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on behalf of himself and all others similarly situated

ELECTRONICALLY FILEDSuperior Court of California
County of Alameda**09/12/2024**

Chad Firke, Executive Officer / Clerk of the Court

By: D. Drew Deputy**SUPERIOR COURT OF THE STATE OF CALIFORNIA****FOR THE COUNTY OF ALAMEDA**

ALEXANDER A. CHATMAN, JR., an
individual, on behalf of himself and others
similarly situated,

Plaintiff,

vs.

RJMS CORPORATION, a Delaware
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 24CV081124

CLASS ACTIONAssigned for All Purposes To:

Hon. Noël Wise

Dept.: 21

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability under Labor Code § 226.7;
4. Rest-Break Liability under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties under PAGA, Labor Code § 2698 *et seq.*

DEMAND FOR JURY TRIAL

Original Complaint filed: June 24, 2024

1 Plaintiff ALEXANDER A. CHATMAN, JR. (hereinafter “Plaintiff”), on behalf of himself
2 and all other similarly situated non-exempt employees employed by Defendants in California
3 during the relevant period (collectively, “Employees”; individually, “Employee”) complains of
4 Defendants as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of himself and all current and former
7 Employees within the State of California who, at any time four years prior to the filing of this
8 lawsuit, are or were employed as non-exempt employees by Defendants RJMS CORPORATION a
9 Delaware corporation; and DOES 1 through 50 (all defendants being collectively referred to
10 herein as “Defendants”). Plaintiff alleges that Defendants violated various provisions of the
11 California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and
12 California Business & Professions Code, and seeks redress for these violations.

13 2. Plaintiff worked as an “Lease Return Coordinator” at one of Defendants’ facilities
14 and locations in Livermore, California and Alameda County. He and the other Class members
15 were employed by Defendants as non-exempt employees at Defendants’ locations and facilities
16 throughout California, including in positions related to providing and coordinating material
17 handling equipment sales, leasing and repair services to Defendants’ customers. Plaintiff worked
18 at Defendants’ behest without being paid all wages due and without being provided all required
19 breaks. More specifically, Plaintiff and the other similarly situated Class members were employed
20 by Defendants and shared similar job duties and responsibilities, were subjected to the same
21 policies and practices, and endured similar violations at the hands of Defendants as the other
22 Employees who served in similar and related positions.

23 3. Defendants required Plaintiff and the Employees in the Class to work off the clock
24 and failed to record accurate time worked by these Employees, failed to pay them at the
25 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
26 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
27 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
28 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain

1 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
2 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
3 applicable paragraphs of the IWC Wage Orders.

4 4. Defendant RJMS CORPORATION is a Delaware corporation which lists its
5 principal address with the California Secretary of State in Livermore, California. It lists its type of
6 business as "MATERIAL HANDLING EQUIPMENT SALES AND SERVICE." The name
7 "RJMS CORPORATION A DELAWARE" is listed as the employer on the wage statements
8 issued to Plaintiff by Defendants on a bi-weekly basis, and upon information and belief to other
9 Class members, with the same California address. Upon information and belief, RJMS
10 CORPORATION was formerly known as Toyota Material Handling, Toyota Material Handling
11 Northern California, and TMHNC, and now does business as Total Industries Material Handling.
12 Upon information and belief, RJMS CORPORATION operates various equipment shops and
13 facilities, including the Livermore, California, facility where Plaintiff worked. On information and
14 belief, RJMS CORPORATION maintains operations and locations throughout Alameda County
15 and California. The website for Total Industries Material Handling states: "Partnering with Total
16 means diving into your business, your data, your automation options, and taking a holistic look at
17 how to reach your highest goals. Let's take that partnership - and your business - to a whole new
18 level."

19 5. This Court has jurisdiction over this Action pursuant to California Code of Civil
20 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
21 as a Class Action on behalf of similarly situated Employees of Defendants pursuant to California
22 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district
23 pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the
24 obligations and liabilities giving rise to this lawsuit occurred at least in part in Alameda County,
25 where Defendants are headquartered and operate and provide material handling equipment sales,
26 lease and repair services to California customers.

27 6. The true names and capacities, whether individual, corporate, associate, or
28 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently

unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants designated herein as Does 1 through 50, inclusive, and each of them, is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1 through 50 when their identities become known.

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

FACTUAL BACKGROUND

8. The Employees who comprise the Class, including Plaintiff, are non-exempt employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). During the period of four years prior to the filing of this action through its resolution, Plaintiff and the Class members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates, including for meal period and rest break premium payments. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing, including by miscalculating wages owed and by requiring off the clock work, failing to provide meal and rest breaks, and failing to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

1 9. During the course of Plaintiff and the Class members' employment with
2 Defendants they were not paid all wages they were owed, including for all work performed
3 (resulting in "off the clock" work), and for all their overtime hours worked, or were not paid at
4 the correct rates. This has resulted in systematic and ongoing violations of the California Labor
5 Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other
6 non-exempt material handling equipment sales, lease and repair services employees based out of
7 Defendants' facilities in California.

8 10. Plaintiff worked as an "Lease Return Coordinator" at Defendants' equipment
9 shops and offices in Livermore, Salinas, Sacramento, and Fresno California. His duties included
10 assisting customer, inspecting rental equipment and travelling to other facilities to perform
11 inspections. Plaintiff generally worked 40 hours per week, five shifts per week. Plaintiff's
12 scheduled hours were generally from 8:00 a.m. through 5:00 p.m. As part of Defendants'
13 compensation scheme, Plaintiff and Class members would receive nondiscretionary bonuses, in
14 addition to their wages. These bonuses were part of an incentive plan designed to reward
15 Employees for their productivity.

