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WILLIAM JOHN HASTINGS, on behalf of themselves
and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

CLIFFORD BROOKS SR. and WILLIAM
JOHN HASTINGS, individuals, on behalf
of themselves and others similarly situated,

Plaintiffs,

vs.

WHOLE FOODS MARKET
CALIFORNIA, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 24CV086502

CLASS ACTION

Assigned for All Purposes To:

Hon. Judge Noel Wise

Dept.: 21

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Labor Code § 226.7;
4. Rest-Break Liability Labor Code § 226.7;
5. Failure to Pay Reporting Time Under 8 CCR § 11160(5);
6. Violation of Labor Code § 226(a);
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5;
10. Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802;
11. Violation of Business & Professions Code § 17200 et seq.; and
12. Penalties under PAGA Labor Code § 2698

DEMAND FOR JURY TRIAL

Original Complaint Filed: August. 8, 2024

Trial Date: None Set

Plaintiffs CLIFFORD BROOKS SR. and WILLIAM JOHN HASTINGS (hereinafter “Plaintiffs”), on behalf of themselves and all other similarly situated non-exempt, hourly employees employed by Defendants in California during the relevant period (collectively, “Employees”; individually, “Employee”) complain of Defendants as follows:

INTRODUCTION

1. Plaintiffs bring this action on behalf of themselves and all current and former Employees within the State of California who, at any time during the four years prior to the filing of this lawsuit, are or were employed as non-exempt, hourly employees by Defendants WHOLE FOODS MARKET CALIFORNIA, INC., a California corporation; and DOES 1 through 50 (all defendants being collectively referred to herein as “Defendants”). Plaintiffs allege that Defendants violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and California Business & Professions Code, and seek redress for these violations.

2. Plaintiff CLIFFORD BROOKS, SR. (“Brooks”) worked a grocery team member at Defendants’ store locations in California. Plaintiff WILLIAM JOHN HASTINGS (“Hastings”) works as an Assistant Meat Manager at Defendants’ store locations in California. Defendants employed other similarly situated Class members as assistant meat managers, produce managers, grocery team members, cashiers, and in similar and related positions in connection with providing grocery retail services to Defendants’ customers throughout California. Plaintiffs and the other similarly situated Class members worked at Defendants’ behest without being paid all wages due and without being provided all required breaks. More specifically, Plaintiffs and the other similarly situated Class members were employed by Defendants and shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at the hands of Defendants as the other Employees who served in similar and related positions.

3. Defendants required Plaintiffs and the Employees in the Class to work off the clock and failed to record accurate time worked by these Employees, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and provided Plaintiffs and the Class members with inaccurate wage statements that

1 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
2 Plaintiffs and the Class with lawful meal and rest periods, as Employees were required to remain
3 under Defendants' control and were not provided with the opportunity to take full uninterrupted,
4 timely, and duty-free rest periods and meal breaks, as required by the Labor Code and the
5 applicable paragraphs of the IWC Wage Orders.

6 4. Defendant WHOLE FOODS MARKET CALIFORNIA, INC. ("Whole Foods") is a
7 California corporation which lists its principal address with the California Secretary of State in
8 Alameda, California. It lists its type of business as "Grocery." Defendant WHOLE FOODS
9 MARKET CALIFORNIA, INC. is listed as the employer on the wage statements issued to
10 Plaintiffs by Defendants, and upon information and belief to other Class members. Upon
11 information and belief, Whole Foods operates various facilities and store locations where their
12 California Employees are based out of, including in Alameda County, where Defendant Whole
13 Foods maintain its principal and California office according to its listing with the California
14 Secretary of State. On information and belief, Defendants maintain operations and locations
15 throughout Alameda County and California. Whole Food's website explains that: "... a
16 subsidiary of Amazon, is an American multinational supermarket chain headquartered in Austin,
17 Texas, which sells products free from hydrogenated fats and artificial colors, flavors, and
18 preservatives."

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

26 6. The true names and capacities, whether individual, corporate, associate, or
27 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
28 unknown to Plaintiffs, who therefore sues these Defendants by such fictitious names under Code

1 of Civil Procedure § 474. Plaintiffs are informed and believe and thereon allege that Defendants
2 designated herein as Does 1 through 50, inclusive, and each of them, is legally responsible in some
3 manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this
4 Complaint to reflect the true names and capacities of the Defendants designated herein as Does 1
5 through 50 when their identities become known.

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

17 **FACTUAL BACKGROUND**

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

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

8 10. Plaintiff Brooks was employed by Defendants as a Grocery Team Member, with
9 duties that included unloading pallets of all the groceries and stocking groceries in Defendants'
10 stores. Plaintiff Hastings has been employed by Defendants as an Assistant Meat Manager, with
11 duties that included running the shop, making sure the various types of meat are cut and ready for
12 service, assisting with ordering, and metrics. Plaintiffs generally worked 35 to 40 hours per week,
13 five to six shifts per week. Plaintiffs' scheduled hours were generally from 5:00 a.m. through 1:30
14 p.m. and 12:30 p.m. to 9:00 P.M. Plaintiffs also worked on Saturdays and Sundays as required.

