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Electronically Filed
3/30/2026 2:41 PM
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County of Stanislaus
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all others similarly situated, and on behalf of the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF STANISLAUS**

AVERY THOMPSON and HUGO
CABALLERO on behalf of themselves, all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

v.

SAFETY NETWORK TRAFFIC
CONTROL SERVICES, INC.; and DOES
1-100,

Defendants.

Case No. CV-24-003686

**PLAINTIFFS' SECOND AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION**

- 1) **Failure to Pay All Straight Time Wages;**
- 2) **Failure to Pay All Overtime Wages;**
- 3) **Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 16-2001(11); Cal. Code Regs., tit. 8 § 11160);**
- 4) **Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 1-2001(12); Cal. Code Regs. Title 8 § 11160);**
- 5) **Failure to Authorize and Permit Recovery Periods (Lab. Code § 226.7; Cal. Code Regs. Title 8 § 3395);**
- 6) **Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy (Lab. Code §§ 233, 234, 246);**
- 7) **Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175);**
- 8) **Failure to Pay All Wages Due at the Time of Termination of Employment (Lab. Code §§ 201-203);**
- 9) **Failure to Reimburse/Illegal Deductions (Lab. Code §§ 221, 2802, Cal. Regs., tit. 8, § 11160(8));**
- 10) **Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.);**
and
- 11) **Violation of the Private Attorneys General Act (Lab. Code §§ 2698)**

DEMAND FOR JURY TRIAL

1 Plaintiffs Avery Thompson and Hugo Caballero (“Plaintiffs”), on behalf of themselves, all others
2 similarly situated, and on behalf of the general public, complains of Defendant Safety Network
3 Traffic Control Services, Inc. (“Defendant” or “SAFETY”) and/or DOES and for causes of action
4 and alleges:

5 1. This is a class action pursuant to *California Code of Civil Procedure* section 382 on behalf
6 of Plaintiffs and all hourly, non-exempt employees who are presently or were formerly
7 employed by Defendant and/or DOES and/or their subsidiaries or affiliated companies
8 and/or predecessors within the State of California.

9 2. Defendant and/or DOES are in the traffic control industry. Defendant’s and/or DOES’
10 employees perform tasks such as controlling traffic for Defendant’s and/or DOES’
11 customers, such as ATT.

12 3. At all times mentioned herein, Defendant and/or DOES have conducted business in
13 Stanislaus County and elsewhere within California.

14 4. At all times mentioned herein, Defendant and/or DOES, within the State of California,
15 have, among other things, employed current and former hourly, non-exempt employees to
16 run its business.

17 5. Throughout the time period that includes the four (4) years prior to filing this action to the
18 present (the “Statutory Period”), Defendant and/or DOES have maintained uniform
19 policies that violate the wage and hour rights of Plaintiffs and similarly situated hourly,
20 non-exempt employees in the manner complained of herein.

21 6. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
22 and/or practice of not paying Plaintiffs and similarly situated hourly, non-exempt
23 employees for all of the hours they worked, including, but not limited to, rounding, before
24 “shifts” start, after “shifts” end, and/or any other time in the day when Plaintiffs and
25 similarly situated hourly non-exempt employees were performing work tasks, subject to
26 the control of Defendant and/or DOES and/or otherwise had work duties but were not paid
27 by Defendant and/or DOES. For example, Defendant and/or DOES require employees to
28 drive company vehicles to and from their job locations but fails to pay Plaintiffs and the

1 Class Members for this time. Failing to pay for all hours worked while under Defendant's
2 and/or DOES' control and/or while suffered or permitted to work has resulted in hourly,
3 non-exempt employees being deprived of straight time and/or overtime wages.

4 7. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
5 and/or practice of not paying Plaintiffs and similarly situated hourly, non-exempt
6 employees for all of the hours they worked. Specifically, Defendant and/or DOES have a
7 continuous and consistent policy of requiring employees to work before clocking in, after
8 clocking out, and during meal periods. Plaintiffs and hourly, non-exempt employees are
9 not paid for this time. Thus, Plaintiffs and hourly, non-exempt employees are owed wages
10 for the unpaid time during which they are subject to Defendant's and/or DOES control and/or
11 during which they are not free from all work duties.

12 8. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
13 and/or practice of not paying Plaintiffs and the Class Members for all hours worked in that
14 Defendant and/or DOES continuously and consistently clocked Plaintiffs and the Class
15 Members out for a thirty (30) minute meal period and/or otherwise recorded a meal period,
16 even though Plaintiffs and the Class Members work through their meal periods, were
17 unable to take meal periods, and/or were not free of all work duties and employer controls
18 during meal periods. Thus, SAFETY and/or DOES have/steal earned wages from
19 Plaintiffs and the Class Members every day they work without a meal period and have time
20 deducted.

21 9. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
22 and/or practice of deducting a portion of the wages earned by Plaintiffs and the Class
23 Members when they worked through their meal periods and/or when Defendant and/or
24 DOES recorded a meal period for Plaintiffs and the Class Members when no meal period
25 was taken. Specifically, Plaintiffs and the Class Members worked through their meal
26 periods to satisfy their demanding work duties imposed by Defendant and/or DOES,
27 thereby denying them the right to be completely free from employer control under
28 California law.

- 1 10. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
2 and/or practice of not paying Plaintiffs and similarly situated hourly, non-exempt
3 employees all wages owed. Defendant and/or DOES fail to properly calculate the regular
4 rate of pay for all overtime hours worked.
- 5 11. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy of
6 requiring hourly, non-exempt employees within the State of California, including
7 Plaintiffs, to work through meal periods and work at least five (5) hours without a meal
8 period and failing to pay such employees one (1) hour of pay at the employees' regular rate
9 of compensation for each workday that the meal period is not provided, or other
10 compensation, as required by California's state wage and hour laws.
- 11 12. Throughout the Statutory Period, Defendant and/or DOES have failed to keep accurate
12 records of Plaintiffs' and the Class Members' meal period time.
- 13 13. Throughout the Statutory Period, Defendant and/or DOES have had a consistent policy
14 and/or practice of requiring hourly non-exempt employees within the State of California,
15 including Plaintiffs, to work for over four (4) hours, or a major fraction thereof, without a
16 ten (10) minute rest period, and failing to pay such employees one (1) hour of pay at the
17 employees' regular rate of compensation for each workday that the rest period is not
18 provided, or other compensation, as required by California's state wage and hour laws.
- 19 14. For at least four (4) years prior to the filing of this action and through to the present,
20 Defendant SAFETY and/or DOES have had a consistent policy and/or practice of failing
21 to provide Plaintiffs and its Non-Exempt Employees with cool down recovery periods in
22 accordance with California Code of Regulations, Title 8, section 3395.
- 23 15. Throughout the Statutory Period, Defendant and/or DOES and/or their officers and/or
24 managing agents have had a consistent policy and/or practice of failing to reimburse
25 Plaintiffs and hourly, non-exempt employees for business expenses incurred in the
26 discharge of their duties. These expenses include, but are not limited to, having to purchase
27 steel toed boots. They also including having to purchase steel toed boots. *California Labor*
28 *Code* section 2802(a) entitles Defendant and/or DOES to reimbursement for said necessary

1 expenditures, plus interest and expenses.

2 16. Throughout the statutory period, Defendant's and/or DOES' hourly non-exempt
3 employees, including Plaintiffs, were not provided with accurate and itemized employee
4 wage statements.

5 17. Defendant and/or DOES fail to comply with *California Labor Code* section 226,
6 subdivision (a), by itemizing in wage statements all hourly compensation and accurately
7 reporting total hours worked by Plaintiffs and the members of the proposed class. Plaintiffs
8 and members of the proposed class are entitled to penalties not to exceed \$4,000 for each
9 employee pursuant to Labor Code section 226(b).

10 18. Defendant and/or DOES have failed to comply with IWC Wage Order 16-2001(7) by
11 failing to maintain accurate time records showing hourly compensation, when the
12 employee begins and ends each workday, when meal periods are taken, and total daily
13 hours worked by itemizing in wage statements and accurately reporting total hours worked
14 by Plaintiffs and members of the proposed class.

15 19. Defendant's and/or DOES' failure to retain accurate records of total hours worked and
16 meal periods taken by Plaintiffs and the proposed class was willful and deliberate, was a
17 continuous breach of Defendant's and/or DOES' duty owed to Plaintiffs and the proposed
18 class.