16 11. Despite their obligation to maintain accurate timekeeping records for hours
17 worked by the Class members, Defendants maintained improper time record-keeping systems
18 across their California facilities. In fact, for all of Plaintiff's employment, Defendants paid
19 Employees like Plaintiff by their scheduled hours, or Defendants' desired number of hours rather
20 than their actual hours worked. Defendants require that Employees download and use on their
21 personal cell phones a timekeeping application known as "Paylocity," which purported to record
22 employees' exact shift start/end time and meal periods. However, to minimize paying overtime
23 compensation, on information and belief, Defendants required that Employees edit their time
24 entries, or had management do so, to round, shave or otherwise adjust Employees' time entries to
25 conform to their scheduled hours. Plaintiff was specifically required to and edited his time entries
26 at least once per month to shave off time worked to reduce the number of hours worked by a few
27 minutes. Defendants' rounding and shaving policy resulted in unpaid time for Plaintiff and other
28 Class members as this time worked would not be accurately recorded in Defendants' timekeeping

1 systems. Accordingly, Defendants failed to pay Employees for all their time worked.

2 12. The failure to maintain accurate timekeeping and payroll records perpetrated by
3 Defendants has also been exacerbated by other off the clock work Defendants required their
4 Employees to endure. For approximately one to two weeks at the beginning of his Employment
5 with Defendants, Plaintiff was required to don a mask before clocking in as part of Defendants'
6 COVID-19 prevention measures. Employees were also frequently required to clock out for the
7 meal periods and work through them to complete necessary work duties or were required to "fix"
8 their time entries after the fact to enter compliant meal periods when they were not actually able
9 to take them. This practice resulted in off the clock work during Employees' meal periods.
10 Additionally, Plaintiff was required to perform work after clocking out from his shifts by cleaning
11 the coffee machine and performing other menial tasks. Plaintiff and the Class members were also
12 required to work or otherwise remain under Defendants' control after their shift end times,
13 including while remaining on-site and through after hours work-related communications
14 regarding scheduling and other work requirements.

15 13. Defendants also paid Plaintiff and the other Class members various forms of
16 compensation including piece-rate pay, commissions, nondiscretionary bonuses, gift cards and
17 other forms of remuneration above and beyond their regular hourly rates. However, despite
18 requiring Plaintiff and the Class members to work extended shifts of over eight hours, Defendants
19 both failed to pay for all overtime hours actually worked and, upon information and belief, failed
20 to pay that overtime at the correct rate. More specifically, to the extent Defendants paid both
21 overtime and bonuses or other remuneration to Plaintiff and the Class members in the same pay
22 period, Defendants miscalculated and underpaid overtime hours by failing to include all forms of
23 remuneration in the regular rate used to calculate and pay overtime. Additionally, to the extent
24 Defendants paid any sick pay to Plaintiff during these pay periods, Defendants similarly
25 miscalculated the rate at which it was paid by failing to account for all forms of remuneration in
26 the regular rate.

27 14. Defendants did this, upon information and belief, in connection with other
28 Employees in a concerted effort to underpay wages to Plaintiff and the other Class members.

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

12 15. Plaintiff was therefore not paid for all his hours worked at the required minimum,
13 overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy
14 and practice of requiring him to work off the clock and without pay. Defendants systematically
15 underpaid Plaintiff and the Class members by failing to pay them at the required overtime rates
16 for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a
17 day at the required double time rate. Upon information and belief, the Class members were bound
18 by similar scheduling and timekeeping policies and endured similar violations at Defendants'
19 hands as Plaintiff.

20 16. Defendants have failed to maintain timekeeping records for Plaintiff that would
21 permit Plaintiff to discover the nature and extent of the off the clock work Defendants required
22 and the actual hours Plaintiff worked or the breaks he received. By failing to pay for all hours
23 worked, and by under-recording regular hours to the detriment of the Class members, Defendants
24 have committed knowing and intentional ongoing violations of the record keeping requirements
25 under the Labor Code, including section 1174, by either failing to maintain records or retaining
26 inaccurate ones.

27 17. The failure to pay for all hours worked and underpayment of wages to Plaintiff
28 and the Class members is and has been a direct consequence of Defendants' unlawful

1 compensation policies and practices, which upon information and belief applied uniformly to the
2 Class members working based out of Defendants' facilities throughout California. As a result of
3 the above-described unlawful requirements to work off the clock, the rounding and time shaving,
4 the failure to accurately record all hours worked and pay wages at the correct rates, and the other
5 wage violations they endured at Defendants' hands, Plaintiff and the Class members were not
6 properly paid all wages earned and all wages owed to them by Defendants, including when
7 working more than eight hours in any given day and/or more than forty hours in any given week.

8 18. Therefore, from at least four years prior to the filing of this lawsuit and continuing
9 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
10 hours worked and failing to pay minimum wages for all time worked, as required by California
11 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
12 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation
13 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
14 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
15 Labor Code § 510 and the corresponding sections of IWC Wage Orders.

16 19. Defendants also failed to provide Plaintiff and the Class members with their
17 required meal periods, and the at least two ten-minute rest breaks required for scheduled shifts of
18 eight hours. Demanding workloads contributed to Defendants' common policy of failing to
19 provide lawful meal periods to Plaintiff and the Class members, as required under the Labor Code
20 and Paragraph 11 of the IWC Wage Order(s). Defendants similarly systematically failed to
21 authorize and permit Plaintiff and the employee Class Members to take all required 10-minute
22 rest breaks as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

23 20. More specifically, Plaintiff worked shifts that entitled him to at least one meal
24 period, but Defendants' managers required Plaintiff and the Class members to prioritize work over
25 taking proper meal periods. In fact, Defendants made no effort to even schedule or otherwise
26 account for time for Plaintiff and the Class members to use for duty-free, net thirty minute meal
27 periods. At least once per month, Plaintiff was required to clock out and work through his meal
28 periods or was required to "fix" his time entries to create the appearance of a compliant meal

1 period entry when Plaintiff was not actually able to take one. To the extent Defendants required
2 Plaintiff to work over ten hours on a work shift, Defendants also failed to provide second meal
3 periods and Defendants have produced no evidence of premium wage payments for meal period
4 violations under Labor Code 226.7. To the extent Defendants have paid any such premiums, upon
5 information and belief they failed to include all forms of remuneration, including bonuses, shift
6 differentials, and the like in the regular rate at which Defendants paid the premiums.

