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8 Attorney for PLAINTIFFS IAN CARPENTER and ANNA IMEDASHVILI

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 IAN CARPENTER and ANNA
12 IMEDASHVILI, individuals, on behalf of
13 themselves, and on behalf of all persons
14 similarly situated,

15 Plaintiff,

16 v.

17 EASY BREATHE, INC. a California
18 Corporation, and DOES 1-50, Inclusive;

19 Defendants.

Case No. **24STCV23480**

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PROVIDE OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§510 *ET SEQ.*
3. FAILURE TO PROVIDE MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194,1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§ 226 and 226.2; and
8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203.
9. Civil Penalties Pursuant to Labor Code §2699, *et seq.*, for violations of Labor

Code §§ 201, 201.3, 202, 203, 204 *et seq.*, 210, 218, 218.5, 218.6, 221, 226(a), 226(a)(8), 226.2, 226.3, 232, 246, 226.7, 227.3, 510, 512, 558, 1102.5, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802 and 2804, and the California Code of Regulations

DEMAND FOR JURY TRIAL

Plaintiffs IAN CARPENTER and ANNA IMEDASHVILI (“PLAINTIFFS”) individuals, and on behalf of all similarly situated individuals and former employees allege on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

1. Defendant EASY BREATHE, INC. (“DEFENDANT”) is a California Corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, County of Los Angeles. Defendant sells CPAP masks, machines, and supplies in Los Angeles County.

2. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of Defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFFS who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief allege, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive (hereinafter collectively with “DEFENDANTS”), are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

3. The agents, servants and/or employees of the DEFENDANT and each of them acting on behalf of the DEFENDANT acted within the course and scope of his/her, or its authority

1 as the agent, servant and/or employee of the DEFENDANTS, and personally participated in the
2 conduct alleged herein on behalf of the DEFENDANTS with respect to the conduct alleged
3 herein. Consequently, the acts of each of the DEFENDANTS are legally attributable to the other
4 and all DEFENDANTS are jointly and severally liable to PLAINTIFF and those similarly
5 situated, for the loss sustained as a proximate result of the conduct of the DEFENDANTS' agents,
6 servants and/or employees.

7 4. DEFENDANTS were PLAINTIFFS' employers or persons acting on behalf of
8 PLAINTIFFS' employer, within the meaning of California Labor Code § 558, who violated or
9 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
10 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
11 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
12 at all relevant times.

13 5. DEFENDANTS were PLAINTIFFS' employers or persons acting on behalf of
14 PLAINTIFFS' employer either individually or as an officer, agent, or employee of another
15 person, within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to
16 any employee a wage less than the minimum fixed by California state law, and as such, are subject
17 to civil penalties for each underpaid employee.

18 6. PLAINTIFF IAN CARPENTER was employed by DEFENDANTS as a non-
19 exempt employee, paid on an hourly basis and entitled to minimum wages, overtime pay,
20 gratuities, and legally compliant meal and rest periods from on or about May 2018 to May 13,
21 2024.

22 7. PLAINTIFF ANNA IMEDASHVILI was employed by DEFENDANTS as a non-
23 exempt employee, paid on an hourly basis and entitled to minimum wages, overtime pay,
24 gratuities, and legally compliant meal and rest periods from on or about February 2020 to March
25 29, 2024.

26 8. PLAINTIFFS bring this Class Action under California Code of Civil Procedure §
27 382 on behalf of themselves and on behalf of all of DEFENDANTS current and former non-
28 exempt California employees (the "CALIFORNIA CLASS") at any time during the period

1 beginning four years from the date of the filing of this Complaint and ending on a date determined
2 by the Court (the "CLASS PERIOD").

3 9. The amount in controversy for the aggregate claim of CALIFORNIA CLASS
4 members is under five million dollars (\$5,000,000.00). PLAINTIFF reserves the right to amend
5 the following class definitions before the Court determines whether class certification is
6 appropriate, or thereafter upon leave of Court.

7 10. PLAINTIFFS bring this Class Action on behalf of themselves and on behalf of the
8 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
9 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice
10 which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant
11 meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu*
12 thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable
13 Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFFS and the
14 CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code
15 Sections 510, 1194, 1197, and 1197.1, failed to reimburse PLAINTIFFS and the CALIFORNIA
16 CLASS for required expenses in violation for California Labor Code Section 2802, and (3) failed
17 to provide accurate itemized wage statements in violation of California Labor Code Sections 226
18 and 226.2.

19 11. PLAINTIFFS bring this lawsuit seeking monetary relief against Defendants on
20 behalf of themselves and all others similarly situated in California to recover, among other things,
21 unpaid wages and benefits, interest, attorneys' fees, costs and expenses and penalties pursuant to
22 Labor Code §§201, 201.3, 202, 203, 204 *et seq.*, 210, 218, 218.5, 218.6, 221, 226(a), 226(a)(8),
23 226.2, 226.3, 232, 246, 226.7, 227.3, 510, 512, 558, 1102.5, 1174(d), 1174.5, 1194, 1197, 1197.1,
24 1197.14, 1198, 1198.5, 1199, 2802 and 2804, *et seq.*

25 12. DEFENDANTS' uniform policies and practices alleged herein were unlawful,
26 unfair, and deceptive business practices whereby DEFENDANTS retained and continues to retain
27 wages due PLAINTIFFS and the other members of the CALIFORNIA CLASS.
28

1 13. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an
2 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
3 PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been
4 economically injured by DEFENDANTS' past and current unlawful conduct, and all other
5 appropriate legal and equitable relief.

6 **JURISDICTION AND VENUE**

7 14. This Court has jurisdiction over this Action pursuant to California Code of Civil
8 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
9 action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees
10 of DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

11 15. Venue is proper in this Court pursuant to California Code of Civil Procedure,
12 Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANTS, and
13 DEFENDANTS (i) currently maintain and at all relevant times, maintained offices and facilities
14 in this County and/or conducts substantial business in this County, and (ii) committed the
15 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

16 **THE CONDUCT**

17 16. In violation of the applicable sections of the California Labor Code and the
18 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
19 matter of company policy, practice and procedure, intentionally, knowingly and systematically
20 failed to provide legally compliant meal and rest periods, failed to accurately compensate
21 PLAINTIFFS and the other members of the CALIFORNIA CLASS for missed meal and rest
22 periods, failed to pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all
23 time worked, failed compensate PLAINTIFFS for off-the-clock work, failed to reimburse
24 PLAINTIFFS and the members of the CALIFORNIA CLASS for required expenses and failed
25 to issue to PLAINTIFFS, and the members of the CALIFORNIA CLASS with accurate itemized
26 wage statements showing, among other things, all applicable hourly rates in effect during the pay
27 periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS'
28 uniform policies and practices are intended to purposefully avoid the accurate and full payment

1 for all time worked as required by California law which allows DEFENDANTS to illegally profit
2 and gain an unfair advantage over competitors who comply with the law. To the extent equitable
3 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS
4 PERIOD should be adjusted accordingly.