19 20. Throughout the statutory period, Defendant's and/or DOES' employees, including
20 Plaintiffs those similarly situated, were not timely paid all wages owed to them at the time
21 of termination.

22 21. Defendant and/or DOES are and were aware that Plaintiffs and members of the proposed
23 class were not paid all straight time and overtime wages owed, nor provided meal and rest
24 periods or premium payment in compensation thereof. Defendant's and/or DOES' denial
25 of wages and other compensation due to Plaintiffs and members of the proposed class was
26 willful and deliberate.

27 22. Throughout the Statutory Period, Defendant and/or DOES, by failing to lawfully pay
28 Plaintiffs and those similarly situated all the wages they are owed, engaged in false, unfair,

1 fraudulent and deceptive business practices within the meaning of the Business and
2 Professions Code section 17200, et seq.

3 23. Throughout the Statutory Period, Defendant's and/or DOES' employees, including
4 Plaintiffs and those similarly situated were not provided all straight and overtime wages
5 owed, meal periods, rest periods, and recovery periods or compensation in lieu thereof,
6 and/or sick pay/paid time off as mandated under the California Labor Code, and the
7 implementing rules and regulations of the Industrial Welfare Commissions ("IWC")
8 California Wage Orders.

9 24. Defendant and/or DOES, each and collectively, controlled the wages, hours, and working
10 conditions of Plaintiffs and the proposed class, creating a joint-employer relationship over
11 Plaintiffs and the proposed class.

12 25. Plaintiffs, on behalf of themselves and all of Defendant's and/or DOES' hourly, non-
13 exempt employees employed at any time during the Statutory Period brings this action
14 pursuant to *California Labor Code* sections 201-203, 218, 218.5, 222, 223, 224, 226, subd.
15 (b), 226.3, 226.7, 233, 234, 246, 510, 512, 515, 558, 1194, 1194.2, 1197, 2802, 2698, *et*
16 *seq.*, and *California Code of Regulations*, Title 8, sections 11160 and 3395, seeking unpaid
17 wages, overtime, meal period, rest period, and recovery period compensation, sick pay/paid
18 time off remedies, reimbursement, illegal deductions, penalties, injunctive and other
19 equitable relief, and reasonable attorneys' fees and costs.

20 26. Plaintiffs, on behalf of themselves and all of Defendant's and/or DOES' hourly, non-
21 exempt employees employed at any time during the Statutory Period, pursuant to
22 *California Business and Professions Code* sections 17200-17208, also seeks injunctive
23 relief, restitution, and disgorgement of all benefits Defendant and/or DOES enjoyed from
24 their failure to pay all straight time wages, overtime wages, and meal, rest, and recovery
25 period compensation as well as their failure to adopt a compliant sick pay and/or paid time
26 off policy and reimbursement for employees' business expenses.

27 **I. VENUE**

28 27. Venue as to each Defendant and/or DOE is proper in this judicial district, pursuant to

1 *California Code of Civil Procedure* section 395. Defendant and/or DOES conduct business
2 and commit *California Labor Code* violations within Stanislaus County, and each
3 Defendant and/or DOE is within California for service of process purposes. The unlawful
4 acts alleged herein have a direct effect on Plaintiffs and those similarly situated within the
5 State of California and within Stanislaus County. Defendant and/or DOES employ
6 numerous hourly, non-exempt employees who perform and/or performed work for
7 Defendant in Stanislaus County, California during the Statutory Period.

8 **II. PARTIES**

9 **A. Plaintiffs.**

10 28. Throughout the Statutory Period, Plaintiffs are and were residents of California. During the
11 Statutory Period, Plaintiffs were employed by Defendant and/or DOES in California as an
12 hourly, non-exempt employees. Plaintiffs worked as general laborers.

13 29. Plaintiffs and the proposed class of similarly situated hourly, non-exempt employees are
14 covered by, inter alia, California IWC Occupational Wage Order No. 16-2001, and Title 8,
15 *California Code of Regulations*, section 11160.

16 30. A notice correspondence showing compliance with Labor Code Section 2699.3 was sent
17 to the LWDA and Defendant by Plaintiff Avery Thompson on May 3, 2024. This notice
18 demonstrates that Plaintiff Avery Thompson is an aggrieved employee and has standing to
19 bring a representative action on behalf of the LWDA and as a private attorney general. No
20 notice of cure by Defendant was provided and no notice of investigation was received from
21 the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the
22 notice of the action. Accordingly, Plaintiff Avery Thompson files this action as a
23 “Representative Action” as authorized by Labor Code Section 2699.3(a)(2)(C).

24 **B. Defendants.**

25 31. Defendant and/or DOES are in the traffic control industry.

26 32. Defendant and/or DOES operate out of locations in California.

27 33. Defendant and/or DOES employ hourly, non-exempt employees to work at its locations.

28 34. Defendant and/or DOES employed Plaintiffs and similarly situated hourly, non-exempt

employees in California.

35. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants DOES 1-100, inclusive, are presently unknown to Plaintiffs, who therefore sues these Defendants by such fictitious names under *California Code of Civil Procedure* section 474. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

36. Plaintiffs are informed and believe, and based thereon allege, that each Defendant and/or DOE acted in all respects pertinent to this action as the agent of the other Defendants and/or DOES, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants and/or DOES are legally attributable to the other Defendants and/or DOES.

III. CLASS ACTION ALLEGATIONS

37. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a class action pursuant to section 382 of the *California Code of Civil Procedure*. Plaintiffs seek to represent a Class composed of and defined as follows:

All individuals who are employed or have been employed by Defendant and/or DOES in the State of California as hourly, non-exempt employees at any time during the period of the relevant statute of limitations. ("Class Members")

Plaintiffs also seek to represent subclasses composed of and defined as follows:

All Class Members who worked one (1) or more shifts in excess of five (5) hours.

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All Class Members who worked one (1) or more shifts in excess of six (6) hours.

All Class Members who worked one (1) or more shifts in excess of ten (10) hours.

All Class Members who worked one (1) or more shifts in excess of twelve (12) hours.

All Class Members who worked one (1) or more shifts in excess of two (2) hours.

All Class Members who worked one (1) or more shifts in excess of three and one-half (3.5) hours, but less than or equal to six (6) hours.

All Class Members who worked one (1) or more shifts in excess of six (6) hours, but less than or equal to ten (10) hours.

All Class Members who worked one (1) or more shifts in excess of ten (10) hours.

All Class Members who worked one (1) or more shifts in which they received a wage statement for the corresponding pay period.

All Class Members who were not permitted to use sick pay and/or paid time off.

1 All Class Members who separated their employment from
2 Defendants.

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4 All Class Members who incurred business expenses and were not
5 reimbursed.

6 All Class Members who worked in temperatures of 80 degrees or
7 higher.

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9 All Class Members who worked in temperatures of 95 degrees or
10 higher.

11
12 38. Plaintiffs reserve the right under Rule 1855, subdivision (b), *California Rules of Court*, to
13 amend or modify the Class description with greater specificity or further division into
14 subclasses or limitation to particular issues.

15 39. This action has been brought and may properly be maintained as a class action under the
16 provisions of *California Code of Civil Procedure* section 382 because there is a well-
17 defined community of interest in the litigation and the proposed Class is easily
18 ascertainable.

19 **A. Numerosity.**

20 40. The potential members of the Class as defined are so numerous that joinder of all the
21 members of the Class is impracticable. While the precise number of Class Members has
22 not been determined at this time, Plaintiffs are informed and believe that Defendant and/or
23 DOES currently employ, and during the liability period employed, over one hundred (100)
24 Class Members in Stanislaus County during the liability period and who are or have been
25 affected by Defendant's and/or DOES' policies of failure to pay all straight and overtime
26 wages owed, failure to provide meal, rest, and/or recovery periods without the appropriate
27 legal compensation, failure to implement a lawful sick pay policy, willful failure to pay all
28 wages due at time of separation from employment, knowing and intentional failure to

1 provide accurate and itemized employee wage statements, and failure to reimburse for all
2 necessary business expenses incurred in the performance of employees' jobs. Accounting
3 for employee turnover during the relevant periods increases this number substantially.
4 Upon information and belief, Plaintiffs allege Defendant's and/or DOES' employment
5 records will provide information as to the number and location of all Class Members.
6 Joinder of all members of the proposed Class is not practicable.