7 21. Therefore, meal period violations systematically occurred throughout all of
8 Plaintiff's work shifts as Defendants failed to provide a lawful meal period or penalty payment. To
9 the extent Defendants ever did pay Plaintiff a meal period premium, they failed to include all
10 forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour
11 premium payment. Upon information and belief, the other Class members were subjected to
12 similar unlawful policies and practices and endured similar violations as Plaintiff.

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

22 23. Defendants appear to recognize and accept their unlawful policies, as Plaintiff's
23 wage statements evidence Defendant paying meal period premium payments under Labor Code §
24 226.7 to Plaintiff. As addressed above, Defendants committed similar and ongoing violations by
25 failing to include all forms of remuneration, including bonuses and the like, in the regular hourly
26 rate at which they paid the premiums to Plaintiff and Class members.

27 24. Defendants thus followed uniformly applied policies of not providing all required
28 meal periods to their Employees. Meal periods were often not properly provided, as work

1 demands impermissibly shortened their breaks. Even when Plaintiff and the Class members were
2 able to take a meal period, it was generally interrupted by work duties or was taken after the fifth
3 hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off
4 the clock work in a manner that would impact when Employees were to receive meal periods and
5 rest breaks, thus leading to further violations.

6 25. As a result, Defendants' failure to provide Plaintiff and the Class members with all
7 legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
8 periods is and will be evidenced by Defendants' business records, or lack thereof. Therefore, for at
9 least four years prior to the filing of this action and through to the present, Plaintiff and the Class
10 members were unable to take off-duty breaks or were otherwise not provided with the opportunity
11 to take required breaks as required under the Labor Code and Wage Orders due to Defendants'
12 policies and practices. On the occasions when Plaintiff and the Class members were provided with
13 a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
14 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
15 occurred in one or more of the following manners:

- 16 (a) Class members were not provided full thirty-minute duty free meal periods
17 for work days in excess of five hours and were not compensated one hour's
18 wages in lieu thereof, all in violation of, among others, Labor Code §§
19 226.7, 512, and the applicable Industrial Welfare Commission Wage
20 Order(s);
- 21 (b) Class members were not provided second full thirty-minute duty free meal
22 periods for work days in excess of ten hours;
- 23 (c) Class members were required to work through at least part of their daily
24 meal period(s);
- 25 (d) Meal periods were provided after five hours of continuous work during a
26 shift; and
- 27 (e) Class members were restricted in their ability to take a full thirty-minute
28 meal period and were not permitted to leave their work premises during

1 meal periods and were otherwise required to remain under Defendants'
2 control during meal periods.

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

12 27. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as
13 required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even
14 schedule or otherwise account for time for Plaintiff and the Class members to use for duty-free,
15 net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees
16 during the relevant period, meaning Defendants' rest break policy was not to schedule or
17 otherwise authorize and permit them. Plaintiff and the Class members worked eight to twelve
18 hours on an average shift, and were required to receive at least two rest breaks or three rest breaks
19 on shifts over ten hours. Given the work demands, understaffing, and pressure from Defendants'
20 management, Plaintiff and the Class members were compelled to not take rest breaks despite
21 working extended shifts. Defendants have produced no evidence of any payments for rest break
22 violations under Labor Code § 226.7. To the extent Defendants have paid any such premiums,
23 upon information and belief they failed to include all forms of remuneration, including bonuses,
24 in the regular rate at which Defendants paid the premium.

25 28. Defendants' uniformly applied policies and practices thus resulted in untimely and
26 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiff and the Class
27 members worked shifts of at least eight hours, which required at least two rest breaks, and often
28 worked shifts over ten hours, which required at least three rest breaks. Even on the occasions

1 when Defendants authorized and permitted Plaintiff to take a first rest break, he was not
2 permitted to take a second or a third break, and those that were provided were often late and
3 generally interrupted by job duties and requirements.

4 29. During rest periods, employers must relieve employees of all duties and relinquish
5 control over how employees spend their time. Plaintiff and the Class members were and are under
6 Defendants' control when they are working through rest breaks. Defendants have also provided
7 either impermissibly shortened or untimely meal and rest breaks to Plaintiff and the Class
8 members. Plaintiff and the Employees in the Class were thus not authorized and permitted to take
9 lawful rest periods, were systematically required by Defendants to work through or during breaks,
10 and were not provided with one hour's wages in lieu thereof. Plaintiff and the Class members
11 were also required to remain on-duty during breaks or portions of their breaks, thus making them
12 either untimely or shortened and on-duty, and they were also prevented from leaving the premises
13 and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly
14 applied policies and practices. Rest period violations therefore arose in one or more of the
15 following manners:

- 16 (a) Class members were required to work without being provided a minimum
17 ten minute rest period for every four hours or major fraction thereof worked
18 and were not compensated one hour of pay at their regular rate of
19 compensation for each workday that a rest period was not provided, and to
20 the extent Defendants paid any premiums, they failed to include all forms of
21 remuneration in the regular rate used to calculate and pay them.
- 22 (b) Class members were not authorized and permitted to take timely rest periods
23 for every four hours worked, or major fraction thereof; and
- 24 (c) Class members were required to remain on duty and under Defendants'
25 control during rest periods or otherwise had their rest periods interrupted by
26 work demands.

27 30. From at least four years prior to the filing of this lawsuit and continuing to the
28 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or

1 deducting the Employees' wages, including by requiring off the clock work during breaks and
2 before and after work shifts and by miscalculating the regular rate and accordingly underpaying
3 overtime wages and meal and rest break premiums. By not compensating Employees for all hours
4 worked at the correct rates, Defendants unlawfully deducted wages earned by and owed to
5 Plaintiff and the Class members, in violation of Labor Code § 221.

