

D.LAW, INC.

Emil Davtyan (SBN 299363)

Emil@d.law

David Yeremian (SBN 226337)

d.yeremian@d.law

Alvin B. Lindsay (SBN 220236)

a.lindsay@d.law

Jean Hopkins Power (SBN 326509)

j.power@d.law

880 E Broadway,

Glendale, CA 91205

Telephone: (818) 962-6465

Fax: (818) 962-6469

Attorneys for Plaintiffs ANTWOINE TYRONE TAYLOR,
CAROLINE DELTORAL, and NATIVIDAD M. QUILLIN,
on behalf of themselves and others similarly situated and aggrieved
(Additional Plaintiffs' Counsel listed on the following page)

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ANTWOINE TYRONE TAYLOR,
CAROLINE DELTORAL, and
NATIVIDAD M. QUILLIN
individuals, on behalf of themselves
and others similarly situated,

Plaintiffs,

vs.

AMAZON.COM SERVICES LLC, a
Delaware limited liability company,
and DOES 1 through 10, inclusive,

Defendants.

Case No. 5:24-cv-01738-SSS-SPx

**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 § 246
6. Violation of Labor Code § 226(a)
7. Violation of Labor Code § 221;
8. Violation of Labor Code § 204;
9. Violation of Labor Code § 203;
10. Failure to Maintain Temperatures Under the Wage Order; and
11. Violation of Business & Professions Code § 17200 *et seq.*; and
12. Penalties under PAGA Labor Code § 2698.

DEMAND FOR JURY TRIAL

Date Action Filed: July 2, 2024

Removal Date: August 15, 2024

Trial Date: None set.

THE DION-KINDEM LAW FIRM

PETER R. DION-KINDEM, P. C.

Peter R. Dion-Kindem (SBN 95267)

peter@dionkindemlaw.com

3856 Davids Road,

Agoura Hills, CA 91301

Telephone: (818) 883-4900

THE BLANCHARD LAW GROUP, APC

Lonnie C. Blanchard III (SBN 93530)

lonnieblanchard@gmail.com

177 East Colorado Boulevard, Suite 200

Pasadena, California 91105

Telephone: (213) 599-8255

HOLMES LAW GROUP

Jeff Holmes (SBN 100891)

jeffholmesjh@gmail.com

2801 Ocean Park Blvd #1035

Santa Monica, CA 90405

Telephone: 310-396-9045

JAMES HAWKINS APLC

James Hawkins (SBN 192925)

james@jameshawkinsaplc.com

Isandra Fernandez (SBN 220482)

isandra@jameshawkinsaplc.com

9880 Research Drive, Suite 200

Irvine, CA 92618

Telephone: 949.387.7200

HAFFNER LAW PC

Joshua H. Haffner (SBN 188652)

jhh@haffnerlawyers.com

Vahan Mikayelyan, (SBN 337023)

vh@haffnerlawyers.com

15260 Ventura Blvd., Suite 1520

Sherman Oaks, CA 91403

Tel: (213) 514-5681

MARLIN & SALTZMAN, LLP

Cody R. Kennedy, Esq. (SBN 296061)

ckennedy@marlinsaltzman.com

29800 Agoura Road, Suite 210

Agoura Hills, California 91301

Telephone: (818) 991-8080

BRADLEY / GROMBACHER, LLP

Marcus Bradley (SBN 174156)

mbradley@bradleygrombacher.com

Kiley Grombacher (SBN 245960)

kgrombacher@bradleygrombacher.com

Corey S. Smith (SBN 312002)

csmith@bradleygrombacher.com

31365 Oak Crest Drive, Suite 240

Westlake Village, CA 91361

Telephone: (805) 270-7100

1 Plaintiffs, ANTWOINE TYRONE TAYLOR, CAROLINE DELTORAL and
2 NATIVIDAD M. QUILLIN (hereinafter “Plaintiffs”), on behalf of themselves and
3 all other similarly situated non-exempt, hourly employees employed by Defendants
4 in California (collectively, “Employees”; individually, “Employee”) complains of
5 Defendants, and each of them, as follows:

6 **INTRODUCTION**

7 1. Plaintiffs bring this action on behalf of themselves and all other
8 similarly situated current and former Employees within the State of California who,
9 at any time from four years prior to the filing of this lawsuit, are or were employed
10 as hourly non-exempt employees by Defendants AMAZON.COM SERVICES LLC,
11 a Delaware limited liability company, and DOES 1 through 10, inclusive (all
12 defendants being collectively referred to as “Defendants”). Plaintiffs allege that
13 Defendants, and each of them, violated various provisions of the California Labor
14 Code, relevant orders of the Industrial Welfare Commission (“IWC”), and the
15 California Business & Professions Code.

16 2. Plaintiffs worked as warehouse associates, packers, pickers, and in
17 similar and related positions for Defendants in jobs pertaining to receiving,
18 warehousing, shipping, and processing products and merchandise for delivery to
19 Defendants’ customers. Plaintiffs were assigned to work in California and in the
20 Riverside and San Bernardino County areas during the relevant time period, and
21 Plaintiffs and the similarly situated Class members worked at various locations
22 throughout California. Plaintiff ANTWOINE TYRONE TAYLOR (“Taylor”) was
23 employed by Defendants as a packer with duties including unloading trailers,
24 holding the trailer, and packing shipments. Plaintiff CAROLINE DELTORAL
25 (“Deltoral”) is employed by Defendants as an Order Picker with duties including
26 picking orders, placing merchandise back into bins, and sorting through
27 merchandise in the bins and delivering it to appropriate warehouse locations.
28 Plaintiff NATIVIDAD M. QUILLIN (“Quillin”) was employed by Defendants as a

1 warehouse associate with duties including picking and packing and scanning and
2 sorting packages and products for delivery to Defendants' customers. Plaintiffs are
3 California residents and have been employed by Defendants at their fulfillment
4 centers and warehouses in California.

5 3. Plaintiffs and the other similarly situated Employees of Defendants
6 worked based out of Defendants' offices and facilities in Eastvale, Rialto, and
7 Redlands, California and at Defendants' facilities in San Bernardino and Riverside
8 Counties and throughout the state of California. Plaintiffs worked at Defendants'
9 behest without being paid all wages due and without being provided all their
10 required meal periods and rest breaks. Upon information and belief, Plaintiffs were
11 employed by Defendants and shared similar job duties and responsibilities, were
12 subjected to the same policies and practices, and endured similar violations at the
13 hands of Defendants as the other Employee Class members who served in similar
14 and related positions. Defendants required Plaintiffs and the Employees in the Class
15 to work off the clock and failed to record accurate time worked by these Employees,
16 failed to pay them at the appropriate rates for all hours worked, unlawfully deducted
17 wages, failed to pay all wages due and owing at termination or resignation, failed to
18 reimburse necessary business expenses and provided Plaintiffs and the Class
19 members with inaccurate wage statements that prevented them from learning of
20 these unlawful pay practices. Defendants also failed to provide Plaintiffs and the
21 Class with lawful meal and rest periods, as Employees were required to remain
22 under Defendants' control and were not provided with the opportunity to take full
23 uninterrupted and duty-free rest periods and meal breaks, as required by the Labor
24 Code and the applicable paragraphs of the IWC Wage Orders.

25 4. Defendant AMAZON.COM SERVICES LLC ("AMAZON"), is a
26 Delaware corporation which lists its principal address in Seattle, Washington. Upon
27 information and belief, Defendant AMAZON maintained business operations in San
28 Bernardino and Riverside counties and employed Class Members at locations in San

1 Bernardino County and throughout the state of California. Amazon.com Services
2 LLC is the well-known retailer providing e-commerce services to Defendants'
3 customers through deliveries from warehouses such as those where Plaintiffs were
4 employed, and is thus engaged in commerce in and operates based out of San
5 Bernardino County. Amazon.com Services LLC is listed as the employer on wage
6 statements and W2's issued to Plaintiffs during the relevant period, and upon
7 information and belief the other Class members, with a Seattle, Washington address.