7 **B. Commonality.**

8 41. There are questions of law and fact common to the Class that predominate over any
9 questions affecting only individual Class Members. These common questions of law and
10 fact include, without limitation:

11 (1) Whether Defendant and/or DOES violated the *California*
12 *Labor Code* and/or applicable IWC Wage Orders in failing to pay its
13 employees all earned wages at the regular rate for all hours worked.

14 (2) Whether Defendant's and/or DOES' uniform policies and/or
15 practices whereby employees were pressured and/or incentivized to forego
16 taking meal, rest, and/or recovery periods.

17 (3) Whether Defendant's and/or DOES' violated *California*
18 *Labor Code* section 226.7, IWC Wage Order No. 16-2001 or other
19 applicable IWC Wage Orders, and/or *California Code of Regulations*, Title
20 8, section 11160, by failing to authorize, permit, and/or provide thirty (30)
21 minute meal periods before the end of the fifth hour worked and/or failing
22 to pay said employees one (1) hour of pay at the employee's regular rate of
23 compensation for each work day that the rest period was not authorized,
24 permitted and/or provided.

25 (4) Whether Defendant and/or DOES violated *California Labor*
26 *Code* section 226.7, IWC Wage Order No. 16-2001 or other applicable IWC
27 Wage Orders, and/or *California Code of Regulations*, Title 8, section
28 11160, by failing to authorize, permit, and/or provide ten (10) minute rest

1 periods to its employees for every four (4) hours or major fraction thereof
2 worked and/or failing to pay said employees one (1) hour of pay at the
3 employee's regular rate of compensation for each work day that the rest
4 period was not authorized, permitted and/or provided.

5 (5) Whether SAFETY and/or DOES violated Labor Code
6 section 226.7 and/or California Code of Regulations, Title 8, section 3395,
7 by failing to authorize, permit, and/or provide recovery periods to its hourly,
8 non-exempt employees in accordance with section 3395.

9 (6) Whether Defendant and/or DOES violated *California Labor*
10 *Code* sections 233 and 234 by adopting uniform policies and/or practices
11 which counts sick leave taken pursuant to *California Labor Code* section
12 233 as an unauthorized absence that may result in discipline, discharge,
13 demotion, or termination.

14 (7) Whether Defendant and/or DOES violated *California Labor*
15 *Code* section 246 by having uniform policies and/or practices of failing to
16 provide Class Members wage statements itemizing the amount of
17 accrued/available sick leave.

18 (8) Whether Defendant and/or DOES have uniform policies
19 and/or practices of failing to provide employees accurate and itemized wage
20 statements.

21 (9) Whether Defendant and/or DOES knowingly and
22 intentionally fail to provide employees accurate and itemized wage
23 statements.

24 (10) Whether Defendant and/or DOES have uniform policies
25 and/or practices of failing to timely pay all wages owed to employees who
26 left Defendant's and/or DOES' employ or who were terminated.

27 (11) Whether Defendant and/or DOES willfully fail to pay, in a
28 timely manner, wages owed to members of the proposed Class who left

Defendant's and/or DOES' employ or who were terminated.

(12) Whether Defendant and/or DOES have uniform policies and/or practices of failing to reimburse members of the proposed Class for all necessary expenses incurred in the performance of their jobs.

42. The answer to each of these respective questions will generate a common answer capable of resolving class-wide liability in one stroke.

43. Said common questions predominate over any individualized issues and/or questions affecting only individual members.

C. Typicality.

44. The claims of the named Plaintiffs are typical of the claims of the proposed Class. Plaintiffs and all members of the proposed Class sustained injuries and damages arising out of and caused by Defendant's and/or DOES' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged.

45. Plaintiffs were subjected to the same uniform policies and/or practices complained of herein that affected all such employees. Thus, as Plaintiffs were subjected to the same unlawful policies and practices as all employees, his claims are typical of the class he seeks to represent.

D. Adequacy of Representation.

46. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class.

47. Plaintiffs are ready and willing to take the time necessary to help litigate this case.

48. Plaintiffs have no conflicts that will disallow them to fairly and adequately represent and protect the interests of the members of the Class.

49. Counsel who represent Plaintiffs are competent and experienced in litigating large employment class actions.

50. Specifically, David Mara, Esq. and Jill Vecchi, Esq., of Mara Law Firm, PC, and Peter Horton, Esq. of Lawyers for Employee and Consumer Rights are California lawyers in good standing.

1 51. Counsel who represent Plaintiffs are competent and experienced in litigating large
2 employment class actions.

3 52. Counsel who represent Plaintiffs have been named class counsel in numerous cases.

4 53. Counsel who represent Plaintiffs' practice is primarily focused on representing classes,
5 large and small, on the basis of *California Labor Code* and IWC Wage Order Violations
6 similar to those alleged herein. The attorneys at Mara Law Firm, PC, are also frequently
7 called upon to and do author amicus briefs on behalf of the Consumer Attorneys of
8 California on cases in the appellate courts and Supreme Court of California involving
9 important issues relating to those alleged herein.

10 54. Counsel who represent Plaintiffs have the resources to take this case to trial and judgment,
11 if necessary.

12 55. The lawyers representing Plaintiffs have the experience, ability, and ways and means to
13 vigorously prosecute this case.

14 **E. Superiority of Class Action.**

15 56. A class action is superior to other available means for the fair and efficient adjudication of
16 this controversy. Individual joinder of all Class Members is not practicable, and questions
17 of law and fact common to the Class predominate over any questions affecting only
18 individual members of the Class. Each member of the Class has been damaged and is
19 entitled to recovery by reason of Defendant's and/or DOES' illegal policies and/or
20 practices of failing to pay all straight time and overtime wages owed, failing to provide
21 meal periods, failing to permit or authorize rest periods, failing to adopt a lawful sick
22 pay/paid time off policy, knowingly and intentionally failing to comply with wage
23 statement requirements, failing to pay all wages due at termination, and failing to reimburse
24 for incurred expenses.

25 57. Class action treatment will allow those similarly situated persons to litigate their claims in
26 the manner that is most efficient and economical for the parties and the judicial system.
27 Plaintiffs are unaware of any difficulties that are likely to be encountered in the
28 management of this action that would preclude its maintenance as a class action.

1 58. Because such common questions predominate over any individualized issues and/or
2 questions affecting only individual members, class resolution is superior to other methods
3 for fair and efficient adjudication.

4 IV. CAUSES OF ACTION

5 FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Pay All 6 Straight Time Wages

7 59. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
8 and every other paragraph in this Complaint herein as if fully plead.

9 60. Defendant and/or DOES have had a continuous policy of not paying Plaintiffs and those
10 similarly situated for all hours worked.

11 61. It is fundamental that an employer must pay its employees for all time worked. *California*
12 *Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages.
13 *California Labor Code* section 222 prohibits the withholding of part of a wage. *California*
14 *Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage
15 scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum
16 wage. *California Labor Code* section 1194 states that an employee receiving less than the
17 legal minimum wage is entitled to recover in a civil action the unpaid balance of the full
18 amount of this minimum wage. *California Labor Code* section 1194.2 states that an
19 employee receiving less than the legal minimum wage is entitled to recover liquidated
20 damages in an amount equal to the wages unlawfully unpaid and interest thereon.
21 *California Labor Code* section 224 only permits deductions from wages when the
22 employer is required or empowered to do so by state or federal law or when the deduction
23 is expressly authorized in writing by the employee for specified purposes that do not have
24 the effect of reducing the agreed upon wage.

25 62. Plaintiffs and those similarly situated Class Members were employed by Defendant and/or
26 DOES at all relevant times. Defendant and/or DOES were required to compensate Plaintiffs
27 for all hours worked and were prohibited from making deductions that had the effect of
28 reducing the agreed upon wage.

63. Defendant and/or DOES have had a continuous policy of not paying Plaintiffs and those similarly situated for all hours worked. Specifically, Defendant and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiffs and those similarly situated are not paid for this time. Defendant's and/or DOES' failure to pay for all hours worked while under Defendant's and/or DOES' control and/or while suffered or permitted to work has resulted in Plaintiffs and Class Members being deprived of straight time wages throughout the Statutory Period.

64. Further, Plaintiffs and the Class Members are not paid for the time it takes them to get to their first job site or back from their last job site.

