considered an
13 'on duty' meal period and counted as time worked. An 'on duty' meal
period shall be permitted only when the nature of the work prevents an
employee from being relieved of all duty and when by written
agreement between the parties an on-the-job paid meal period is agreed
to. The written agreement shall state that the employee may, in writing,
revoke the agreement at any time.

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

17 42. Plaintiff alleges that, at all relevant times during the applicable limitations period,
18 Defendants maintained a policy or practice of not providing Plaintiff and members of the **Meal Period**
19 **Sub-Class** with uninterrupted, duty-free meal periods for at least thirty (30) minutes for each five (5)
20 hour work period, as required by Labor Code section 512 and the applicable Wage Order.
21 Specifically, Plaintiff and **Meal Period Sub-Class** Members were prohibited from leaving the work
22 premises during meal periods, when such meal periods were taken. Additionally, due to understaffing
23 and heavy workloads, Plaintiff and **Meal Period Sub-Class** Members were denied the opportunity to
24 take timely meal periods prior to the completion of their fifth hour of work. Furthermore, Plaintiff
25 and **Meal Period Sub-Class** Members were not relieved of all work duties during unpaid meal
26 periods.

27 43. Plaintiff alleges that, at all relevant times during the applicable limitations period,
28 Defendants maintained a policy or practice of failing to pay premium wages to **Meal Period Sub-**

1 **Class** members when they worked five (5) hours without clocking out for any meal period.

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

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

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

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

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

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REST PERIODS**

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

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

21 49. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
22 herein.

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

26 51. Section 12 of the applicable Wage Order imposes an affirmative obligation on
27 employers to permit and authorize employees to take required rest periods at a rate of no less than ten
28 (10) minutes of net rest time for each four (4) hour work period, or major fraction thereof, that must

1 be in the middle of each work period insofar as practicable.

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

6 53. Compensation for missed rest periods constitutes wages within the meaning of Labor
7 Code section 200.

8 54. Labor Code section 1198 makes it unlawful to employ a person under conditions that
9 violate the Wage Order.

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

14 56. Plaintiff and **Rest Period Sub-Class** members were not provided with rest periods of
15 at least ten (10) minutes for each four (4) hour work period, or major fraction thereof, due to (1)
16 Defendants' policy of not scheduling each rest period as part of each work shift, including second
17 rest breaks for shifts of six (6) hours or more; (2) no formal compliant written rest period policy that
18 encouraged employees to take their rest periods, or that properly advised **Rest Period Sub-Class**
19 members of their rest period rights; (3) Defendants' policy and practice of requiring **Rest Period**
20 **Sub-Class** members to remain on the premises during their rest breaks; (4) Defendants' policy and
21 practice of requiring **Rest Period Sub-Class** members to continue working through their rest breaks
22 due to the excessive workload and maintaining and monitoring their cellular phones during breaks.

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

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

28 59. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the

1 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and **Rest**
2 **Period Sub-Class** members, seeks to recover reasonable attorneys' fees.

3 **THIRD CAUSE OF ACTION**

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

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

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

7 60. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
8 herein.

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

12 62. Section 2 of the applicable Wage Order defines "hours worked" as "the time during
13 which an employee is subject to the control of the employer, and includes all the time the employee
14 is suffered or permitted to work, whether or not required to do so."

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

18 64. Labor Code section 1194 invalidates any agreement between an employer and an
19 employee to work for less than the minimum or overtime wage required under the applicable Wage
20 Order.

21 65. Labor Code section 1194.2 entitles non-exempt employees to recover liquidated
22 damages in amounts equal to the amounts of unpaid minimum wages and interest thereon in addition
23 to the underlying unpaid minimum wages and interest thereon.

24 66. Labor Code section 1197 makes it unlawful for an employer to pay an employee less
25 than the minimum wage required under the applicable Wage Order for all hours worked during a
26 payroll period.

27 67. Labor Code section 1197.1 provides that it is unlawful for any employer or any other
28 person acting either individually or as an officer, agent or employee of another person, to pay an

1 employee, or cause an employee to be paid, less than the applicable minimum wage.