8 5. This Court has subject matter jurisdiction over Plaintiffs' complaint, as
9 Defendants have removed this action from the California Superior Court for the
10 County of San Bernardino to the District Court of the Central District of California
11 pursuant to 28 U.S.C. §§ 1441, 1453, and 1332(d) (the CAFA). Venue is proper in
12 the Central District of California because the case was removed from San
13 Bernardino Superior Court by Defendants. In addition, pursuant to 28 U.S.C. § 1391,
14 venue is proper because Defendants are business entities that (i) are subject to
15 personal jurisdiction in this District, and, therefore, reside in this District and/or (ii)
16 committed the wrongful conduct against certain members of the Class in this
17 District.

18 6. The true names and capacities, whether individual, corporate, associate,
19 or whatever else, of the Defendants sued herein as Does 1 through 10, inclusive, are
20 currently unknown to Plaintiffs, who therefore sue these Defendants by such
21 fictitious names. Plaintiffs are informed and believe and thereon allege that
22 Defendants designated herein as Does 1 through 10, inclusive, and each of them, are
23 legally responsible in some manner for the unlawful acts referred to herein.
24 Plaintiffs will seek leave of court to amend this Complaint to reflect the true names
25 and capacities of the Defendants designated herein as Does 1 through 10 when their
26 identities become known.

27 7. Plaintiffs are informed and believe and thereon alleges that each
28 Defendant acted in all respects pertinent to this action as the agent of the other

1 Defendants, that Defendants carried out a joint scheme, business plan, or policy in
2 all respects pertinent hereto, and that the acts of each Defendant are legally
3 attributable to the other Defendants. Furthermore, Defendants acted in all respects as
4 the employers or joint employers of Employees. Defendants, and each of them,
5 exercised control over the wages, hours or working conditions of Employees,
6 created and implemented the policies and practices that governed the employment of
7 Plaintiffs and the Class members and dictated their job duties and responsibilities, or
8 otherwise suffered or permitted Plaintiffs and the other Employee Class members to
9 work, or engaged, thereby creating a common law employment relationship, with
10 the Employee Class members. Therefore, Defendants, and each of them, employed
11 or jointly employed the Employee Class members.

12 **FACTUAL BACKGROUND**

13 8. The Employees who comprise the Class, including Plaintiffs, are non-
14 exempt employees of Defendants pursuant to the applicable Wage Order of the
15 Industrial Welfare Commission (“IWC”). During the period of four years prior to
16 the filing of this action through its resolution, Plaintiffs and the Class members
17 were either not paid by Defendants for all hours worked or were not paid at the
18 appropriate minimum, regular and overtime rates. Plaintiffs also contend that
19 Defendants failed to pay Plaintiffs and the Class members all wages due and owing,
20 including by requiring off the clock work, failed to provide meal and rest breaks,
21 and failed to furnish accurate wage statements and timely pay all wages owed or
22 reimburse business expenses, all in violation of various provisions of the California
23 Labor Code and applicable paragraphs of the IWC Wage Orders.

24 9. During the course of Plaintiffs’ and the Class members’ employment
25 with Defendants they were not paid all wages they were owed, including for all
26 work performed (resulting in “off the clock” work) and for all their overtime hours
27 worked, and they had wages unlawfully deducted by Defendants. This has resulted
28 in systematic and ongoing violations of the California Labor Code and relevant

1 IWC Wage Orders. Upon information and belief, Defendants employ other non-
2 exempt, hourly employees in California including in San Bernardino County.

3 10. Defendants failed to maintain accurate record of the hours worked by
4 Plaintiffs and as a result, failed to pay for all hours worked including by failing to
5 pay at the required overtime and double-time rates when appropriate. Defendants'
6 timekeeping systems did not allow for real time entries, and off the clock work was
7 pervasive. As for a typical day and week for Plaintiffs and the other Class
8 members, Plaintiff Taylor worked shifts of 8 to 9 hours per day from 7:30 a.m. to
9 6:00 p.m. Plaintiff Deltoral works shifts of 10 hours per day from Friday to
10 Wednesday typically from 7:30 a.m. to 6:00 p.m. Plaintiff Quillin worked 8 to 9
11 hours per day from 4:30 p.m. to 1 a.m., 7:00 a.m. to 3:30 p.m. or 4:30, or 10:30
12 p.m. to 6:00 a.m.

13 11. Plaintiffs were required to endure off-the clock work, including under
14 Defendants' exit security screening procedures. Defendants required Plaintiffs and
15 class members to clock out at the end of their work day, exit the work area, and
16 then, while off the clock, subjected them to exit security checks and screenings.
17 These exit screenings required Employees to queue up to await passing through a
18 metal detector or being wanded by Defendants' security personnel. They would
19 then open and search through bags as necessary, and this process could generally
20 take around 5 minutes to complete each time. As a matter of company policy and
21 practice, Defendants willfully decided not to compensate Employees for this time
22 spent going through Defendants' security checks, including by failing to move time
23 clocks to the screening exit area so they could clock out after completing security
24 screenings and bag checks. This has resulted in wide-spread violations for failure to
25 pay for all hours worked, including during exit security screenings when Plaintiffs
26 and the Class members were compelled to remain under Defendants' control.

27 12. Additionally, from on or about March of 2020 to March of 2023,
28 Defendants required Employees to undergo COVID screenings and temperature

1 checks before Plaintiffs and class members clocked in for their daily work shifts.
2 Plaintiffs and Class members were subjected to these screenings for approximately
3 2-3 minutes per day and were again not paid for this time under Defendants'
4 control and were unable to use their time for their own purposes. Also, certain class
5 members worked night shifts on certain occasions, for which they were entitled to
6 be paid a shift premium, but Defendants neglected to pay shift premiums to all
7 Class members who worked shifts eligible to receive them.

8 13. Moreover, Plaintiff Deltoral was required to don protective gear such
9 as safety harnesses, hard hat, and reflector vest before she was permitted to clock in
10 for a work shift. This resulted in further off the clock work and "hours worked" that
11 remain unpaid by the Defendants.

12 14. Defendants thus failed to pay for all hours worked by Plaintiffs and the
13 Class members and failed to maintain records of all hours worked, including off the
14 clock work required both before and after scheduled daily work shifts. Defendants
15 thus failed to pay Employees for all hours worked at their required regular and
16 overtime wage rates. Additionally, to whatever extent Defendants paid additional
17 forms of remuneration beyond their hourly rates to Plaintiffs and the Class
18 members, such as performance based bonuses and shift differentials and the like,
19 Defendants failed to include them in the regular rate used to calculate and pay any
20 overtime hours they worked. In reality, Defendants endeavored to minimize any
21 overtime hours despite requiring over eight hours of labor in a daily work shift or
22 over 40 hours in a work week.

23 15. Additionally, Defendants followed a policy of failing to pay all
24 Vacation Pay accrued by the Employees and not paying for their Sick Days accrued
25 and incurred either at all or in a timely manner, including as required under Labor
26 Code § 227.3 and Labor Code § 245 *et seq.* As further detailed above, Plaintiffs
27 were therefore not paid for all their hours worked at the required minimum,
28 overtime and double time wage rates due to Defendants' policy and practice of

1 requiring them to work off the clock and without pay and failing to pay them at
2 their required overtime rates for all hours over eight in a shift or over forty in a
3 week.

4 16. With work shifts generally being scheduled for eight hours or more,
5 this unpaid off the clock work, including by the mandatory exit screening, resulted
6 in Plaintiffs and the Class members working past eight hours on a shift, which
7 required that they be paid at the correct overtime rate of 1.5 times their regular rate.
8 As Plaintiffs and the Class members generally worked over eight hours on their
9 shifts, even when only scheduled for eight, any overtime payments they received
10 failed to account for bonus payments and differentials and the like as forms of
11 remuneration in addition to their hourly rates. Defendants uniformly applied
12 policies and practices resulted in systematic underpayment of overtime wages to
13 Employees.

14 17. Defendants thus systematically underpaid Plaintiffs and the Class
15 members by failing to pay them at the required overtime rates for all hours over
16 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
18 members were bound by similar scheduling and work policies which Defendants
19 required them to follow, and endured similar violations at Defendants' hands as
20 Plaintiffs.