6 31. Defendants also violated California Labor Code § 246 by not providing all
7 required paid sick days to Plaintiff and the similarly aggrieved Employees. Labor Code § 246
8 provides that an Employee who "works in California for the same employer for 30 or more days
9 within a year from the commencement of employment is entitled to paid sick days as specified in
10 this section." Paid sick time for nonexempt employees shall be calculated in the same manner as
11 the regular pay rate for the workweek in which the employee uses the paid sick time. Defendants
12 failed to provide Plaintiff and the other similarly Aggrieved Employees with all their required and
13 earned sick days paid at the correct rate of pay, in violation of Labor Code § 246. Additionally
14 and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick
15 leave to the Class members during the relevant time period, including by failing to provide two
16 work weeks of COVID-19 supplemental paid sick leave paid at the correct rates as required under
17 Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are
18 enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully
19 withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or
20 two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate
21 penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."
22 Plaintiff accordingly seek this relief available for Defendants' failure to provide Employees with
23 all their required and earned sick days and all their COVID-19 supplemental sick leave in
24 violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and
25 applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and
26 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

27 32. Upon information and belief, Defendants also failed to provide Employees such as
28 Plaintiff at the time of his employment and thereafter with written notice complying with all the

requirements of Labor Code § 2810.5, which provides that: “At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing” specific required information. Upon information and belief, Defendants failed to provide this information to the Class members as required under Labor Code § 2810.5. Defendants were required to provide Plaintiff and the aggrieved employee Class members certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiff with any such information when he was hired, or have failed to produce it, and upon information and belief Defendants committed similar violations in connection with similarly situated and aggrieved Class members.

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

- (a) failing to pay all wages owed to Class members who either were discharged, laid off, or resigned in accordance with the requirements of Labor Code §§ 201, 202, 203;
- (b) failing to pay all wages owed to the Class members twice monthly in accordance with the requirements of Labor Code § 204;
- (c) failing to pay Class members all wages owed, including all meal and rest period premium wages, and failing to pay them at the regular rate of compensation;
- (d) failing to maintain accurate records of Class members’ hours worked and earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the applicable IWC Wage Orders; and

34. Defendants have also failed to provide Class members with proper wage statements, as required by California wage-and-hour laws. Defendants’ wage statements erroneously list the employer name as “RJMS CORPORATION A DELAWARE” when the correct legal entity and employer is “RJMS CORPORATION.” This mistake appears throughout

1 wage statements issued to Plaintiff during his tenure and made it difficult for him to discern the
2 identity of his employer. This is a systematic violation of the facial requirement under Labor Code
3 226(a)(8) to the extent this incorrect employer name also appeared on wage statements issued to
4 the Class members.

5 35. Moreover, Defendants have also consistently failed to provide Class members with
6 timely, accurate, and itemized wage statements, in writing, as required by California wage-and-
7 hour laws, including by the requirement of off the clock work, the failure to pay all overtime and
8 double time wages owed and failure to pay them at the appropriate premium rates, and the failure
9 to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by
10 miscalculating any overtime or meal period or rest break premium wages and by the systematic
11 and unlawful deductions Defendants took from Employee wages. Defendants have also made it
12 difficult to account with precision for the unlawfully withheld wages and meal and rest period
13 compensation owed to Plaintiff and the Class, during the liability period, including because they
14 did not calculate the regular rate of pay correctly when paying overtime or meal period premiums
15 and because they did not implement and preserve a record-keeping method as required for non-
16 exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable
17 California Wage Orders. Upon information and belief, time clock punches were not maintained or
18 were not accurately maintained for work shifts and meal periods. Defendants also failed to
19 accurately record and pay for all regular and overtime hours worked and submitted by Plaintiff
20 and the Class members, including by failing to pay all overtime hours at the correctly calculated
21 overtime premium rate.

22 36. Defendants also provided Plaintiff and the Class members with wage statements
23 that failed to report all hours worked accurately, applicable hourly rates for all hours worked and
24 bonuses and the like. Plaintiff and the Class members were provided with unlawful wage
25 statements that failed to reflect all hours worked and failed to pay for all overtime hours or failed
26 to pay overtime wages at the correct overtime premium rate, and Defendants miscalculated meal
27 and rest break premiums, and sick time if and when they did pay them. Defendants followed this
28 unlawful policy and practice even though both Plaintiff and Defendants were aware that Plaintiff

1 and the Class members worked more total hours than were reflected on the wage statements,
2 including overtime hours, and were underpaid by regular rate miscalculation. Plaintiff and the
3 Employees in the Class were unable to discern from their wage statements alone the actual hours
4 they worked in total during a pay period and the rates they were paid for those hours worked.

5 37. Defendants have thus also failed to comply with Labor Code § 226(a) by
6 inaccurately reporting total hours worked and total wages earned by Plaintiff and the Class
7 members, along with the appropriate applicable rates, among others requirements. Plaintiff and
8 Class members are therefore entitled to penalties not to exceed \$4,000.00 for each employee
9 pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the
10 applicable California IWC Wage Orders by failing to maintain time records showing when the
11 employee begins and ends each work period, meal periods, and wages earned pursuant to Labor
12 Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from
13 payment of wages and accurately reporting total hours worked.

14 38. Defendants also required Plaintiff and the Class members to work hours off the
15 clock for which they were not compensated. They were required to endure off the clock work
16 addressed above during interrupted or otherwise on-duty meal and rest periods and were not
17 provided with sick pay and supplemental sick leave and were subjected to systematic off the clock
18 work. Defendants also failed to pay all overtime premium wages owed for work conducted on a
19 work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore,
20 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to
21 Plaintiff and other similarly situated Employees at the time of their termination or within seventy-
22 two hours of their resignation, as required by California wage-and-hour laws, including Labor
23 Code § 203.

24 39. Additionally, from at least four years prior to the filing of this lawsuit and
25 continuing to the present, Defendants have regularly required Plaintiff and the Class members to
26 incur necessary business expenses in the course of performing their required job duties without
27 reimbursement. These included the cell phone-related expenses Plaintiff incurred in completing
28 his work duties including taking photos of equipment and uploading them to the “Northstar”

1 system as part of his job duties and the use of his cell phone to record his time entries on the
2 Paylocity app. Plaintiff and Class members were also responsible for maintenance of their work
3 uniforms without receiving reimbursement. Plaintiff and the Class members must be reimbursed
4 for these necessary business expenses under Labor Code § 2802, and Defendants systematically
5 failed to do so.