5 **A. Meal Period Violations**

6 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
7 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
8 meaning the time during which an employee is subject to the control of an employer, including
9 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
10 PERIOD, DEFENDANTS required PLAINTIFFS and CALIFORNIA CLASS members to work
11 without paying them for all the time they were under DEFENDANTS' control. Specifically, as
12 a result of, among other reasons, PLAINTIFFS demanding work requirements, and
13 DEFENDANTS under staffing, from time-to-time, DEFENDANTS required PLAINTIFFS to
14 work while clocked out during what was supposed to be PLAINTIFFS off-duty meal break.
15 Additionally, PLAINTIFFS were from time-to-time interrupted by work assignments while
16 clocked out for what should have been PLAINTIFFS off-duty meal break. As a result, the
17 PLAINTIFFS and other CALIFORNIA CLASS members forfeited minimum wage and overtime
18 wages by regularly working without their time being accurately recorded and without
19 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
20 policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS members for all
21 time worked is evidenced by DEFENDANTS' business records.

22 18. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
23 schedules, and DEFENDANTS' inadequate staffing practices, PLAINTIFFS and other
24 CALIFORNIA CLASS members were from time-to-time unable to take thirty (30) minutes off
25 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFFS and
26 other members of the CALIFORNIA CLASS were required from time-to-time to perform work
27 as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving
28 a meal break. Further, DEFENDANTS from time-to-time failed to provide PLAINTIFFS and

1 CALIFORNIA CLASS members with a second off-duty meal period for some workdays in which
2 these employees were required by DEFENDANTS to work ten (10) hours of work from time-to-
3 time. The nature of the work performed by the PLAINTIFFS and the members of the
4 CALIFORNIA CLASS does not qualify for limited and narrowly construed “on-duty” meal
5 period exception. When they were provided with meal periods, PLAINTIFFS and other
6 CALIFORNIA CLASS Members were, from time to time, required to remain on the premises,
7 on duty and/or on call. PLAINTIFFS and other members of the CALIFORNIA CLASS therefore
8 forfeited meal breaks without additional compensation and in accordance with DEFENDANTS’
9 strict corporate policy and practice.

10 **B. Rest Period Violations**

11 19. From time-to-time during the CLASS PERIOD, PLAINTIFFS and other
12 CALIFORNIA CLASS members were also required from time-to-time to work in excess of four
13 (4) hours without being provided ten (10) minute rest periods as a result of, among other reasons,
14 their rigorous work schedules, and DEFENDANTS’ inadequate staffing. Further, for the same
15 reasons these employees were denied their first rest periods of at least ten (10) minutes for some
16 shifts worked of at least two (2) to four (4) hours from time-to-time, a first and second rest period
17 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from
18 time-to-time, and a first, second, and third rest period of at least ten (10) minutes for some shifts
19 worked of ten (10) hours or more from time-to-time. PLAINTIFFS and other CALIFORNIA
20 CLASS members were also not provided with one-hour wages in lieu thereof. When they were
21 provided with rest periods, PLAINTIFFS and other CALIFORNIA CLASS Members were, from
22 time to time, required to remain on the premises, on duty and/or on call. As a result of their
23 rigorous work schedules and DEFENDANTS’ inadequate staffing, PLAINTIFFS and other
24 CALIFORNIA CLASS members were from time-to-time denied their proper rest periods by
25 DEFENDANTS and DEFENDANTS’ managers.

26 **C. Unreimbursed Business Expenses**

27 20. DEFENDANTS as a matter of corporate policy, practice, and procedure,
28 intentionally, knowingly, and systematically failed to reimburse and indemnify PLAINTIFFS

1 and the members of the CALIFORNIA CLASS for required business expenses they incurred in
2 direct consequence of discharging their duties on behalf of DEFENDANTS. Under California
3 Labor Code Section 2802, employers are required to indemnify employees for all expenses
4 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states
5 that "an employer shall indemnify his or her employee for all necessary expenditures or losses
6 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or
7 her obedience to the directions of the employer, even though unlawful, unless the employee, at
8 the time of obeying the directions, believed them to be unlawful."

9 21. From time-to-time during the CLASS PERIOD, PLAINTIFFS and members of the
10 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular
11 phones and home computers, as a result of and in furtherance of their job duties as employees for
12 DEFENDANTS. Specifically, PLAINTIFFS and members of the CALIFORNIA CLASS, used
13 their personal cellular phones to execute their job duties. But for the use of their personal cell
14 phones and home computers, PLAINTIFFS and the members of the CALIFORNIA CLASS
15 could not complete their essential job duties. Notwithstanding, DEFENDANTS did not
16 reimburse or indemnify PLAINTIFFS or the members of the CALIFORNIA CLASS for the cost
17 associated with the use of their personal cellular phones for DEFENDANTS' benefit. As a result,
18 in the course of their employment with DEFENDANTS, PLAINTIFFS and the members of the
19 CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not
20 limited to, costs related to the use of their personal cellular, all on behalf of and for the benefit of
21 DEFENDANTS.

22 22. Additionally, PLAINTIFFS were promised a health reimbursement stipend of \$100
23 a month for any health insurance and/or medical costs. This health reimbursement stipend was
24 never paid by DEFENDANTS. As a result, in the course of their employment with
25 DEFENDANTS, PLAINTIFFS and the members of the CALIFORNIA CLASS incurred
26 unreimbursed expenses which included, but were not limited to, costs related to health and/or
27 medical costs.

28 ///

1 **D. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

2 9. During the CLASS PERIOD, from time-to-time, DEFENDANTS failed and
3 continue to fail to accurately pay PLAINTIFFS and the other members of the CALIFORNIA
4 CLASS for all hours worked. Specifically, DEFENDANT from time-to-time required
5 PLAINTIFFS and the other members of the CALIFORNIA CLASS to perform off-the-clock work.
6 Notwithstanding, from time-to-time DEFENDANTS failed to pay PLAINTIFFS and other
7 members of the CALIFORNIA CLASS necessary wages for performing work at DEFENDANTS'
8 direction, request, and benefit, while off-the clock pre-shift, post-shift, and during meal periods.

9 10. During the CLASS PERIOD, from time-to-time DEFENDANTS required
10 PLAINTIFFS and other members of the CALIFORNIA CLASS to perform pre-shift work,
11 including but not limited to, preparing for the shift to start his shift. Further, as discussed *supra*,
12 PLAINTIFFS and other members of the CALIFORNIA CLASS were from time to time interrupted
13 with work assignments during their off-duty meal periods without additional compensation from
14 DEFENDANTS.

15 11. DEFENDANTS directed and directly benefited from the uncompensated off-the-
16 clock work performed by PLAINTIFFS and the other members of the CALIFORNIA CLASS.

17 12. DEFENDANTS controlled the work schedules, duties, protocols, applications,
18 assignments and employment conditions of PLAINTIFFS and the other members of the
19 CALIFORNIA CLASS.

20 13. DEFENDANTS were able to track the amount of time PLAINTIFFS and the other
21 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
22 document, track, or pay PLAINTIFFS and the other members of the CALIFORNIA CLASS all
23 wages earned and owed for all the work they performed, including off-the-clock work.

24 14. PLAINTIFFS and the other members of the CALIFORNIA CLASS were non-
25 exempt employees, subject to the requirements of the California Labor Code.

26 15. DEFENDANTS' policies and practices deprived PLAINTIFFS and the other
27 members of the CALIFORNIA CLASS of all minimum, regular and overtime wages owed for the
28 off-the-clock work activities and their required meal periods. Because PLAINTIFFS and the other

1 members of the CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more
2 than eight (8) hours per day, DEFENDANTS' policies and practices also deprived them of overtime
3 pay.