21 18. Defendants have either failed to maintain timekeeping records for
22 Plaintiffs that would permit Plaintiffs to discover the nature and extent of the off
23 the clock work Defendants' required and the actual hours Plaintiffs worked, or have
24 otherwise declined to produce them to Plaintiffs in response to a timely and lawful
25 requests. By failing to pay for all hours worked, and by deducting time for meal
26 periods that were not lawfully provided and requiring pervasive off the clock work,
27 Defendants have committed knowing and intentional ongoing violations of the
28 record keeping requirements under the Labor Code, including section 1174.

1 19. The failure to pay for all hours worked and underpayment of wages to
2 Plaintiffs and the Class members is and has been a direct consequence of
3 Defendants' unlawful compensation policies and practices, which applied
4 uniformly to the Class members working for Defendants in California. As a result
5 of the above described unlawful requirements to work off the clock, the failure to
6 accurately record all hours worked and pay wages at the correct rates, and the other
7 wage violations they endured at Defendants' hands, Plaintiffs and the Class
8 members were not properly paid all wages earned and all wages owed to them by
9 Defendants, including when working more than eight hours in any given day and/or
10 more than forty hours in any given week. As a result of Defendants' unlawful
11 policies and practices, Plaintiffs and Class members incurred overtime hours
12 worked for which they were not adequately and completely compensated, in
13 addition to the hours they were required to work off the clock at their regular rates.

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

24 21. Defendants also failed to provide Plaintiffs and the Class members
25 with their required first and second meal periods, and their first, second, and third
26 required rest breaks. The above described off the clock work contributed to
27 Defendants' common policy of failing to provide lawful meal periods to Plaintiffs
28 and the Class members, as required under the Labor Code and Paragraph 11 of the

1 IWC Wage Order(s). Defendants similarly systematically failed to authorize and
2 permit Plaintiffs and the employee Class Members to take all required 10-minute
3 rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage
4 Order(s). Meal periods and rest breaks weren't prohibited, but they certainly were
5 not encouraged, and any breaks that were taken by Plaintiffs and the Class
6 members were often either unlawfully short or were on duty and interrupted by
7 work demands or were also untimely.

8 22. Defendants thus failed to provide Plaintiffs with first and second meal
9 periods and three ten-minute rest breaks as required for scheduled shifts over ten
10 hours in duration. To the extent Defendants claim Plaintiffs and other Class
11 members signed second meal period waivers, upon information and belief these
12 were either invalid or ineffectual, and Defendants also failed to procure them from
13 some Employees. Defendants heavily frowned upon Employees taking lunch
14 breaks, or any break for that matter, and instead pushed them to achieve
15 Defendants' difficult productivity demands and production criteria. As a result,
16 Plaintiffs were regularly subjected to interrupted meal breaks and would seldom
17 take rest breaks.

18 23. However, even when Plaintiffs and the Class members were able to
19 take a meal period, it was often provided well after the first five hours of a work
20 shift, or was provided for less than the required 30 minutes or was otherwise
21 interrupted by work duties. To whatever extent Defendants made any meal period
22 premium payments under Labor Code § 226.7, they were not paid for all required
23 occasions where meal periods were not provided or were not timely provided or
24 were provided for less than 30 duty free minutes. Additionally, upon information
25 and belief and to the extent they paid meal premiums to Plaintiffs and the Class
26 members, Defendants failed to include all forms of remuneration in the regular rate
27 used to calculate and pay the meal premiums on the occasions when any were paid.
28

1 24. Defendants did not have a policy or practice which provided or
2 recorded all the legally required unpaid, off-duty meal periods and all the legally
3 required paid, off-duty rest periods to the Plaintiffs and the other Class members.
4 As a result, Defendants' failure to provide Plaintiffs and the Class members with all
5 legally required off-duty, unpaid meal periods and all the legally required off-duty,
6 paid rest periods is and will be evidenced by Defendants' business records, or lack
7 thereof. Additionally, as addressed above, Defendants followed a practice of
8 requiring off the clock work in a manner that would impact when Employees were
9 to receive meal periods and rest breaks, thus leading to further violations.
10 Defendants have either failed to maintain required records of when meal periods
11 were actually provided or failed to produce them in response to Plaintiffs' timely
12 and lawful requests, or else maintained inaccurate and incomplete records.

13 25. Therefore, for at least four years prior to the filing of this action and
14 through to the present, Plaintiffs and the Class members were unable to take off-
15 duty breaks or were otherwise not provided with the opportunity to take required
16 meal breaks due to Defendants' policies and practices. On the occasions when
17 Plaintiffs and the Class members were provided with a meal period, it was often
18 untimely or interrupted, or was impermissibly shortened, and Employees were not
19 provided with premiums of one hour at the employees' regular rate of compensation
20 in lieu thereof. To the extent Defendants assert they paid any meal period premiums,
21 they failed to do so for all violations, and only did so at the employees' base hourly
22 rate. Meal period violations thus occurred in one or more of the following manners:

- 23 (a) Class members were not provided full thirty-minute duty free
24 meal periods for work days in excess of five (5) hours and were
25 not compensated one (1) hour's wages in lieu thereof, all in
26 violation of, among others, Labor Code §§ 226.7, 512, and the
27 applicable Industrial Welfare Commission Wage Order(s);
28

- (b) Class members were not provided second full thirty-minute duty free meal periods for work days in excess of ten (10) hours, or Defendants otherwise attempted to rely upon blanket and legally inadequate second meal period waivers from which Employees could not opt-out of or that were otherwise invalid or unenforceable;
- (c) Class members were required to work through at least part of their daily meal period(s);
- (d) Meal periods were provided after five (5) hours of continuous work during a shift; and
- (e) Class members were restricted in their ability to take a full thirty-minute meal period or were otherwise required to remain under Defendants' control during meal periods, including by being discouraged to leave the warehouse facilities during breaks.

26. Defendants also failed to authorize and permit Plaintiffs and the Class members to take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction thereof. There were similar issues with the required net-ten minute rest breaks that Plaintiffs and the Class members were unable to take as with meal periods. Defendants also failed to authorize and permit Plaintiffs and the Class members to take their required duty-free, net ten minute rest periods. Rest breaks were not scheduled, as Defendants' management did not emphasize the requirement to provide at least one ten minute duty-free rest period for each four hour duty period, or major fraction thereof. Thus, on shift of ten hours or more, Defendants were required to provide at least three duty-free ten minute rest breaks to Plaintiffs and the Class members. Defendants neglected to do so, and even if Employees were provided with one rest break during a scheduled shift, they were not provided with the required second or third rest breaks (on shifts over 8 hours).

1 27. Given the demanding requirements Defendant placed on Plaintiffs,
2 they were unable to take compliant breaks during their work shifts. Plaintiffs was
3 expected and able to only take a break if and when the job requirements permitted
4 it. Defendants leveraged enormous pressure on Plaintiffs and Class members by
5 demanding rigorous production goals. If Plaintiffs were able to take any rest break
6 at all, they were generally not for ten duty-free minutes or were untimely, or else
7 Plaintiffs would simply not take them because Defendants' demanding production
8 requirements and standards would not permit them to. Defendants further failed to
9 authorize and permit Plaintiffs to take their required duty-free, net ten-minute rest
10 periods, as they were not scheduled and Defendants' policy was not to provide
11 them, and Defendants did not emphasize the requirement to provide at least one
12 ten-minute duty-free rest period for each four hour duty period, or major fraction
13 thereof.

14 28. Defendants' policies and practices thus systematically deny and denied
15 Plaintiffs and the Class members full, duty-free ten-minute rest periods and thirty-
16 minute, duty-free meal periods. The California Supreme Court has instructed that
17 the rest period requirement obligates employers to permit-and authorizes employees
18 to take-off-duty rest periods. That is, during rest periods employers must relieve
19 employees of all duties and relinquish control over how employees spend their
20 time. Plaintiffs and the Class members were and are under Defendants' control
21 when they are working through rest breaks, and Defendants failed to schedule or
22 account for required first, second, and third rest breaks during the shifts Plaintiffs
23 and the Class members generally worked.