65. Additionally, Defendant and/or DOES have had a continuous policy of not paying Plaintiffs and the Class Members for all hours worked in that Defendant and/or DOES continuously and consistently clocked Plaintiffs and the Class Members out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiffs and the Class Members work through their meal periods, were unable to take meal periods, and/or were not free of all work duties and employer controls during meal periods. Thus, Defendant and/or DOES shaves/steals earned wages from Plaintiffs and the Class Members every day they work without a meal period and have time deducted.

66. Moreover, Plaintiffs and the Class Members have to work through their meal periods but would nonetheless be required to clock out for thirty minutes to create the appearance of lawful meal periods. If employees do not clock out for thirty minutes while they continue to work, then Defendant and/or DOES alters their time records to create the appearance of a lawful meal period. Thus, Plaintiffs and the Class Members are owed wages for meal period time during which they are subject to Defendant's and/or DOES' control and during which they are not free from all work duties.

67. Likewise, Plaintiffs and the Class Members are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiffs by deducting a portion of the wages earned by Plaintiffs and the Class Members when they

1 worked through their meal periods and/or when Defendant and/or DOES recorded a meal
2 period for Plaintiffs and the Class Members when no meal period was taken. Specifically,
3 Plaintiffs and the Class Members worked through their meal periods to satisfy their
4 demanding work duties imposed by Defendant and/or DOES, thereby denying them the
5 right to be completely free from employer control under California law.

6 68. Plaintiffs and the Class Members are informed and believe and thereon allege that as a
7 direct result of Defendant's and/or DOES' uniform policies and/or practices, Plaintiffs and
8 the Class Members have suffered, and continue to suffer, substantial unpaid wages, and
9 lost interest on such wages, and expenses and attorneys' fees in seeking to compel
10 Defendant and/or DOES to fully perform their obligations under state law, all to their
11 respective damage in amounts, according to proof at trial.

12 69. As a direct result of Defendant's and/or DOES' policy of illegal wage theft, Plaintiffs and
13 those similarly situated have been damaged in an amount to be proven at trial.

14 70. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
15 below.

16 **SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Pay**

17 **All Overtime Wages**

18 71. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
19 and every other paragraph in this Complaint herein as if fully plead.

20 72. It is fundamental that an employer must pay its employees for all time worked. *California*
21 *Labor Code* sections 218 and 218.5 provides a right of action for nonpayment of wages.
22 *California Labor Code* section 222 prohibits the withholding of part of a wage. *California*
23 *Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage
24 scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum
25 wage. *California Labor Code* section 224 only permits deductions from wages when the
26 employer is required or empowered to do so by state or federal law or when the deduction
27 is expressly authorized in writing by the employee for specified purposes that do not have
28 the effect of reducing the agreed upon wage.

- 1 73. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's
2 work. Any work in excess of eight (8) hours in one workday and any work in excess of
3 forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh
4 (7th) day of work in any one workweek shall be compensated at the rate of no less than
5 one and one-half (1.5) times the regular rate of pay for an employee.
- 6 74. *California Labor Code* section 510 further dictates that any work in excess of twelve (12)
7 hours in one day shall be compensated at the rate of no less than two (2) times the regular
8 rate of pay for an employee. In addition, any work in excess of eight (8) hours on any
9 seventh (7th) day of a workweek shall be compensated at the rate of no less than two (2)
10 times the regular rate of pay of an employee.
- 11 75. Plaintiffs and those similarly situated Class Members were employed by Defendant and/or
12 DOES at all relevant times. Defendant and/or DOES were required to compensate Plaintiffs
13 and the Class Members for all overtime hours worked and were prohibited from making
14 deductions that had the effect of reducing the agreed upon wage.
- 15 76. Defendant and/or DOES fail to pay for the overtime that was due, pursuant to IWC Wage
16 Order No. 16-2001, item 3(A).
- 17 77. Defendant and/or DOES have a continuous policy of failing to pay Plaintiffs and Class
18 Members for all hours worked, including those hours worked over eight (8) hours in a day
19 and forty (40) hours in a week. Defendant and/or DOES have a continuous policy of failing
20 to pay overtime when employees worked over eight (8) hours per day and when employees
21 worked over forty (40) hours per week. Because Defendant and/or DOES fail to pay them
22 overtime wages for all overtime hours worked, Plaintiffs and Class Members were deprived
23 of wages for all overtime hours worked, which resulted in Plaintiffs and the Class Members
24 not being paid all overtime wages owed to them.
- 25 78. Defendant and/or DOES have a continuous policy of not paying Plaintiffs and the Class
26 Members for all hours worked. Defendant and/or DOES have not paid for all the time
27 Plaintiffs and Class Members worked throughout the day, including, but not limited to
28 rounding, before "shifts" start, after "shifts" end, and/or any other time in the day when the

1 employees were performing work tasks, subject to the control of Defendant and/or DOES
2 and/or otherwise had work duties but were not paid by Defendant and/or DOES. When
3 Plaintiffs and the Class Members work shifts lasting over eight (8) hours, those unpaid
4 hours would qualify for the overtime rate.

5 79. Further, Plaintiffs and the Class Members are not paid for the time it takes them to get to
6 their first job site or back from their last job site. Because Plaintiffs and the Class Members
7 ordinarily work shifts lasting over eight (8) hours, the majority of these unpaid hours would
8 qualify for the overtime rate.

9 80. Additionally, Defendant and/or DOES have had a continuous policy of not paying
10 Plaintiffs and the Class Members for all hours worked in that Defendant and/or DOES
11 continuously and consistently clocked Plaintiffs and the Class Members out for a thirty
12 (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiffs
13 and the Class Members work through their meal periods, were unable to take meal periods,
14 and/or were not free from all work duties and employer controls during meal periods. Thus,
15 Defendant and/or DOES shave/steal earned wages from Plaintiffs and the Class Members
16 every day they work without a meal period and have time deducted. Because Plaintiffs and
17 the Class Members work shifts lasting over eight (8) hours, these unpaid hours would
18 qualify for the overtime rate.

19 81. Likewise, Plaintiffs and the Class Members have to work through their meal periods but
20 would nonetheless be required to clock out for thirty minutes to create the appearance of
21 lawful meal periods. If employees do not clock out for thirty minutes while they continue
22 to work, then Defendant and/or DOES alters their time records to create the appearance of
23 a lawful meal period. Thus, Plaintiffs and the Class Members are owed wages for meal
24 period time during which they are subject to Defendant's and/or DOES' control and during
25 which they are not free from all work duties. When Plaintiffs and the Class Members work
26 over eight (8) hours in a shift, these unpaid hours must be compensated at an overtime rate.

27 82. Moreover, when Plaintiffs and the Class Members did take meal periods they are not
28 relieved of all duties and/or employer control during their unpaid meal periods. Plaintiffs

1 and the Class Members are informed and believe and thereon allege that Defendant and/or
2 DOES breached the legal duty to pay for all hours worked by Plaintiffs and the Class
3 Members by failing to pay Plaintiffs and the Class Members for meal period time when
4 Plaintiffs and the Class Members were not relieved of all duties and/or employer control.
5 When Plaintiffs and the Class Members work over eight (8) hours in a shift, these unpaid
6 hours must be compensated at an overtime rate.

7 83. Further, Plaintiffs and the Class Members were deprived of wages for all overtime hours
8 worked because Defendant and/or DOES failed to pay Plaintiffs and the Class Members at
9 the appropriate regular rate of pay for all overtime hours worked.

10 84. Plaintiffs and the Class Members are informed and believe and thereon allege that as a
11 direct result of Defendant's and/or DOES' uniform policies and/or practices, Plaintiffs and
12 the Class Members have suffered, and continue to suffer, substantial unpaid overtime
13 wages, and lost interest on such overtime wages, and expenses and attorneys' fees in
14 seeking to compel Defendant and/or DOES to fully perform their obligations under state
15 law, all to their respective damage in amounts according to proof at time of trial. Defendant
16 and/or DOES commit the acts alleged herein knowingly and willfully, with the wrongful
17 and deliberate intention on injuring Plaintiffs and the Class Members. Defendant and/or
18 DOES act with malice or in conscious disregard of Plaintiffs' and the Class Member's
19 rights. In addition to compensation, Plaintiffs are also entitled to any penalties allowed by
20 law.

21 85. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
22 below.

23 **THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Provide**
24 **Meal Periods, or Compensation in Lieu Thereof (Lab. Code §§ 226.7, 512, IWC Wage Order**
25 **No. 16-2001(11); Cal. Code Regs., tit. 8, § 11160)**

26 86. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
27 and every other paragraph in this Complaint herein as if fully plead.