2 68. Labor Code section 1198 makes it unlawful for employers to employ employees under
3 conditions that violate the applicable Wage Order.

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

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

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

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

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

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

25 75. Plaintiff and **Hourly Employee Class** members were not paid proper wages and
26 overtime for all hours worked, at the proper rates of pay. First, Defendants implemented an unlawful
27 time-rounding policy and practice which rounded down and reduced the actual working hours
28 recorded by Plaintiff and **Hourly Employee Class**, and upon which their pay was based, and

1 generally did so to the detriment of the Plaintiff and **Hourly Employee Class**, and these unlawfully
2 rounded time entries were inputted into Defendants' payroll system from which wage statements and
3 payroll checks were created. Defendants did so with the ostensible intent of paying Plaintiff and
4 **Hourly Employee Class** members only for the hours they were scheduled to work, rather than the
5 hours they were actually under Defendants' control. Plaintiff contends this policy is not neutral and
6 results, over time, to the detriment of the Plaintiff and **Hourly Employee Class** members by
7 systematically undercompensating them.

8 76. Plaintiff and **Hourly Employee Class** members were consistently required to perform
9 work, off-the-clock for which they were not paid wages. Specifically, Plaintiff and **Hourly Employee**
10 **Class** members were systemically required to attend weekly training sessions, for which no wages
11 were paid. This uncompensated time caused Plaintiff and **Hourly Employee Class** members to work
12 in excess of eight (8), ten (10), and twelve (12) hours a day and/or forty (40) hours a week, entitling
13 Plaintiff and **Hourly Employee Class** members to minimum and overtime wages, which they were
14 systemically denied.

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

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

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

28 80. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the

1 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
2 **Hourly Employee Class** members, seeks to recover reasonable attorneys' fees.

3 **FOURTH CAUSE OF ACTION**

4 **RECOVERY OF REPORTING TIME PAY**

5 **(Plaintiff and Reporting Time Pay Sub-Class)**

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

8 82. The IWC Wage Orders, require that reporting time pay be provided to any employee
9 who is required to report for work and does report, but is not put to work or is furnished less than
10 half said employee's usual or scheduled day's work.

11 83. Plaintiff is informed and believes and thereon alleges that all or substantially all the
12 **Reporting Time Pay Sub-Class** are subject to Defendants' policies and practices requiring them to
13 call in or otherwise show up to work but not being paid half said their usual or scheduled day's
14 work.

15 84. Therefore, **Reporting Time Pay Sub-Class** Members are owed the unpaid balance
16 of said wages pursuant to the Wage order according to proof at trial, Interest pursuant to Labor
17 Code §§ 218.6 and 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and
18 costs and/or penalties pursuant to Labor Code § 558(a).

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PAY PROPER SICK PAY**

21 **(Lab. Code § 246)**

22 **(Plaintiff and Sick Pay Class)**

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

25 86. Labor Code Section 246 affords an employee "who works in California for 30 or
26 more days within a year from the commencement of employment [] paid sick days . . . of not less
27 than one hour per every 30 hours worked" and "no less than 24 hours of accrued sick leave or paid
28

1 time off by the 120th calendar day of employment or each calendar year, or in each 12-month
2 period.”

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

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

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

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

18 89. Therefore, **Sick Pay Class** Members are owed the unpaid balance of said wages
19 pursuant to the Wage order according to proof at trial, interest pursuant to Labor Code §§ 218.6 and
20 1194(a), Civil Code §§ 3287 and § 3289, and reasonable attorneys' fees and costs and/or penalties
21 pursuant to Labor Code § 558(a).