4 16. DEFENDANTS knew or should have known that PLAINTIFFS and the other
5 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

6 17. As a result, PLAINTIFFS and the other members of the CALIFORNIA CLASS
7 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control and benefit
8 for the time spent working off-the-clock pre-shift, and during meal periods. DEFENDANTS'
9 uniform policy and practice to not pay PLAINTIFFS and the members of the CALIFORNIA
10 CLASS wages for all hours worked in accordance with applicable law is evidenced by
11 DEFENDANTS' business records.

12 **E. Wage Statement Violations**

13 18. California Labor Code Section 226 requires an employer to furnish its employees
14 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
15 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
16 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
17 of the employee and only the last four digits of the employee's social security number or an
18 employee identification number other than a social security number, (8) the name and address of
19 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay
20 period and the corresponding number of hours worked at each hourly rate by the employee.

21 19. From time-to-time during the CLASS PERIOD, when PLAINTIFFS and other
22 CALIFORNIA CLASS members missed meal and rest breaks, were paid inaccurate missed meal
23 and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed to
24 provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with complete and
25 accurate wage statements which failed to show, among other things, all applicable hourly rates in
26 effect during the pay period and the corresponding amount of time worked at each hourly rate,
27 correct rates of pay for penalty payments or missed meal and rest periods.

1 20. In addition to the violations described above, DEFENDANTS, from time-to-time,
2 failed to provide PLAINTIFFS and the CALIFORNIA CLASS members with wage statements
3 that comply with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFFS and the
4 other members of the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code §
5 226. Further, DEFENDANTS' violations are knowing and intentional, were not isolated or due
6 to an unintentional payroll error due to clerical or inadvertent mistake.

7 **F. Overtime Regular Rate Violation**

8 21. From time-to-time during the CLASS PERIOD, DEFENDANT failed and continues
9 to fail to accurately calculate and pay PLAINTIFFS and the other CALIFORNIA CLASS
10 members for their overtime hours worked. As a result, PLAINTIFFS and the other CALIFORNIA
11 CLASS members forfeited wages due them for working overtime without compensation at the
12 correct overtime rates. DEFENDANT'S uniform policy and practice to not pay the CALIFORNIA
13 CLASS members the correct overtime rate for all overtime worked in accordance with applicable
14 law is evidenced by DEFENDANT'S business records.

15 22. State law provides that employees must be paid overtime at one-and-one-half times
16 their "regular rate of pay." PLAINTIFFS and other CALIFORNIA CLASS members were
17 compensated at an hourly rate plus flat-sum incentive pay that was tied to specific elements of an
18 employee's performance.

19 23. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
20 members' compensation was DEFENDANT'S flat-sum non-discretionary incentive program that
21 paid PLAINTIFFS and other CLASS MEMBERS flat-sum incentive wages based on their
22 performance for DEFENDANT. The flat-sum non-discretionary bonus program provided all
23 employees paid on an hourly basis with flat-sum bonus compensation when the employees met
24 the various performance goals set by DEFENDANT. These flat-sum incentive payments are
25 identified as "COMMISSION", "MONTHLY COMMISSION", "DOUBLE COMMISSION"
26 and/or "ADDITIONAL PAY" in the wage statements issued by DEFENDANTS to PLAINTIFFS
27 and the other CALIFORNIA CLASS members.

1 24. However, from-time-to-time, when calculating the regular rate of pay, in those pay
2 periods where PLAINTIFFS and other CALIFORNIA CLASS members worked overtime and
3 earned this flat-sum non-discretionary bonus, DEFENDANT failed to accurately include the flat-
4 sum non-discretionary bonus compensation as part of the employees' "regular rate of pay" and/or
5 calculated all hours worked rather than just all non-overtime hours worked. Management and
6 supervisors described the incentive/bonus program to potential and new employees as part of the
7 compensation package. As a matter of law, the incentive compensation received by PLAINTIFFS
8 and other CALIFORNIA CLASS members must be included in the "regular rate of pay." The
9 failure to do so has resulted in a systematic underpayment of overtime compensation to
10 PLAINTIFFS and other CALIFORNIA CLASS members by DEFENDANT.

11 25. In violation of the applicable sections of the California Labor Code and the
12 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
13 matter of company policy, practice and procedure, intentionally and knowingly failed to
14 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
15 of pay for all overtime worked. This uniform policy and practice of DEFENDANT is intended
16 to purposefully avoid the payment of the correct overtime compensation as required by California
17 law which allowed DEFENDANT to illegally profit and gain an unfair advantage over
18 competitors who complied with the law. To the extent equitable tolling operates to toll claims by
19 the CALIFORNIA CLASS members against DEFENDANT, the CLASS PERIOD should be
20 adjusted accordingly.

21 **Unlawful Rounding Violation**

22 26. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
23 an immutable timekeeping system to accurately record and pay PLAINTIFFS and other
24 CALIFORNIA CLASS Members for the actual time these employees worked each day,
25 including overtime hours. Specifically, the DEFENDANT had in place an unlawful rounding
26 policy and practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being
27 undercompensated for all of their time worked. As a result, DEFENDANT was able to and did
28 in fact unlawfully, and unilaterally round the time recorded in DEFENDANT'S timekeeping

1 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid
2 paying these employees for all their time worked, including the applicable overtime
3 compensation for overtime worked. As a result, PLAINTIFFS, and other CALIFORNIA CLASS
4 Members, from time to time, forfeited compensation for their time worked by working without
5 their time being accurately recorded and without compensation at the applicable overtime rates.

6 27. Further, the mutability of DEFENDANT'S timekeeping system and unlawful
7 rounding policy and practice resulted in PLAINTIFFS and CALIFORNIA CLASS Members' time
8 being inaccurately recorded. As a result, from time to time, DEFENDANT'S unlawful rounding
9 policy and practice caused PLAINTIFFS and CALIFORNIA CLASS Members to perform work
10 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
11 duty meal break. Additionally, DEFENDANT'S unlawful rounding policy and practice caused
12 PLAINTIFFS and CALIFORNIA CLASS Members to perform work as ordered by
13 DEFENDANT for more than ten (10) hours during a shift without receiving a second off-duty
14 meal break.

15 **Timekeeping Manipulation**

16 28. During the PAGA PERIOD, DEFENDANTS, from time-to-time, did not have an
17 immutable timekeeping system to accurately record and pay PLAINTIFFS and AGGRIEVED
18 EMPLOYEES for the actual time PLAINTIFFS and AGGRIEVED EMPLOYEES worked each
19 day, including regular time, overtime hours, sick pay, meals, and rest breaks. As a result,
20 DEFENDANT was able to and did in fact, unlawfully, and unilaterally alter the time recorded in
21 DEFENDANTS' timekeeping system for PLAINTIFFS and AGGRIEVED EMPLOYEES in order
22 to avoid paying these employees for all hours worked, applicable overtime compensation, applicable
23 sick pay, missed meal breaks and missed rest break.

24 29. As a result, PLAINTIFFS and AGGRIEVED EMPLOYEES, from time-to-time,
25 forfeited time worked by working without their time being accurately recorded and without
26 compensation at the applicable pay rates.

27 30. The mutability of the timekeeping system also allowed DEFENDANTS to alter
28 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'

1 timekeeping system so as to create the appearance that PLAINTIFFS and AGGRIEVED
2 EMPLOYEES clocked out for thirty (30) minute meal break when in fact the employees were not
3 at all times provided an off-duty meal break. This practice is a direct result of DEFENDANT'S
4 uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal
5 breaks each day or otherwise compensate them for missed meal breaks.