28 87. Under *California Labor Code* section 512 and IWC Wage Order No. 16-2001, no employer

1 shall employ any person for a work period of more than five (5) hours without providing a
2 meal period of not less than thirty (30) minutes. During these meal periods of not less than
3 thirty (30) minutes, the employee is to be completely free of the employer's control and
4 must not perform any work for the employer. If the employee does perform work for the
5 employer during the thirty (30) minute meal period, the employee has not been provided a
6 meal period in accordance with the law. Also, the employee is to be compensated for any
7 work performed during the thirty (30) minute meal period.

8 88. Under *California Labor Code* section 226.7, if the employer does not provide an employee
9 a meal period in accordance with the above requirements, the employer shall pay the
10 employee one (1) hour of pay at the employee's regular rate of compensation for each
11 workday that the meal period is not provided.

12 89. Defendant and/or DOES fail to provide full thirty (30) minute meal periods to Plaintiffs
13 and the Class Members no later than the fifth hour of work.

14 90. Defendant and/or DOES breach the legal duty to provide meal periods to employees by
15 imposing a continuous and consistent policy of requiring Plaintiffs and the Class Members
16 to work through their meal periods to satisfy the demanding workload duties imposed by
17 Defendant and/or DOES such that Plaintiffs and the Class Members were unable to take a
18 meal period at all, on-duty or otherwise.

19 91. In addition, Defendant and/or DOES fail to keep accurate records of Plaintiffs' and the
20 Class Members' meal period times.

21 92. When Plaintiffs and the Class Members are able to take a meal period, Plaintiffs and the
22 Class Members are not relieved of all duties and/or employer control during their meal
23 periods.

24 93. Alternatively, Defendant and/or DOES breach the legal duty to provide meal periods to
25 employees by failing to provide employees with meal periods within the timeframes
26 outlined by California law. Specifically, Defendant and/or DOES fail to provide Plaintiffs
27 and the Class Members with meal periods within the first five (5) continuous hours of work.

28 94. Further, Defendant and/or DOES instituted a consistent policy/practice of not providing

1 second meal periods to Plaintiffs and all Class Members and/or providing compensation in
2 lieu thereof. Specifically, Plaintiffs and the Class Members are required to work shifts
3 over ten (10) hours long but never received second meal periods.

4 95. By failing to provide compensation for such unprovided or improperly provided meal
5 periods, as alleged above, Defendant and/or DOES willfully violate the provisions of
6 *California Labor Code* sections 226.7, 512, and IWC Wage Order No. 16-2001.

7 96. As a result of the unlawful acts of Defendant and/or DOES, Plaintiffs and the Class they
8 seek to represent have been deprived of premium wages, in amounts to be determined at
9 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon,
10 attorneys' fees and costs, pursuant to *California Labor Code* section 226.7, and IWC Wage
11 Order No. 16-2001. Plaintiffs and the Class they seek to represent did not willfully waive
12 their right to take meal periods through mutual consent with Defendant and/or DOES.

13 97. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
14 below.

15 **FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to**
16 **Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 16-2001(11);**
17 **Cal. Code Regs. Title 8 § 11160)**

18 98. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
19 and every other paragraph in this Complaint herein, as if fully plead.

20 99. Under IWC Wage Order No. 16-2001, every employer shall authorize and permit all
21 employees to take rest periods, "[t]he authorized rest period time shall be based on the total
22 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked
23 or major fraction thereof." IWC Wage Order 16-2001(11). The time spent on rest periods
24 "shall be counted as hours worked for which there shall be no deduction from wages." *Id.*

25 100. Under *California Labor Code* section 226.7, if the employer does not provide an employee
26 a rest period in accordance with the above requirements, the employer shall pay the
27 employee one (1) hour of pay at the employee's regular rate of compensation for each
28 workday that the rest break is not provided.

1 101. Defendant and/or DOES breach the legal duty to provide rest periods to employees by
2 imposing a continuous and consistent policy of requiring Plaintiffs and Class Members to
3 work through their rest periods to satisfy the demanding workload duties imposed by
4 Defendant and/or DOES such that Plaintiffs and the Class Members were unable to take a
5 rest period.

6 102. Alternatively, Defendant and/or DOES breach the legal duty to provide rest periods to
7 employees by failing to provide employees with rest periods within the timeframes outlined
8 by California law. Specifically, Defendant and/or DOES do not provide Plaintiffs and the
9 Class Members with rest periods consisting of a net ten (10) minutes, nor does Defendant
10 and/or DOES provide them with a rest period per four (4) hours worked or major fraction
11 thereof.

12 103. When Plaintiffs and the Class Members are able to take a rest period, Plaintiffs and the
13 Class Members are not relieved of all duties and/or employer control during their rest
14 periods.

15 104. As a result of the unlawful acts of Defendant and/or DOES, Plaintiffs and the Class they
16 seek to represent have been deprived of premium wages, in amounts to be determined at
17 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon,
18 attorneys' fees and costs, pursuant to *California Labor Code* section 226.7, and IWC Wage
19 Order No. 16-2001.

20 105. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
21 below.

22 **SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Provide**
23 **Recovery Periods (Lab. Code § 226.7; Cal. Code Regs. Title 8 § 3395)**

24 106. Plaintiffs and those similarly situated Class members hereby incorporate by reference each
25 and every other paragraph in this Complaint herein, as if fully plead.

26 107. Under California Code of Regulations, Title 8, section 3395(d)(1), "[w]hen the outdoor
27 temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and
28 maintain one or more areas with shade at all times while employees are present that are

1 either open to the air or provided with ventilation or cooling.” Cal. Code of Reg. Title 8, §
2 3395(d)(1). Furthermore, “[t]he amount of shade present shall be at least enough to
3 accommodate the number of employees on recovery or rest periods, so that they can sit in
4 a normal posture fully in the shade without having to be in physical contact with each
5 other.” *Id.*

6 108. “Employees shall be allowed and encouraged to take a preventative cool-down rest in the
7 shade when they feel need to do so to protect themselves from overheating.” Cal. Code of
8 Reg. Title 8, § 3395(d)(3). “Such access to shade shall be permitted at all times.” *Id.*

9 109. Defendant and/or DOES fail to permit access to shade and preventative cool down rest
10 and/or recovery periods to Plaintiffs and the Class members when the temperature reached
11 eighty (80) degrees Fahrenheit. Specifically, Plaintiffs and the Class members work in
12 areas such as Stanislaus County in California during the summer and autumn months, when
13 temperatures frequently exceed eighty (80) degrees Fahrenheit. However, Defendant
14 and/or DOES do not allow and encourage Plaintiffs and the Class members to take
15 preventative cool-down rest recovery periods in shaded areas when the applicable
16 temperatures are reached. Thus, Defendant and/or DOES fail to permit, allow, or encourage
17 Plaintiffs and the Class members to take preventative cool down recovery periods in the
18 shade to protect against overheating when the temperature exceeds eighty (80) degrees
19 Fahrenheit.

20 110. Defendant and/or DOES fail to utilize any alternative procedures for providing access to
21 shade or equivalent protection to Plaintiffs and the Class members. Defendant and/or
22 DOES fail to implement other cooling measures in lieu of shade at least as effective as
23 shade in allowing employees to cool.

24 111. Because of Defendant’s and/or DOES’ demanding policies on task completion times,
25 Plaintiffs and those similarly situated felt that breaking to exercise their rights to take
26 recovery period breaks would sacrifice their jobs with Defendant and/or DOES.

27 112. Throughout the statutory period, Defendant’s and/or DOES’ uniform policies and practices
28 resulted in Plaintiffs and the Class Members not receiving recovery periods.

1 113. Throughout the statutory period, Defendant and/or DOES valued productivity over
2 providing recovery periods and, because of this, recovery periods were not priorities to
3 Defendant and/or DOES.

4 114. Throughout the statutory period, Defendant's and/or DOES' policies promoting
5 productivity subjugated Plaintiffs' and those similarly situated's rights to recovery periods.

6 115. Therefore, Defendant and/or DOES failed to provide preventative cool down rest and/or
7 recovery periods to Plaintiffs and the Class members in accordance with California Code
8 of Regulations, Title 8, section 3395.

9 116. As a result of the unlawful acts of Defendant and/or DOES, Plaintiffs and the Class they
10 seek to represent have been deprived of premium wages, in amounts to be determined at
11 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon,
12 attorneys' fees and costs, pursuant to Labor Code section 226.7.