22 **SIXTH CAUSE OF ACTION**

23 **FAILURE TO PAY VACATION WAGES**

24 **(Lab. Code § 227.3)**

25 **(Plaintiff and Vacation Pay Class)**

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

27 91. California Labor Code section 227.3 provides:

28 Unless otherwise provided by a collective-bargaining agreement,
whenever a contract of employment or employer policy provides for
paid vacations, and an employee is terminated without having taken off
his vested vacation time, all vested vacation shall be paid to him as

1 wages at his final rate in accordance with such contract of employment
2 or employer policy respecting eligibility or time served; provided,
3 however, that an employment contract or employer policy shall not
4 provide for forfeiture of vested vacation time upon termination. The
Labor Commissioner or a designated representative, in the resolution
of any dispute with regard to vested vacation time, shall apply the
principles of equity and fairness.

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

8 93. However, Defendants implemented a common policy and practice of failing to pay
9 Plaintiff and **Vacation Pay Class** members for all accrued vacation wages upon separation of
10 employment, in violation of Labor Code 227.3.

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

14 95. Plaintiff, on behalf of himself and the members of the **Vacation Pay Class**, seeks
15 interest thereon pursuant to California Labor Code section 218.6, costs pursuant to California
16 Labor Code section 218.6, and reasonable attorneys' fees pursuant to California Code of Civil
17 Procedure section 1021.5.

18 **SEVENTH CAUSE OF ACTION**

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

20 **(Lab. Code § 226)**

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

22 96. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
23 herein.

24 97. Labor Code section 226(a) states:

25 An employer, semimonthly or at the time of each payment of wages,
26 shall furnish to his or her employee, either as a detachable part of the
check, draft, or voucher paying the employee's wages, or separately if
27 wages are paid by personal check or cash, an accurate itemized
statement in writing showing (1) gross wages earned, (2) total hours
28 worked by the employee, except as provided in subdivision (j), (3) the
number of piece-rate units earned and any applicable piece rate if the

1 employee is paid on a piece-rate basis, (4) all deductions, provided that
2 all deductions made on written orders of the employee may be
3 aggregated and shown as one item, (5) net wages earned, (6) the
4 inclusive dates of the period for which the employee is paid, (7) the
5 name of the employee and only the last four digits of his or her social
6 security number or an employee identification number other than a
7 social security number, (8) the name and address of the legal entity that
8 is the employer and, if the employer is a farm labor contractor, as
9 defined in subdivision (b) of Section 1682, the name and address of the
10 legal entity that secured the services of the employer, and (9) all
11 applicable hourly rates in effect during the pay period and the
12 corresponding number of hours worked at each hourly rate by the
employee and, beginning July 1, 2013, if the employer is a temporary
services employer as defined in Section 201.3, the rate of pay and the
total hours worked for each temporary services assignment. The
deductions made from payment of wages shall be recorded in ink or
other indelible form, properly dated, showing the month, day, and year,
and a copy of the statement and the record of the deductions shall be
kept on file by the employer for at least three years at the place of
employment or at a central location within the State of California. For
purposes of this subdivision, ‘copy’ includes a duplicate of the itemized
statement provided to an employee or a computer-generated record that
accurately shows all of the information required by this subdivision.

13 98. The Division of Labor Standards Enforcement (“DLSE”) has sought to harmonize the
14 “detachable part of the check” provision and the “accurate itemized statement in writing” provision
15 of Labor Code section 226(a) by allowing for electronic wage statements so long as each employee
16 retains the right to elect to receive a written paper stub or record and that those who are provided with
17 electronic wage statements retain the ability to easily access the information and convert the electronic
18 statements into hard copies at no expense to the employee. (DLSE Opinion Letter July 6, 2006).

19 99. Plaintiff is informed and believes that, at all relevant times during the applicable
20 limitations period, Defendants have failed to provide Plaintiff and **Wage Statement Class** members
21 with written wage statements as described above. Additionally, the wage statements issued to class
22 members failed to account for the unpaid minimum wages, overtime, and premium pay wages
23 described above.

24 100. Furthermore, Defendants failed to provide Plaintiff and **Wage Statement Class**
25 Members with paper pay stubs as required by Labor Code § 226, applicable Wage Orders, and DLSE
26 Opinion Letters. Plaintiff’s and **Wage Statement Class** members’ wage statements were only
27 provided in electronic format in violation of Labor Code § 226.