6 31. As a result, PLAINTIFFS and Aggrieved Employees forfeited wages due to them for
7 all hours worked at DEFENDANTS' direction, control, and benefit for the time the timekeeping
8 system was inoperable. DEFENDANTS' uniform policy and practice to not pay PLAINTIFFS and
9 AGGRIEVED EMPLOYEES wages for all hours worked in accordance with applicable law is
10 evidenced by DEFENDANTS' business records.

11 32. Specifically, as to PLAINTIFFS, PLAINTIFFS were from time to time unable to take
12 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
13 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)
14 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
15 provide PLAINTIFFS with a second off-duty meal period each workday in which he was required
16 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFFS
17 with a rest break, they required PLAINTIFFS to remain on duty and on-call for the rest break.
18 DEFENDANT policy caused PLAINTIFFS to remain on-call and on-duty during what was supposed
19 to be his off-duty meal periods. PLAINTIFFS therefore forfeited meal and rest breaks without
20 additional compensation and in accordance with DEFENDANT'S strict corporate policy and
21 practice. Moreover, DEFENDANT also provided PLAINTIFFS with paystubs that failed to comply
22 with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFFS for
23 required business expenses related to the personal expenses incurred for the use of his personal cell
24 phone, and purchase of any tools, on behalf of and in furtherance of his employment with
25 DEFENDANT. To date, DEFENDANT has not fully paid PLAINTIFFS any penalty wages owed
26 to her under Cal. Lab. Code § 203.

27 33. "As required by Industrial Welfare Commission Wage Order 7-2001 (hereafter
28 "Wage Order") §15, "[t]he temperature maintained in each work are shall provide reasonable

1 comfort consistent with industry-wide standards for the nature of the process and the work
2 performed” and “if excessive heat or humidity is created by the work process, the employer shall
3 take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable
4 comfort” and “A temperature of not less than 68 degrees shall be maintained in the toilet rooms,
5 resting areas, and change room during hours of use.”

6 34. In the course of their employment PLAINTIFFS and other Class Members were
7 scheduled to work areas and were subjected to unreasonable hot temperatures during their shifts.
8 PLAINTIFFS and other Class Members complained to DEFENDANT about the excessive heat,
9 especially when the problem worsened during the months of June through September where
10 temperatures consistently rose above 80-100 in areas where PLAINTIFF and other Class members
11 worked. Despite the complaints from PLAINTIFF and other Class Members, DEFENDANT failed
12 to install a sufficient air conditioning system in the warehouse or provide any other form of relief.
13 Moreover, from October through May (“winter months”) PLAINTIFF and other Class Members
14 were scheduled to work in unreasonably frigid conditions where the temperature would consistently
15 fall below 60° and sometimes 40° making for extremely uncomfortable working conditions. During
16 the winter months, DEFENDANT did not maintain a temperature of not less than 68° in the toilet
17 room, resting room, and change rooms during the hours of use by PLAINTIFFS and other Class
18 Members. Thus, PLAINTIFF and other Class members were required by DEFENDANT to suffer
19 under these unreasonable and uncomfortable conditions.

20 35. DEFENDANTS thus failed to maintain a temperature in each work area that provides
21 reasonable comfort consistent with industry-wide standards for the nature of the process and the
22 work performed, in compliance with California Code of Regulations, Title 8, Section 1
23 1070)15)(temperature).

24 **CLASS ACTION ALLEGATIONS**

25 36. PLAINTIFFS bring the First through Eight Causes of Action as a class action
26 pursuant to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS,
27 defined *supra*, that worked for DEFENDANT in California at any time beginning four (4) years
28 prior to the filing of this Complaint and ending on the date as determined by the Court (“CLASS

1 PERIOD”).

2 37. PLAINTIFFS and the other CALIFORNIA CLASS members have uniformly been
3 deprived of wages and penalties from unpaid wages earned and due, including but not limited to,
4 unpaid meal and rest period premiums, illegal meal and rest period policies, failure to separately
5 compensate rest periods, failure to separately compensate, failure to provide accurate itemized
6 wage statements, failure to maintain required records, and interest, statutory and civil penalties,
7 attorney’s fees, costs, and expenses.

8 38. The members of the class are so numerous that joinder of all class members is
9 impractical.

10 39. Common questions of law and fact regarding DEFENDANT’S conduct, including
11 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to provide
12 legally compliant meal and rest periods, failing to reimburse business expenses, failure to provide
13 accurate itemized wage statements accurate, and failure ensure they are paid at least minimum
14 wage and overtime, exist as to all members of the class and predominate over any questions
15 affecting solely any individual members of the class. Among the questions of law and fact
16 common to the class are:

17 a. Whether DEFENDANTS maintained legally compliant meal
18 period policies and practices;

19 b. Whether DEFENDANTS maintained legally compliant rest
20 period policies and practices;

21 c. Whether DEFENDANTS failed to pay PLAINTIFFS and the
22 CALIFORNIA CLASS members accurate premium payments for
23 missed meal and rest periods;

24 d. Whether DEFENDANTS failed to pay PLAINTIFFS and the
25 CALIFORNIA CLASS members accurate overtime wages and sick
26 pay;

27 e. Whether DEFENDANTS failed to pay PLAINTIFFS and the
28 CALIFORNIA CLASS members at least minimum wage for all hours

1 worked;

2 f. Whether DEFENDANTS reimbursed PLAINTIFFS and the
3 CALIFORNIA CLASS members for required business expenses;

4 g. Whether DEFENDANTS issued legally compliant wage
5 statements;

6 h. Whether DEFENDANTS failed to pay PLAINTIFFS and
7 other CALIFORNIA CLASS members their gratuities

8 i. Whether DEFENDANTS committed an act of unfair
9 competition by systematically failing to record and pay PLAINTIFFS
10 and the other members of the CALIFORNIA CLASS for all time
11 worked;

12 j. Whether DEFENDANTS committed an act of unfair
13 competition by systematically failing to record all meal and rest
14 breaks missed by PLAINTIFFS and other CALIFORNIA CLASS
15 members, even though DEFENDANTS enjoyed the benefit of this
16 work, required employees to perform this work and permits or suffers
17 to permit this work;

18 k. Whether DEFENDANTS committed an act of unfair
19 competition in violation of the UCL, by failing to provide the
20 PLAINTIFFS and the other members of the CALIFORNIA CLASS
21 with the legally required meal and rest periods.

22 l. Whether DEFENDANTS committed an act of unfair
23 competition in violation of the UCL, by failing to provide the
24 PLAINTIFFS and the other members of the CALIFORNIA CLASS
25 with the lawful deductions.

26
27 40. PLAINTIFFS are members of the CALIFORNIA CLASS and suffered damages as
28 a result of DEFENDANTS' conduct and actions alleged herein.

1 41. PLAINTIFFS' claims are typical of the claims of the class, and PLAINTIFFS have
2 the same interests as the other members of the class.

3 42. PLAINTIFFS will fairly and adequately represent and protect the interests of the
4 CALIFORNIA CLASS members.

5 43. PLAINTIFFS retained able class counsel with extensive experience in class action
6 litigation.