13 117. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
14 below.

15 **SIXTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Adopt**
16 **a Compliant Sick Pay/Paid Time Off Policy (Lab. Code §§ 233, 234, 246)**

17 118. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
18 and every other paragraph in this Complaint herein as if fully plead.

19 119. Section 246(a)(1) of the *California Labor Code* states: "An employee who, on or after July
20 1, 2015, works in California for the same employer for 30 or more days within a year from
21 the commencement of employment is entitled to paid sick days as specified in this section."

22 120. *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, "an
23 employee shall accrue paid sick days at the rate of not less than one (1) hour per every
24 thirty (30) hours worked, beginning at the commencement of employment or the operative
25 date of this article, whichever is later."

26 121. *California Labor Code* section 246(c) states: "An employee shall be entitled to use accrued
27 paid sick days beginning on the 90th day of employment, after which day the employee
28 may use paid sick days as they are accrued."

- 1 122. *California Labor Code* section 233(c) states: “An employer shall not deny an employee
2 the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any
3 manner discriminate against an employee for using, or attempting to exercise the right to
4 use, sick leave to attend to an illness or the preventive care of a family member, or for any
5 other reason specified in subdivision (a) of Section 246.5.”
- 6 123. *California Labor Code* section 233(d) provides relief for violations of this section, stating
7 that “[a]ny employee aggrieved by a violation of this section shall be entitled to
8 reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate
9 equitable relief.”
- 10 124. *California Labor Code* section 234 further forbids employers from adopting an “absence
11 control policy that counts sick leave taken pursuant to Section 233 as an absence that may
12 lead to or result in discipline, discharge, demotion, or suspension is a per se violation of
13 Section 233. An employee working under this policy is entitled to appropriate legal and
14 equitable relief pursuant to Section 233.”
- 15 125. *California Labor Code* section 246(k) provides that, “[a]n employee may determine how
16 much paid sick leave they need to use, provided that an employer may set a renewable
17 minimum increment, not to exceed two hours, for the use of paid sick leave.”
- 18 126. *California Labor Code* section 246(i) requires: “An employer shall provide an employee
19 with written notice that sets forth the amount of paid sick leave available, or paid time off
20 leave an employer provides in lieu of sick leave, for use on either the employee’s itemized
21 wage statement described in Section 226 or in a separate writing provided on the designated
22 pay date with the employee’s payment of wages. If an employer provides unlimited paid
23 sick leave or unlimited paid time off to an employee, the employer may satisfy this section
24 by indicating on the notice or the employee’s itemized wage statement “unlimited.”
- 25 127. Defendant and/or DOES fail to provide Plaintiffs and Class Members with paid sick days
26 in accordance with these provisions.
- 27 128. Defendant and/or DOES operate under an absence control policy that counts sick leave
28 taken pursuant to *California Labor Code* section 233 as an unauthorized absence that may

1 result in discipline, discharge, demotion, or termination. Thus, Defendant's and/or DOES'
2 sick pay policy punishes Plaintiffs and Class Members by way of suspension and/or
3 termination for use of protected and appropriate sick leave.

4 129. Further, Defendant's and/or DOES' sick pay policy fails to pay Plaintiffs and Class
5 Members sick pay for all appropriate and protected purposes enumerated in *California*
6 *Labor Code* sections 233, 234, and 246, and Defendant and/or DOES fail to itemize the
7 amount of accrued/available sick leave Plaintiffs and Class Members have on wage
8 statements each pay period.

9 130. As a result of the unlawful acts of Defendant and/or DOES, Plaintiffs and the Class they
10 seek to represent have been incurred damages, in amounts to be determined at trial, and are
11 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees
12 and costs, pursuant to *California Labor Code* sections 233(e) and 246.

13 131. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
14 below.

15 **SEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Knowing and**
16 **Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Lab.**
17 **Code §§ 226, 246, 1174, 1175; IWC Wage Order No. 16-2001; Cal. Code Regs., Title 8, §**
18 **11160)**

19 132. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each
20 and every other paragraph in this Complaint herein as if fully plead.

21 133. *California Labor Code* section 226(a) requires Defendant and/or DOES to, inter alia,
22 itemize in wage statements and accurately report the total hours worked and total wages
23 earned. Defendant and/or DOES have knowingly and intentionally failed to comply with
24 *California Labor Code* section 226, subdivision (a), on each and every wage statement
25 provided to Plaintiffs and members of the proposed Class.

26 134. *California Labor Code* section 1174 requires Defendant and/or DOES to maintain and
27 preserve, in a centralized location, records showing the daily hours worked by and the
28 wages paid to its employees. Defendant and/or DOES have knowingly and intentionally

1 failed to comply with *California Labor Code* section 1174. The failure of Defendant and/or
2 DOES, and each of them, to comply with *California Labor Code* section 1174 is unlawful
3 pursuant to *California Labor Code* section 1175.

4 135. Defendant and/or DOES fail to maintain accurate time records - as required by IWC Wage
5 Order No. 16-2001(6), and *California Code of Regulations* Title 8 section 11160 - showing,
6 among other things, when the employee begins and ends each work period, the total daily
7 hours worked in itemized wage statements, total wages, bonuses and/or incentives earned,
8 and all deductions made.

9 136. In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor
10 in excess of the normal work period shall be paid no later than the payday for the next
11 regular payroll period.” An employer complies with *California Labor Code* section 226(a)
12 “if hours worked in excess of the normal work period during the current pay period are
13 itemized as corrections on the paystub for the next regular pay period. Any corrections set
14 out in a subsequently issued paystub shall state the inclusive dates of the pay period for
15 which the employer is correcting its initial report of hours worked.”

16 137. Defendant and/or DOES have knowingly and intentionally failed to provide Plaintiffs and
17 the Class Members with accurate itemized wage statements which show: “(1) gross wages
18 earned, (2) total hours worked by the employee, . . . (4) all deductions, provided that all
19 deductions made on written orders of the employee may be aggregated and shown as one
20 item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
21 paid, (7) the name of the employee and only the last four digits of his or her social security
22 number or an employee identification number other than a social security number, (8) the
23 name and address of the legal entity that is the employer and, if the employer is a farm
24 labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the
25 legal entity that secured the services of the employer, and (9) all applicable hourly rates in
26 effect during the pay period and the corresponding number of hours worked at each hourly
27 rate by the employee[.]” Cal. Lab. Code § 226(a).

28 138. Defendant and/or DOES have knowingly and intentionally failed to comply with

1 *California Labor Code* section 226(a) by failing to list all of the required information on
2 each and every wage statement provided to Plaintiffs and Class Members.

3 139. In every pay period during the period of the relevant statute of limitations, Defendant
4 and/or DOES knowingly and intentionally did not itemize the address of the legal entity
5 that is the employer on Plaintiffs' and the Class Members' wage statements.

6 140. In every pay period during the period of the relevant statute of limitations, Defendant
7 and/or DOES knowingly and intentionally did not itemize the employee's last four digits
8 of his or her social security number or an employee identification number other than the
9 social security number on Plaintiffs' and the Class Members' wage statements.

10 141. In every pay period during the period of the relevant statute of limitations, Defendant
11 and/or DOES knowingly and intentionally did not itemize the inclusive dates of the period
12 for which the employee is paid on Plaintiffs' and the Class Members' wage statements.

13 142. In every pay period during the period of the relevant statute of limitations, Defendant
14 and/or DOES knowingly and intentionally did not include the gross and net wages earned
15 on wage statements. Defendant and/or DOES therefore knowingly and intentionally fail to
16 itemize the gross and net wages earned on Plaintiffs' and the Class Members' wage
17 statements throughout the relevant statute of limitations.

18 143. Defendant and/or DOES knowingly and intentionally did not include the gross wages
19 earned on wage statements. Defendant and/or DOES therefore knowingly and intentionally
20 fail to itemize the gross wages earned on Plaintiffs' and the Class Members' wage
21 statements.

22 144. In every pay period during the period of the relevant statute of limitations, Defendant
23 and/or DOES knowingly and intentionally did not itemize the total hours worked on wage
24 statements as *California Labor Code* section 226, subsection (a), requires. In every pay
25 period during the period of the relevant statute of limitations, Defendant and/or DOES
26 knowingly and intentionally did not include the total hours worked on wage statements.
27 Defendant and/or DOES therefore knowingly and intentionally failed to itemize the total
28 hours worked on Plaintiffs' and the Class Members' wage statements. Further, Plaintiffs

1 and the Class Members are unable to determine the total hours worked based on the data
2 provided on their wage statements.