24 29. Plaintiffs and the Defendants' Employees in the Class were also not
25 authorized and permitted to take lawful rest periods, were systematically required
26 by Defendants to work through or during breaks, and were not provided with
27 premiums of one hour at the Employees' regular rate of compensation in lieu
28 thereof. To the extent any premiums were paid, they were underpaid at the

employees' base hourly rate upon information and belief. Employees were required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises during rest breaks under Defendants' policies and practices.

Rest period violations therefore arose in one or more of the following manners:

- (a) Class members were required to work without being provided a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that a rest period was not provided;
- (b) Class members were not authorized and permitted to take timely rest periods for every four hours worked, or major fraction thereof; and
- (c) Class members were required to remain on-duty and under Defendants' control during rest periods or otherwise had their rest periods interrupted by work demands.

30. From at least four (4) years prior to the filing of this lawsuit and continuing to the present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock before and after work shifts. By not compensating Employees for all hours worked and failure to pay for hours spent under Defendants' control, Defendants unlawfully deducted wages earned by and owed to Plaintiffs and the Class members, in violation of Labor Code § 221.

31. As a result of the above described illegal policies and practices, Defendants engaged in and enforced the following additional unlawful practices and policies against Plaintiffs and the Class members they seek 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;
- (d) failing to maintain accurate records of Class members' earned wages and meal periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the applicable IWC Wage Orders; and
- (e) failing to produce timekeeping records in response to Plaintiffs' timely and lawful request to receive them under these authorities.

32. From at least four years prior to the filing of this lawsuit, and continuing to the present, Defendants have also consistently failed to provide Plaintiffs and the Class members with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off the clock work, failure to pay all overtime, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks. This also included Defendants' failure to list, or to accurately list, the total hours worked and the rates at which various types of wages were paid. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiffs and the Class, during the liability period, because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were not maintained or were not accurately maintained for work shifts and meal periods, which were automatically presumed by Defendants to have been lawfully provided when they were not. Defendants also failed to accurately record and pay for all regular and overtime hours worked by Plaintiffs and the Class members.

1 33. Defendants thus provided Plaintiffs and the Class members with wage
2 statements that failed to accurately report all hours worked and applicable hourly
3 rates for all hours worked, or otherwise omitted the rates. The wage statements also
4 failed to set forth the correct number of hours worked and the correct rates of pay
5 when shift differentials or overtime premium wages were paid. Plaintiffs and the
6 Employees in the Class were unable to discern from their wage statements alone the
7 actual hours they worked in total during a pay period. Wage statements were also
8 confusing as to who the actual and legal employer of Plaintiffs and the Class
9 members is and what address and contact they should use to contact their employer,
10 in violation of section 226(a).

11 34. Defendants have thus also failed to comply with Labor Code § 226(a)
12 by issuing wage statements that were untimely and inaccurately reported total hours
13 worked and total wages earned by Plaintiffs and the Class members, along with the
14 appropriate applicable rates, among others requirements. Plaintiffs and Class
15 members are therefore entitled to penalties not to exceed \$4,000.00 for each
16 employee pursuant to Labor Code § 226(b). Defendants have also failed to comply
17 with paragraph 7 of the applicable California IWC Wage Orders by failing to
18 maintain time records showing when the employee begins and ends each work
19 period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily
20 hours worked by itemizing in wage statements all deductions from payment of
21 wages and accurately reporting total hours worked by the Class members.

22 35. Defendants also required Plaintiffs and the Class members to work
23 hours off the clock for which they were not compensated, including during
24 interrupted or otherwise on-duty meal and rest periods and pervasively before and
25 after their shifts, including during mandatory exit security screenings. Defendants
26 also failed to pay all overtime premium wages owed for work conducted on a work
27 shift and a workday, as addressed above. Therefore, from at least four years prior to
28 filing this lawsuit and continuing to the present, Defendants have also followed a

1 uniform and consistent policy of failing to pay all wages owed to Plaintiffs and other
2 similarly situated Employees at the time of their termination or within seventy-two
3 (72) hours of their resignation, as required by California wage-and-hour laws.

4 Defendants also failed to pay all wages owed to Plaintiffs and the Class members at
5 the time they were terminated or otherwise separated from employment. In view of
6 the above addressed violations, Defendants have also failed to timely pay all wages
7 owed to Plaintiffs and the Class members twice monthly in accordance with the
8 requirements of Labor Code § 204.

9 36. Defendants also failed to maintain facilities or take procedures to
10 relieve Plaintiff Taylor and the Class members from the high temperatures they
11 were required to endure during hot weather. Plaintiff Taylor was required to bring
12 his own fans to combat the oppressive heat at Defendants' facilities. By failing to
13 maintain temperatures providing reasonable comfort levels consistent with industry-
14 wide standards for the nature and process of the work performed, Defendants
15 violated paragraph 15 of the applicable IWC Wage Orders, and are entitled to civil
16 penalties as appropriate.

17 37. In light of the foregoing, Plaintiffs and the Employees in the Class
18 bring this action pursuant to, *inter alia*, Labor Code §§ 200, 201, 201.1, 201.3,
19 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223,
20 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 246.5, 247, 247.5,
21 248, 248.5, 249, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174,
22 1174.5, 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198,
23 1198.5, 1199, 2802, 2926, 2927, 2698 *et. seq.*, and the Wage Orders of the California
24 Industrial Welfare Commission, California Code of Regulations, Title 8, section
25 11000 *et seq.*

26 38. Furthermore, pursuant to Business and Professions Code §§ 17200-
27 17208, Plaintiffs and the Class members seek injunctive relief, restitution, and
28 disgorgement of all benefits Defendants have enjoyed from their violations of Labor

Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

39. Plaintiffs bring this class action on behalf of themselves and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly employees by Defendants within the State of California.” This includes those who worked based out of Defendants’ fulfillment centers and warehouse facilities and locations in California. Further, Plaintiffs seek to represent the Subclasses composed of and defined as follows:

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

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

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

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

regular rate of compensation in lieu thereof.

e. Subclass 5. Sick Pay Subclass. All Class members who were paid non-discretionary wages and sick pay during the same workweek.

f. Subclass 6. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.

g. Subclass 7. Unauthorized Deductions from Wages Subclass. All Class members who were subject to Defendants' policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.

h. Subclass 8. Failure to Timely Pay Wages Twice Monthly Subclass. All Class members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.

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

j. Subclass 10. Failure to Maintain Reasonable Temperature Subclass: All Class members who, within the applicable limitations period, were required by Defendants to work in areas with temperatures that were not maintained to provide reasonable comfort consistent with applicable standards.

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

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

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

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

16 **A. Numerosity**

17 43. The potential members of the Class as defined are so numerous that
18 joinder of all the Class members is impracticable. While the precise number of Class
19 member has not been determined at this time, Plaintiffs are informed and believes
20 that Defendants employ or, during the time period relevant to this lawsuit employed,
21 many thousands of Employees who satisfy the Class definition within the State of
22 California. Plaintiffs allege that Defendants’ employment records will provide
23 information as to the number and location of all Class members.