7 44. Further, PLAINTIFFS' interests are coincident with, and not antagonistic to, the
8 interests of the other CALIFORNIA CLASS members.

9 45. There is a strong community of interest among PLAINTIFFS and the members of
10 the CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are
11 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
12 sustained;

13 46. The questions of law and fact common to the CALIFORNIA CLASS members
14 predominate over any questions affecting only individual members, including legal and factual
15 issues relating to liability and damages.

16 47. A class action is superior to other available methods for the fair and efficient
17 adjudication of this controversy because joinder of all class members is impractical. Moreover,
18 since the damages suffered by individual members of the class may be relatively small, the
19 expense and burden of individual litigation makes it practically impossible for the members of the
20 class individually to redress the wrongs done to them. Without class certification and
21 determination of declaratory, injunctive, statutory, and other legal questions within the class
22 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
23 create the risk of:

24 a. Inconsistent or varying adjudications with respect to individual members of
25 the CALIFORNIA CLASS which would establish incompatible standards of
26 conduct for the parties opposing the CALIFORNIA CLASS; and/or,

27 b. Adjudication with respect to individual members of the CALIFORNIA
28 CLASS which would as a practical matter be dispositive of the interests of the other

1 members not party to the adjudication or substantially impair or impeded their
2 ability to protect their interests.

3 48. Class treatment provides manageable judicial treatment calculated to bring an
4 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
5 the conduct of DEFENDANTS.

6 **FIRST CAUSE OF ACTION**

7 **For Unlawful Business Practices**

8 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

9 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

10 49. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
12 Complaint.

13 50. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof.
14 Code § 17021.

15 51. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
16 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
17 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition
18 as follows:

19 Any person who engages, has engaged, or proposes to engage in
20 unfair competition may be enjoined in any court of competent
21 jurisdiction. The court may make such orders or judgments,
22 including the appointment of a receiver, as may be necessary to
23 prevent the use or employment by any person of any practice which
24 constitutes unfair competition, as defined in this chapter, or as may
25 be necessary to restore to any person in interest any money or
26 property, real or personal, which may have been acquired by means
27 of such unfair competition.

28 Cal. Bus. & Prof. Code § 17203.

1 52. By reason of this uniform conduct applicable to PLAINTIFFS and all
2 CALIFORNIA CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of
3 unfair competition in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code
4 §§ 17200, *et seq.* (the “UCL”), by engaging and continuing to engage in business practices which
5 violates California law, including but not limited to, the applicable Industrial Wage Order(s), the
6 California Code of Regulations and the California Labor Code including Sections 201, 201.3, 202,
7 203, 204 *et seq.*, 210, 218, 218.5, 218.6, 221, 226(a), 226(a)(8), 226.2, 226.3, 232, 246, 226.7,
8 227.3, 351, 510, 512, 558, 1102.5, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5,
9 1199, 2802 and 2804 for which this Court should issue declaratory and other equitable relief
10 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the
11 conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

12 53. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and unfair
13 in that these practices violated public policy, were immoral, unethical, oppressive, unscrupulous,
14 or substantially injurious to employees, and were without valid justification or utility for which
15 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
16 Business & Professions Code, including restitution of wages wrongfully withheld.

17 54. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and
18 fraudulent in that DEFENDANTS’ uniform policy and practice failed to, *inter alia*, provide the
19 legally mandated meal and rest periods, the required accurate amount of compensation for missed
20 meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage
21 statements, and unlawful deductions, due to a systematic business practice that cannot be justified,
22 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
23 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and
24 equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
25 wrongfully withheld.

26 55. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful,
27 unfair, and deceptive in that DEFENDANTS’ employment practices caused PLAINTIFFS and the
28 other members of the CALIFORNIA CLASS to be underpaid during their employment with

1 DEFENDANTS.

2 56. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
3 unfair and deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to,
4 *inter alia*, provide the legally mandated meal and rest periods, the required accurate amount of
5 compensation for missed meal and rest periods, overtime and minimum wages owed, provide
6 accurate itemized wage statements, to PLAINTIFFS and the other members of the CALIFORNIA
7 CLASS as required by Cal. Labor Code.

8 57. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
9 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
10 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
11 each workday in which a second off-duty meal period was not timely provided for each ten (10)
12 hours of work.

13 58. PLAINTIFFS further demand on behalf of themselves and on behalf of each
14 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off duty paid
15 rest period was not timely provided as required by law.

16 59. PLAINTIFFS further demand on all wages due to PLAINTIFFS and the members
17 of the CALIFORNIA CLASS as a result of working while off the clock on meal periods,
18 inaccurately calculated overtime and missed meal and rest periods premiums.

19 60. By and through the unlawful and unfair business practices described herein,
20 DEFENDANTS has obtained valuable property, money and services from PLAINTIFFS and the
21 other members of the CALIFORNIA CLASS, including earned wages for all overtime worked,
22 and has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
23 detriment of these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS
24 to unfairly compete against competitors who comply with the law.

25 61. All the acts described herein as violations of, among other things, the Industrial
26 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
27 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and
28 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business

1 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

2 62. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled to,
3 and do, seek such relief as may be necessary to restore to them the money and property which
4 DEFENDANTS has acquired, or of which PLAINTIFFS and the other members of the
5 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
6 business practices, including earned but unpaid wages for all overtime worked.

7 63. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further
8 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
9 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from
10 engaging in any unlawful and unfair business practices in the future.

11 64. PLAINTIFFS and the other members of the CALIFORNIA CLASS have no plain,
12 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
13 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a
14 result of the unlawful and unfair business practices described herein, PLAINTIFFS and the other
15 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
16 and economic harm unless DEFENDANTS is restrained from continuing to engage in these
17 unlawful and unfair business practices.

18 **SECOND CAUSE OF ACTION**

19 **For Failure to Pay Overtime Compensation**

20 **[Cal. Lab. Code §§ 510, *et seq.*]**

21 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

22 18. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
23 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
24 Complaint.

25 19. PLAINTIFFS and the other members of the CALIFORNIA CLASS for the period
26 beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”)
27 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code
28 and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these

1 employees for all overtime worked, including, work performed in excess of eight (8) hours in a
2 workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

3 20. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
4 policy, an employer must timely pay its employees for all hours worked.

5 21. Cal. Lab. Code § 510 further provides that employees in California shall not be
6 employed more than eight (8) hours per workday and/or more than forty (40) hours per workweek
7 unless they receive additional compensation beyond their regular wages in amounts specified by
8 law.

9 22. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
10 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.
11 Code § 1198 further states that the employment of an employee for longer hours than those fixed
12 by the Industrial Welfare Commission is unlawful.

13 23. During the CLASS PERIOD, PLAINTIFFS and CALIFORNIA CLASS members
14 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
15 they worked or were not accurately compensated for all overtime hours worked.

16 24. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
17 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
18 implementing a uniform policy and practice that failed to accurately record overtime worked by
19 PLAINTIFFS and other CALIFORNIA CLASS members and denied accurate compensation to
20 PLAINTIFFS and the other members of the CALIFORNIA CLASS for overtime worked,
21 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
22 (12) hours in a workday, and/or forty (40) hours in any workweek.

23 25. In committing these violations of the California Labor Code, DEFENDANTS
24 inaccurately calculated the amount of overtime worked and the applicable overtime rates and
25 consequently underpaid the actual time worked by PLAINTIFFS and other members of the
26 CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid the payment of all
27 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
28 Commission requirements and other applicable laws and regulations.