3 145. In every pay period during the period of the relevant statute of limitations, Defendant
4 and/or DOES knowingly and intentionally did not itemize the total hours worked on
5 Plaintiffs' and the Class Members' wage statements. As discussed herein, Defendant and/or
6 DOES have had a consistent policy and/or practice of not paying Plaintiffs and similarly
7 situated hourly, non-exempt employees for all of the hours they worked, including, but not
8 limited to, rounding, before "shifts" start, after "shifts" end, and/or any other time in the
9 day when Plaintiffs and similarly situated hourly non-exempt employees were performing
10 work tasks, subject to the control of Defendant and/or DOES and/or otherwise had work
11 duties but were not paid by Defendant and/or DOES. Thus, Plaintiffs and the Class
12 Members are owed wages for the unpaid time during which they are subject to Defendant's
13 and/or DOES' control and/or during which they are not free from all work duties. As
14 Defendant and/or DOES knew or had reason to know Plaintiffs and the Class Members
15 were owed compensation for this time, Defendant and/or DOES knowingly and
16 intentionally failed to comply with *California Labor Code* Section 226, subdivision (a).

17 146. In every pay period during the period of the relevant statute of limitations, Defendant
18 and/or DOES knowingly and intentionally did not include all meal, rest, and recovery
19 period premiums owed on wage statements. Defendant and/or DOES therefore knowingly
20 and intentionally fail to itemize all meal, rest, and recovery period premiums owed on
21 Plaintiffs' and the Class Members' wage statements throughout the relevant statute of
22 limitations.

23 147. In addition, Defendant and/or DOES fail to include all overtime hours worked by Plaintiffs
24 and the Class Members on wage statements and itemize those overtime hours at the proper
25 regular rate.

26 148. Defendant and/or DOES also fail to provide Plaintiffs and Class Members with written
27 notice that sets forth the amount of sick leave available for use, either in employees'
28 itemized wage statements or in a separate writing provided to employees on the designated

1 pay date.

2 149. As a result of the knowing and intentional failure by Defendant and/or DOES to comply
3 with itemized employee wage statement provisions, Plaintiffs and the Class Members have
4 been able to reconstruct only a reasonable estimate of the hours worked and have, therefore,
5 not received full compensation.

6 150. As a direct result of Defendant's and/or DOES' unlawful acts, Plaintiffs and the Class they
7 intend to represent have been damaged and are entitled to recovery of such amounts, plus
8 interest thereon, attorneys' fees, and costs, pursuant to *California Labor Code* section 226.

9 151. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
10 below.

11 **EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Pay**

12 **All Wages Due at the Time of Termination from Employment (Lab. Code §§ 201-203)**

13 152. Plaintiff and those similarly situated Class members hereby incorporate by reference each
14 and every other paragraph in this Complaint herein as if fully plead.

15 153. Whether Plaintiff Avery Thompson voluntarily or involuntarily terminated his
16 employment with Defendant and/or DOES, Defendants and/or DOES did not timely pay
17 him all straight time wages owed at the time of his termination.

18 154. Whether Plaintiff Avery Thompson voluntarily or involuntarily terminated his
19 employment with Defendant and/or DOES, Defendant and/or DOES did not timely pay
20 him all overtime wages owed at the time of his termination.

21 155. Whether Plaintiff Avery Thompson voluntarily or involuntarily terminated his
22 employment with Defendant and/or DOES, Defendants and/or DOES did not timely pay
23 him meal, rest, and/or recovery period premiums owed at the time of his termination.

24 156. Numerous members of the Class are no longer employed by Defendant and/or DOES. They
25 were either fired or they quit Defendant's and/or DOES' employ. Defendant and/or DOES
26 did not pay all timely wages owed at the time of their termination. Defendant and/or DOES
27 did not pay all premium wages owed at the time of their termination.

28 157. *California Labor Code* sections 201 and 202 provide that if an employer discharges an

1 employee, the wages earned and unpaid at the time of discharge are due and payable
2 immediately, and if an employee quits his or her employment, his or her wages shall
3 become due and payable no later than seventy-two (72) hours thereafter, unless the
4 employee has given seventy-two (72) hours' notice of his or her intention to quit, in which
5 case the employee is entitled to his or her wages at the time of quitting.

6 158. During the relevant time period, Defendant and/or DOES intentionally and willfully fail to
7 pay Plaintiffs' and the Class Members' who are no longer employed by Defendant and/or
8 DOES their wages that were earned and unpaid within seventy-two (72) hours of their
9 leaving Defendant's and/or DOES' employ in violation of *California Labor Code* sections
10 201 and 202.

11 159. *California Labor Code* section 203 provides that, if an employer willfully fails to pay,
12 without abatement or reduction, in accordance with *California Labor Code* sections 201,
13 201.5, 202 and 205.5, any wages of an employee who is discharged or who quits, the wages
14 of the employee shall continue at the same rate, for up to thirty (30) days from the due date
15 thereof, until paid or until an action therefore is commenced.

16 160. Defendant and/or DOES fail to provide Plaintiff and formerly employed Class Members
17 all their final wages at their time of termination in accordance with *California Labor Code*
18 sections 201 and 202.

19 161. As discussed herein, Defendant and/or DOES have had a consistent policy and/or practice
20 of not paying Plaintiff and similarly situated hourly, non-exempt employees for all of the
21 hours they worked, including, but not limited to, rounding, before "shifts" start, after
22 "shifts" end, and/or any other time in the day when Plaintiff and similarly situated hourly
23 non-exempt employees were performing work tasks, subject to the control of Defendant
24 and/or DOES and/or otherwise had work duties but were not paid by Defendant and/or
25 DOES. Failing to pay for all hours worked while under Defendant's and/or DOES' control
26 and/or while suffered or permitted to work resulted in hourly, non-exempt employees being
27 deprived of straight time and/or overtime wages.

28 162. Additionally, Defendant and/or DOES fail to pay all meal, rest, and recovery period

premiums owed to Plaintiff Avery Thompson and Class Members.

163. Defendant's and/or DOES' failure to pay Class Members who are no longer employed by Defendant and/or DOES all wages that were earned and unpaid at the time of termination or within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ is in violation of *California Labor Code* sections 201 and 202.

164. Defendant and/or DOES fail to pay Plaintiff Avery Thompson and Class Members a sum certain at the time of their termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter. Pursuant to the provisions of *California Labor Code* section 203, Plaintiff and Class Members are entitled to a penalty in the amount of their daily wage, multiplied by thirty (30) days.

165. Defendant's and/or DOES' failure to pay said wages to Plaintiff Avery Thompson and members of the Class he seeks to represent, was willful in that Defendant and/or DOES and each of them knew the wages to be due, but failed to pay them.

166. As a consequence of Defendant's and/or DOES' willful conduct in not paying wages owed at the time of separation from employment, Plaintiff Avery Thompson and members of the proposed Class are entitled to thirty (30) days' worth of wages as a penalty under *California Labor Code* section 203, together with interest thereon and attorneys' fees and costs.

167. WHEREFORE, Plaintiff Avery Thompson and the Class he seeks to represent request relief as described below.

NINTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Failure to Reimburse/Illegal Deductions (Lab. Code §§ 221, 2802; IWC Wage Order No. 16-2001; Cal. Code Regs., Title 8, § 11160)

168. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

169. *California Labor Code* section 2082 provides: "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.... [which] shall include[s] all reasonable costs, including, but not limited

1 to, attorney's fees incurred by the employee enforcing the rights granted by this section."

2 170. Under *California Labor Code* section 221, "[i]t shall be unlawful for any employer to

3 collect or receive from an employee any part of wages theretofore paid by said employer

4 to said employee."

5 171. Plaintiffs and Class Members incurred expenses in the discharge of their duties without

6 receiving reimbursement from Defendant and/or DOES. These expenses include, but are

7 not limited to, the purchase of steel toed boots for use in performing Plaintiffs' and Class

8 Members' job duties.

9 172. *California Labor Code* section 2802(a) entitles Defendant and/or DOES to reimbursement

10 for said necessary expenditures, plus interest and expenses.