24 **B. Commonality**

25 44. There are questions of law and fact common to the Class that
26 predominate over any questions affecting only individual Class members. The
27 common questions are numerous and substantial and flow from Defendants’
28 uniform policies and/or practices of violating the California Labor Code addressed

1 above. As such, these common questions predominate over individual questions
2 concerning each individual Class Member's showing as to his or her eligibility for
3 recovery or as to the amount of damages. These common questions of law and fact
4 include:

- 5 a. Whether Defendants failed to pay Employees minimum wages;
- 6 b. Whether Defendants failed to pay Employees wages for all hours
7 worked;
- 8 c. Whether Defendants failed to pay Employees overtime as required
9 under Labor Code § 510;
- 10 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the
11 applicable IWC Wage Orders, by failing to provide Employees with
12 requisite meal periods or premium pay at the Employees' regular rate
13 of compensation in lieu thereof;
- 14 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable
15 IWC Wage Orders, by failing to authorize and permit Employees to
16 take requisite rest breaks or provide premium pay at the Employees'
17 regular rate of compensation in lieu thereof;
- 18 f. Whether Defendants violated Labor Code § 246 by failing to pay sick
19 pay at the correct rate of pay;
- 20 g. Whether Defendants violated Labor Code § 226(a) by providing
21 Employees with inaccurate wage statements;
- 22 h. Whether Defendants violated Labor Code § 221;
- 23 i. Whether Defendants violated Labor Code §§ 201, 202, and 203 by
24 failing to pay wages and compensation due and owing at the time of
25 termination of employment;
- 26 j. Whether Defendants' conduct was willful;
- 27 k. Whether Defendants violated Labor Code § 226 and § 1174 and the
28 IWC Wage Orders by failing to maintain accurate records of Class

members' earned wages and work periods;

- l. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- m. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- n. Whether Defendants violated Labor Code § 1198 and paragraph 15 of the applicable IWC Wage Orders by failing to maintain work area temperatures at a reasonable comfort level consistent with industry standards;
- o. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- p. Whether Employees are entitled to equitable relief pursuant to Business and Professions Code § 17200 *et seq.*

C. Typicality

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

D. Adequacy of Representation

46. Plaintiffs will fairly and adequately represent and protect the interest of the Employee Class members. Counsel who represents Plaintiffs and the Employees in the Class are experienced and competent in litigating employment class actions.

E. Superiority of Class Action

47. A class action is superior to other available means for the fair and

1 efficient adjudication of this controversy. Individual joinder of all Employees is not
2 practicable, and questions of law and fact common to all Employees predominate
3 over any questions affecting only individual Employees. Each Employee in the
4 Class has been damaged and is entitled to recovery by reason of Defendants' illegal
5 policies or practices of failing to compensate Employees properly.

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

19 49. Class action treatment will allow those persons similarly situated to
20 litigate their claims in the manner that is most efficient and economical for the
21 parties and the judicial system. Plaintiffs are unaware of any difficulties in
22 managing this case that should preclude class treatment. Plaintiffs contemplate the
23 eventual issuance of notice to the proposed Class members that would set forth the
24 subject and nature of the instant action. The Defendants' own business records can
25 be utilized for assistance in the preparation and issuance of the contemplated
26 notices. To the extent that any further notice is required additional media and/or
27 mailings can be used.

1 50. Defendants, as prospective and actual employers of the Employees in
2 the Class, had a special fiduciary duty to disclose to prospective Class members the
3 true facts surrounding Defendants' pay practices, policies and working conditions
4 imposed upon the similarly situated Employees as well as the effect of any alleged
5 arbitration agreements that may have been forced upon them. In addition,
6 Defendants knew they possessed special knowledge about pay practices and
7 policies, most notably intentionally refusing to pay for all hours actually worked
8 which should have been recorded in Defendants' pay records and the consequence
9 of the alleged arbitration agreements and policies and practices on the Employees
10 and Class as a whole.

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

19 **FIRST CAUSE OF ACTION**
20 **FAILURE TO PAY MINIMUM WAGES**
21 **(Against All Defendants)**

22 52. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
23 set forth in full herein.

24 53. Defendants failed to pay Employees minimum wages they were owed,
25 including by their consistent policy of failing to pay Employees for all hours
26 worked. Employees would work hours and not receive wages, including as alleged
27 above in connection with off the clock work, including all the time required to
28 remain on duty and under Defendants' control during mandatory exit security

1 screenings and during breaks and due to the work demands placed upon them by
2 Defendants' management. Defendants also imposed difficult to attain production
3 and job and shift scheduling requirements on Plaintiffs and the Class members,
4 which resulted in off the clock work and underpayment of all wages owed to
5 Employees over a period of time, while benefiting Defendants. During the relevant
6 time period, Defendants thus regularly failed to pay minimum wages to Plaintiffs
7 and the Class members, including by requiring systematic off the clock work.
8 Defendants' uniform pattern of unlawful wage and hour practices manifested,
9 without limitation, applicable to the Class as a whole, as a result of implementing a
10 uniform policy and practice that denied accurate compensation to Plaintiffs and the
11 other members of the Class as to minimum wage pay.

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

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

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

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

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

6 58. As described in California Labor Code §§ 1185 and 1194.2, any action
7 for wages incorporates the applicable Wage Order of the California Industrial
8 Welfare Commission. Also, California Labor Code §§ 1194, 1197, 1197.1 and those
9 Industrial Welfare Commission Wage Orders entitle non-exempt employees to an
10 amount equal to or greater than the minimum wage for all hours worked. All hours
11 must be paid at the statutory or agreed rate, or at the minimum rate in the absence of
12 a contractually agreed upon one. The underpayment of wages to Plaintiffs and the
13 Class members is and has been a direct consequence of Defendants’ unlawful
14 compensation policies and practices, which applied uniformly to the Class members
15 working at locations throughout California.

16 59. Defendants have failed to pay Plaintiffs wages for all hours worked,
17 and therefore have failed to pay Plaintiffs minimum wages for their labor and hours
18 worked, as addressed in detail herein. In committing the above described violations
19 of the California Labor Code, Defendants inaccurately recorded, or required
20 Plaintiffs and the Class members to input times that did not reflect their actual hours
21 worked, or calculated the correct time worked and consequently underpaid the
22 actual time worked by Plaintiffs and other members of the Class, including by
23 requiring off the clock work, as addressed in detail above. Defendants acted in an
24 illegal attempt to avoid the payment of all earned wages, and other benefits in
25 violation of the California Labor Code, the Industrial Welfare Commission
26 requirements and other applicable laws and regulations. As a result of these
27 violations, Defendants also failed to timely pay all wages earned in accordance with
28 California Labor Code § 1194.

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

61. Additionally, Labor Code § 1197.1 provides that: “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty and restitution of wages payable to the employee...”

In addition to restitution for all unpaid wages, pursuant to California Labor Code § 1197.1, Plaintiffs and Class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages. Pursuant to California Labor Code § 1194.2, Plaintiffs and Class members are further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

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

63. Wherefore, Plaintiffs and the Employee Class members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiffs and the other members of the Class further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and/or civil penalties against Defendants, in a sum as

1 provided by the California Labor Code, including §§ 558 and 558.1 and 1197.1,
2 and/or other applicable statutes. To the extent minimum wage compensation is
3 determined to be owed to the Class members who have terminated their
4 employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and
5 therefore these individuals are also be entitled to waiting time penalties under
6 California Labor Code § 203, which penalties are sought herein on behalf of these
7 Class members. Defendants' failure to timely pay all wages owed also violated
8 Labor Code § 204 for failure to pay all wages owed twice monthly, and resulted in
9 violations of Labor Code § 226 because they resulted in the issuance of inaccurate
10 wage statements. Defendants' conduct as alleged herein was willful, intentional and
11 not in good faith. Further, Plaintiffs and other Class members are entitled to seek
12 and recover statutory costs.

13 **SECOND CAUSE OF ACTION**

14 **FAILURE TO PAY WAGES AND OVERTIME - LABOR CODE § 510**

15 **(Against All Defendants)**

16 64. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
17 set forth in full herein.

18 65. California Labor Code § 1194 provides that "any employee receiving
19 less than the legal minimum wage or the legal overtime compensation applicable to
20 the employee is entitled to recover in a civil action the unpaid balance of the full
21 amount of this minimum wage or overtime compensation, including interest thereon,
22 reasonable attorney's fees, and costs of suit." The action may be maintained directly
23 against the employer in an employee's name without first filing a claim with the
24 Division of Labor Standards and Enforcement.

25 66. By their conduct, as set forth herein, Defendants violated Labor Code §
26 1194 and Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the
27 relevant orders of the Industrial Welfare Commission) by failing to pay Employees
28 for all their hours worked, including: (a) time and one-half their regular hourly rates

1 for hours worked in excess of eight hours in a workday or in excess of forty hours in
2 any workweek or for the first eight hours worked on the seventh day of work in any
3 one workweek; or (b) twice their regular rate of pay for hours worked in excess of
4 twelve hours in any one day or for hours worked in excess of eight hours on any
5 seventh day of work in a workweek. Defendants had a consistent policy of not
6 paying Employees wages for all hours worked, including by requiring off the clock
7 work as addressed above and by under-reporting actual hours worked. With work
8 shifts generally being scheduled for eight hours or more, this unpaid off the clock
9 work resulted in Plaintiffs and the Class members working past eight hours on a
10 shift, which required that they be paid at the correct overtime rate of 1.5 times their
11 regular rate.