1 26. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
2 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive full
3 compensation for all overtime worked.

4 27. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
5 the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFFS
6 and the other members of the CALIFORNIA CLASS. Further, PLAINTIFFS and the other
7 members of the CALIFORNIA CLASS are not subject to a valid collective bargaining agreement
8 that would preclude the causes of action contained herein this Complaint. Rather, the PLAINTIFF
9 brings this Action on behalf of themselves and the CALIFORNIA CLASS based on
10 DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State of
11 California.

12 28. During the CLASS PERIOD, PLAINTIFFS and the other members of the
13 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
14 failure to pay all earned wages.

15 29. DEFENDANTS failed to accurately pay PLAINTIFFS and the other members of
16 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
17 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
18 though PLAINTIFFS and the other members of the CALIFORNIA CLASS were required to work,
19 and did in fact work, overtime as to which DEFENDANTS failed to accurately record and pay
20 using the applicable overtime rate as evidenced by DEFENDANTS' business records and
21 witnessed by employees.

22 30. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
23 compensation to PLAINTIFFS and the other members of the CALIFORNIA CLASS for the true
24 time they worked, PLAINTIFFS and the other members of the CALIFORNIA CLASS have
25 suffered and will continue to suffer an economic injury in amounts which are presently unknown
26 to them and which will be ascertained according to proof at trial.

27 31. DEFENDANTS knew or should have known that PLAINTIFFS and the other
28 members of the CALIFORNIA CLASS were under compensated for all overtime worked.

1 DEFENDANTS systematically elected, either through intentional malfeasance or gross
2 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
3 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
4 PLAINTIFFS and the other members of the CALIFORNIA CLASS for overtime worked.

5 32. In performing the acts and practices herein alleged in violation of California labor
6 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
7 and provide them with the requisite overtime compensation, DEFENDANTS acted and continues
8 to act intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of
9 the CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
10 consequences to them, and with the despicable intent of depriving them of their property and legal
11 rights, and otherwise causing them injury in order to increase company profits at the expense of
12 these employees.

13 33. PLAINTIFFS and the other members of the CALIFORNIA CLASS therefore
14 request recovery of all unpaid wages, including overtime wages, according to proof, interest,
15 statutory costs, as well as the assessment of any statutory penalties against DEFENDANTS, in a
16 sum as provided by the California Labor Code and/or other applicable statutes. To the extent
17 overtime compensation is determined to be owed to the CALIFORNIA CLASS Members who
18 have terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201
19 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under Cal.
20 Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
21 members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good
22 faith. Further, PLAINTIFFS and other CALIFORNIA CLASS Members are entitled to seek and
23 recover statutory costs.

24 **THIRD CAUSE OF ACTION**

25 **For Failure to Pay Minimum Wages**

26 **[Cal. Lab. Code §§ 1194, 1194.2, 1197 and 1197.1]**

27 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

28 34. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and

1 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
2 Complaint.

3 35. PLAINTIFFS and the other members of the CALIFORNIA CLASS bring a claim
4 for DEFENDANTS' willful and intentional violations of the California Labor Code and the
5 Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately record,
6 calculate and pay minimum and reporting time wages to PLAINTIFFS and CALIFORNIA
7 CLASS members during the CLASS PERIOD.

8 36. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
9 policy, an employer must timely pay its employees for all hours worked.

10 37. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
11 commission is the minimum wage to be paid to employees, and the payment of a less wage than
12 the minimum so fixed is unlawful.

13 38. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
14 including minimum wage compensation and interest thereon, together with the costs of suit.

15 39. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFFS and the
16 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
17 work. For instance, as set forth herein, DEFENDANTS maintained a uniform policy that required
18 PLAINTIFFS to work while clocked out during what was supposed to be PLAINTIFFS's off-duty
19 meal break without compensation. Further, as set forth herein, DEFENDANTS' uniform policy
20 and practice was to unlawfully and intentionally deny timely payment of wages due to
21 PLAINTIFFS and the other members of the CALIFORNIA CLASS.

22 40. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
23 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
24 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFFS
25 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

26 41. In committing these violations of the California Labor Code, DEFENDANTS
27 inaccurately calculated the correct time worked and consequently underpaid the actual time
28 worked by PLAINTIFFS and other members of the CALIFORNIA CLASS. DEFENDANTS

1 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
2 of the California Labor Code, the Industrial Welfare Commission requirements and other
3 applicable laws and regulations.

4 42. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
5 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive the correct
6 minimum wage compensation for their time worked for DEFENDANTS.

7 43. During the CLASS PERIOD, PLAINTIFFS and the other members of the
8 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
9 failure to pay all earned wages.

10 44. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
11 compensation to PLAINTIFFS and the other members of the CALIFORNIA CLASS for the true
12 time they worked, PLAINTIFFS and the other members of the CALIFORNIA CLASS have
13 suffered and will continue to suffer an economic injury in amounts which are presently unknown
14 to them and which will be ascertained according to proof at trial.

15 45. DEFENDANTS knew or should have known that PLAINTIFFS and the other
16 members of the CALIFORNIA CLASS were under compensated for their time worked.
17 DEFENDANTS systematically elected, either through intentional malfeasance or gross
18 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
19 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
20 PLAINTIFFS and the other members of the CALIFORNIA CLASS the correct minimum wages
21 for their time worked.

22 46. In performing the acts and practices herein alleged in violation of California labor
23 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
24 and provide them with the requisite compensation, DEFENDANTS acted and continues to act
25 intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of the
26 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
27 consequences to them, and with the despicable intent of depriving them of their property and legal
28 rights, and otherwise causing them injury in order to increase company profits at the expense of

1 these employees.

2 47. PLAINTIFFS and the other members of the CALIFORNIA CLASS therefore
3 request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
4 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
5 California Labor Code and/or other applicable statutes. To the extent minimum wage
6 compensation is determined to be owed to the CALIFORNIA CLASS members who have
7 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or
8 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
9 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS members.
10 DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further,
11 PLAINTIFFS and other CALIFORNIA CLASS members are entitled to seek and recover
12 statutory costs.

13 48. Pursuant to Labor Code § 1194.2, PLAINTIFFS and CALIFORNIA CLASS are
14 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and
15 interest thereon.

16 **FOURTH CAUSE OF ACTION**

17 **For Failure to Provide Required Meal Periods**

18 **[Cal. Lab. Code §§ 226.7 & 512]**

19 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

20 49. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
21 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
22 Complaint.

23 50. During the CLASS PERIOD, from time-to-time, DEFENDANTS failed to provide
24 all the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA CLASS
25 members as required by the applicable Wage Order and Labor Code. The nature of the work
26 performed by PLAINTIFFS and CALIFORNIA CLASS members did not prevent these
27 employees from being relieved of all their duties for the legally required off-duty meal periods.
28 As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA CLASS

1 members were from time-to-time not fully relieved of duty by DEFENDANTS for their meal
2 periods. Additionally, DEFENDANTS' failure to provide PLAINTIFFS and the CALIFORNIA
3 CLASS members with legally required meal breaks prior to their fifth (5th) hour of work is
4 evidenced by DEFENDANTS' business records from time-to-time. Further, DEFENDANTS
5 failed to provide PLAINTIFFS and CALIFORNIA CLASS members with a second off-duty meal
6 period in some workdays in which these employees were required by DEFENDANTS to work ten
7 (10) hours of work. As a result, PLAINTIFFS and other members of the CALIFORNIA CLASS
8 therefore forfeited meal breaks without additional compensation and in accordance with
9 DEFENDANTS' strict corporate policy and practice.