15 11. Despite their obligation to maintain accurate timekeeping records for hours worked
16 by the Class members, Defendants maintained improper time record-keeping systems across their
17 California facilities and their store locations. This has led to systematic failure to pay wages.

18 12. The failure to maintain accurate timekeeping and payroll records perpetrated by
19 Defendants has also been exacerbated by the off the clock work Defendants required their
20 Employees to endure. Plaintiffs and Class members were required to work off the clock without
21 pay. At the end of shifts, Plaintiffs and class members were required to clock out and then turn in
22 their walkie-talkies to the charging station, which resulted in approximately 10 minutes of unpaid
23 hours worked on each shift worked.

24 13. Plaintiffs and the Class members were also required to work or otherwise remain
25 under Defendants' control after their shift end times, including on site at store locations and
26 through after-hours work-related communications and other work requirements. Specifically,
27 Plaintiffs were required to be available on their cell phones off the clock and on their walkie
28 talkies during meal and rest breaks to respond to communication from Defendants' managers.

1 14. Defendants also failed to pay reporting time pay to Plaintiffs and Class members.
2 On several occasions, Plaintiffs reported to work only to be sent home within two hours due to a
3 lack of work. Defendants failed to pay Employees in such instances for half of their usual or
4 scheduled day's work or four hours at the correct rate of pay.

5 15. Defendants followed a similar unlawful practice, upon information and belief, in
6 connection with other Employees in a concerted effort to limit and restrict regular and overtime
7 hours earned by and owing to Plaintiffs and the other Class members. Time worked off the clock
8 also caused Plaintiffs and other Class members to work beyond eight hours in a shift. As a result
9 of the above-described off the clock work, Defendants failed to pay Plaintiffs and Class members
10 overtime for several minutes to hours during work shifts which Defendants did not record in any
11 timekeeping or payroll records.

12 16. Defendants also failed to pay Holiday Overtime at the required Holiday pay rate,
13 therefore causing Plaintiffs and Class members to be underpaid. Upon information and belief, to
14 the extent Defendants paid any shift differentials or bonuses or other forms of remuneration for
15 hours worked in a pay period, Defendants also failed to include them in the regular rate of pay
16 used to calculate and pay overtime and holiday wages.

17 17. Plaintiffs were therefore not paid for all their hours worked at the required
18 minimum, overtime and double time wage rates due to Defendants' policy and practice of
19 requiring them to work off the clock and without pay. With work shifts generally scheduled for
20 eight hours or more, this unpaid off the clock work resulted in Plaintiffs and the Class members
21 working past eight hours on a shift, which required that they be paid at the correct overtime rate
22 of 1.5 times their regular rate. Defendants thus systematically underpaid Plaintiffs and the Class
23 members by failing to pay them at the required overtime rates for all hours over eight in a work
24 shift or over forty in a work week, and all hours over twelve in a day at the required double time
25 rate. Upon information and belief, the Class members were bound by similar scheduling and
26 work policies which Defendants required them to follow and endured similar violations at
27 Defendants' hands as Plaintiffs.

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1 18. Defendants have either failed to maintain timekeeping records for Plaintiffs that
2 would permit Plaintiffs to discover the nature and extent of the off the clock work Defendants
3 required and the actual hours Plaintiffs worked, or have otherwise declined to produce them to
4 Plaintiffs in response to a timely and lawful request. By failing to pay for all hours worked,
5 Defendants have committed knowing and intentional ongoing violations of the record keeping
6 requirements under the Labor Code §§ 226 and 1174.

7 19. As a result of the above-described unlawful requirements to work off the clock,
8 the failure to accurately record all hours worked and the other wage violations they endured at
9 Defendants' hands, Plaintiffs and the Class members were not properly paid all wages earned and
10 all wages owed to them by Defendants, including when working more than eight hours in any
11 given day and/or more than forty hours in any given week. As a result of Defendants' unlawful
12 policies and practices, Plaintiffs and Class members incurred overtime hours worked for which
13 they were not adequately and completely compensated, in addition to the hours they were
14 required to work off the clock at their regular rates.

15 20. The failure to pay for all hours worked and underpayment of wages to Plaintiffs
16 and the Class members is and has been a direct consequence of Defendants' unlawful
17 compensation policies and practices, which upon information and belief applied uniformly to the
18 Class members working at Defendants' locations and facilities. As a result of the above-described
19 unlawful requirements to work off the clock and regular rate miscalculation, the failure to
20 accurately record all hours worked and pay wages at the correct rates, and the other wage
21 violations they endured at Defendants' hands, Plaintiffs and the Class members were not properly
22 paid all wages earned and all wages owed to them by Defendants, including when working more
23 than eight hours in any given day and/or more than forty hours in any given week.