11 173. Defendant and/or DOES have failed to indemnify or in any manner reimburse Plaintiffs

12 and Class Members for these expenditures and losses.

13 174. By requiring Plaintiffs and Class Members to pay expenses and cover losses that they

14 incurred in direct consequence of the discharge of their duties for Defendant and/or DOES

15 and/or in obedience of Defendant's and/or DOES' direction, Defendant and/or DOES have

16 violated and continues to violate *California Labor Code* section 2802.

17 175. As a direct and proximate result of Defendant's and/or DOES' conduct, Plaintiffs and Class

18 Members have suffered substantial losses according to proof, as well as pre-judgment

19 interest, costs, and attorneys' fees for the prosecution of this action, which losses are

20 compensable under *California Labor Code* section 2802.

21 176. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described

22 below.

23 **TENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of**

24 **Unfair Competition Law (California Bus. & Prof. Code, § 17200, et seq.)**

25 177. Plaintiffs and those similarly situated Class Members hereby incorporate by reference each

26 and every other paragraph in this Complaint herein as if fully plead.

27 178. Defendant and/or DOES failure to pay all straight time and overtime wages earned, failure

28 to provide compliant meal, rest, and/or recovery periods, and/or premium pay

1 compensation in lieu thereof, failure to adopt a compliant sick pay policy, failure to itemize
2 and keep accurate records, failure to pay all wages due at time of termination, and failure
3 to reimburse all necessary business expenses incurred, as alleged herein, constitutes
4 unlawful activity prohibited by *California Business and Professions Code* section 17200,
5 et seq.

6 179. The actions of Defendant and/or DOES in failing to pay Plaintiffs and members of the
7 proposed Class in a lawful manner, as alleged herein, constitutes false, unfair, fraudulent,
8 and deceptive business practices, within the meaning of *California Business and*
9 *Professions Code* section 17200, et seq.

10 180. Plaintiffs are entitled to an injunction and other equitable relief against such unlawful
11 practices in order to prevent future damage, for which there is no adequate remedy at law,
12 and to avoid a multiplicity of lawsuits. Plaintiffs bring this cause individually and as
13 members of the general public actually harmed and as a representative of all others subject
14 to Defendant and/or DOES unlawful acts and practices.

15 181. As a result of their unlawful acts, Defendant and/or DOES have reaped and continue to
16 reap unfair benefits at the expense of Plaintiffs and the proposed Class they seek to
17 represent. Defendant and/or DOES should be enjoined from this activity and made to
18 disgorge these ill-gotten gains and restore Plaintiffs and the members of the proposed Class
19 pursuant to *California Business and Professions Code* section 17203. Plaintiffs are
20 informed and believes, and thereon alleges, that Defendant and/or DOES are unjustly
21 enriched through their policy of not all wages owed to Plaintiffs and members of the
22 proposed Class.

23 182. Plaintiffs are informed and believes, and thereon alleges, that Plaintiffs and members of
24 the proposed class are prejudiced by Defendant's and/or DOES' unfair trade practices.

25 183. As a direct and proximate result of the unfair business practices of Defendant and/or DOES,
26 and each of them, Plaintiffs, individually and on behalf of all employees similarly situated,
27 are entitled to equitable and injunctive relief, including full restitution and/or disgorgement
28 of all wages and premium pay which have been unlawfully withheld from Plaintiffs and

1 members of the proposed Class as a result of the business acts and practices described
2 herein and enjoining Defendant and/or DOES from engaging in the practices described
3 herein.

4 184. The illegal conduct alleged herein is continuing, and there is no indication that Defendant
5 and/or DOES will cease and desist from such activity in the future. Plaintiffs allege that if
6 Defendant and/or DOES are not enjoined from the conduct set forth in this Complaint, they
7 will continue the unlawful activity discussed herein.

8 185. Plaintiffs further request that the Court issue a preliminary and permanent injunction
9 prohibiting Defendant and/or DOES from continuing to not pay Plaintiffs and the members
10 of the proposed Class all earned but unpaid wages as discussed herein.

11 186. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
12 below.

13 **ELEVENTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violations**
14 **of the Private Attorneys General Act of 2004 (“PAGA”) (Lab. Code § 2698 et seq.)**

15 187. Plaintiffs and Class Members hereby incorporate by reference each and every other
16 paragraph in this Complaint herein as if fully plead.

17 188. Plaintiff Avery Thompson, by virtue of his employment with Defendant and/or DOES, and
18 Defendant’s and/or DOES’ failure to provide meal and rest periods, overtime
19 compensation, all wages for all work performed at the statutory minimum agreed upon rate,
20 reimbursement for all required expenses, and all wages due at termination, are aggrieved
21 employees with standing to bring an action under the Private Attorney General Act
22 (“PAGA”). Plaintiff Avery Thompson, as a representative of the people of the State of
23 California, will seek any and all penalties otherwise capable of being collected by the Labor
24 Commission and/or the Department of Labor Standards Enforcement (DLSE). This
25 includes each of the following, as set forth in Labor Code Section 2699.5, which provides
26 that Section 2699.3(a) applies to any alleged violation of the following provisions: Sections
27 201 through 203, 204, 205.5, 221, 222, 223, 226, 226.7, 246, 510, 512, 518, 558, 1174,
28 1194, 1197, 1197.1, 1199, and 2802.

1 189. Plaintiff Avery Thompson is informed and believes that Defendant and/or DOES have
2 violated and continue to violate provisions of the California Labor Code and applicable
3 Wage Orders related to meal and rest periods, overtime and straight-time compensation,
4 expense reimbursement, wages for all work performed, and all wages due at termination.

5 190. Plaintiff Avery Thompson, as a representative of the general public, will and does seek to
6 recover any and all penalties for each and every violation shown to exist or to have occurred
7 beginning one-year prior to providing notice to the Labor and Workforce Development
8 Agency (LWDA) and continuing to the present, in an amount according to proof, as to
9 those penalties that are otherwise only available to public agency enforcement actions.
10 Funds recovered will be distributed in accordance with PAGA, with at least 75% of the
11 penalties recovered being reimbursed to the State of California and the LWDA.

12 **V. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment as follows:

- 14 A. That the Court determine that this action may be maintained as a class action;
15 B. For compensatory damages, in an amount according to proof at trial, with interest
16 thereon;
17 C. For economic and/or special damages in an amount according to proof with interest
18 thereon;
19 D. For unpaid straight time and overtime wages, in an amount according to proof at trial,
20 with interest thereon;
21 E. For compensation for all time worked;
22 F. For compensation for not being provided paid meal periods;
23 G. For compensation for not being provided paid rest breaks;
24 H. For compensation for not being provided paid recovery periods;
25 I. For damages and/or monies owed for failure to comply with itemized employee wage
26 statement provisions;
27 J. For damages and/or monies owed for adopting an unlawful sick pay policy;
28 K. For reimbursement of business expenses incurred;

1 L. For all waiting time penalties owed;
2 M. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General
3 Act of 2004;
4 N. That Defendant and/or DOES be found to have engaged in unfair competition in
5 violation of sections 17200 et seq. of the *California Business and Professions Code*;
6 O. That Defendant and/or DOES be ordered and enjoined to make restitution to the Class
7 due to their unfair competition, including disgorgement of their wrongfully withheld
8 wages pursuant to *California Business and Professions Code* sections 17203 and
9 17204;
10 P. That an order of specific performance of all penalties owed be issued under *California*
11 *Business and Professions Code* sections 17202;
12 Q. That Defendant and/or DOES be enjoined from continuing the illegal course of
13 conduct, alleged herein;
14 R. That Defendant and/or DOES further be enjoined to cease and desist from unfair
15 competition in violation of section 17200 et seq. of the *California Business and*
16 *Professions Code*;
17 S. That Defendant and/or DOES be enjoined from further acts of restraint of trade or
18 unfair competition;
19 T. For attorneys' fees;
20 U. For liquidated damages;
21 V. For interest accrued to date;
22 W. For costs of suit and expenses incurred herein; and
23 X. For any such other and further relief as the Court deems just and proper.
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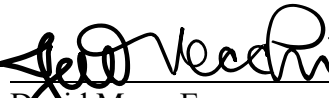
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DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial.

Dated: March 20, 2026

MARA LAW FIRM, PC



David Mara, Esq.
Jill Vecchi, Esq.

Attorneys for Plaintiffs Avery Thompson and Hugo Caballero on behalf of themselves, all others similarly situated, and on behalf of the general public