28 101. Defendants failed to comply with Labor Code section 226(a)(8) as the wage statements

1 issues to Plaintiff and **Wage Statement Class** Members failed to state “the name and address of the
2 legal entity that is the employer.”

3 102. Plaintiff is informed and believes that Defendants’ failure to provide Plaintiff and
4 **Wage Statement Class** members with accurate written wage statements was intentional in that
5 Defendants have the ability to provide them with accurate wage statements but have intentionally
6 provided them with written wage statements that Defendants have known do not comply with Labor
7 Code section 226(a).

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

16 104. Pursuant to Labor Code section 226(e), Plaintiff, on behalf of himself and **Wage**
17 **Statement Class** members, seeks the greater of actual damages or \$50.00 for the initial pay period in
18 which a violation of Labor Code section 226(a) occurred, and \$100.00 for each subsequent pay period
19 in which a violation of Labor Code section 226(a) occurred, not to exceed an aggregate penalty of
20 \$4000.00 per class member, as well as awards of reasonable attorneys’ fees and costs.

21 **EIGHTH CAUSE OF ACTION**

22 **FAILURE TO TIMELY PAY ALL FINAL WAGES**

23 **(Lab. Code §§ 201-203)**

24 **(Plaintiff and Waiting Time Penalties Sub-Class)**

25 105. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
26 herein.

27 106. At all relevant times, Plaintiff and **Waiting Time Penalties Sub-Class** members have
28 been entitled, upon the end of their employment with Defendants, to timely payment of all wages

1 earned and unpaid before termination or resignation.

2 107. At all relevant times, pursuant to Labor Code section 201, employees who have been
3 discharged have been entitled to payment of all final wages immediately upon termination.

4 108. At all relevant times, pursuant to Labor Code section 202, employees who have
5 resigned after giving at least seventy-two (72) hours' notice of resignation have been entitled to
6 payment of all final wages at the time of resignation.

7 109. Plaintiff is informed and believes that, at all relevant times during the applicable
8 limitations period, Defendants have failed to timely pay **Waiting Time Penalties Sub-Class**
9 members all their final wages in accordance with the Labor Code.

10 110. Plaintiff is informed and believes that, at all relevant times during the applicable
11 limitations period, Defendants have maintained a policy or practice of paying **Waiting Time**
12 **Penalties Sub-Class** members their final wages without regard to the requirements of Labor Code
13 sections 201 or 202 by failing to timely pay them all final wages.

14 111. Plaintiff is informed and believes, and thereupon alleges that Defendants' failure to
15 timely pay all final wages to him and **Waiting Time Penalties Sub-Class** members has been willful
16 in that Defendants have the ability to pay final wages in accordance with Labor Code sections 201
17 and/or 202 but have intentionally adopted policies or practices that are incompatible with those
18 requirements.

19 112. Pursuant to Labor Code sections 203 and 218.6, Plaintiff, on behalf of himself and
20 **Waiting Time Penalties Sub-Class** members, seeks waiting time penalties from the dates that their
21 final wages have first become due until paid, up to a maximum of thirty days, and interest thereon.

22 113. Pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine
23 and/or the common fund doctrine, Plaintiff, on behalf of himself and **Waiting Time Penalties Sub-**
24 **Class** members, seeks awards of reasonable attorneys' fees and costs.

25 ///

26 ///

27 ///

28 ///

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO INDEMNIFY**

3 **(Lab. Code § 2802)**

4 **(Plaintiff and Reimbursement Class)**

5 114. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
6 herein.

7 115. Labor Code section 2802(a) states:

8 An employer shall indemnify his or her employee for all necessary
9 expenditures or losses incurred by the employee in direct consequence
10 of the discharge of his or her duties, or of his or her obedience to the
11 directions of the employer, even though unlawful, unless the employee,
12 at the time of obeying the directions, believed them to be unlawful.