10 51. DEFENDANTS further violates California Labor Code §§ 226.7 and the applicable
11 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA CLASS members
12 who were not provided a meal period, in accordance with the applicable Wage Order, one
13 additional hour of compensation at each employee's regular rate of compensation for each
14 workday that a meal period was not provided.

15 52. As a proximate result of the aforementioned violations, PLAINTIFFS and
16 CALIFORNIA CLASS members have been damaged in an amount according to proof at trial, and
17 seek all wages earned and due, interest, penalties, expenses and costs of suit.

18 **FIFTH CAUSE OF ACTION**

19 **For Failure to Provide Required Rest Periods**

20 **[Cal. Lab. Code §§ 226.7 & 512]**

21 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

22 53. PLAINTIFFS, and other members of the CALIFORNIA CLASS, reallege and
23 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
24 Complaint.

25 54. During the CLASS PERIOD, PLAINTIFFS and other members of the
26 CALIFORNIA CLASS were from time to time required to work in excess of four (4) hours
27 without being provided ten (10) minute rest periods. Further, these employees were denied their
28 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)

1 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between
2 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for
3 some shifts worked of ten (10) hours or more from time-to-time. PLAINTIFFS and other members
4 of the CALIFORNIA CLASS were also not provided with one-hour wages in lieu thereof. As a
5 result of their rigorous work schedules, PLAINTIFFS and other members of the CALIFORNIA
6 CLASS were periodically denied their proper rest periods by DEFENDANTS and
7 DEFENDANTS' managers.

8 55. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable
9 IWC Wage Order by failing to compensate PLAINTIFFS and other members of the
10 CALIFORNIA CLASS who were not provided a rest period, in accordance with the applicable
11 Wage Order, one additional hour of compensation at each employee's regular rate of
12 compensation for each workday that rest period was not provided.

13 56. As a proximate result of the aforementioned violations, PLAINTIFFS and other
14 members of the CALIFORNIA CLASS have been damaged in an amount according to proof at
15 trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

16 **SIXTH CAUSE OF ACTION**

17 **For Failure to Reimburse Employees for Required Expenses**

18 **[Cal. Lab. Code §§ 2800 and 2802, and the Applicable IWC Wage Order § 9]**

19 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

20 57. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
21 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
22 Complaint.

23 58. Cal. Labor Code §2800 provides, in pertinent part, "[a]n employer shall in all cases
24 indemnify his employee for losses caused by the employer's want of ordinary care."

25 59. Cal. Lab. Code § 2802 provides, in relevant part, that:

26 An employer shall indemnify his or her employee for all necessary expenditures or losses
27 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or
28

1 her obedience to the directions of the employer, even though unlawful, unless the employee, at the
2 time of obeying the directions, believed them to be unlawful.

3 60. Further, Cal. Labor Code §2902 additionally provides, in pertinent part: “(c) ... the
4 term ‘necessary expenditures or losses’ shall include all reasonable costs, including but not limited
5 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

6 61. The Applicable IWC Wage Order §9 provides that “When tools or equipment are
7 required by the employer or are necessary to the performance of a job, such tools and equipment
8 shall be provided and maintained by the employer...”

9 62. California Labor Code section 2804 mandates that this statutory right cannot be
10 waived.

11 63. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab.
12 Code § 2802, by failing to indemnify and reimburse PLAINTIFFS and the members of the
13 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
14 DEFENDANTS’ benefit. DEFENDANTS failed to reimburse PLAINTIFFS and the members of
15 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to
16 using their personal cellular phone, home computers and home internet. Specifically,
17 PLAINTIFFS and the members of the CALIFORNIA CLASS were required by DEFENDANTS
18 to use their personal cell phones to execute their essential job duties on behalf of DEFENDANTS.
19 DEFENDANTS’ practice and procedure was to not reimburse PLAINTIFFS and the members of
20 the CALIFORNIA CLASS for expenses resulting from using their personal cellular phones for
21 DEFENDANTS within the course and scope of their employment for DEFENDANTS. These
22 expenses were necessary to complete their principal job duties. DEFENDANTS are estopped by
23 DEFENDANTS’ conduct to assert any waiver of their expectation. Although these expenses were
24 necessary expenses incurred by PLAINTIFFS and the members of the CALIFORNIA CLASS,
25 DEFENDANTS failed to indemnify and reimburse PLAINTIFFS and the members of the
26 CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and
27 regulations of California.

28 64. PLAINTIFFS therefore demands reimbursement on behalf of the members of the

1 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on
2 behalf of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at
3 the statutory rate and costs under Cal. Lab. Code § 2802.

4 **SEVENTH CAUSE OF ACTION**

5 **For Failure to Provide Accurate Itemized Statements**

6 **[Cal. Lab. Code §§ 226 and 226.2]**

7 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)**

8 65. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
9 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
10 Complaint.

11 66. Cal. Labor Code § 226 provides that an employer must furnish employees with an
12 “accurate itemized” statement in writing showing:

- 13 1. Gross wages earned;
- 14 2. Total hours worked by the employee, except for any employee
15 whose compensation is solely based on a salary and who is exempt
16 from payment of overtime under subdivision (a) of Section 515 or any
17 applicable order of the Industrial Welfare Commission;
- 18 3. The number of piece-rate units earned and any applicable
19 piece rate if the employee is paid on a piece-rate basis;
- 20 4. All deductions, provided that all deductions made on written
21 orders of the employee may be aggregated and shown as one item;
- 22 5. Net wages earned;
- 23 6. The inclusive dates of the period for which the employee is
24 paid;
- 25 7. The name of the employee and his or her social security
26 number, except that by January 1, 2008, only the last four digits of his
27 or her social security number or an employee identification number
28 other than a social security number may be shown on the itemized

statement;

8. The name and address of the legal entity that is the employer;
and

9. All applicable hourly rates in effect during the pay period and
the corresponding number of hours worked at each hourly rate by the
employee.

67. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFFS
and the other members of the CALIFORNIA CLASS with complete and accurate wage
statements which failed to accurately show, among other things, (1) total number of hours
worked, (2) net wages earned, (3) gross wages earned and (4) all applicable hourly rates in effect
during the pay period and the corresponding number of hours worked at each hourly rate by the
employee in violation of California Labor Code Section 226.

68. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code
§ 226, causing injury and damages to the PLAINTIFFS and the other members of the
CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS may
elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay
period pursuant to Cal. Lab. Code § 226, and all other damages and penalties available pursuant
to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial (but in no
event more than four thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member
of the CALIFORNIA CLASS herein.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY WAGES WHEN DUE

(Cal Lab. Code §§ 201, 202, 203, and 204)

(By PLAINTIFFS and the CALIFORNIA CLASS and Against All DEFENDANTS)

18. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
Complaint.

1 19. Cal. Lab. Code § 200 provides that:

2 As used in this article: (a) "Wages" includes all amounts for
3 labor performed by employees of every description, whether
4 the amount is fixed or ascertained by the standard of time,
5 task, piece, Commission basis, or other method of calculation.
6 (b) "Labor" includes labor, work, or service whether rendered
7 or performed under contract, subcontract, partnership, station
8 plan, or other agreement if the labor to be paid for is
9 performed personally by the person demanding payment.

10 20. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an
11 employee, the wages earned and unpaid at the time of discharge are due and payable
12 immediately."

13 21. Cal. Lab. Code § 202 provides, in relevant part, that:

14 If an employee not having a written contract for a definite
15 period quits his or her employment, his or her wages shall
16 become due and payable not later than 72 hours thereafter,
17 unless the employee has given 72 hours previous notice of his
18 or her intention to quit, in which case the employee is entitled
19 to his or her wages at the time of quitting. Notwithstanding
20 any other provision of law, an employee who quits without
21 providing a 72-hour notice shall be entitled to receive payment
22 by mail if he or she so requests and designates a mailing
23 address. The date of the mailing shall constitute the date of
24 payment for purposes of the requirement to provide payment
25 within 72 hours of the notice of quitting.

26 22. There was no definite term in PLAINTIFFS' or any CALIFORNIA CLASS
27 Members' employment contract.

28 23. Cal. Lab. Code § 203 provides:

1 If an employer willfully fails to pay, without abatement or
2 reduction, in accordance with Sections 201, 201.5, 202, and
3 205.5, any wages of an employee who is discharged or who
4 quits, the wages of the employee shall continue as a penalty
5 from the due date thereof at the same rate until paid or until an
6 action therefor is commenced; but the wages shall not
7 continue for more than 30 days.

8 24. The employment of PLAINTIFFS and many CALIFORNIA CLASS Members
9 terminated, and DEFENDANTS has not tendered payment of wages, to these employees who
10 missed meal and rest breaks, as required by law.

11 25. Cal. Lab. Code § 204 provides in part:

12 All wages, ...earned by any person in any employment are due and payable
13 twice during each calendar month, on days designated in advance by the
14 employer as the regular paydays.

15 26. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
16 members of the CALIFORNIA CLASS whose employment has, PLAINTIFFS demand up to
17 thirty days of pay as penalty for not paying all wages due at time of termination for all employees
18 who terminated employment during the CLASS PERIOD, and demands an accounting and
19 payment of all wages due, plus interest and statutory costs as allowed by law.

20 **NINTH CAUSE OF ACTION**

21 **For Violation of the Private Attorneys General Act**

22 **[Cal. Lab . Code §§ 2698 ET SEQ. (“PAGA”)]**

23 **(By PLAINTIFFS and Against All DEFENDANTS)**

24 69. PLAINTIFFS hereby re-alleges and incorporates by reference the previous
25 paragraphs as though fully set forth herein.

26 70. PAGA is a mechanism by which the State of California itself can enforce state
27 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
28 state’s labor law enforcement agencies. An action to recover civil penalties under PAGA is

1 fundamentally a law enforcement action designed to protect the public and not to benefit private
2 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
3 of “deputizing” citizens as private attorney generals to enforce the Labor Code. In enacting
4 PAGA, the California Legislature specified that “it was ... in the public interest to allow
5 aggrieved employees, acting as private attorneys general to recover civil penalties for Labor
6 Code violations...”Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to
7 arbitration.

8 71. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
9 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
10 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies, or employees
11 for violation of the Labor Code may, as an alternative, be recovered through civil action brought
12 by an aggrieved employee on behalf of himself or herself and other current or former employees
13 pursuant to the procedures specified in Labor Code § 2699.3.

14 72. For all provisions of the Labor Code except those for which a civil penalty is
15 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
16 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
17 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent pay
18 period in which Defendants violated these provisions of the Labor Code.

19 73. Defendants’ conduct violates numerous Wage Orders and Labor Code sections
20 including, but not limited to, the following:

- 21 a. Violation of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218.5, 218.6, 218, 221,
22 226(a), 226(a)(8), 226.2, 226.3, 226.7, 227.3, 232, 246, 510, 512, 558, 1102.5,
23 1174(d), 1174.5, 1198.5, 1194, 1197, 1197.1, 1198, 1198.5, 2800, 2802, 2804,
24 2698 for failure to timely pay all earned wages (including minimum wage and
25 overtime wages) owed to PLAINTIFFS and other aggrieved employees during
26 employment and upon separation of employment as herein alleged;
27
28

- b. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to PLAINTIFFS and other aggrieved employees failure to pay premium wages for missed meal periods and herein alleged;
- c. Violation of Labor Code § 226.7 for failure to permit rest breaks to PLAINTIFFS and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- d. Violation of Labor Code § 226 for failure to provide accurate itemized wage statements to PLAINTIFFS and other aggrieved employees as herein alleged;
- e. Violation of Labor Code § 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees; and
- f. Violation of Labor Code § 2800 and 2802 for failure to reimburse PLAINTIFFS and other aggrieved employees as herein alleged.

74. Plaintiffs are “AGGRIEVED EMPLOYEES” because they were employed by the alleged violator and had one or more of the violations committed against them, and therefore is properly suited to represent the interest of all the other AGGRIEVED EMPLOYEES.

75. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of themselves and all other aggrieved employees under PAGA.

76. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

77. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs incurred herein.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS, on their own behalf and on behalf of all other similarly situated, prays for judgment against each DEFENDANT, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

1 A) That the Court certify the First, Second, Third, Fourth, Fifth, and Sixth Causes of
2 Action by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

3 B) An order temporarily, preliminarily and permanently enjoining and restraining
4 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

5 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
6 from compensation due to PLAINTIFFS and the other members of the CALIFORNIA CLASS;

7 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
8 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and to the
9 other members of the CALIFORNIA CLASS; and,

10 E) Compensatory damages, according to proof at trial, including compensatory
11 damages for overtime compensation due PLAINTIFFS and the other members of the
12 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus interest
13 thereon at the statutory rate;

14 F) For economic and/or special damages in an amount according to proof with interest
15 thereon;

16 G) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
17 which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA
18 CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
19 thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;

20 H) Meal and rest period compensation pursuant to California Labor Code Sections
21 226.7, 512 and the applicable IWC Wage Order; and

22 I) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197.

23 J) For Statutory penalties to the extent permitted by law, including those pursuant to
24 the Labor Code and IWC Wage Orders;

25 2. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

26 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
27 General Act of 2004; and

28 b. An Award of penalties, attorneys' fees, and costs of suit, as allowable under the law.

1 3. On all claims:

2 A) An award of interest, including prejudgment interest at the legal rate;

3 B) Such other and further relief as the Court deems just and equitable; and,

4 C) An award of penalties, attorneys' fees, and cost of suit, as allowable under the law,
5 including, but not limited to, pursuant to Labor Code §203, §204, §226, §1194, §2699 *et seq.*,
6 and/or §2802.

7 D) For prejudgment and post judgment interest on each of the foregoing at the legal
8 rate from the date the obligation became due through the date of judgment in this matter.

9 E) For any other relief that is just and proper.

10
11
12 Dated: September 9, 2024

13 **BARVIÉ LAW, APC**

14 
15 By _____
16 NICOLE BARVIÉ, Esq.
17 Attorneys for Plaintiffs

18
19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand(s) trial by jury in this action.

21
22
23 Dated: September 9, 2024

24 **BARVIÉ LAW, APC**

25 
26 By _____
27 NICOLE BARVIÉ, Esq.
28 Attorneys for Plaintiffs