6 40. In light of the foregoing, Plaintiff and the Employees in the Class bring this action
7 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.4,
8 226.7, 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
9 1194.2 1197, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 *et seq.*, and California Code of
10 Regulations, Title 8, section 11000 *et seq.*

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

15 **CLASS ALLEGATIONS**

16 42. Plaintiff brings this class action on behalf of himself and all others similarly
17 situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the
18 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
19 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
20 determined by the Court (“the Class Period”), and who have been employed as non-exempt
21 employees within the State of California.” This includes all non-exempt material handling
22 equipment sales, lease and repair services employees based out of Defendants’ facilities in
23 California. Further, Plaintiff seeks to represent the Subclasses composed of and defined as
24 follows:

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

27 b. Subclass 2. Wages and Overtime Subclass. All Class members who were not
28 compensated for all hours worked for Defendants at the required rates of pay, including for all

1 hours worked in excess of eight in a day and/or forty in a week.

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

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

9 e. Subclass 5. Unauthorized Deductions from Wages Subclass. All Class members
10 who were subject to Defendants' policy and/or practice of deducting wages earned from their pay,
11 including by requiring off the clock work.

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

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

19 h. Subclass 8. Payroll Records Subclass. All Class members who were subject to
20 Defendants' policy and/or practice of failing to keep accurate time and wage records as required
21 by California wage-and-hour laws.

22 i. Subclass 9. Expense Reimbursement Subclass. All Class members who incurred
23 necessary and reasonable expenses in connection with performing their job duties for Defendants
24 and who were subject to a policy and/or practice under which such expenses were not reimbursed.

25 j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a
26 result of Defendants' business acts and practices, to the extent such acts and practices are found to
27 be unlawful, deceptive, and/or unfair.

28

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

5 44. Defendants, as a matter of company policy, practice and procedure, and in violation
6 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements,
7 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged
8 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
9 worked by Plaintiff and the other members of the Class, even though Defendants enjoyed the
10 benefit of this work, required Employees to perform this work and permitted or suffered to permit
11 this work. Defendants have uniformly denied these Class members wages to which these
12 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
13 order to unfairly cheat the competition and unlawfully profit.

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

19 **A. Numerosity**

20 46. The potential members of the Class as defined are so numerous that joinder of all
21 the Class members is impracticable. While the precise number of Class member has not been
22 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
23 time period relevant to this lawsuit employed, at least over one hundred Employees who satisfy
24 the Class definition within the State of California. Plaintiff alleges that Defendants’ employment
25 records will provide information as to the number and location of all Class members.

26 **B. Commonality**

27 47. There are questions of law and fact common to the Class that predominate over any
28 questions affecting only individual Class members. The common questions are numerous and

1 substantial and flow from Defendants' uniform policies and/or practices of violating the California
2 Labor Code addressed above. As such, these common questions predominate over individual
3 questions concerning each individual Class Member's showing as to his or her eligibility for
4 recovery or as to the amount of damages. These common questions of law and fact include:

- 5 a. Whether Defendants failed to pay Employees minimum wages, including for all
6 hours worked, piece rate units or commissions;
- 7 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 8 c. Whether Defendants failed to pay Employees overtime as required under Labor
9 Code § 510;
- 10 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
11 IWC Wage Orders, by failing to provide Employees with requisite meal periods or
12 premium pay in lieu thereof;
- 13 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
14 Orders, by failing to authorize and permit Employees to take requisite rest breaks
15 or provide premium pay in lieu thereof;
- 16 f. Whether Defendants violated Labor Code § 226(a) by providing Employees with
17 inaccurate wage statements and wage statements that omitted many of the Section
18 226(a) requirements.
- 19 g. Whether Defendants violated Labor Code § 221;
- 20 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
21 wages and compensation due and owing at the time of termination of employment;
- 22 i. Whether Defendants' conduct was willful;
- 23 j. Whether Defendants violated Labor Code § 226 and § 1174 and §1198 and the
24 IWC Wage Orders by failing to maintain accurate records of Class members'
25 earned wages and work periods;
- 26 k. Whether Defendants violated Labor Code § 1194 by failing to compensate all
27 Employees during the relevant time period for all hours worked, whether regular or
28 overtime;

- 1 l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
2 wages earned at least twice monthly;
- 3 m. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary
4 business expenses incurred by Employees;
- 5 n. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not
6 providing employees with all required sick days and COVID-19 supplemental sick
7 leave;
- 8 o. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 9 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 10 q. Whether Employees are entitled to equitable relief pursuant to Business and
11 Professions Code § 17200 *et seq.*

12 **C. Typicality**

13 48. The claims of the named Plaintiff are typical of those of the other Employees. The
14 Employee Class members all sustained injuries and damages arising out of and caused by
15 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as
16 well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims for
17 the off the clock work and meal and rest violations they were required to endure are typical of
18 those of the other Class members.

19 **D. Adequacy of Representation**

20 49. Plaintiff will fairly and adequately represent and protect the interest of the
21 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
22 experienced and competent in litigating employment class actions.

23 **E. Superiority of Class Action**

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

1 51. As to the issues raised in this case, a class action is superior to all other methods for
2 the fair and efficient adjudication of this controversy, as joinder of all Class members is
3 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class
4 members. Further, as the economic or other loss suffered by vast numbers of Class members may
5 be relatively small, the expense and burden of individual actions makes it difficult for the Class
6 members to individually redress the wrongs they have suffered. Moreover, in the event
7 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
8 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
9 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
10 to vindicate their rights for violations they endured which they would otherwise be foreclosed
11 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

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

19 53. Defendants, as prospective and actual employers of the Employees in the Class,
20 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
21 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
22 Employees as well as the effect of any alleged arbitration agreements that may have been forced
23 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
24 and policies, most notably intentionally refusing to pay for all hours actually worked which should
25 have been recorded in Defendants' pay records and the consequence of the alleged arbitration
26 agreements and policies and practices on the Employees and Class as a whole.