12 67. Defendants thus had a consistent policy of not paying Employees
13 wages for all hours worked, including hours at their required regular, overtime, and
14 double-time rates, and as required under applicable living wage ordinances.
15 Defendants required Plaintiffs and the Class members to work off the clock to avoid
16 paying all their earned and owed straight time and overtime wages and other
17 benefits, in violation of the California Labor Code, the California Code of
18 Regulations and the IWC Wage Orders and guidelines set forth by the Division of
19 Labor Standards and Enforcement. Defendants have also violated these provisions
20 by requiring Plaintiffs and other similarly situated non-exempt employees to work
21 through meal periods when they were required to be clocked out or to otherwise
22 work off the clock to complete their daily job duties or to attend and participate in
23 company required activities or remain under Defendants' control. Therefore,
24 Employees were not properly compensated, nor were they paid overtime rates for
25 hours worked in excess of eight hours in a given day, and/or forty hours in a given
26 week. Based on information and belief, Defendants did not make available to
27 Employees a reasonable protocol for correcting time records when Employees
28 worked overtime hours or to fix incorrect time entries or those that Defendants

1 unlawfully under-recorded to the Employee's detriment. Defendants also under-paid
2 Plaintiffs and the putative Class members all wages by systematically miscalculating
3 and underpaying overtime wages they earned, or not paying them at all. More
4 specifically, Defendants paid employees bonuses which were tied directly to
5 performance. Defendants failed to include the bonus payments for all regular hours
6 worked in their calculation of the applicable hourly rate used to pay overtime, and
7 this uniformly applied policy and practice resulted in systematic underpayment of
8 overtime wages to Employees.

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

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

1 70. Defendants' failure to pay compensation in a timely fashion also
2 constituted a violation of California Labor Code § 204, which requires that all
3 wages shall be paid semimonthly. From four years prior to the filing of this lawsuit
4 to the present, in direct violation of that provision of the California Labor Code,
5 Defendants have failed to pay all wages and overtime compensation earned by
6 Employees. Each such failure to make a timely payment of compensation to
7 Employees constitutes a separate violation of California Labor Code § 204.

8 71. Plaintiffs and the Class members have been damaged by these
9 violations of California Labor Code §§ 204 and 510 (and the relevant orders of the
10 Industrial Welfare Commission). Additionally, under Labor Code § 1199(a)-(c), it
11 is a misdemeanor and Defendants are subject to a fine of not less than \$100 for
12 causing Employees "to work for longer hours than those fixed, or under conditions
13 of labor prohibited by an order of the commission" or if the employer pays "a wage
14 less than the minimum fixed by an order of the commission" or "violates...any
15 provision of this chapter or any order or ruling of the commission."

16 72. Consequently, pursuant to the California Labor Code, including Labor
17 Code §§ 204, 510, 558, 558.1, 1174, 1194, 1198, 1199, and the relevant paragraphs
18 of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20,
19 Defendants are liable to Employees for the full amount of all their unpaid wages
20 and overtime compensation for all their hours worked, with interest, plus their
21 reasonable attorneys' fees and costs, as well as the assessment of any statutory
22 penalties against Defendants, and each of them, and any additional sums as
23 provided by the Labor Code and/or other statutes.

24 **THIRD CAUSE OF ACTION**

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

26 **(Against All Defendants)**

27 73. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
28 set forth in full herein.

1 74. Employees regularly worked shifts greater than five hours and in most
2 instances, greater than ten hours. Pursuant to Labor Code § 512, and paragraph 11 of
3 the applicable IWC Wage Order, an employer may not employ someone for a shift
4 of more than five hours without providing him or her with a meal period of not less
5 than thirty minutes or for a shift of more than ten hours without providing him or her
6 with a second meal period of not less than thirty minutes.

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

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

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

1 not provided or inadequately provided, as required under Labor Code § 226.7 and
2 paragraphs 11 and 20 of the applicable IWC Wage Order.

3 78. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of
4 the applicable IWC Wage Order, Employees in the Class are entitled to damages in
5 an amount equal to one hour of pay at their regular rate of compensation for each
6 meal period not provided or deficiently provided, a sum to be proven at trial, as well
7 as the assessment of any statutory penalties against the Defendants, and each of
8 them, in a sum as provided by the Labor Code and other statutes and applicable
9 IWC Wage Order paragraphs.

10 **FOURTH CAUSE OF ACTION**

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

12 **(Against All Defendants)**

13 79. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
14 set forth in full herein.

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

18 81. Employees consistently worked consecutive four hour shifts and were
19 generally scheduled for shifts of greater than 3.5 hours total, thus requiring
20 Defendants to authorize and permit them to take rest periods. Pursuant to the Labor
21 Code and paragraph 12 of the applicable IWC Wage Order, Employees were
22 entitled to paid rest breaks of not less than ten minutes for each consecutive four
23 hour shift, and Defendants failed to provide Employees with timely rest breaks of
24 not less than ten minutes for each consecutive four hour shift. Employees were often
25 required to work or to otherwise remain under Defendants' control during rest
26 periods, and had breaks provided untimely as a result of the above described off the
27 clock work. Plaintiffs and the Class members were also not permitted to leave their
28 work premises during rest breaks.

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

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

84. Defendants failed to authorize and permit Plaintiffs and the Class members to take rest periods, as required by the Labor Code. Moreover, Defendants did not compensate Employees with an additional hour of pay at each Employee's hourly rate for each day that Defendants failed to provide them with adequate rest breaks, as required under Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders.

85. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one (1) hour of pay at their regular rate of compensation for each day worked without the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 246
(Against All Defendants)

86. Plaintiffs re-allege and incorporate all preceding paragraphs, as though set forth in full herein.

87. Pursuant to Labor Code § 246, an employee is entitled to receive sick time pay. For non-exempt employees, employers are to calculate paid sick leave in

1 the same manner as the regular rate of pay for the workweek in which the employee
2 uses paid sick time, whether or not the employee actually works overtime in that
3 workweek; or by dividing the employee's total wages, not including overtime
4 premium pay, by the employee's total hours worked in the full pay periods of the
5 prior 90 days of employment.

6 88. Defendants either failed to pay sick pay or else paid sick pay to
7 Plaintiffs and the similarly situated Class Members at the incorrect rate of pay. To
8 the extent Defendants paid sick pay at the base hourly rate of pay, instead of the
9 regular rate of pay, which would take into account all non-discretionary wages, they
10 committed further Labor Code violations. Defendants payments of sick pay at the
11 base hourly rate of pay resulted in the underpayment of sick time.

12 89. Defendants' failure to pay sick pay in the proper amount also
13 constituted violations of California Labor Code §§ 201-204.

14 90. Employees have been damaged by these violations of the California
15 Labor Code. Consequently, pursuant to the California Labor Code, including Labor
16 Code §§ 201-204, Defendants are liable to Employees for the full amount of all
17 their unpaid sick pay, with interest, plus their reasonable attorneys' fees and costs,
18 as well as the assessment of any statutory penalties against Defendants, and each of
19 them, and any additional sums as provided by the Labor Code and/or other statutes.

20 **SIXTH CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE § 226(a)**

22 **(Against All Defendants)**

23 91. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
24 set forth in full herein.

25 92. California Labor Code § 226(a) requires an employer to furnish each of
26 his or her employees with an accurate, itemized statement in writing showing the
27 gross and net earnings, total hours worked, and the corresponding number of hours
28 worked at each hourly rate; these statements must be appended to the detachable

1 part of the check, draft, voucher, or whatever else serves to pay the employee's
2 wages; or, if wages are paid by cash or personal check, these statements may be
3 given to the employee separately from the payment of wages; in either case the
4 employer must give the employee these statements twice a month or each time
5 wages are paid.