24 21. Therefore, from at least four years prior to the filing of this lawsuit and continuing
25 to the present, Defendants had a consistent policy or practice of failing to pay Employees for all
26 hours worked and failing to pay minimum wages for all time worked, as required by California
27 law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present,
28 Defendants had a consistent policy or practice of failing to pay Employees overtime compensation

1 at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a
2 week, and double-time rates for all hours worked in excess of twelve hours a day, in violation of
3 Labor Code § 510 and the corresponding sections of IWC Wage Orders. To the extent Defendants
4 paid Plaintiffs and the Class members bonuses and shift differentials and other forms of
5 remuneration above and beyond their hourly pay, upon information and belief Defendants
6 miscalculated and therefore underpaid any overtime they paid during these pay periods by failing
7 to include all forms of remuneration in the regular rate used to calculate and pay overtime.

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

15 23. More specifically, Plaintiffs worked shifts that entitled them to at least one meal
16 period, but Defendants' required Plaintiffs and the Class members to prioritize work over taking
17 proper meal periods. In fact, Plaintiffs and Class members were required to keep their walkie
18 talkies with them during meal and rest periods by Defendants, and Defendants therefore required
19 Plaintiffs and Class members to remain under Defendants' control when they were off the clock
20 and during meal periods. To the extent Defendants required Plaintiffs to work over ten hours on a
21 work shift, Defendants also failed to provide second meal periods and Defendants have produced
22 no evidence of payments for meal period violations under Labor Code 226.7. To the extent
23 Defendants have paid any such premiums, upon information and belief they failed to include all
24 forms of remuneration, including bonuses, wage differentials, and prevailing rates, in the regular
25 rate at which Defendants paid the premium. Plaintiffs have no recollection of agreeing to waive
26 any of their meal periods.

27 24. Defendants thus failed to provide all the legally required unpaid, off-duty meal
28 periods and all the legally required paid, off-duty rest periods to Plaintiffs and the other Class

1 members, as required by the applicable Wage Order and Labor Code. Plaintiffs and other Class
2 members were required to perform work as ordered by Defendants for more than five hours during
3 a shift without receiving compliant meal periods. Additionally, as addressed above, Defendants
4 followed a practice of requiring off the clock work in a manner that would impact when
5 Employees were to receive meal periods and rest breaks and required them to respond to work
6 calls and inquiries and other demands during breaks, thus leading to further violations.

7 25. Upon information and belief, Defendants' systems did not automatically generate a
8 meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours
9 into a work shift or in the event the time punch records reflected a meal period of less than thirty
10 minutes. However, upon information and belief, in the event Defendants did pay any meal period
11 premiums, they did so at the employee's customary regular rate of hourly compensation without
12 including all forms of remuneration in that hourly rate calculation, for example by omitting
13 bonuses, shift differentials and prevailing wages and the like from the rate at which meal
14 premiums were paid.

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

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

Order(s);

- (b) Class members were not provided second full thirty-minute duty free meal periods for work days in excess of ten hours;
- (c) Class members were required to work through at least part of their daily meal period(s);
- (d) Meal periods were provided after five hours of continuous work during a shift; and
- (e) Class members were restricted in their ability to take a full thirty-minute meal period and were not permitted to leave their work premises during meal periods and were otherwise required to remain under Defendants' control during meal periods.

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

28. Defendants thus failed to authorize and permit duty-free ten minute rest breaks as required under the Labor Code and IWC Wage Orders. In fact, Defendants made no effort to even schedule or otherwise account for time for Plaintiffs and the Class members to use for duty-free, net ten minute rest breaks. This common and unlawful policy uniformly applied to the Employees during the relevant period, meaning Defendants' rest break policy was not to schedule or otherwise authorize and permit them. Plaintiffs and the Class members worked eight to twelve hours on an average shift, and were required to receive at least two rest breaks or three rest breaks on shifts over ten hours. Given the work demands, and pressure from Defendants' management,

1 Plaintiffs and the Class members were compelled to not take rest breaks despite working
2 extended shifts. Defendants have produced no evidence of any payments for rest break violations
3 under Labor Code § 226.7. To the extent Defendants have paid any such premiums, upon
4 information and belief they failed to include all forms of remuneration, including bonuses, wage
5 differentials, prevailing wages and the like in the regular rate at which Defendants paid the
6 premium.

7 29. Defendants' uniformly applied policies and practices thus resulted in untimely and
8 shortened or on-duty rest breaks when they were authorized and permitted. Plaintiffs and the
9 Class members worked shifts of at least eight hours, which required at least two rest breaks, and
10 often worked shifts over ten hours, which required at least three rest breaks. Even on the
11 occasions when Defendants authorized and permitted Plaintiffs to take a first rest break, they
12 were not permitted to take a second or a third break, and those that were provided were often late
13 and generally interrupted by job duties and requirements.