27 54. Plaintiff and the Employees in the Class did not discover the fact that they were
28 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there

1 any discussion about Plaintiff's and the Class members' waiver of their Constitutional rights of
2 trial by jury, to collectively organize and oppose unlawful pay practices under California law as
3 well as obtain injunctive relief preventing such practices from continuing. As a result, the
4 applicable statutes of limitation tolled until such time as Plaintiff and the Class members
5 discovered their claims.

6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PAY MINIMUM WAGES**
8 **(Against All Defendants)**

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

11 56. Defendants failed to pay Employees minimum wages for all hours worked.
12 Employees would work hours and not receive wages, including as alleged above in connection
13 with off the clock work, including all the time required to remain on duty and under Defendants'
14 control during breaks and due to the work demands placed upon them by Defendants'
15 management and by paying what should have been overtime hours as regular hours. Defendants'
16 uniformly applied policies required systematic off the clock work and underpayment of all wages
17 owed to Employees over a period of time, while benefiting Defendants. During the relevant time
18 period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Class
19 members, including by requiring systematic off the clock work. To the extent any local wage
20 ordinances were also applicable to paying the employees an hourly rate above the minimum
21 wage rate, Defendants failed to comply with the local wage ordinances. Defendants' uniform
22 pattern of unlawful wage and hour practices manifested, without limitation, applicable to the
23 Class as a whole, as a result of implementing a uniform policy and practice that denied accurate
24 compensation to Plaintiff and the other members of the Class as to minimum wage pay.

25 57. In California, employees must be paid at least the applicable state minimum wage
26 for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014, and
27 paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Also, pursuant to
28 California Labor Code § 204, other applicable laws and regulations, and public policy, an

1 employer must timely pay its employees for all hours worked. Defendants failed to do so.

2 58. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
3 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
4 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
5 applicable minimum wage rate fixed by the commission for work during the relevant period is
6 found in the Wage Orders.

7 59. The minimum wage provisions of California Labor Code are enforceable by private
8 civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any agreement to
9 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
10 overtime compensation applicable to the employee is entitled to recover in a civil action the
11 unpaid balance of the full amount of this minimum wage or overtime compensation, including
12 interest thereon, reasonable attorney’s fees and costs of suit.”

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

19 61. In committing these violations of the California Labor Code, Defendants
20 inaccurately recorded, or required Plaintiff and the Class members to input times that did not
21 reflect their actual hours worked, or miscalculated hours or rates or otherwise underpaid the actual
22 time worked by Plaintiff and other members of the Class, including by requiring off the clock
23 work as addressed in detail above. Defendants acted in an illegal attempt to avoid the payment of
24 all earned wages, and other benefits in violation of the California Labor Code, the Industrial
25 Welfare Commission requirements and other applicable laws and regulations. As a result of these
26 violations, Defendants also failed to timely pay all wages earned in accordance with California
27 Labor Code § 1194.

28

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

5 63. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
6 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
7 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
8 pay each employee minimum wages.

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

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

15 66. Plaintiff and the Class members are entitled to recover the unpaid minimum wages
16 (including double minimum wages) and local wage ordinance wages and liquidated damages in an
17 amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s
18 fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other
19 members of the Class further request recovery of all unpaid wages, according to proof, interest,
20 statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as
21 provided by the California Labor Code and/or other applicable statutes. To the extent minimum
22 wage compensation is determined to be owed to the Class members who have terminated their
23 employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202, and therefore
24 these individuals are also be entitled to waiting time penalties under California Labor Code § 203,
25 which penalties are sought herein on behalf of these Class members. Defendants’ failure to timely
26 pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code §
27 226 because they resulted in the issuance of inaccurate wage statements. Defendants’ conduct as
28 alleged herein was willful, intentional, and not in good faith. Further, Plaintiff and other Class

1 members are entitled to seek and recover statutory costs.

2 **SECOND CAUSE OF ACTION**

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

4 **(Against All Defendants)**

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

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

13 69. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
14 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
15 Industrial Welfare Commission) by failing to pay Employees: (a) time and one-half their regular
16 hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40)
17 hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any
18 one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12)
19 hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of
20 work in a workweek.

21 70. Defendants had a consistent policy of not paying Employees wages for all hours
22 worked, including by requiring off the clock work as addressed above, by unlawful deductions, by
23 under-reporting actual hours worked, and by requiring Employees to do so as well. Defendants
24 have also failed to include all forms of remuneration in the regular rate of pay used to calculate
25 and pay overtime, and failed to begin paying overtime when it was incurred due to the off the
26 clock work, as detailed above.

27 71. Defendants thus had a consistent policy of not paying Employees wages for all
28 hours worked, including hours at their required regular, overtime, and double-time rates.

1 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
2 and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Class
3 members to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the
4 Class members all earned and owed straight time and overtime wages and other benefits, in
5 violation of the California Labor Code, the California Code of Regulations and the IWC Wage
6 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants
7 have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt
8 employees to work through meal periods or remain under Defendants' control when they were
9 required to be clocked out or to otherwise work off the clock to complete their daily job duties and
10 respond to demands from customers and managers.

11 72. Therefore, Employees were not properly compensated, nor were they paid overtime
12 rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week.
13 Based on information and belief, Defendants did not make available to Employees a reasonable
14 protocol for correcting time records when Employees worked overtime hours or to fix incorrect
15 entries or those that Defendants unlawfully under-recorded to the Employee's detriment.
16 Defendants have also violated these provisions by requiring Plaintiff and other similarly situated
17 Class members to work through meal periods when they were required to be clocked out or to
18 otherwise work off the clock to complete their daily job duties.

19 73. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
20 regular wages owed and overtime compensation for all hours worked, as required by California
21 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the applicable
22 IWC Wage Order, and is therefore unlawful. Defendants also failed to correctly calculate the
23 regular rate used to calculate and pay overtime, and meal and rest premiums, as addressed above.

24 74. Additionally, Labor Code § 558(a) provides "any employer or other person acting
25 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
26 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
27 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
28 pay period for which the employee was underpaid in addition to an amount sufficient to recover

1 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid in addition to an
3 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
4 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
5 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
6 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
7 Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor
8 Code § 558.