11 116. Plaintiff and **Expense Reimbursement Class** members were not reimbursed for
12 business expenses incurred in executing their duties under Defendant's employ. Specifically, Plaintiff
13 and **Expense Reimbursement Class Members** were required to pay the costs of maintaining and
14 cleaning their work gloves, safety vests, goggles, hard hats, boots, and various other safety gear all
15 necessary to perform, their duties under Defendants' employ. Plaintiff and **Expense Reimbursement**
16 **Class Members** were not reimbursed for these necessary work-related expenses.

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

20 118. Plaintiff, on behalf of himself, and **Expense Reimbursement Class** members, seeks
21 interest thereon and costs pursuant to Labor Code section 218.6, and reasonable attorneys' fees and
22 costs pursuant to Code of Civil Procedure section 1021.5.

23 **TENTH CAUSE OF ACTION**

24 **FAILURE TO PAY WAGES DUE, NEGOTIABLE AND PAYABLE IN CASH ON**

25 **DEMAND**

26 **(Lab. Code §§ 212 and 213)**

27 **(Plaintiff and Pay Card Class)**

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

1 herein.

2 120. Labor Code § 212 states that no employer “shall issue in payment of wages due” by
3 “order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is
4 negotiable and payable in cash, on demand, without discount, at some established place of business
5 in the state.”

6 121. Defendants failed to pay Plaintiff and **Pay Card Class** members with an order, check,
7 draft, note, memorandum, or other acknowledgment of indebtedness that was payable on demand,
8 without discount at some established place of business in the state. Defendants issued pay cards to
9 Plaintiff and **Pay Card Class** members for wages earned. These pay cards were useable for a fee and
10 did not have a provision for use and payment in California at no cost to the employee. Therefore,
11 Defendants failed to provide Plaintiff and **Pay Card Class** members with checks, drafts, notes or
12 other acknowledgements of indebtedness that were payable on demand without discount as required
13 by Labor Code § 212, which required Plaintiff and **Pay Card Class** members to incur fees to use,
14 was not fully cashable, and not usable at all financial institutions.

15 122. Such a pattern, practice and uniform administration of corporate policy regarding
16 illegal employee compensation as described herein is unlawful and creates an entitlement to recovery
17 by Plaintiff and **Pay Card Class** members in a civil action for damages and wages owed and for costs
18 and attorneys' fees.

19 **ELEVENTH CAUSE OF ACTION**

20 **FAILURE TO PAY SPLIT-SHIFT PREMIUMS**

21 **(Industrial Welfare Commission Wage Order 1-15, § 4)**

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

23 123. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
24 herein.

25 124. At all relevant times, Plaintiff and **Split-Shift Sub-Class** members are or have been
26 non-exempt employees of Defendants entitled to the full protections of the Labor Code and the
27 applicable Wage Order.

28 125. Section 4 of the applicable Industrial Welfare Commission Wage Order imposes an

1 affirmative obligation on employers to pay non-exempt employees one (1) hour's pay at the minimum
2 wage in addition to the minimum wage for that workday when an employee works a split shift.

3 126. Plaintiff alleges that, at all relevant times during the applicable limitations period,
4 Defendants maintained a policy or practice of failing to pay premium wages to **Split-Shift Sub-Class**
5 members when their schedules were interrupted by non-paid and non-working time periods
6 established by the employer. The time periods between these shifts were longer than a bona fide meal
7 or rest periods and were for the benefit of the employer.

8 127. At no time did the **Split-Shift Sub-Class** members reside at the place of their
9 employment.

10 128. As a result of Defendants' unlawful conduct, Plaintiff and **Split-Shift Sub-Class**
11 members have suffered damages in an amount, subject to proof, to the extent they were not paid the
12 full amount of split-shift premiums earned during each pay period during the applicable limitations
13 period.

14 129. Pursuant to Labor Code section 204, 218.6 and 226.7, Plaintiff, on behalf of himself
15 and the **Split-Shift Sub-Class** members, seeks to recover unpaid premium wages, interest thereon,
16 and costs of suit.

17 130. Pursuant to Labor Code section 1194, Code of Civil Procedure section 1021.5, the
18 substantial benefit doctrine, and/or the common fund doctrine, Plaintiff, on behalf of himself and
19 **Split-Shift Sub-Class** members, seeks to recover reasonable attorneys' fees.