14 30. During rest periods, employers must relieve employees of all duties and relinquish
15 control over how employees spend their time. Plaintiffs and the Class members were and are
16 under Defendants' control when they are working through rest breaks and remaining under
17 Defendants' control. Defendants have also provided either impermissibly shortened or untimely
18 meal and rest breaks to Plaintiffs and the Class members. Plaintiffs and the Employees in the
19 Class were thus not authorized and permitted to take lawful rest periods, were systematically
20 required by Defendants to work through or during breaks, and were not provided with one hour's
21 wages in lieu thereof. They were required to remain on-duty during breaks or portions of their
22 breaks, thus making them either untimely or shortened and on-duty, and they were also prevented
23 from leaving the worksite and otherwise remain under Defendants' control during rest breaks
24 under Defendants' uniformly applied policies and practices. Rest period violations therefore arose
25 in one or more of the following manners:

- 26 (a) Class members were required to work without being provided a minimum
27 ten minute rest period for every four hours or major fraction thereof worked
28 and were not compensated one hour of pay at their regular rate of

1 compensation for each workday that a rest period was not provided, and to
2 the extent Defendants paid any premiums, they failed to include all forms of
3 remuneration in the regular rate used to calculate and pay them.

4 (b) Class members were not authorized and permitted to take timely rest periods
5 for every four hours worked, or major fraction thereof;

6 (c) Class members were required to remain on duty and under Defendants'
7 control during rest periods or otherwise had their rest periods interrupted by
8 work demands.

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

1 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to
2 Labor Code § 2699(g)(1).

3 32. Upon information and belief, Defendants also failed to provide Employees such as
4 Plaintiffs at the time of their employment and thereafter with written notice complying with all
5 the requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an
6 employer shall provide to each employee a written notice, in the language the employer normally
7 uses to communicate employment-related information to the employee, containing" specific
8 required information. Upon information and belief, Defendants failed to provide this information
9 to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to
10 provide Plaintiffs and the aggrieved employee Class members certain specific information upon
11 hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiffs with
12 any such information when they were hired, or have failed to produce it, and upon information
13 and belief Defendants committed similar violations in connection with similarly situated and
14 aggrieved Class members.

15 33. As a result of these illegal policies and practices, Defendants also engaged in and
16 enforced the following additional unlawful practices and policies against Plaintiffs and the Class
17 members they seek to represent:

- 18 (a) failing to pay all wages owed to Class members who either were discharged,
19 laid off, or resigned in accordance with the requirements of Labor Code §§
20 201, 202, 203;
- 21 (b) failing to pay all wages owed to the Class members twice monthly in
22 accordance with the requirements of Labor Code § 204;
- 23 (c) failing to pay Class members all wages owed, including all meal and rest
24 period premium wages, and failing to pay them at the regular rate of
25 compensation;
- 26 (d) failing to maintain accurate records of Class members' hours worked and
27 earned wages and meal periods in violation of Labor Code §§ 226 and
28 1174(d) and section 7 of the applicable IWC Wage Orders; and

1 (e) failing to produce timekeeping records in response to Plaintiffs' timely and
2 lawful request to receive them under these authorities.

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

17 35. Defendants thus provided Plaintiffs and the Class members with wage statements
18 that failed to accurately report all hours worked and applicable hourly rates for all hours worked.
19 As detailed above, Plaintiffs and the Class members were provided with unlawful wage statements
20 that failed to reflect all hours worked and failed to pay for all overtime hours or failed to pay
21 overtime wages at the correct overtime premium rate, and Defendants miscalculated meal and rest
22 break premiums, and sick time if and when they did pay them. Defendants followed this unlawful
23 policy and practice even though both Plaintiffs and Defendants were aware that Plaintiffs and the
24 Class members worked more total hours than were reflected on the wage statements, including
25 overtime hours, and were underpaid by regular rate miscalculation. Plaintiffs and the Employees
26 in the Class were unable to discern from their wage statements alone the actual hours they worked
27 in total during a pay period and the rates they were paid for those hours worked.

28 36. Defendants have thus also failed to comply with Labor Code § 226(a) by

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

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

18 38. Additionally, from at least four years prior to the filing of this lawsuit and
19 continuing to the present, Defendants have regularly required Plaintiffs and the Class members to
20 incur necessary business expenses in the course of performing their required job duties without
21 reimbursement. These included the cell phone-related expenses Plaintiffs incurred in using the
22 Whole Foods App to check on their schedules and to communicate with Defendants' management.
23 Defendants also failed to maintain or pay to maintain the work uniforms of Plaintiffs and class
24 members. Class members must be reimbursed for these necessary business expenses under Labor
25 Code § 2802, and Defendants systematically failed to do so.

26 39. In light of the foregoing, Plaintiffs and the Employees in the Class bring this action
27 pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 226, 226.4, 226.7,
28 246, 248.1, 248.2, 248.5, 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2

1 1197, 1198, 1198.5, 1199, 2802, 2810.5, 2698 *et. seq.*, and California Code of Regulations, Title
2 8, section 11000 *et seq.*

3 40. Furthermore, pursuant to Business and Professions Code §§ 17200-17208,
4 Plaintiffs and the Class members seek injunctive relief, restitution, and disgorgement of all
5 benefits Defendants have enjoyed from their violations of Labor Code and the other unfair,
6 unlawful, or fraudulent practices alleged in this Complaint.

7 **CLASS ALLEGATIONS**

8 41. Plaintiffs bring this class action on behalf of themselves and all others similarly
9 situated pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent a Class (or “the
10 Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any
11 time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as
12 determined by the Court (“the Class Period”), and who have been employed as non-exempt,
13 hourly employees within the State of California.” This includes assistant meat managers,
14 produce managers, grocery team members, cashiers, and those in similar and related positions
15 in connection with grocery and retail services provided to Defendants’ customers throughout
16 California. Further, Plaintiffs seek to represent the Subclasses composed of and defined as
17 follows:

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

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

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

26 d. Subclass 4. Rest Break Subclass. All Class members who were subject to
27 Defendants’ policy and/or practice of failing to authorize and permit Employees to take
28 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction

thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.

e. Subclass 5. Reporting Time Pay Subclass: All Class members who were not compensated reporting time pay.

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

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

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

i. Subclass 10. Payroll Records Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to keep accurate time and wage records as required by California wage-and-hour laws.

j. Subclass 11. Expense Reimbursement Subclass. All Class members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.

k. Subclass 12. UCL Subclass. All Class members who are owed restitution as a result of Defendants' business acts and practices, to the extent such acts and practices are found to be unlawful, deceptive, and/or unfair.

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

43. Defendants, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged

1 in a practice whereby Defendants failed to correctly calculate and pay compensation for the time
2 worked by Plaintiffs and the other members of the Class, even though Defendants enjoyed the
3 benefit of this work, required Employees to perform this work and permitted or suffered to permit
4 this work. Defendants have uniformly denied these Class members wages to which these
5 employees are entitled, and failed to provide meal periods or authorize and permit rest periods, in
6 order to unfairly cheat the competition and unlawfully profit.

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

12 **A. Numerosity**

13 45. The potential members of the Class as defined are so numerous that joinder of all
14 the Class members is impracticable. While the precise number of Class member has not been
15 determined at this time, Plaintiffs are informed and believe that Defendants employ or, during the
16 time period relevant to this lawsuit employed, at least hundreds of Employees who satisfy the
17 Class definition within the State of California. Plaintiffs allege that Defendants' employment
18 records will provide information as to the number and location of all Class members.

19 **B. Commonality**

20 46. There are questions of law and fact common to the Class that predominate over any
21 questions affecting only individual Class members. The common questions are numerous and
22 substantial and flow from Defendants' uniform policies and/or practices of violating the California
23 Labor Code addressed above. As such, these common questions predominate over individual
24 questions concerning each individual Class Member's showing as to his or her eligibility for
25 recovery or as to the amount of damages. These common questions of law and fact include:

- 26 a. Whether Defendants failed to pay Employees minimum wages;
- 27 b. Whether Defendants failed to pay Employees wages for all hours worked;
- 28 c. Whether Defendants failed to pay Employees overtime as required under Labor

Code § 510;

- d. Whether Defendants paid reporting time pay under the applicable wage order and CCR § 11160(5);
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks, or provide premium pay in lieu thereof;
- g. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements and wage statements that omitted many of the Section 226(a) requirements.
- h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- i. Whether Defendants' conduct was willful;
- j. Whether Defendants violated Labor Code § 226 and § 1174 and § 1198 and the IWC Wage Orders by failing to maintain accurate records of Class members' earned wages and work periods;
- k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Employees during the relevant time period for all hours worked, whether regular or overtime;
- l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all wages earned at least twice monthly;
- m. Whether Defendants violated Labor Code § 2802 by failing to reimburse necessary business expenses incurred by Employees;
- n. Whether Defendants violated California Labor Code §§ 246 and 248.1 by not providing employees with all required sick days and COVID-19 supplemental sick leave;

- 1 o. Whether Defendants violated Labor Code §§ 1174 and 1174.5;
- 2 p. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 3 q. Whether Employees are entitled to equitable relief pursuant to Business and
- 4 Professions Code § 17200 *et seq.*

5 **C. Typicality**

6 47. The claims of the named Plaintiffs are typical of those of the other Employees. The

7 Employee Class members all sustained injuries and damages arising out of and caused by

8 Defendants' common course of conduct and uniformly applied policies in violation of statutes, as

9 well as regulations, that have the force and effect of law, as alleged herein. Plaintiffs' claims for

10 the off the clock work and meal and rest violations they were required to endure are typical of

11 those of the other Class members.

12 ///

13 **D. Adequacy of Representation**

14 48. Plaintiffs will fairly and adequately represent and protect the interest of the

15 Employee Class members. Counsel who represents Plaintiffs and the Employees in the Class are

16 experienced and competent in litigating employment class actions.

17 **E. Superiority of Class Action**

18 49. A class action is superior to other available means for the fair and efficient

19 adjudication of this controversy. Individual joinder of all Employees is not practicable, and

20 questions of law and fact common to all Employees predominate over any questions affecting only

21 individual Employees. Each Employee in the Class has been damaged and is entitled to recovery

22 by reason of Defendants' illegal policies or practices of failing to compensate Employees properly.

23 50. As to the issues raised in this case, a class action is superior to all other methods for

24 the fair and efficient adjudication of this controversy, as joinder of all Class members is

25 impracticable and many legal and factual questions to be adjudicated apply uniformly to all Class

26 members. Further, as the economic or other loss suffered by vast numbers of Class members may

27 be relatively small, the expense and burden of individual actions makes it difficult for the Class

28 members to individually redress the wrongs they have suffered. Moreover, in the event

1 disgorgement is ordered, a class action is the only mechanism that will permit the employment of
2 a fluid fund recovery to ensure that equity is achieved. There will be relatively little difficulty in
3 managing this case as a class action, and proceeding on a class-wide basis will permit Employees
4 to vindicate their rights for violations they endured which they would otherwise be foreclosed
5 from receiving in a multiplicity of individual lawsuits that would be cost prohibitive to them.

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

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

21 53. Plaintiffs and the Employees in the Class did not discover the fact that they were
22 entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there
23 any discussion about Plaintiffs' and the Class members' waiver of their Constitutional rights of
24 trial by jury, to collectively organize and oppose unlawful pay practices under California law as
25 well as obtain injunctive relief preventing such practices from continuing. As a result, the
26 applicable statutes of limitation tolled until such time as Plaintiffs and the Class members
27 discovered their claims.

28 **FIRST CAUSE OF ACTION**

1 **FAILURE TO PAY MINIMUM WAGES**

2 **(Against All Defendants)**

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

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

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

28 57. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage"

1 states: “The minimum wage for employees fixed by the commission is the minimum wage to be
2 paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The
3 applicable minimum wage rate fixed by the commission for work during the relevant period is
4 found in the Wage Orders.

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

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

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

26 61. California Labor Code § 1194.2 also provides for the following remedies: “In any
27 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
28

1 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
2 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

3 62. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
4 1197.1, Plaintiffs and Class members are entitled to recover a penalty of \$100.00 for the initial
5 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
6 pay each employee minimum wages.

7 63. Pursuant to California Labor Code § 1194.2, Plaintiffs and Class members are
8 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid and
9 interest thereon.

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

13 ///

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

1 **SECOND CAUSE OF ACTION**

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

3 **(Against All Defendants)**

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

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

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

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

25 70. Defendants thus had a consistent policy of not paying Employees wages for all
26 hours worked, including hours at their required regular, overtime, and double-time rates.
27 Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted
28 and/or modified certain employees’ hours, including Plaintiffs’, or required Plaintiffs and the

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

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

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

22 73. Additionally, Labor Code § 558(a) provides "any employer or other person acting
23 on behalf of an employer who violates, or causes to be violated, a section of this chapter or any
24 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil
25 penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each
26 pay period for which the employee was underpaid in addition to an amount sufficient to recover
27 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee was underpaid in addition to an

1 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
2 be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in
3 this section are in addition to any other civil or criminal penalty provided by law.” Defendants
4 have violated provisions of the Labor Code regulating hours and days of work as well as the IWC
5 Wage Orders. Accordingly, Plaintiffs and the Class members seek the remedies set forth in Labor
6 Code § 558.

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

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

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

27 **THIRD CAUSE OF ACTION**

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

(Against All Defendants)

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

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

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

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

81. Moreover, Defendants failed to compensate Employees for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. As detailed above, on the occasions when Defendants did pay any meal period premiums, they upon information and belief underpaid them by miscalculating the regular

1 rate of compensation by not including all forms of remuneration in it. Defendants thus failed to
2 compensate the Employees in the Class for each meal period not provided or inadequately
3 provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC
4 Wage Order.

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

11 ///

12 ///

13 **FOURTH CAUSE OF ACTION**

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

15 **(Against All Defendants)**

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

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

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

1 rest periods, including by responding to work requirements, being prohibited from leaving the
2 worksites, and had breaks provided untimely as a result of the above described off the clock work.

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

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

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

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

25 **FIFTH CAUSE OF ACTION**

26 **FAILURE TO PAY REPORTING TIME PAY UNDER WAGE ORDER 16-2001,**

27 **8 CCR § 11160(5)**

28 **(Against All Defendants)**

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

3 91. Wage Order 16-2001 provides that “[e]ach workday an employee is required to
4 report for work and does report, but is not put to work or is furnished less than half said employee’s
5 usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work,
6 but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular
7 rate of pay, which shall not be less than the minimum wage.” Cal. Code Regs., tit, 8, § 11160(5)(A).

8 92. As set forth herein, Plaintiffs and Employees were required to report for work and
9 were sent home before half of their scheduled days’ work. Defendants failed to pay Plaintiffs and
10 Employees for half of their scheduled days’ work in violation of the applicable Wage Order.

11 93. As a direct and proximate results of Defendants’ actions as set forth herein, Plaintiffs
12 and the Class have been damaged in that Plaintiffs and the Class have not been paid all required
13 reporting time pay.

14 94. Consequently, pursuant to the California Labor Code, including Labor Code §§
15 204, 510, 558, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including
16 paragraphs 5(A-D), Defendants are liable to Employees for the full amount of all their unpaid
17 wages, including reporting time pay, with interest, plus their reasonable attorneys’ fees and costs,
18 as well as the assessment of any statutory penalties against Defendants, and each of them, and
19 any additional sums as provided by the Labor Code and/or other statutes.

20 **SIXTH CAUSE OF ACTION**
21 **VIOLATION OF LABOR CODE § 226(a)**
22 **(Against All Defendants)**

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

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

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

4 97. Defendants failed to provide Plaintiffs and the similarly situated Employee Class
5 members with accurate itemized wage statements in writing, as required by the Labor Code and
6 paragraph 7 of the applicable IWC Wage Orders. Specifically, the wage statements issued to
7 Employees by Defendants failed to accurately account for wages, overtime, and premium pay,
8 including for all overtime and double time hours worked and for deficient meal periods and rest
9 breaks, all of which Defendants knew or reasonably should have known were owed to the
10 Employees, as alleged above.

11 98. Throughout the liability period, Defendants intentionally failed to furnish to
12 Plaintiffs and the Class members, upon each payment of wages, itemized statements accurately
13 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-
14 rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net
15 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of
16 the employee and only the last four digits of his or her social security number or an employee
17 identification number other than a social security number, (8) the name and address of the legal
18 entity that is the employer and (9) all applicable hourly rates in effect during the pay period and
19 the corresponding number of hours worked at each hourly rate by the employee pursuant to Labor
20 Code § 226 and paragraph 7 of the applicable IWC Wage Orders, amongst other statutory
21 requirements. Defendants knowingly and intentionally failed to provide Plaintiffs and the Class
22 members with such timely and accurate wage and hour statements.

23 99. Plaintiffs and the Class members suffered injury as a result of Defendants'
24 knowing and intentional failure to provide them with the wage and hour statements as required by
25 law and are presumed to have suffered injury and entitled to penalties under Labor Code §
26 226(e), as the Defendants have failed to provide an accurate wage statement, failed to provide
27 accurate and complete information as required by any one or more of items Labor Code § 226
28 (a)(1) to (9), inclusive, and the Plaintiffs and Class members cannot promptly and easily

1 determine from the wage statement alone one or more of the following: (i) The amount of the
2 gross wages or net wages paid to the employee during the pay period or any of the other
3 information required to be provided on the itemized wage statement pursuant to items (2) to (4),
4 inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross
5 wages to determine the net wages paid to the employee during the pay period, (iii) The name and
6 address of the employer and, (iv) The name of the employee and only the last four digits of his or
7 her social security number or an employee identification number other than a social security
8 number. For purposes of Labor Code § 226(e) “promptly and easily determine” means a
9 reasonable person [i.e. an objective standard] would be able to readily ascertain the information
10 without reference to other documents or information.

11 100. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders, employers
12 are required “to pay each employee, on the established payday for the period involved, not less
13 than the applicable minimum wage for all hours worked in the payroll period, ...” Under Labor
14 Code § 1198, “[t]he employment of any employee for longer hours than those fixed by the order
15 or under conditions of labor prohibited by the order is unlawful.” Plaintiffs and the Class members
16 may therefore pursue damages and penalties for violations of Labor Code § 204 and paragraph
17 4(B) of the applicable IWC Wage Orders, including penalties under paragraph 20 of the applicable
18 IWC Wage Orders.

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

25 102. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
26 IWC Wage Order, Plaintiffs and the Employee Class members are entitled to recover the greater
27 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
28 and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled to
2 an award of costs and reasonable attorneys' fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **NINTH CAUSE OF ACTION**

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

21 **(Against All Defendants)**

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

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

28 117. During the course of Plaintiffs' and Employees' employment, Defendants

1 consistently failed to maintain accurate time and wage records for Plaintiffs and Class Members as
2 required by California Labor Code § 1174 by failing to pay them proper wages, overtime, and
3 premium pay as discussed above and failing to document and pay for actual hours worked.