9 75. Defendants’ failure to pay compensation in a timely fashion also constituted a
10 violation of California Labor Code § 204, which requires that all wages shall be paid
11 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
12 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
13 and overtime compensation earned by Employees. Each such failure to make a timely payment of
14 compensation to Employees constitutes a separate violation of California Labor Code § 204.

15 76. Employees have been damaged by these violations of California Labor Code §§
16 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under
17 Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less
18 than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions
19 of labor prohibited by an order of the commission” or if the employer pays “a wage less than the
20 minimum fixed by an order of the commission” or “violates...any provision of this chapter or
21 any order or ruling of the commission.”

22 77. Consequently, pursuant to the California Labor Code, including Labor Code §§
23 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
24 paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the full amount of
25 all their unpaid wages and overtime compensation for all their hours worked, with interest, plus
26 their reasonable attorneys’ fees and costs, as well as the assessment of any statutory penalties
27 against Defendants, and each of them, and any additional sums as provided by the Labor Code
28 and/or other statutes.

1 **THIRD CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

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

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

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

24 82. Moreover, Defendants failed to compensate Employees for each meal period not
25 provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and
26 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an
27 employee a meal period in accordance with this section, the employer shall pay the employee one
28 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal

1 period is not provided. As detailed above, on the occasions when Defendants did pay any meal
2 period premiums, they upon information and belief underpaid them by miscalculating the regular
3 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
4 compensate the Employees in the Class for each meal period not provided or inadequately
5 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
6 Wage Order.

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

13 **FOURTH CAUSE OF ACTION**

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

15 **(Against All Defendants)**

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

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

21 86. Employees consistently worked consecutive four hour shifts and were generally
22 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
23 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
24 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
25 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
26 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no effort
27 to authorize and permit Plaintiff and the Class members to take lawful rest breaks. Employees
28 were often required to work or to otherwise remain under Defendants' control during rest periods,

1 including by responding to work requirements, and had breaks provided untimely as a result of the
2 above described off the clock work.

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

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

10 89. Defendants failed to authorize and permit Plaintiff and the Class members to take
11 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees
12 with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed
13 to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs
14 12 and 20 of the applicable IWC Wage Orders. To the extent Defendants paid any rest break
15 premiums, they upon information and belief, underpaid them by miscalculating the regular rate of
16 compensation by not including all forms of remuneration in it. Defendants thus failed to
17 compensate the Employees in the Class for each rest period not provided or inadequately
18 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
19 Wage Order.

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

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

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

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

93. Defendants failed to provide Plaintiff and the similarly situated Employee Class members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements given to Employees by Defendants failed to accurately list Defendants' name, failed to accurately account for wages, overtime, hours worked, and hourly rates, and did not provide premium pay for deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to Employees, as alleged hereinabove.

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

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

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

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

1 97. Therefore, as a direct and proximate cause of Defendants' violation of Labor Code
2 § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the Employees in the
3 Class suffered injuries, including among other things confusion over whether they received all
4 wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing
5 them to make mathematical computations to analyze whether the wages paid in fact compensated
6 them correctly for all hours worked.

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

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

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

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

23 101. Defendants unlawfully received and/or collected wages from the Employees in the
24 Class by requiring off the clock work, by miscalculating overtime, and by not paying one hour of
25 pay at the regular rate of compensation for every meal and rest period violation endured by
26 Plaintiff and the other Class members, as alleged above. By not compensating Employees for all
27 hours worked and meal and rest period premiums, Defendants unlawfully deducted wages earned
28 in violation of Labor Code § 221.

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

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

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

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

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

27 106. Defendants violated Labor Code § 204 by systematically refusing to timely pay
28 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the

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

8 107. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to
9 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
10 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
11 pursuant to Labor Code § 204, 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
12 applicable IWC Wage Orders.

13 **EIGHTH CAUSE OF ACTION**
14 **VIOLATION OF LABOR CODE § 203**
15 **(Against All Defendants)**

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

18 109. Plaintiff and numerous Class members are no longer employed by Defendants; they
19 either quit Defendants’ employ or were fired therefrom.

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

22 111. The wages withheld from these Employees by Defendants remained due and owing
23 for more than thirty days from the date of separation from employment.

24 112. Defendants thus failed to pay Plaintiff and the Class members without abatement,
25 all wages as defined by applicable California law. Among other things, these Employees were not
26 paid all regular and overtime wages, including by Defendants failing to pay for all hours worked
27 or requiring off the clock work or by unlawfully under-recording time entries to the detriment of
28 Employees, and Defendants failed to pay premium wages owed for unprovided meal periods and

1 rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the
2 required time was willful within the meaning of Labor Code § 203.

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

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

19 **NINTH CAUSE OF ACTION**

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

21 **(Against All Defendants)**

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

24 116. California Labor Code § 1174 requires that all employers shall keep accurate time
25 and wage records for all employees. California Labor Code § 1174.5 further requires that any
26 employee suffering injury due to a willful violation of the aforementioned obligations may seek
27 damages, including civil penalties, from the employer.
28

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

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

119. Defendants have maintained a common unlawful policy and practice of failing to accurately record all hours worked and all meal period start and end times.

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

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

TENTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802

(Against All Defendants)

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

123. Plaintiff is informed and believes and based thereon alleges that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in completing his work duties including taking photos of equipment and uploading them to the "Northstar" system as part of his job duties and the use of his cell phone to record his time entries on the Paylocity app. Plaintiff and Class members were also responsible for maintenance of their work uniforms without receiving reimbursement. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

124. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

125. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

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

ELEVENTH CAUSE OF ACTION

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

(Against All Defendants)

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

128. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, has suffered injury, and therefore has standing to bring this cause of action for

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

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

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

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

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

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

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

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

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

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

18 **TWELFTH CAUSE OF ACTION**

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

20 **(Against All Defendants)**

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

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

27 139. In failing to pay Aggrieved Employees minimum wages and overtime, not
28 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and

1 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
2 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
3 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
4 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
5 paragraph 7 of the applicable IWC Wage Orders.