20 **TWELFTH CAUSE OF ACTION**

21 **UNFAIR COMPETITION**

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

23 **(Plaintiff and UCL Class)**

24 131. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
25 herein.

26 132. Business and Professions Code section 17200 defines "unfair competition" to include
27 any unlawful business practice.

28 133. Business and Professions Code sections 17203-17204 allow a person who has lost

1 money or property as a result of unfair competition to bring a class action in accordance with Code
2 of Civil Procedure section 382 to recover money or property that may have been acquired from
3 similarly situated persons by means of unfair competition.

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

7 135. Plaintiff and the **UCL Class** members re-allege and incorporate the FIRST, SECOND,
8 THIRD, FOURTH, FIFTH, SIXTH, NINTH, AND TENTH causes of action herein.

9 136. Plaintiff lost money or property as a result of the aforementioned unfair competition.

10 137. Defendants have or may have acquired money by means of unfair competition.

11 138. Plaintiff is informed and believes, and thereupon alleges that by committing the Labor
12 Code violations described in this Complaint, Defendants violated Labor Code sections 212, 213, 215,
13 216, 225, 226.6, 226.7, 227.3, 246, 354, 408, 512, 510, 553, 1175, 1174, 1194, 1194.2, 1197, 1197.1,
14 1198, 1199, and 2802 as well as applicable Wage Orders, which make it a misdemeanor to commit
15 the violations alleged herein.

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

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

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

1 142. Plaintiff is informed and believes that other similarly situated persons have been
2 subject to the same unlawful policies or practices of Defendants.

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

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

9 145. Accordingly, pursuant to Business and Professions Code sections 17200 and 17203,
10 Plaintiff requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
11 Defendants, and each of them, and their agents and employees, from further violations of the Labor
12 Code and applicable Wage Orders.

13 146. Accordingly, pursuant to Bus. & Prof. Code sections 17200 and 17203, Plaintiff
14 requests the issuance of temporary, preliminary and permanent injunctive relief enjoining
15 Defendants, and each of them, and their agents and employees, from further violations of the Labor
16 Code and applicable Industrial Welfare Commission Wage Orders; and upon a final hearing seeks
17 an order permanently enjoining Defendants, and each of them, and their respective agents and
18 employees, from further violations of the Labor Code and applicable Industrial Welfare Commission
19 Wage Orders.

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

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

27 149. Pursuant to Business and Professions Code section 17203, Plaintiff, on behalf of
28 himself and **UCL Class** members, seeks declaratory relief and restitution of all monies rightfully

1 belonging to them that Defendants did not pay them or otherwise retained by means of its unlawful
2 and unfair business practices.

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

6 **EIGHTH CAUSE OF ACTION**

7 **CIVIL PENALTIES**

8 **(Lab. Code §§ 2698, *et seq.*)**

9 151. Plaintiff incorporates the preceding paragraphs as if fully alleged herein.

10 152. During the applicable limitations period, Defendants have violated Labor Code §§
11 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
12 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802.¹

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

17 154. Plaintiff, a former employee against whom Defendants committed one or more of the
18 alleged Labor Code violations during the applicable limitations period, is an aggrieved employee
19 within the meaning of Labor Code § 2699(c). Plaintiff was employed by Defendants as a non-exempt
20 hourly employee in California. Aggrieved Employees include all non-exempt hourly employees of
21 Defendants within the state of California from one year prior to the date of this letter and continuing
22 through the present (Plaintiff and Aggrieved Employees are collectively referred to herein as
23 "Aggrieved Employees")

24 155. Plaintiff has complied with the procedures for bringing suit specified in Labor Code §
25

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

1 2699.3. Notice was provided to the California Labor & Workforce Development Agency (“LWDA”)
2 and 65 days have elapsed without the LWDA providing Plaintiff with any notice of an intent to
3 investigate.

4 156. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff seeks the following civil
5 penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 204, 223, 226.7, 226(a), 510,
6 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802:

- 7 i. For violations of Labor Code §§ 201, 202, 203, 226.7, 1174, 1194, 1198 and
8 2802, one hundred dollars (\$100) for each employee per pay period for each
9 initial violation and two hundred dollars (\$200) for each employee per pay
10 period for each subsequent violation (penalties set by Labor Code §
11 2699(f)(2));
- 12 ii. For violations of Labor Code § 203, a penalty in an amount not exceeding thirty
13 (30) days’ pay as waiting time (penalties set by Labor Code § 256);
- 14 iii. For violations of Labor Code § 204, one hundred dollars (\$100) for each
15 employee for each initial violation that was neither willful nor intentional, two
16 hundred dollars (\$200) for each employee, plus 25% of the amount unlawfully
17 withheld from each employee, for each initial violation that was either willful
18 or intentional, and two hundred dollars (\$200) for each employee, plus twenty-
19 five percent (25%) of the amount unlawfully withheld from each employee,
20 for each subsequent violation, regardless of whether the subsequent violation
21 was either willful or intentional (penalties set by Labor Code § 210);
- 22 iv. For violations of Labor Code § 223, one hundred dollars (\$100) for each
23 employee for each initial violation that was neither willful nor intentional, two
24 hundred dollars (\$200) for each employee, plus twenty-five percent (25%) of
25 the amount unlawfully withheld from each employee, for each initial violation
26 that was either willful or intentional, and two hundred dollars (\$200) for each
27 employee, plus twenty-five percent (25%) of the amount unlawfully withheld
28 from each employee, for each subsequent violation, regardless of whether the

subsequent violation was either willful or intentional (penalties set by Labor Code § 225.5);

v. For violations of Labor Code § 226(a), if this action is deemed to be an initial citation, two hundred and fifty dollars (\$250) for each employee for each violation. Alternatively, if an initial citation or its equivalent occurred before the filing of this action, one thousand dollars (\$1,000) for each employee for each violation (penalties set by Labor Code § 226.3);

vi. For violation of Labor Code §§ 510 and 512, fifty dollars (\$50) for each employee for each initial pay period for which the employee was underpaid, and one hundred dollars (\$100) for each employee for each subsequent pay period for which the employee was underpaid (penalties set by Labor Code § 558);

vii. For violations of Labor Code § 1197, one hundred dollars (\$100) for each aggrieved employee for each initial violation of Labor Code § 1197 that was intentional and two hundred and fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation of Labor Code § 1197, regardless of whether the initial violation was intentional (penalties set by Labor Code § 1197.1);

viii. Pursuant to Labor Code § 2699(g), Plaintiff seeks an award of reasonable attorneys' fees and costs in connection with Plaintiff's claims for civil penalties.

PRAYER FOR RELIEF

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

- a. An order that the action be certified as a class action;
- b. An order that Plaintiff be appointed class representative;
- c. An order that counsel for Plaintiff be appointed class counsel;
- d. Unpaid wages and overtime;

- e. Actual damages;
- f. Liquidated damages;
- g. Unreimbursed expenses;
- h. Restitution;
- i. Declaratory relief;
- j. Pre-judgment interest;
- k. Statutory penalties;
- l. Civil penalties;
- m. Costs of suit;
- n. Reasonable attorneys' fees; and
- o. Such other relief as the Court deems just and proper.

Dated: June 28, 2024

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Kevin Burns
Attorneys for Plaintiff
BRENT RAYMOND ABBOTT, and the putative
class

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

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

Dated: June 28, 2024

D.LAW, INC.



Emil Davtyan
David Yeremian
David Keledjian
Kevin Burns
Attorneys for Plaintiff
BRENT RAYMOND ABBOTT, and the putative
class

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

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

Joshua V. Lange
ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 12800 Center Court Drive, Suite 300
 Cerritos, CA 90703
 Phone: (562) 653-3200
 Fax: (562) 653-3333
 Email: Joshua.Lange@aalrr.com

[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

☐ **(BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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

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

Executed on June 28, 2024, at Glendale, California.


Jordan Floyd