6 93. Defendants failed to provide Plaintiffs and the similarly situated
7 Employee Class members with accurate itemized wage statements in writing, as
8 required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders.
9 Specifically, the wage statements given to Employees by Defendants failed to
10 accurately account for wages, overtime, and premium pay, including by failing to
11 pay for all regular hours worked, failure to pay for all overtime hours worked and
12 for providing deficient meal periods and rest breaks, all of which Defendants knew
13 or reasonably should have known were owed to the Employees, as alleged above.
14 They were also confusing as to the identity and address of the employer, and
15 Defendants policy of paying two weeks in arrears directly violates Sections 204 and
16 226(a).

17 94. Defendants also provided Plaintiffs and the Class members with wage
18 statements that failed to accurately report all hours worked and applicable hourly
19 rates for all hours worked. Plaintiffs and the Employees in the Class were unable to
20 discern from their wage statements along the actual hours they worked in total
21 during a pay period.

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

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

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

27 97. Additionally, under paragraph 4(B) of the applicable IWC Wage
28 Orders, employers are required "to pay each employee, on the established payday

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

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

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

23 **SEVENTH CAUSE OF ACTION**
24 **VIOLATION OF LABOR CODE § 221**
25 **(Against All Defendants)**

26 100. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
27 set forth in full herein.
28

1 101. Labor Code § 221 provides, “It shall be unlawful for any employer to
2 collect or receive from an employee any part of wages theretofore paid by said
3 employer to said employee.” Pursuant to California Labor Code § 204, other
4 applicable laws and regulations, and public policy, an employer must timely pay
5 Employees for all hours worked. Defendants failed to do so.

6 102. Defendants unlawfully received and/or collected wages from the
7 Employees in the Class by implementing a policy understating the hours worked by
8 Employees by requiring off the clock work and by automatically deducting time as
9 alleged above.

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

12 **EIGHTH CAUSE OF ACTION**
13 **VIOLATION OF LABOR CODE § 204**
14 **(Against All Defendants)**

15 104. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
16 set forth in full herein.

17 105. Labor Code § 204 instructs that: “All wages, ...earned by any person
18 in any employment are due and payable twice during each calendar month, on days
19 designated in advance by the employer as the regular paydays. Labor performed
20 between the 1st and 15th days, inclusive, of any calendar month shall be paid for
21 between the 16th and the 26th day of the month during which the labor was
22 performed, and labor performed between the 16th and the last day, inclusive, of any
23 calendar month, shall be paid for between the 1st and 10th day of the following
24 month.” Additionally, the requirements of this section shall be deemed satisfied by
25 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are
26 paid not more than seven calendar days following the close of the payroll period.”
27 As detailed above, Defendants followed the unlawful practice of paying Plaintiffs
28 and the Class members two weeks in arrears. Defendants thus maintained a

1 consistently applied policy and practice of not paying all wages earned between the
2 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages
3 earned between the 16th and the last day of the month between the 1st and 10th day of
4 the following month. This included failing to pay all wages due and owing to
5 Plaintiffs and the Class members for all hours they worked and failing to pay all
6 wages earned by not more than seven calendar days following the close of the
7 payroll period.

8 106. All wages due and owing to Plaintiffs and the Class members,
9 including as required under Labor Code § 510, were therefore not timely paid by
10 Defendants. Additionally, wages required by Labor Code § 1194 and other sections
11 became due and payable to each employee in each pay period that he or she was not
12 provided with a meal period or rest period or paid straight or overtime wages to
13 which he or she was entitled.

14 107. Defendants violated Labor Code § 204 by systematically refusing to
15 timely pay wages due under the Labor Code, as addressed above. Defendants also
16 failed to pay sick pay at the correct rate of pay, which lead to the underpayment of
17 sick time. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
18 employers are required “to pay each employee, on the established payday for the
19 period involved, not less than the applicable minimum wage for all hours worked in
20 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any
21 employee for longer hours than those fixed by the order or under conditions of labor
22 prohibited by the order is unlawful.” Plaintiffs and the Class members may therefore
23 pursue damages and penalties for violations of Labor Code § 204 and paragraph
24 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of
25 the applicable IWC Wage Orders.

26 108. As a result of the unlawful acts of Defendants, Plaintiffs and the Class
27 they seek to represent have been deprived of wages in amounts to be determined at
28 trial, and they are entitled to recovery of such amounts, plus interest and penalties

1 thereon, attorneys' fees, and costs, pursuant to Labor Code § 210, 218.5, 1194 and
2 1198, and paragraphs 4(B) and 20 of the applicable IWC Wage Orders.

3 **NINTH CAUSE OF ACTION**
4 **VIOLATION OF LABOR CODE § 203**
5 **(Against All Defendants)**

6 109. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
7 set forth in full herein.

8 110. Plaintiffs and numerous Class members are no longer employed by
9 Defendants; they either quit Defendants' employ or were fired therefrom.

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

13 112. The wages withheld from these Employees by Defendants remained
14 due and owing for more than thirty days from the date of separation from
15 employment.

16 113. Defendants failed to pay Plaintiffs and the Class members without
17 abatement, all wages as defined by applicable California law. Among other things,
18 these Employees were not paid all regular and overtime wages, including by
19 Defendants failing to pay for all hours worked or requiring off the clock work or by
20 unlawfully under-recording time entries or by paying sick pay at the incorrect rate of
21 pay to the detriment of Employees, and Defendants failed to pay premium wages
22 owed for unprovided meal periods and rest periods, as further detailed in this
23 Complaint. Defendants' failure to pay said wages within the required time was
24 willful within the meaning of Labor Code § 203.

25 114. Additionally, under paragraph 4(B) of the applicable IWC Wage
26 Orders, employers are required "to pay each employee, on the established payday
27 for the period involved, not less than the applicable minimum wage for all hours
28 worked in the payroll period, ..." Under Labor Code § 1198, "[t]he employment of

1 any employee for longer hours than those fixed by the order or under conditions of
2 labor prohibited by the order is unlawful.” Plaintiffs and the Class members may
3 therefore pursue damages and penalties for violations of Labor Code § 203 and
4 paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
5 paragraph 20 of the applicable IWC Wage Orders. Also, under Labor Code §
6 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than
7 \$100 for causing Employees “to work for longer hours than those fixed, or under
8 conditions of labor prohibited by an order of the commission” or if the employer
9 pays “a wage less than the minimum fixed by an order of the commission” or
10 “violates...any provision of this chapter or any order or ruling of the commission.”

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

16 **TENTH CAUSE OF ACTION**

17 **FAILURE TO MAINTAIN TEMPERATURES UNDER WAGE ORDERS**

18 **(Against All Defendants)**

19 116. Plaintiffs re-allege and incorporates all preceding paragraphs, as though
20 set forth in full herein.

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

1 excessive heat or humidity to a degree providing reasonable comfort...”

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

10 119. During the relevant time period, as detailed above, Defendants violated
11 Labor Code §§ 1198 and 1199 and paragraph 15 of the IWC Wage Orders by failing
12 to provide Plaintiffs and other aggrieved employees with reasonable comfort.
13 Defendants failed to maintain facilities or take procedures to relieve Plaintiffs and
14 the Class members from the high temperatures they were required to endure during
15 hot weather within the warehouse environment.

16 120. These practices and policies resulted in Defendants’ failure to maintain
17 temperature providing reasonable comfort in violation of Labor Code §§ 1198 and
18 1199 and paragraph 15 of the applicable IWC Wage Orders. Plaintiffs and the Class
19 members may therefore pursue damages and penalties for violations of Labor Code
20 §§ 1198 and 1199 and paragraph 15 of the applicable IWC Wage Orders, including
21 penalties under paragraph 20 of the applicable IWC Wage Orders, in an amount to
22 be determined at trial.

23 **ELEVENTH CAUSE OF ACTION**

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

25 **(Against All Defendants)**

26 121. Plaintiffs re-allege and incorporate all preceding paragraphs, as though
27 set forth in full herein.
28

1 122. Plaintiffs, on behalf of themselves, the Employees in the Class, and the
2 general public, brings this claim pursuant to Business & Professions Code § 17200
3 *et seq.* The conduct of Defendants as alleged in this Complaint has been and
4 continues to be unfair, unlawful, and harmful to Employees and the general public.
5 Plaintiffs seek to enforce important rights affecting the public interest within the
6 meaning of Code of Civil Procedure § 1021.5.