6 140. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
7 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
8 including the penalty provisions, without limitation, based, inter alia, on the following California
9 Labor Code sections: 201, 202, 203, 204, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558,
10 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and
11 2698 et seq.,

12 141. More specifically, after complying with the notice procedures of Labor Code §
13 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
14 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
15 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
16 including as follows:

17 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
18 earned regular pay, minimum wages for regular hours worked, and for failure to pay overtime
19 premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198,
20 and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all
21 civil and statutory penalties available and applicable under Labor Code §§, 510, 558, 1194.2,
22 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to
23 Labor Code § 2699(g)(1);

24 (b) Meal, and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
25 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
26 take off-duty, timely, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512,
27 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking
28 all civil and statutory penalties available and applicable, including under paragraph 20 of the

1 applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections
2 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code §
3 2699(g)(1);

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

17 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
18 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
19 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§
20 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC
21 Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

22 (e) Unlawful Deductions and Failure to Reimburse Business Expenses: For
23 Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the
24 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
25 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
26 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
27 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs
28 pursuant to Labor Code § 2699(g)(1);

1 (f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For
2 Defendants' failure to provide Employees with all their required and earned sick days and all their
3 COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil
4 and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5,
5 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to
6 Labor Code § 2699(g)(1);

7 (g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor
8 Code §§ 2810.5, and any above addressed violation of the applicable provisions of the Labor Code
9 and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5,
10 and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of
11 the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code §
12 2699(g)(1).

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

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

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

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

26 143. Plaintiff has exhausted his administrative remedies by submitting a certified letter to
27 the LWDA and Defendants on June 24, 2024 (LWDA-CM-1036135-24) addressing in detail the
28 specific provisions of the Labor Code Defendants have violated and addressing the facts and legal

1 theories to support the alleged violations and requested penalties. The LWDA has not provided
2 notice of its intent to investigate the alleged violations within 65 calendar days of the postmark
3 date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations
4 addressed herein and in the PAGA Notice letter and the original Complaint.

5 **RELIEF REQUESTED**

6 WHEREFORE, Plaintiff prays for the following relief:

- 7 1. For an order certifying this action as a class action;
- 8 2. For compensatory damages in the amount of the unpaid minimum wages for work
9 performed by Employees and unpaid overtime compensation from at least four (4) years prior to
10 the filing of this action, as may be proven;
- 11 3. For liquidated damages in the amount equal to the unpaid minimum wage and
12 interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
- 13 4. For compensatory damages in the amount of all unpaid wages, including overtime
14 and double-time pay, as may be proven;
- 15 5. For compensatory damages in the amount of the hourly wage made by Employees
16 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
17 years prior to the filing of this action, as may be proven;
- 18 6. For compensatory damages in the amount of the hourly wage made by Employees
19 for each day requisite rest breaks were not provided or were deficiently provided where no
20 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
21 be proven;
- 22 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;
- 23 8. For restitution and/or damages and penalties for Defendants' failure to pay all
24 wages due twice monthly under Labor Code § 204, as may be proven;
- 25 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
26 for all class members in violation of Labor Code § 221, as may be proven;
- 27 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
28 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

11. For penalties pursuant to Labor Code § 1174.5, as may be proven;
12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
13. For damages and restitution for failure to reimburse all reasonable and necessary business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;
14. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.*, including disgorgement or profits, as may be proven;
- For an order enjoining Defendants and their agents, servants, and employees, and all persons acting under, in concert with, or for them, from acting in derogation of any rights or duties adumbrated in this Complaint;
15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
16. For penalties under Labor Code § 558, as may be proven;
17. For other wages and penalties under the Labor Code as may be proven;
18. For all general, special, and incidental damages as may be proven;
19. For an award of pre-judgment and post-judgment interest;
20. For an award providing for the payment of the costs of this suit;
21. For an award of attorneys' fees; and
22. For such other and further relief as this Court may deem proper and just.

DATED: September 12, 2024

D.LAW, INC.

By


Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiff ALEXANDER A.
CHATMAN JR. and the putative class

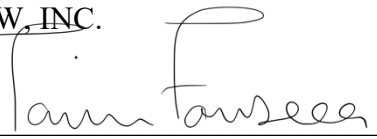
DEMAND FOR JURY TRIAL

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

DATED: September 12, 2024

D.LAW, INC.

By


Emil Davtyan
David Yeremian
Alvin B. Lindsay
Tania Fonseca
Attorneys for Plaintiff ALEXANDER A.
CHATMAN JR. and the putative class

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

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[X] **(COURTESY COPY BY ELECTRONIC SERVICE)** I caused the document(s) described herein to be served on the person(s) noted above by electronic mail to their E-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. [Pursuant to Civil Code Procedure 1010.6]

Executed on September 12, 2024, at Glendale, California.

Sasha Zambrano

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA Branch Name: Rene C. Davidson Alameda County Courthouse Mailing Address: 1225 Fallon Street City, State and Zip Code: Oakland CA 94612	
SHORT TITLE: CHATMAN, AN INDIVIDUAL, ON BEHALF OF HIMSELF AND OTHERS SIMILARLY SITUATED vs RJMS CORPORATION, A DELAWARE CORPORATION	CASE NUMBER: 24CV081124
NOTICE OF CONFIRMATION OF ELECTRONIC FILING	

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of ALAMEDA. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect ALA
Reference Number: 10587198_2024_09_12_13_10_29_913_9
Submission Number: 24AA00227005
Court Received Date: 09/12/2024
Court Received Time: 1:12 pm
Case Number: 24CV081124
Case Title: CHATMAN, AN INDIVIDUAL, ON BEHALF OF HIMSELF AND OTHERS SIMILARLY SITUATED vs
RJMS CORPORATION, A DELAWARE CORPORATION
Location: Rene C. Davidson Alameda County Courthouse
Case Type: Civil Unlimited
Case Category: Other Employment Complaint Case
Jurisdictional Amount: Over \$35,000
Notice Generated Date: 09/13/2024
Notice Generated Time: 8:44 am

<u>Documents Electronically Filed/Received</u>	<u>Status</u>
Amended Complaint	Accepted

Comments
Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information
Service Provider: Legal Connect ALA
Contact: Legal Connect
Phone: