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and all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

RICARDO HUASTE, an individual, on behalf
of himself and all others similarly situated and
aggrieved,

Plaintiff,

vs.

ISL EMPLOYEES, INC. doing business as
INTEGRAL SENIOR LIVING, a California
Corporation; OAK COTTAGE OPERATOR
NT-HCI, LLC, a Delaware Limited Liability
Company; and DOES 1 through 25, inclusive,

Defendants.

Case No.: 24CV05963

**CLASS ACTION & PAGA REPRESENTATIVE
ACTION COMPLAINT**

- (1) FAILURE TO PROVIDE MEAL PERIODS;**
- (2) FAILURE TO PROVIDE REST BREAKS;**
- (3) FAILURE TO PAY MINIMUM WAGES;**
- (4) FAILURE TO PAY OVERTIME WAGES;**
- (5) FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- (6) FAILURE TO PAY ALL WAGES UPON
SEPARATION;**
- (7) VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), CAL. BUS.
& PROF. CODE § 17200, *ET SEQ.*; AND**
- (8) CIVIL PENALTIES FOR VIOLATIONS
OF LABOR CODE, PURSUANT TO
CALIFORNIA'S PRIVATE ATTORNEYS
GENERAL ACT ("PAGA"), §§ 2698, *ET
SEQ.***

DEMAND FOR JURY TRIAL

1 **CLASS ACTION AND REPRESENTATIVE ACTION COMPLAINT**

2 Plaintiff RICARDO HUASTE (“Plaintiff” or “HUASTE”), on behalf of himself and all others
3 similarly situated and aggrieved, by and through his attorneys, Abramson Labor Group, hereby files this
4 Class Action and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Complaint
5 against Defendants ISL EMPLOYEES, INC., a California Corporation; OAK COTTAGE OPERATOR
6 NT-HCI, LLC, a Delaware Limited Liability Company; and DOES 1 through 25 inclusive, (collectively,
7 “Defendants”), and states as follows:

8 **I. INTRODUCTION**

9 1. Plaintiff brings this class and representative action on behalf of himself, on behalf of a
10 class defined as all current and former hourly non-exempt employees of ISL EMPLOYEES, INC. and
11 OAK COTTAGE OPERATOR NT-HCI, LLC in California at any time during the Class Period
12 beginning four years prior to the filing of this Complaint through the present (“Class Period”), and on
13 behalf of all Aggrieved Persons who worked for Defendants as hourly, non-exempt employees in
14 California at any time during the period beginning one year prior to the PAGA letter (defined below)
15 through the present (“PAGA Period”).

16 2. This is also an enforcement action under the Labor Code Private Attorneys General Act
17 of 2004, California Labor Code section 2698 *et seq.* (“PAGA”) to recover civil penalties and any other
18 available relief on behalf of Plaintiff, the State of California, and other current and former employees
19 who work or worked for Defendants in California as non-exempt, hourly employees and who received at
20 least one wage statement during their employment, and against whom one or more violations of any
21 provision in Division 2, Part 2, Chapter 1 of the Labor Code or any provision regulating hours and days
22 of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set
23 forth in this complaint (“Aggrieved Employees”), at any time between one year and 65 days prior to the
24 filing of this complaint (i.e., August 20, 2023) until judgment (the “PAGA Period”). Plaintiff’s share of
25 civil penalties sought in this action does not exceed \$75,000.

26 3. Defendants own and operate several senior independent living, assisted living, and
27 memory care communities throughout California, including Oak Cottage in Santa Barbara where Plaintiff
28 worked.

1 4. Defendants' policy and practice is to deny earned wages, including premium and overtime
2 pay, to their nonexempt employees in California. Defendants do not provide their employees with legally
3 compliant meal periods and rest breaks nor premium pay in lieu thereof. Additionally, Defendants
4 require their employees to be present and to perform work uncompensated in excess of eight hours per
5 day and/or 40 hours per work week by mandating that these employees perform various forms of
6 compensable work off-the-clock including, but not limited to, regularly returning to work from meal
7 periods early (before 30 minutes elapsed) to resume work while not actually clocking in until the 30-
8 minute meal period ended. Likewise, Defendants do not provide minimum wages and overtime pay for
9 this off-the-clock time. These off-the-clock waiting periods exist for the sole benefit of Defendants and
10 occurred frequently and regularly at Defendants' locations throughout California. This illegal practice
11 has been in effect by Defendants since at least the start of the Class Period.

12 5. Moreover, Defendants fail to timely compensate employees for all wages earned upon
13 separation and fail to properly and accurately calculate minimum wages and overtime wages and report
14 wages earned, hours worked, and wage rates. For these reasons, Plaintiff brings this action on behalf of
15 himself and other hourly, nonexempt employees of Defendants to recover unpaid wages, overtime
16 compensation, penalties, interest, injunctive relief, damages, and reasonable attorneys' fees and costs.

17 6. Defendants' deliberate failure to pay their hourly, nonexempt employees their earned
18 wages and overtime compensation violates the California Labor Code and California's Unfair
19 Competition Law, codified under California's Business & Professions Code.

20 7. Plaintiff brings a class action under the California Code of Civil Procedure section 382
21 against all Defendants on behalf of all hourly, nonexempt employees of Defendants in California for
22 failing to provide compliant meal periods and rest breaks or premium pay in lieu thereof, for unpaid
23 minimum wages including for work performed off the clock, unpaid overtime wages, failing to provide
24 timely and accurate wage statements, failing to timely pay all wages owed at separation, and other related
25 penalties and damages under the California Labor Code and California Business & Professions Code.

26 **II. JURISDICTION AND VENUE**

27 8. This Court has jurisdiction over this matter because Defendants are licensed to do
28 business in California, regularly conduct business in California, and committed and continue to commit

1 the unlawful acts alleged herein in California.

2 9. This Court has jurisdiction over this action pursuant to the California Constitution,
3 Article VI, section 10. The statute under which this action is brought does not specify any other basis
4 for jurisdiction.

5 10. This Court has jurisdiction over all Defendants because, on information and belief,
6 Defendants are citizens of California, have sufficient minimum contacts in California, and intentionally
7 avail themselves of the California market so as to render the exercise of jurisdiction over them by the
8 California courts consistent with traditional notions of fair play and substantial justice. There is no basis
9 for federal diversity jurisdiction in this action given that the State of California, as the real party in
10 interest in this action, is not a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin*
11 *Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot
12 be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in this
13 action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
14 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

15 11. Venue lies properly with this Court, as it is the place where at least one defendant resides,
16 is incorporated or has its principal place of business, or a substantial amount of the events which gave
17 rise to this suit occurred and/or a cause of action arose. Thus, venue is proper in this Court, because
18 Defendants employ persons in this county and employed at least one plaintiff in this county, and thus a
19 substantial portion of the transactions and occurrences related to this action occurred in this county.

20 12. California Labor Code sections 2698 *et seq.*, the “Labor Code Private Attorneys General
21 Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current
22 or former employers for various civil penalties for violating the California Labor Code.

23 **III. PARTIES**

24 13. Plaintiff RICARDO HUASTE (“Plaintiff” or “HUASTE”) is or was a resident of Santa
25 Barbara, California. Defendants employed Plaintiff as an hourly-paid, non-exempt employee for
26 approximately 5.1 years from May 2019 through approximately June 8, 2024. HUASTE’S position was
27 Medicine Technician. During his employment, Plaintiff worked at Defendants’ location in Santa
28 Barbara, California located at 1820 De La Vina Street, Santa Barbara, California 93101. Plaintiff

1 typically worked four to five days per week for 8 or more hours per day and at least about forty (40)
2 hours per week. At the time Plaintiff's employment ended, he was earning \$23.99 per hour.

3 14. Defendant ISL EMPLOYEES, INC. doing business as Integral Senior Living ("ISL") is,
4 on information and belief, a California Corporation doing business in California, with its principal place
5 of business in 2333 State Street, Suite 300, Carlsbad, California 92008, and at all times hereinafter
6 mentioned, is an employer whose employees are engaged throughout this county, in the State of
7 California. ISL operates multiple facilities—currently about 33—in California offering senior living
8 residences and related services.”¹ Upon information and belief, ISL EMPLOYEES, INC. is the parent
9 company of OAK COTTAGE OPERATOR NT-HCI, LLC.

10 15. Defendant OAK COTTAGE OPERATOR NT-HCI, LLC, doing business as Oak Cottage
11 ("OAK COTTAGE") is, on information and belief, a Delaware Limited Liability Company doing
12 business in California, with its principal place of business in 4350 East-West Highway, Suite 1050,
13 Bethesda, Maryland 20814 and operations at 1820 De La Vina Street, Santa Barbara, California 93101,
14 and at all times hereinafter mentioned, is an employer whose employees are engaged throughout this
15 county, in the State of California. OAK COTTAGE is one of several facilities—currently about 33—in
16 California offering senior living residences and related services.”² Upon information and belief, OAK
17 COTTAGE OPERATOR NT-HCI, LLC is a subsidiary of parent company ISL EMPLOYEES, INC.

18 16. Defendants created the policies and procedures described herein and, at all times during
19 the Class Period, participated in, endorsed, implemented, and performed the conduct alleged herein.

20 17. The practices and policies which are complained of by way of this Complaint are
21 enforced throughout the State of California, including in Santa Barbara.

22 18. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
23 participation in the conduct alleged herein, of the Defendants sued as Does 1-25, inclusive, but is
24 informed and believes that said Defendants are legally responsible for the conduct alleged herein and
25 therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege
26

27 ¹ <https://islllc.com/communities/> (last accessed October 21, 2024).

28 ² <https://islllc.com/communities/> (last accessed October 21, 2024).

both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint venturers of their co-Defendants and were, as such, acting within the course, scope, and authority of said agency, employment, and/or venture, and with the consent of their co-Defendants, and/or said acts were ratified by their co-Defendants, and that each and every Defendant, as aforesaid, when acting as a principal, was negligent in the selection and hiring, training, and supervision of each and every other Defendant as an agent, servant, employee, successor in interest, and/or joint venturer. Plaintiff is informed and believes that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to each of the other Defendant.

IV. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

19. At all times relevant herein, Defendants own and operate several senior independent living, assisted living, and memory care communities throughout California.

20. Upon information and belief, Defendants maintain their corporate operations headquarters, including Human Resources in Carlsbad, California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their operations headquarters in Carlsbad, California, which is responsible for conducting Defendants’ recruiting and hiring of new employees, as well as communicating and implementing Defendants’ company-wide policies, including timekeeping policies, to employees throughout California. In particular, Plaintiff and other Class Members, on information and belief, received the same standardized documents and/or written policies upon hire. Upon information and belief, the use of standardized documents and/or written policies, including new hire documents, indicate that Defendants dictated policies at the corporate-level and implemented them company-wide, regardless of their employees’ assigned locations or positions. On information and belief, all transactions regarding hiring, terminations, promotions, and pay increases, etc., relating to Defendants’ California employees were submitted to and processed by Defendants’ HR department in Carlsbad, California.

21. Upon information and belief, Defendants’ corporate records, business records, data, and

1 other information related to Defendants, including, in particular, HR records pertaining to Defendants’
2 California employees, are also maintained at Defendants’ operations headquarters in Carlsbad,
3 California.

4 22. At all relevant times, Defendants have been, and continue to be, a “person” as that term
5 is defined under California Business & Professions Code section 17021 and California Labor Code
6 sections 1-29.5.

7 23. At all times relevant herein, Plaintiff was employed by Defendants as an hourly,
8 nonexempt employee in the position of Medicine Technician in California during the Class Period.

9 24. At all times relevant herein, Plaintiff and Class Members were assigned to and required
10 and permitted to work without pay while performing tasks including, but not limited to: answering
11 phone calls from family members, doctors, pharmacies, and other employees; contacting doctors on
12 behalf of residents’; providing basic wound care; filing paperwork; overseeing care staff; transporting
13 personal hygiene care shipments to storage in the facility; handling pharmacy deliveries to the facility;
14 helping residents communicate with their families; and helping residents with their personal hygiene
15 and care. Plaintiff and Class Members were not properly compensated for some of this work.

16 25. Similarly, Plaintiff and Class Members have been instructed and return to work early
17 from their 30-minute meal periods without clocking back in until the 30 minutes had elapsed even
18 though they resumed work before then, which is all compensable time worked off the clock. Defendants
19 do not compensate Plaintiff and Class Members for this compensable time worked off the clock.

20 26. At all times relevant herein, Plaintiff and Class Members were assigned to and required
21 to work for periods lasting in excess of five hours and were not authorized nor permitted to take full-
22 length 30-minute, uninterrupted, off-duty meal periods. Plaintiff and Class Members were required to
23 perform compensable work during their meal periods while clocked out for their meal periods when
24 they were asked to resume work early before the 30 minute meal period had finished. Defendants
25 instructed Plaintiff and Class Members to only clock back in once their 30-minute meal periods had
26 elapsed, however. Accordingly, Plaintiff’s and Class Members’ meal periods were on-duty for which
27 Defendants failed to compensate Plaintiff and Class Members with (1) premium pay for meal periods
28 under 30 minutes and (2) the time worked that was on-duty during these meal periods.

1 27. Moreover, Plaintiff and Class Members regularly worked in excess of 10 hours without
2 a second 30-minute meal period, despite not signing meal period waivers.

3 28. At all times relevant herein, Plaintiff and Class Members were assigned to and required
4 and permitted to work shifts lasting over four hours and were not authorized nor permitted to take full,
5 net 10-minute rest breaks during each shift or 4-hour work period.

6 29. At all times relevant herein, Defendants failed to authorize and permit Plaintiff and Class
7 Members to take full, net 10-minute rest breaks during the Class Period. At the direction of Defendants
8 and/or Defendants' knowledge and acquiescence, Plaintiff and Class Members routinely missed their
9 entire 10-minute rest breaks and had to remain on call during them in case they were required to return
10 to work early to assist staff, which did occur regularly. Accordingly, all rest breaks were not off duty
11 and thus were noncompliant. Consequently, Defendants should have compensated Plaintiff and Class
12 Members with premium pay for noncompliant rest breaks, but failed to do so.

13 30. At all times relevant herein, Plaintiff and Class Members worked in excess of eight hours
14 per workday or 40 hours per work week. Defendants failed to pay for all hours worked in excess of
15 eight hours per day, and when compensated for overtime, failed to pay the correct amount of overtime
16 by under-recording and underreporting Plaintiff's and Class Members' total hours worked. Defendants
17 failed to pay current and former hourly, nonexempt employees one and one-half times (1½) their regular
18 rate of pay for hours worked in excess of eight hours per day or 40 hours per workweek. Defendants
19 also failed to pay their employees at a rate no less than twice the regular rate of pay for work in excess
20 of 12 hours in one day or for all hours worked in excess of eight hours on the seventh consecutive day
21 of work in a workweek.

22 31. During the Class Period, Defendants require their hourly, nonexempt employees to
23 perform compensable work while off the clock, including performing compensable work during their
24 meal periods. Accordingly, during the Class Period, Defendants did not provide minimum wages and
25 overtime pay for this time worked off-the-clock that Plaintiff and the Class endured.

26 32. Defendants regularly failed to pay their hourly, nonexempt employees the correct amount
27 of and rate for overtime wages. Defendants fail to record all hours as overtime by failing to record all
28 hours worked in a workday. This work, done primarily for the employer's benefit, is time that hourly,

1 nonexempt employees should be, but were not compensated for, both straight hours and overtime hours
2 worked in excess of 40 hours in a week, hours worked in excess of eight hours in a day, and for the first
3 eight hours worked on the seventh consecutive day of work in a workweek.

4 33. Supervisors employed by Defendants, including Plaintiff's location, had knowledge of
5 and required Plaintiff to perform compensable work during meal periods. Supervisors throughout
6 California were aware that Plaintiff and others similarly situated were performing work during these
7 times without proper wages or overtime compensation.

8 34. In light of Defendants' failure to record employees' off-the-clock time that employees
9 worked and Defendants' failure to acknowledge the noncompliant meal periods and rest breaks,
10 Defendants failed to properly calculate the hourly, nonexempt employees' hours and therefore,
11 employees' premium pay, minimum wages, and overtime wages due. Accordingly, Defendants failed
12 to provide accurate wage statements to their hourly, nonexempt employees identifying all hours worked
13 and all rates in effect during the pay period.

14 35. At all times relevant herein, the same unlawful practices and procedures described above
15 affect hourly, nonexempt workers of Defendants employed in California.

16 36. At all times relevant herein, Defendants failed to pay Plaintiff and Class Members for all
17 hours worked. Thus, Defendants did not pay Plaintiff and Class Members minimum wages in
18 accordance with law and, because Class Members were not compensated for time worked during meal
19 periods, for shifts worked over eight hours in duration, Defendants also did not pay nonexempt
20 employees all overtime wages in accordance with law.

21 37. Defendants' conduct, as alleged herein, has caused Plaintiff and Class Members damages
22 including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the
23 Class for failing to pay minimum wages, failing to pay overtime wages, failing to pay all wages owed
24 every pay period, failing to provide timely and accurate wage statements, failing to pay all wages owed
25 upon separation, and unfair competition.

26 38. Plaintiff has complied with the procedures for bringing suit specified in California Labor
27 Code section 2699.3. By letter dated August 20, 2024, Plaintiff gave written notice by certified mail to
28 the Labor and Workforce Development Agency ("LWDA"), and Defendants ISL EMPLOYEES, INC.

1 doing business as Integral Senior Living and OAK COTTAGE OPERATOR NT-HCI, LLC doing
2 business as Oak Cottage of the specific provisions of the Labor Code alleged to have been violated,
3 including the facts and theories to support the alleged violations.

4 **V. CLASS ACTION AND REPRESENTATIVE ACTION ALLEGATIONS**

5 39. Plaintiff is a member of and seeks to be the representative for the Class of similarly
6 situated employees who all have been exposed to, have suffered, and/or were permitted to work under
7 Defendants' unlawful employment practices as alleged herein.

8 40. Plaintiff brings his first through seventh causes of action on behalf of himself and on
9 behalf of the following Class³ of persons:

10 All current and former hourly non-exempt employees of ISL
11 EMPLOYEES, INC. doing business as Integral Senior Living and OAK
12 COTTAGE OPERATOR NT-HCI, LLC doing business as Oak Cottage in
California at any time during the Class Period through the present.

13 41. This action is appropriately suited for a class action pursuant to Code of Civil Procedure
14 section 382 because there exists an ascertainable and sufficiently numerous Class, a well-defined
15 community of interest, and substantial benefits from certification that render proceeding as a class
16 superior to the alternatives.

17 42. Numerosity and Ascertainability. The size of the Class makes a class action both
18 necessary and efficient. On information and belief, the proposed Class includes hundreds of current and
19 former employees at Defendants' locations in California. Members of the Class are ascertainable through
20 Defendants' records but are so numerous that joinder of all individual Class Members would be
21 impractical.

22 43. Predominant Common Questions of Law and Fact. Pursuant to section 382, common
23 questions of law and fact exist as to all Class Members. These questions predominate over any
24 individualized issues. These common questions include but are not limited to:

25 a. Whether Defendants' policies and practices described in this Complaint were and are illegal;
26

27
28 ³ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class description
with greater particularity or further division into subclasses or limitation to particular issues.

- 1 b. Whether Plaintiff and each member of the Class were not paid minimum wage for each hour
2 worked or part thereof during which they were required to perform acts at the direction and
3 for the benefit of Defendants;
- 4 c. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the
5 members of the Class who worked as hourly, nonexempt employees in California for the total
6 hours worked during the Class Period;
- 7 d. Whether Defendants have engaged in a common course of requiring or permitting their
8 hourly, nonexempt employees to not report all hours worked during the Class Period;
- 9 e. Whether Defendants have engaged in a common course of failing to maintain true and
10 accurate time records for all hours worked by their nonexempt employees;
- 11 f. Whether Defendants violated Labor Code section 226.7 and/or section 512 and engaged in a
12 pattern or practice of failing to provide timely, off-duty, 30-minute meal periods to Plaintiff
13 and members of the Class who worked as hourly, nonexempt employees in California during
14 the Class Period;
- 15 g. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and the members
16 of the Class who worked as hourly, nonexempt employees in California during the Class
17 Period from taking full-length off-duty, 30-minute meal periods by imposing on-call
18 requirements and interruptions while clocked out that required employees to either forgo meal
19 periods entirely or return to work before 30 minutes had elapsed;
- 20 h. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and the members
21 of the Class who worked as hourly, nonexempt employees in California during the Class
22 Period from taking full-length off-duty, 30-minute meal periods for their second meal periods
23 for shifts worked in excess of 10 hours but not more than 12 hours, where these second meal
24 periods were not waived by mutual consent;
- 25 i. Whether Defendants engaged in a pattern or practice of failing to properly compensate
26 Plaintiff and the members of the Class who worked as hourly, nonexempt employees in
27 California during the Class Period for missed, untimely, or on-duty meal periods as required
28 by California law;

- j. Whether Defendants violated section 11 of the applicable California Industrial Welfare Commission's ("IWC") Wage Order(s) by failing to provide Plaintiff and the members of the Class who worked as hourly, nonexempt employees in California during the Class Period with timely, off-duty, 30-minute meal periods;
- k. Whether Defendants engaged in an unfair practice and violated California Business and Professions Code, section 17200, *et seq.* by failing to provide Plaintiff and the members of the Class who worked as hourly, nonexempt employees in California during the Class Period with their statutory, off-duty, meal periods;
- l. Whether Defendants maintained accurate time records of off-duty, 30-minute meal periods taken by Plaintiff and members of the Class during the Class Period in accordance with section 7 of the applicable IWC Wage Order(s);
- m. Whether Defendants engaged in a pattern or practice of failing to properly compensate Plaintiff and the members of the Class who worked as hourly, nonexempt employees in California during the Class Period for failing to provide full-length 10-minute rest breaks as contemplated by California law for work periods in excess of four hours;
- n. Whether Defendants failed to compensate, and therefore violated section 12 of the applicable IWC Wage Order(s) and Labor Code section 226.7 by failing to provide 10-minute, uninterrupted rest breaks as contemplated by California law for work periods in excess of four hours;
- o. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of overtime pay to Plaintiff and the Class for hours worked in excess of eight hours in a day;
- p. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of double time for hours worked in excess of 12 hours in a day;
- q. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for hours worked in excess of eight hours in a day;
- r. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for the first eight

- hours worked in a day on the seventh consecutive day in a workweek and double time for all hours worked in excess of eight hours on such days;
- s. Whether Defendants violated Labor Code sections 218.5, 204, 1197, and 1198 due to failure to compensate Plaintiff and the Class for those acts Defendants required Plaintiff and members of the Class to perform for the benefit of Defendants;
 - t. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to include payments for missed, untimely, and/or on-duty meal periods among wages earned throughout the Class Period;
 - u. Whether Defendants violated Labor Code section 226 by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to accurately state the total hours worked and therefore, the total gross and net wages owed, to the detriment of Plaintiff and the Class;
 - v. Whether Defendants have engaged in a common course of failing to pay nonexempt employees all wages due upon termination;
 - w. Whether Defendants have engaged in unfair competition by the above-listed conduct; and
 - x. The nature and extent of class-wide injury and the measure of damages for the injury.

44. Typicality. Plaintiff's claims are typical of the members of the Class. Plaintiff, like other members of the Class working for Defendants in California, was subjected to Defendants' policy and practice of refusing to properly and fully pay premiums for meal period and rest break violations, overtime compensation, and all wages upon separation in violation of California wage and hour laws. Plaintiff's job duties were and are typical of those of other class members who worked for Defendants in California.

45. Adequacy of Representation. Plaintiff will fairly and adequately represent the interests of the Class because his individual interests are consistent with and not antagonistic to the interests of the Class, and because Plaintiff has selected counsel who has the requisite resources and ability to prosecute this case as a class action and are experienced labor and employment attorneys who have successfully litigated other cases involving similar issues.

46. Superiority of Class Mechanism. The class action mechanism is superior to any alternatives that might exist for the fair and efficient adjudication of these claims. Proceeding as a class

1 action would permit the large number of injured parties to prosecute their common claims in a single
2 forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort and judicial
3 resources. A class action is the only practical way to avoid the potentially inconsistent results that
4 numerous individual trials are likely to generate. Moreover, class treatment is the only realistic means
5 by which Plaintiff can effectively litigate against a large, well-represented corporate defendant like
6 Defendants. In the absence of a class action, Defendants would be unjustly enriched because they would
7 be able to retain the benefits and fruits of the many wrongful violations of the California state laws.
8 Numerous repetitive individual actions would also place an enormous burden on the courts as they are
9 forced to take duplicative evidence and decide the same issues relating to Defendants' conduct over and
10 over again.

11 **VI. FIRST CAUSE OF ACTION**

12 **Failure to Provide Meal Periods**

13 **in Violation of Cal. Labor Code §§ 512 and 226.7; IWC Wage Order No. 5-2001, § 11**

14 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

15 47. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
16 as if fully set forth herein.

17 48. California Labor Code section 226.7(a) provides, "No employer shall require any
18 employee to work during any meal or rest period mandated by an applicable order of the Industrial
19 Welfare Commission."

20 49. IWC Wage Order No. 5-2001 (11)(A) provides, in pertinent part: "No employer shall
21 employ any person for a work period of more than five (5) hours without a meal period of not less than
22 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work
23 the meal period may be waived by mutual consent of the employer and the employee."

24 50. Section 512(k) of the California Labor Code provides, in pertinent part, that: "An
25 employer may not employ an employee for a work period of more than five hours per day without
26 providing the employee with a meal period of not less than 30 minutes, except that if the total work period
27 per day of the employee is no more than six hours, the meal period may be waived by mutual consent of
28 both the employer and employee. An employer may not employ an employee for a work period of more

1 than 10 hours per day without providing the employee with a second meal period of not less than 30
2 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be
3 waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

4 51. Defendant enforces practices that effectively require Plaintiff and other Class Members to
5 perform work during their meal periods, the effects of which Defendant could have mitigated by
6 increasing staff to at least provide coverage for other employees. However, Defendant instead chose to
7 instruct Plaintiff and other Class Members to remain on call during their meal periods and to perform
8 work during their meal periods when staff were in demand. In effect, these policies and practices cause
9 Plaintiff and other Class Members to remain on-duty during meal periods, and therefore, constitute a
10 failure on Defendants’ part to provide compliant meal periods.

11 52. Defendants also did not schedule second meal periods and had no policy for permitting
12 and authorizing Plaintiff and other employees to take second 30-minute meal periods on days they
13 worked in excess of 10 hours in one day. For example, during his employment, Plaintiff worked over 10
14 hours in a day but did not receive a second complaint meal period on those days, nor did he consent to
15 waiving them. Because of Defendants’ companywide practice of denying hourly, nonexempt employees
16 second 30-minute meal periods, Plaintiff and other Class Members were not relieved of all duties such
17 that they could take full-length second 30-minute meal periods and instead had to work during a portion
18 of that time allotted for meal periods. Accordingly, Defendants failed to provide all meal periods in
19 violation of California Labor Code sections 226.7 and 512. Defendants knew or should have known that
20 their companywide adoption of the requirement that employees skip their meal period without executing
21 waivers to do so would result in a failure to provide Plaintiff and other Class Members with full and
22 timely meal periods as required by the applicable IWC Wage Order(s) and Labor Code sections 226.7
23 and 512(a). Furthermore, Plaintiff and other Class Members did not sign valid meal period waivers on
24 days that they were entitled to meal periods but were not relieved of all duties.

25 53. Moreover, Defendants engaged in a systematic, companywide policy to not pay meal
26 period premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members
27 one additional hour of premium pay for missed meal periods, Defendants did not pay Plaintiff and other
28 Class Members at the correct rate of pay for premium wages because Defendants failed to include all

1 forms of compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the
2 regular rate of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium
3 pay for missed meal periods, it did so at a lower rate than required by law. As a result, Defendants failed
4 to provide Plaintiff and other Class Members compliant meal periods and failed to pay the full meal
5 period premiums due, in accordance with California Labor Code sections 204, 210, 226.7, and 512.

6 54. By their actions in requiring their employees to work during a portion of their meal periods
7 and/or their failure to relieve nonexempt, hourly, nonexempt employees of their duties for their off-duty
8 meal periods, Defendants have violated California Labor Code section 226.7 and section 11 of IWC
9 Wage Order No. 5-2001 and is liable to Plaintiff and the Class.

10 55. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been deprived
11 of timely off-duty meal periods and are entitled to recovery under Labor Code section 226.7(b) and
12 section 11 of IWC Wage Order No. 5-2001, in the amount of one additional hour of pay at the employee's
13 regular rate of pay for each work period during each day in which Defendants failed to provide their
14 hourly, nonexempt employees with timely, statutory, off-duty meal periods.

15 **VII. SECOND CAUSE OF ACTION**

16 **Failure to Provide Rest Breaks**

17 **in Violation of Cal. Labor Code §§ 226.7, 512, and 1194;**

18 **IWC Wage Order No. 5-2001, § 12**

19 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

20 56. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
21 as if fully set forth herein.

22 57. California Labor Code section 226.7(a) provides, "No employer shall require any
23 employee to work during any meal or rest period mandated by an applicable order of the Industrial
24 Welfare Commission."

25 58. IWC Wage Order No. 5-2001, section (12)(A) provides, in pertinent part: "Every
26 employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall
27 be in the middle of each work period. The authorized rest period time shall be based on the total hours
28 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

1 However, a rest period need not be authorized for employees whose total daily work times is less than
2 three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which
3 there shall be no deduction from wages.”

4 59. IWC Wage Order No. 5-2001, section (12)(B) provides, “If an employer fails to provide
5 an employee with a rest period in accordance with the applicable provisions of this order, the employer
6 shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each
7 workday that the rest period is not provided.”

8 60. As alleged herein, Defendants failed to authorize and permit compliant rest breaks during
9 the Class Period. Plaintiff and members of the Class were routinely required to work during their entire
10 rest breaks at the direction of Defendants and/or with Defendants’ knowledge and acquiescence.

11 61. Defendant enforces practices that effectively require Plaintiff and other Class Members to
12 perform work during their rest breaks, the effects of which Defendant could have mitigated by increasing
13 staff to at least provide coverage for other employees. However, Defendant instead chose to instruct
14 Plaintiff and other Class Members to remain on call during their rest breaks and to perform work during
15 their rest breaks when staff were in demand. In effect, these policies and practices cause Plaintiff and
16 other Class Members to remain on-duty during rest breaks, and therefore, constitute a failure on
17 Defendants’ part to provide compliant rest breaks.

18 62. Furthermore, as with meal periods, Defendants’ staffing and job-assignment policies
19 required employees to forgo their 10-minute rest breaks, entirely preventing Plaintiff and Class Members
20 from being relieved of all duty in order to take compliant rest breaks; these practices forced Plaintiff and
21 other Class Members to remain on duty for part of their rest breaks. As a result, Plaintiff and Class
22 Members would work shifts in excess of 3.5 hours without the net 10-minute rest breaks to which they
23 were entitled. More specifically, throughout his employment, during 8-hour or longer shifts, Plaintiff
24 and Class Members regularly worked during the entirety of their 10-minute rest breaks by using that time
25 to continue performing work for Defendants.

26 63. At the same time, Defendants implemented a companywide policy to not pay rest break
27 premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members one
28 additional hour of premium pay for missed rest breaks, Defendants did not pay Plaintiff and other Class

Members at the correct rate of pay for premium wages because Defendants failed to include all forms of compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the regular rate of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium pay for missed rest breaks, it did so at a lower rate than required by law. As a result, Plaintiff and other Class Members were denied compliant rest breaks and Defendants failed to pay the full rest break premiums due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order(s).

64. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff and all others similarly situated and such conduct has continued through the filing of the initial Complaint.

65. As a direct and proximate result of Defendants' unlawful action, Plaintiff and the Class have been deprived of full-length 10-minute rest breaks and/or were not paid for rest breaks taken during the Class Period and are entitled to recovery under Labor Code section 226.7(b) in the amount of one additional hour of pay at the employee's regular rate of compensation for each work period during each day in which Defendants failed to provide employees with compliant and/or paid rest breaks.

VIII. THIRD CAUSE OF ACTION

Failure to Pay Minimum Wages

Upon Payment of Wages in Violation of Cal. Labor Code §§ 510, 1194, 1194.2,

and 1197; IWC Wage Order No. 5-2001, § 4

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

66. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

67. Labor Code section 510 provides in relevant part: "[e]ight hours of labor constitutes a day's work. Any work in excess of eight hours in one work day and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay

1 of an employee.”

2 68. Labor Code section 1197 provides: “The minimum wage for employees fixed by the
3 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
4 minimum so fixed is unlawful.”

5 69. Labor Code section 1182.12 establishes the right of employees to be paid minimum wages
6 for all hours worked in amounts set by state law.

7 70. Labor Code section 1194, subdivision (a) provides: “Notwithstanding any agreement to
8 work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime
9 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the
10 full amount of this minimum wage or overtime compensation, including interest thereon, reasonable
11 attorney’s fees, and costs of suit.”

12 71. Labor Code section 1194.2 provides in pertinent part: “In any action under Section 1193.6
13 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed
14 by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount
15 equal to the wages unlawfully unpaid and interest thereon.”

16 72. Pursuant to IWC Wage Order No. 5-2001, section (2)(H), at all times material hereto,
17 “hours worked” includes “the time during which an employee is subject to the control of an employer,
18 and includes all the time the employee is suffered or permitted to work, whether or not required to do
19 so.”

20 73. At all times relevant during the liability period, under the provisions of IWC Wage Order
21 No. 5-2001, Plaintiff and each Class Member should have received not less than the minimum wage in a
22 sum according to proof for the time worked, but not compensated.

23 74. For all hours that Plaintiff and Class Members worked, they are entitled to not less than
24 the California minimum wage and, pursuant to Labor Code section 1194.2(a) liquidated damages in an
25 amount equal to the unpaid minimum wages and interest thereon.

26 75. Pursuant to Labor Code section 1194, Plaintiff and Class Members are also entitled to
27 their attorneys’ fees, costs, and interest according to proof.

28 76. At all times relevant during the liability period, Defendants willfully failed and refused,

1 and continue to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

2 77. As described above, Defendants required Plaintiff and other Class Members to work
3 during their meal periods while clocked out and instructed Plaintiff and other Class Members to clock
4 back in only once their 30-minute meal periods had elapsed.

5 78. This off-the-clock time primarily occurred because Plaintiff and other Class Members
6 were required, while clocked out, to (1) move package deliveries that needed to be moved immediately
7 because the packages were blocking ingress and egress and (2) assist residents who needed immediate
8 attention while Plaintiff and other Class Members happened to be clocked out. Defendant enforces
9 practices that effectively require Plaintiff and other Class Members to perform work during their meal
10 periods and rest breaks, the effects of which Defendant could have mitigated by increasing staff to at
11 least provide coverage for other employees. However, Defendant instead chose to instruct Plaintiff and
12 other Class Members to remain on call during their meal periods and rest breaks and to work through
13 their rest breaks when staff were in demand. In effect, these policies and practices cause Plaintiff and
14 other Class Members to remain on-duty during meal periods, and therefore, constitute a failure on
15 Defendants' part to provide minimum wages for all hours worked.

16 79. Also, Defendants did not pay at least minimum wages for off-the-clock hours that
17 qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify
18 for overtime premium pay, Defendants did not pay at least minimum wages for those hours worked off-
19 the-clock.

20 80. Defendants' unlawful conduct alleged herein occurred in the course of employment of
21 Plaintiff and all other similarly situated nonexempt, hourly, nonexempt employees, and Defendants have
22 done so continuously throughout the filing of this complaint.

23 81. As a direct and proximate result of Defendants' violation of Labor Code sections 510 and
24 1197, Plaintiff and other Class Members have suffered irreparable harm and money damages entitling
25 them to damages, injunctive relief or restitution. Plaintiff, on behalf of himself and on behalf of the Class,
26 seeks damages and all other relief allowable including all wages due while working as Defendants'
27 hourly, nonexempt employees, attorneys' fees, liquidated damages, prejudgment interest, and as to those
28 employees no longer employed by Defendants, waiting time penalties pursuant to Labor Code sections

1 200, *et seq.*

2 82. Plaintiff and Class Members are entitled to the unpaid amount of minimum wages, pre-
3 judgment interest, liquidated damages, statutory penalties, attorneys' fees, and costs according to Labor
4 Code sections 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure 1021.5.

5 **IX. FOURTH CAUSE OF ACTION**

6 **Failure to Pay Overtime Wages**

7 **in Violation of Cal. Labor Code §§ 510 and 1194, IWC Wage Order No. 5-2001, § 3**

8 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

9 83. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
10 as if fully set forth herein.

11 84. Pursuant to section 3 of IWC Wage Order No. 5-2001; California Code of Regulations,
12 Title 8, Chapter 5, section 11040, section 12; and Labor Code sections 200, 204, 226, 500, 510, 512,
13 1194, and 1198, Defendants were required to compensate Plaintiff and members of the Class for all
14 overtime hours worked, which is calculated at one and one-half (1½) times the regular rate of pay for
15 hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on
16 the seventh consecutive work day, with double time after eight hours on the seventh day of any work
17 week, or after 12 hours in any work day.

18 85. Plaintiff and members of the Class were and are nonexempt employees entitled to the
19 protections of IWC Wage Order No. 5-2001; California Code of Regulations, Title 8, section 11040,
20 section 12; and Labor Code sections 200, 226, 500, 510, 512, 1194, and 1198. In addition, during the
21 Class Period, Plaintiff and other members of the Class consistently worked five days per week for shifts
22 of eight hours or more. During the course of Plaintiff's employment, and during the course of the
23 employment of the members of the Class, Defendants failed to compensate Plaintiff and the Class for
24 overtime hours worked as required under the aforementioned Labor Codes and Regulations.

25 86. Under the aforementioned Wage Orders, statutes, and regulations, Plaintiff and members
26 of the Class are entitled to one and one-half (1½) times and/or double their regular rate of pay for overtime
27 work performed during the four years preceding the filing of this Complaint, based on appropriate
28 calculations of the "total remuneration" for each workweek.

87. In violation of state law, Defendants have knowingly and willfully refused to perform their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

88. Defendants committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the Class, from improper motives amounting to malice, and in conscious disregard of Plaintiff's rights and the rights of the Class. Plaintiff and the Class are thus entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts according to proof a time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

89. Defendants' conduct described herein violates IWC Wage Order No. 5-2001; California Code of Regulations, Title 8, section 11040, section 12; and Labor Code sections 200, 226, 500, 510, 512, and 1198. Therefore, pursuant to Labor Code sections 200, 203, 204, 226, 226.7, 512, 558, and 1194, Plaintiff and the Class are entitled to recover the unpaid balance of overtime compensation Defendants owes Plaintiff and the Class, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

X. FIFTH CAUSE OF ACTION

Failure to Furnish Timely and Accurate Wage Statements

Upon Payment of Wages in Violation of Cal. Labor Code § 227.3

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

90. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

91. Labor Code section 226(a) sets forth reporting requirements for employers when they pay wages, as follows: “Every employer shall . . . at the time of each payment of wages, furnish his or her employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the employee . . . (3) the number of piece-rate units earned and any applicable piece rate if the

1 employee is paid on a piece-rate basis” Section (e) provides: “An employee suffering injury as a
2 result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled
3 to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
4 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
5 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an
6 award of costs and reasonable attorney’s fees.”

7 92. Defendants failed to accurately record the overtime hours worked by Plaintiff and Class
8 Members.

9 93. Additionally, Defendants failed to accurately record all rates of pay in effect during the
10 pay period.

11 94. Plaintiff and Class Members were damaged by these failures because, among other things,
12 the failures hindered Plaintiff and the Class from determining the amounts of wages actually owed to
13 them.

14 95. Plaintiff and Class Members request recovery of Labor Code section 226(e) penalties
15 according to proof, as well as interest, attorneys’ fees and costs pursuant to Labor Code section 226(e),
16 in a sum as provided by the Labor Code and/or other statutes.

17 **XI. SIXTH CAUSE OF ACTION**

18 **Failure to Pay All Wages Owed Upon Separation**

19 **in Violation of Cal. Labor Code §§ 201–203**

20 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

21 96. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
22 as if fully set forth herein.

23 97. Labor Code section 201 provides, in relevant part, “[I]f an employer discharges an
24 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

25 98. Labor Code section 202 provides, in relevant part, “[I]f an employee not having a written
26 contract for a definite period quits his or her employment, his or her wages shall become due and payable
27 not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her
28 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

1 99. Section 203 of the California Labor Code provides that if an employer willfully fails to
2 pay compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
3 employer is liable for penalties in the form of continued compensation up to 30 workdays.

4 100. At all times relevant during the liability period, Plaintiff and the other members of the
5 Class were employees of Defendants covered by Labor Code section 203. Pursuant to Labor Code
6 section 201, upon Plaintiff's and the Class Members' separation dates, Defendants were required to pay
7 Plaintiff and the Class Members all wages earned.

8 101. At the time of Plaintiff's and the Class Members' respective separation dates, Plaintiff and
9 Class Members had unpaid wages. Defendants willfully failed to pay Plaintiff and other members of the
10 Class who are no longer employed by Defendants for their uncompensated hours, uncompensated
11 overtime, and missed, untimely, or on-duty meal periods and rest breaks, accrued vacation time/paid time
12 off at the forgoing rate upon their termination or separation from employment with Defendants as
13 required by California Labor Code sections 201 and 202. Thus, in violation of Labor Code section 201,
14 Defendants failed to pay Plaintiff and the Class Members the full amount of wages due and owing them,
15 in amounts to be proven at the time of trial, but in excess of the jurisdictional minimum of this Court.

16 102. Defendants' failure to pay Plaintiff and the Class respective wages due and owed to them
17 was willful, and done with the wrongful and deliberate intention of injuring Plaintiff and the Class
18 Members and in conscious disregard of their rights.

19 103. Defendants' willful failure to pay former employee Plaintiff and the Class all of the wages
20 due and owing them constitutes violations of Labor Code sections 201 and 203, which provide that an
21 employee's wages will continue as a penalty up to 30 days from the time the wages were due. Therefore,
22 former employee Plaintiff and the Class Members are each entitled to penalties pursuant to Labor Code
23 section 203.

24 **XII. SEVENTH CAUSE OF ACTION**

25 **Violations of California's Unfair Competition Law ("UCL"),**

26 **California Business and Professions Code §§ 17200, *et seq.***

27 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

28 104. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint

as if fully set forth herein.

105. Section 17200 of the California Business and Professions Code (the “UCL”) prohibits any unlawful, unfair, or fraudulent business practices.

106. Through their actions alleged herein, Defendants have engaged in unfair competition within the meaning of the UCL. Defendants’ conduct, as alleged herein, constitutes unlawful, unfair, and/or fraudulent business practices under the UCL.

107. Defendants’ unlawful conduct under the UCL includes, but is not limited to, violating the statutes alleged herein. Defendants’ unfair conduct under the UCL includes, but is not limited to, failure to pay Class Members wages and compensation they earned through labor provided, and failing to otherwise compensate Class Members, as alleged herein. Defendants’ fraudulent conduct includes, but is not limited to, issuing wage statements containing false and/or misleading information about the time the Class Members worked and the amount of wages or compensation due.

108. Defendants’ violations of California wage and hour laws and illegal payroll practices or payment policies constitute a business practice because they were done repeatedly over a significant period of time, and in a systematic manner to the detriment of Plaintiff and Class Members.

109. Plaintiff has standing to assert this claim because he has suffered injury in fact and has lost money as a result of Defendants’ conduct.

110. For the four years preceding the filing of this action, Plaintiff and Class Members have suffered damages and request restitutionary disgorgement of all monies and profits to be disgorged from Defendants in an amount according to proof at the time of trial and an injunction prohibiting them from engaging in the unlawful, unfair, and/or fraudulent conduct alleged herein.

XIII. EIGHTH CAUSE OF ACTION

For Civil Penalties Pursuant to California’s Private Attorneys General Act of 2004 (“PAGA”), §§ 2698, *et seq.*, for Violations of California Labor Code Sections (Brought by Plaintiff on Behalf of Himself and the General Public Against All Defendants)

111. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

112. PAGA provides that any provision of law under the Labor Code and applicable IWC Wage

1 Order(s) that provides for a civil penalty to be assessed and collected by California's Labor and
2 Workforce Development Agency ("LWDA") for violations of the California Labor Code and applicable
3 IWC Wage Order(s) may, as an alternative, be recovered by aggrieved employees in a civil action brought
4 on behalf of themselves and other current or former employees pursuant to procedures outlined in
5 California Labor Code section 2699.3.

6 113. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any person
7 who was employed by the alleged violator and against whom one or more of the alleged violations was
8 committed."

9 114. Plaintiff and other current and former employees of Defendants are "aggrieved
10 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or former
11 employees and one or more of the alleged violations were committed against them.

12 115. Pursuant to Labor Code sections 2699.3 and 2699.5, aggrieved employees, including
13 Plaintiff, may pursue a civil action arising under PAGA, alleging violations of any provision listed in
14 section 2699.5, after the following requirements have been met:

- 15 a. The aggrieved employee shall give written notice ("Employee's Notice") by online filing
16 to the LWDA and by certified mail to the employer of the specific provisions of the
17 California Labor Code alleged to have been violated, including the facts and theories to
18 support the alleged violations;
- 19 b. The Employee's Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- 20 c. The LWDA shall provide notice ("LWDA Notice") to the employer and the aggrieved
21 employee by certified mail that it does not intend to investigate the alleged violation within
22 60 calendar days of the postmark date of the Employee's Notice. Upon receipt of the
23 LWDA Notice, or if the LWDA Notice is not provided within 65 calendar days of the
24 postmark date of the Employee's Notice, the aggrieved employee may commence a civil
25 action pursuant to California Labor Code section 2699 to recover civil penalties in
26 addition to any other penalties to which the employee may be entitled.

27 116. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, including
28 Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those

1 listed in section 2699.5 after the following requirements have been met:

- 2 a. The aggrieved employee shall give written notice by online filing (“Employee’s Notice”)
- 3 to the LWDA and by certified mail to the employer of the specific provisions of the
- 4 California Labor Code alleged to have been violated, including the facts and theories to
- 5 support the alleged violations;
- 6 b. The Employee’s Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- 7 c. The employer may cure the alleged violation within 33 calendar days of the postmark date
- 8 of the Employee’s Notice. The employer shall give written notice by certified mail within
- 9 that period of time to the aggrieved employee or representative and the agency if the
- 10 alleged violation is cured, including a description of actions taken, and no civil action
- 11 pursuant to Section 2699 may commence. If the alleged violation is not cured within the
- 12 33-day period, the employee may commence a civil action pursuant to Section 2699.

13 117. On August 20, 2024, Plaintiff provided written notice by online filing to the LWDA and
14 by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have
15 been violated, including facts and theories to support the alleged violations, in accordance with California
16 Labor Code section 2699.3. Plaintiff’s notice to the LWDA was accompanied by the \$75 filing fee. A
17 true and correct copy of Plaintiff’s written notice to the LWDA, ISL EMPLOYEES, INC. doing business
18 as Integral Senior Living and OAK COTTAGE OPERATOR NT-HCI, LLC doing business as Oak
19 Cottage dated August 20, 2024 is attached hereto as “**Exhibit 1.**”

20 118. As of the filing date of the initial complaint, over 65 days have passed since Plaintiff sent
21 the LWDA Notice described above, and the LWDA has not responded that it intends to investigate
22 Plaintiff’s claims. Defendants have not given notice that it has cured the alleged violations set forth in
23 this Complaint. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code
24 section 2699.3(a) and (c) to recover civil penalties against all defendants, in addition to other remedies,
25 for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d),
26 1182.12, 1194, 1197, 1197.1, and 1198.

27 119. Labor Code section 558(a) provides that “[a]ny employer or other person acting on behalf
28 of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating

1 hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil
2 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
3 pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid
4 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
5 each pay period for which the employee was underpaid in addition to an amount sufficient to recover
6 underpaid wages.” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this
7 section are in addition to any other civil or criminal penalty provided by law.”

8 120. Defendants, at all times relevant herein, were employers or persons acting on behalf of an
9 employer(s) who violated Plaintiff’s and other non-party aggrieved employees’ rights by violating
10 various sections of the California Labor Code as set forth above.

11 121. As set forth below, Defendants have violated numerous provisions of both the Labor Code
12 sections regulating hours and days of work as well as the applicable IWC Wage Order(s), including:

- 13 a. Violations of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage
14 Order(s) for Defendants’ failure to provide Plaintiff and other Class Members with
15 compliant meal periods and/or rest breaks, as set forth above;
- 16 b. Violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable
17 IWC Wage Order(s) for Defendants’ failure to compensate Plaintiff and other Class
18 Members with at least minimum wages for all hours worked as set forth above;
- 19 c. Violations of Labor Code sections 510, 1198, and the applicable IWC Wage Order(s) for
20 Defendants’ failure to compensate Plaintiff and other Class Members with overtime wages
21 for all hours worked in excess of eight in one day or 40 in one week and double time for
22 all hours worked in excess of 12 hours, as set forth above;
- 23 d. Violations of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order(s)
24 for failure to provide accurate and complete wage statements to Plaintiff and other Class
25 Members as set forth above;
- 26 e. Violations of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order(s)
27 for failure to maintain payroll records. California Labor Code section 1198 provides that
28 the maximum hours of work and the standard conditions of labor shall be those fixed by

1 the Labor Commissioner and as set forth in the applicable IWC Wage Order(s). Section
2 1198 further provides that “[t]he employment of any employees for longer hours than
3 those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
4 Pursuant to the applicable IWC Wage Order(s), employers are required to keep accurate
5 time records showing when the employee begins and ends each work period and meal
6 period. During the relevant time period, Defendants failed, on a companywide basis, to
7 keep records of meal period start and stop times for Plaintiff and other non-party aggrieved
8 employees in violation of section 1198. California Labor Code section 1174(d) provides
9 that “[e]very person employing labor in this state shall . . . [k]eep a record showing the
10 names and addresses of all employees employed and the ages of all minors” and “[k]eep,
11 at a central location in the state or at the plants or establishments at which employees are
12 employed, payroll records showing the hours worked daily by and the wages paid to, and
13 the number of piece-rate units earned by and any applicable piece rate paid to, employees
14 employed at the respective plants or establishments” During the relevant time period,
15 and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain
16 accurate payroll records for Plaintiff and other non-party aggrieved employees showing
17 the daily hours they actually worked and the wages paid thereto as a result of failing to
18 record the off-the-clock hours that they worked;

19 f. Violations of Labor Code sections 201, 202, and 203 for failure to pay all earned wages
20 upon termination as set forth above;

21 g. Violations of Labor Code section 204 for failure to pay all earned wages during
22 employment as set forth above;

23 h. Plaintiff and other non-party aggrieved employees are therefore entitled to recover
24 penalties, attorneys’ fees, costs, and interest thereupon, pursuant to Labor Code section
25 2699(f)-(g); and

26 i. Any and all additional applicable civil penalties and sums as provided by the California
27 Labor Code and/or other relevant statutes.

28 122. Pursuant to California Labor Code sections 2699(a), 2699.3, 2699.5, and section 558,

1 Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of
2 civil penalties for himself, all other non-party aggrieved employees, and the State of California against
3 all defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202,
4 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

5 123. In addition, Plaintiff seeks and is entitled to sixty-five percent (65%) of all penalties
6 obtained under California Labor Code section 2699 to be allocated to the LWDA, for education of
7 employers and employees about their rights and responsibilities under the California Labor Code, and
8 thirty-five percent (35%) to all aggrieved employees.

9 124. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs pursuant to
10 California Labor Code sections 2699(g)(1), 218.5, 1194(a) and any other applicable statute.

11 **XIV. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf
13 of the general public, respectfully requests that this Court find against all defendants as follows:

- 14 1. An order that this action may proceed and may be maintained as a class action;
- 15 2. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member
16 on their minimum wage claims;
- 17 3. All unpaid overtime wages due to Plaintiff and each Class Member;
- 18 4. One hour of wages due to Plaintiff and each Class Member for each work period of more than
19 four hours when they did not receive an uninterrupted 10-minute rest break;
- 20 5. One hour of wages due to Plaintiff and each Class Member for each work period of more than
21 five hours when they did not receive an uninterrupted 30-minute meal period;
- 22 6. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member
23 on their minimum wage claim;
- 24 7. For restitution of all monies due to Plaintiff and members of the Class and disgorged profits
25 from the unlawful business practices of Defendants;
- 26 8. For waiting time penalties pursuant to Labor Code section 203;
- 27 9. Statutory penalties under Labor Code section 226(e);
- 28 10. For penalties pursuant to Labor Code sections 204, 206, 210, 225.5, 226, 226.3, 226.7, 510,

512, 558, 1174.5, 1182.12, 1194, 1194.2, 1197.1, and 1198;

11. For injunctive relief enjoining Defendants from engaging in the unlawful and unfair business practices complained of herein;

12. For all civil penalties permitted by California's Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, based on all the alleged statutory violations set forth in this Complaint;

13. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226 and 1194;

14. Prejudgment interest at the maximum legal rate on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;

15. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226, 1194, 2699(g), and Code of Civil Procedure section 1021.5;

16. Accounting of Defendants' records for the liability period;

17. General, special, and consequential damages, to the extent allowed by law; and

18. All such other and further relief that the Court may deem just and proper.

Dated: October 23, 2024

ABRAMSON LABOR GROUP

By:


Cheryl A. Kenner

Attorneys for Plaintiff RICARDO HUASTE
and all others similarly situated and aggrieved

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Dated: October 23, 2024

ABRAMSON LABOR GROUP

Attorneys for Plaintiff RICARDO HUASTE
and all others similarly situated and aggrieved

EXHIBIT 1



1700 W Burbank Blvd.
Burbank, California 91506
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Cheryl.K@abramsonlabor.com
www.AbramsonLaborGroup.com

August 20, 2024

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

ISL Employees, Inc.
Attn: Legal Department
2333 State Street, Suite 300
Carlsbad, CA 92008

ISL Employees, Inc.
Oak Cottage Operator NT-HCI, LLC
Attn: Human Resources
1820 De La Vina St.
Santa Barbara, CA 93101

Oak Cottage Operator NT-HCI, LLC
Attn: Legal Department
4350 East West Highway, Suite 1050
Bethesda, MD 20814

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; ISL Employees, Inc.; Oak Cottage Operator NT-HCI, LLC

From: Ricardo Huaste, on behalf of himself and all other current and former hourly nonexempt employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Ricardo Huaste ("Mr. Huaste") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Huaste, "Claimants") who have been injured by ISL Employees, Inc. doing business as Integral Senior Living ("Integral Senior Living") and Oak Cottage Operator NT-HCI, LLC doing business as Oak Cottage's ("Oak Cottage") violations of the California Labor Code. Integral Senior Living and Oak Cottage shall be collectively referred to as "ISL." Mr. Huaste, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Oak Cottage, intends to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

ISL operates several senior independent living, assisted living, and memory care communities throughout California, including Oak Cottage in Santa Barbara where Mr. Huaste worked.

Claimant Mr. Huaste worked for ISL as an hourly, nonexempt employee in the position of Medicine Technician, earning \$23.99 per hour from approximately May 2019 through approximately June 8, 2024. Mr. Huaste, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were engaged in providing a variety of services, care, and assistance to senior residents living in ISL's facility. As part of their employment with ISL, Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, answering phone calls from family members, doctors, pharmacies, and other employees; contacting doctors on behalf of residents'; providing basic wound care; filing paperwork; overseeing care staff; transporting personal hygiene care shipments to storage in the facility; handling pharmacy deliveries to the facility; helping residents communicate with their families; and helping residents with their personal hygiene and care.

Claimant Mr. Huaste regularly worked four to five (4-5) days per week for 8 hours or more hours per day. During the entire course of his employment, ISL failed to provide Mr. Huaste and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. ISL has also failed to pay minimum wages to Mr. Huaste and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 5-2001. As a consequence, ISL has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 5-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, ISL has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

ISL has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, ISL has failed and continues to fail to provide timely, accurate wage statements to Mr. Huaste and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by ISL, including Mr. Huaste, ISL has violated Labor Code section 203 by failing to pay all wages due upon separation. Mr. Huaste is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Huaste intends to bring an action against ISL under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Huaste, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Huaste was employed by ISL from approximately May 2019 through approximately June 8, 2024 as a Medicine Technician. For a period of at least four (4) years prior to August 2024, but for our purposes here, one (1) year prior, ISL has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. ISL has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and section 4 of IWC Wage Order No. 5-2001. First, Defendant Claimants worked a substantial amount of time while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred because Claimants (1) moved package deliveries that needed to be moved immediately because the packages were blocking ingress and egress and (2) assisted residents who needed immediate attention while Claimants happened to be clocked out. Claimants' off-the-clock time was never subsequently added and, therefore, uncompensated. Accordingly, Claimants were not paid for that time spent working off the clock. Second, Defendant enforces practices that effectively require Claimants to perform work during their meal periods and rest breaks, the effects of which Defendant could have mitigated by increasing staff to at least provide coverage for other employees. However, Defendant instead chose to instruct Claimants to remain on call during their meal periods and rest breaks and to work through their rest breaks when staff were in demand. In effect, these policies and practices cause Claimants to remain on-duty during meal periods and rest breaks, and therefore, constitute a failure on ISL's part to provide compliant meal periods and rest breaks. With that, ISL's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes ISL's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. ISL's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 5-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, ISL failed to authorize and permit full-length meal periods for Mr. Huaste and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 5-2001. Mr. Huaste and all similarly aggrieved persons were required to perform work during their meal periods in the form of monitoring their communication devices (radios) in case they needed to return to work early from their meal periods. In several instances, Claimants indeed were summoned to return to work to handle tasks that required their attention. Claimants were instructed to clock back in only after their 30-minute meal period had elapsed even though they were required to return to work prematurely. This was to avoid the system triggering the payment due for a meal period premium. As a result, ISL did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Accordingly, since ISL required Mr. Huaste and others similarly situated to work during their meal periods in violation of Labor Code sections 226.7(a) and

subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 5-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. However, for the same reasons cited in the preceding paragraph regarding meal periods, ISL likewise failed to authorize and permit Mr. Huaste and all other similarly aggrieved employees to take full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 5-2001. Claimants were not able to take their requisite number of 10-minutes rest breaks based on their shift duration; in these instances, Claimants regularly worked through their rest breaks. And for rest breaks actually taken, Claimants were not off duty because they were required to remain on call by monitoring their radios in case they were summoned to return to work to handle a task that required their attention. Many times these interruptions actually did require Claimants to return to work early. ISL did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 5-2001. Furthermore, since ISL required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, ISL was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Mr. Huaste and Claimants regularly worked overtime hours. ISL has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, ISL failed to provide Mr. Huaste and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 5-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from ISL, including Mr. Huaste, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within seventy-two (72) hours (resignation without notice). Claimants, including Mr. Huaste, did not receive all wages owed upon separation based on (1) underpayment of accrued vacation time/paid time off because the wrong payrate was used instead of Mr. Huaste’s current payrate and (2) ISL’s prior failings to pay all wages owed every pay period, including but not limited to minimum wage, overtime, and meal and rest premiums owed and for all hours worked, as explained above.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from ISL pursuant to Labor Code section 226. Because ISL failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked before, during, and after their shifts and for all overtime wages due, Claimants’ wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. Their wage statements were also inaccurate in showing the correct payrate for accrued vacation time/paid time off on Claimants’ final paychecks. As a consequence, Claimants’ wage statements also do not reflect the accurate amount of net and gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

ISL’s uniform failure to pay minimum and overtime wages, failure to authorize and permit full-length, off-duty meal periods and rest breaks or pay Claimants adequate premium compensation in lieu thereof, failure to keep accurate time records, failure to furnish timely and accurate wage statements, failure to pay all wages owed upon separation all violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7,

510, 512, 1182.12, 1194, and 1197, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Huaste, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against ISL for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, and 1197.1.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink that reads "Cheryl Kenner". The signature is written in a cursive, flowing style.

Cheryl A. Kenner