7 123. Plaintiffs are “persons” within the meaning of Business & Professions
8 Code
9 § 17204, have suffered injury, and therefore have standing to bring this cause of
10 action for injunctive relief, restitution, and other appropriate equitable relief.

11 124. Business & Professions Code § 17200 *et seq.* prohibits unlawful and
12 unfair business practices. By the conduct alleged herein, Defendants’ practices were
13 deceptive and fraudulent in that Defendants’ policy and practice failed to provide
14 the required amount of compensation for missed meal and rest breaks, and failed to
15 adequately compensate Plaintiffs and Class members for all hours worked, due to
16 systematic business practices as alleged herein that cannot be justified, pursuant to
17 the applicable California Labor Code and Industrial Welfare Commission
18 requirements in violation of California Business and Professions Code §§ 17200, *et*
19 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant
20 to California Business & Professions Code § 17203, including restitution of wages
21 wrongfully withheld.

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

1 with minimum labor standards.

2 126. Defendants have violated statutes and public policies. Through the
3 conduct alleged in this Complaint Defendants have acted contrary to these public
4 policies, have violated specific provisions of the Labor Code, and have engaged in
5 other unlawful and unfair business practices in violation of Business & Professions
6 Code § 17200 *et seq.*; which conduct has deprived Plaintiffs, and all persons
7 similarly situated, and all interested persons, of the rights, benefits, and privileges
8 guaranteed to all employees under the law.

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

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

16 129. By the conduct alleged herein, Defendants have engaged and continue
17 to engage in a business practice which violates California and federal law, including
18 but not limited to, the applicable Industrial Wage Order(s), the California Code of
19 Regulations, and the California Labor Code including Sections 204, 226, 226.7, 510,
20 512, 1194, 1197, and 1198 for which this Court should issue declaratory and other
21 equitable relief pursuant to California Business & Professions Code § 17203 as may
22 be necessary to prevent and remedy the conduct held to constitute unfair
23 competition, including restitution of wages wrongfully withheld.

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

26 131. Unless restrained by this Court, Defendants will continue to engage in
27 the unlawful conduct as alleged above. Pursuant to the Business & Professions
28 Code, this Court should make such orders or judgments, including the appointment

1 of a receiver, as may be necessary to prevent the use by Defendants or their agents or
2 employees of any unlawful or deceptive practice prohibited by the Business &
3 Professions Code, including but not limited to the disgorgement of such profits as
4 may be necessary to restore Employees to the money Defendants have unlawfully
5 failed to pay.

6 132. As also addressed above, Plaintiffs, on behalf of the Aggrieved
7 Employees, also seek the penalties and remedies set forth in Labor Code § 558.

8 **TWELFTH CAUSE OF ACTION**
9 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***
10 **(Against All Defendants)**

11 133. Plaintiffs reallege and incorporates all preceding paragraphs, as though
12 set forth in full herein.

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

17 135. In failing to pay Aggrieved Employees minimum wages and overtime,
18 not providing proper meal and rest periods, failing to provide accurate itemized
19 wage statements, and failing to pay Employees wages upon termination or timely
20 upon resignation, all discussed above, Defendants failed to timely pay Aggrieved
21 Employees wages on a semimonthly basis as required under Labor Code § 204.
22 Defendants also failed to maintain records showing accurate hours worked daily
23 and the wages paid to Aggrieved Employees, as required by Labor Code § 1174
24 and paragraph 7 of the applicable IWC Wage Orders.

25 136. As such, Employees seek wages and penalties under Labor Code §§
26 2698 and 2699 for Defendants’ violation of Labor Code provisions included under
27 Labor Code § 2699.5, including the penalty provisions, without limitation, based,
28 *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204,

206.5, 226, 226.2, 226.7, 432.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et seq.

137. More specifically, after complying with the notice procedures of Labor Code § 2699.3, Plaintiffs assert, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above-addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions, including as follows:

(a) Wage Claims: For failure to provide Plaintiffs and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiffs and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiffs and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections

1 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and
2 statutory penalties and wages available and applicable under Labor Code §§ 226(e),
3 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC
4 Wage Order, and also for attorneys' fees and costs pursuant to Labor Code §
5 2699(g)(1). More specifically, by providing inaccurate wage statements and failing
6 to maintain records as required under Labor Code § 226(a), Defendants committed
7 ongoing violations giving rise to civil penalties under Labor Code §226.3, which in
8 addition to other penalties provided by law, subjects Defendants to "a penalty in the
9 amount of two hundred fifty dollars (\$250) per employee per violation in an initial
10 citation and one thousand dollars (\$1,000) per employee for each violation in a
11 subsequent citation, ...";

12 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed,
13 including at least semi-monthly and upon separation or termination, under Labor
14 Code §§ 201, 201, 203, 204, 226.2, 1197.5, 2926, and 2927 seeking all civil
15 penalties available and applicable, and wages, under Labor Code §§ 201, 202, 203,
16 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC
17 Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code §
18 2699(g)(1);

19 (e) Failure to Maintain Temperatures: For failure to maintain temperature
20 providing reasonable comfort constituting violations of Labor Code §§ 1198 and
21 1199 and paragraph 15 of the applicable IWC Wage Orders, and Labor Code §
22 2699.5, and seeking penalties available and applicable under Labor Code §
23 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys'
24 fees and costs pursuant to Labor Code § 2699(g)(1);

25 (f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick
26 Leave: For Defendants' failure to provide Employees with all their required and
27 earned sick days and all their COVID-19 supplemental sick leave in violation of
28 Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and

1 applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1,
2 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor
3 Code § 2699(g)(1); and

4 (g) All Alleged Violations of the IWC Wage Orders and Other Labor
5 Code Sections: For any above addressed violation of the applicable provisions of
6 the IWC Wage Orders, each of which constitute separate violations of Labor Code §
7 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under
8 Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and
9 for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

10 138. As also addressed above, Plaintiffs, on behalf of the Aggrieved
11 Employees, also seek the penalties and remedies set forth in Labor Code § 558,
12 which states:

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

22 (b) If upon inspection or investigation the Labor Commissioner determines
23 that a person had paid or caused to be paid a wage for overtime work in violation of
24 any provision of this chapter, or any provision regulating hours and days of work in
25 any order of the Industrial Welfare Commission, the Labor Commissioner may issue
26 a citation. The procedures for issuing, contesting, and enforcing judgments for
27 citations or civil penalties issued by the Labor Commissioner for a violation of this
28 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.

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139. Plaintiffs have exhausted their administrative remedies by submitting a certified letter to the LWDA and Defendants on July 2, 2024 (LWDA-CM-1037655-24) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiffs add this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the regular rate of compensation made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the regular rate of compensation made by Employees for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;

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

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

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

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

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

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

13 13. For damages and civil penalties as appropriate under Labor Code §§
14 1198 and 1199 and paragraphs 15 and 20 of the applicable IWC Wage Orders for
15 Defendants' failure to maintain reasonable temperatures in the workplace, as may be
16 proven;

17 14. For liquidated damages pursuant to California Labor Code 1194.2(a)
18 for failure to pay minimum wage;

19 15. For restitution for unfair competition pursuant to Business &
20 Professions Code
21 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

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

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26 ///

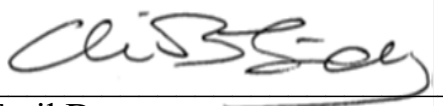
27 ///

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 23, 2024

D.LAW, INC.

By



Emil Davtyan
David Yeremian
Alvin B. Lindsay
Jean Hopkins Power
Attorneys for Plaintiffs ANTWOINE
TYRONE TAYLOR, CAROLINE
DELTORAL, NATIVIDAD M.
QUILLIN on behalf of themselves and
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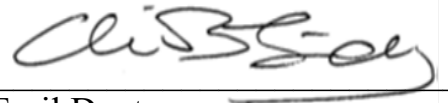
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

DATED: September 23, 2024

D.LAW, INC.

By



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