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

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

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

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

13 **TENTH CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES LABOR CODE § 2802**

15 **(Against All Defendants)**

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

18 123. Plaintiffs are informed and believe and based thereon allege that throughout the
19 period applicable, Defendants required Plaintiffs and the Class members to pay for necessary work
20 related expenses they incurred. These included the cell phone-related expenses Plaintiffs incurred
21 in obtaining information on their time entries and other required information on Defendants'
22 timekeeping and scheduling applications, and responding to calls from management. This also
23 included uniform maintenance costs. Plaintiffs and the Class members must be reimbursed for
24 these necessary business expenses under Labor Code § 2802 and Defendants systematically failed
25 to do so.

26 124. Defendants thus followed a uniform policy and practice of failing to reimburse
27 Employees for these necessary work related expenses or losses incurred in direct discharge of their
28 job duties during employment with Defendants and at the direction of the Defendants pursuant to

1 Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

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

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

15 **ELEVENTH CAUSE OF ACTION**

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

17 **(Against All Defendants)**

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

20 128. Plaintiffs, on behalf of themselves, the Employees in the Class, and the general
21 public, bring this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
22 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
23 harmful to Employees and the general public. Plaintiffs seek to enforce important rights affecting
24 the public interest within the meaning of Code of Civil Procedure § 1021.5.

25 129. Plaintiffs are a "person" within the meaning of Business & Professions Code
26 § 17204, have suffered injury, and therefore have standing to bring this cause of action for
27 injunctive relief, restitution, and other appropriate equitable relief.

28 130. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair

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

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

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

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

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

28 135. By the conduct alleged herein, Defendants have engaged and continue to engage in

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

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

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

16 **TWELFTH CAUSE OF ACTION**

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

18 **(Against All Defendants)**

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

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

25 140. In failing to pay Aggrieved Employees minimum wages and overtime, not
26 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
27 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
28 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required

1 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
2 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
3 paragraph 7 of the applicable IWC Wage Orders.

4 141. As such, Employees seek wages and penalties under Labor Code §§ 2698 and
5 2699 for Defendants' violation of Labor Code provisions included under Labor Code § 2699.5,
6 including the penalty provisions, without limitation, based, inter alia, on the following California
7 Labor Code sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7, 432.5, 510, 512, 558, 1174,
8 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 et seq.

9 142. More specifically, after complying with the notice procedures of Labor Code §
10 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
11 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above-
12 addressed underlying claims and seeking penalties as specified by the applicable corresponding
13 provisions, including as follows:

14 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
15 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
16 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
17 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
18 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
19 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
20 to Labor Code § 2699(g)(1);

21 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
22 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
23 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
24 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
25 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
26 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
27 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
28 pursuant to Labor Code § 2699(g)(1);

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

14 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
15 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
16 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
17 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
18 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
19 § 2699(g)(1);

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

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

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

4 (g) Failure to Pay Reporting Time Pay: For Defendants failure to provide Employees
5 with all their required reporting time pay in violation of Wage Order 16-2001 and 8 § CCR
6 11160(5) and civil and statutory penalties available and applicable under Labor Code §§ 204, 558,
7 including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and
8 costs pursuant to Labor Code § 2699(g)(1); and

9
10 (h) All Alleged Violations of the IWC Wage Orders and Other Labor Code
11 Sections: For any above addressed violation of the applicable provisions of the IWC Wage
12 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §
13 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and
14 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to
15 Labor Code § 2699(g)(1).

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

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

26
27 (b) If upon inspection or investigation the Labor Commissioner determines that a
28 person had paid or caused to be paid a wage for overtime work in violation of any provision of this

chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

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

144. Plaintiff has exhausted his administrative remedies by submitting a certified letter to the LWDA and Defendants on August 8, 2024 (LWDA-CM-1044391-24) addressing in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts and legal theories to support the alleged violations and requested penalties. The LWDA has not provided notice of its intent to investigate the alleged violations within 65 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for the following relief:

1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work performed by Employees and unpaid overtime compensation from at least four (4) years prior to the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime and double-time pay, as may be proven;
5. For compensatory damages in the amount of the hourly wage made by Employees for each missed or deficient meal period where no premium pay was paid therefor from four (4) years prior to the filing of this action, as may be proven;
6. For compensatory damages in the amount of the hourly wage made by Employees

1 for each day requisite rest breaks were not provided or were deficiently provided where no
2 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
3 be proven;

4 7. For compensatory damages in the amount of the hourly wage made by Employees
5 for shifts where no reporting time pay was paid from at least four (4) years prior to the filing of
6 this action, as may be proven;

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

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

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

12 11. For penalties pursuant to Labor Code § 1174.5, as may be proven;

13 12. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;

14 13. For damages and restitution for failure to reimburse all reasonable and necessary
15 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

16 14. For restitution for unfair competition pursuant to Business & Professions Code
17 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

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

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

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

23 18. For other wages and penalties under the Labor Code as may be proven;

24 19. For all general, special, and incidental damages as may be proven;

25 20. For an award of pre-judgment and post-judgment interest;

26 21. For an award providing for the payment of the costs of this suit;

27 22. For an award of attorneys' fees; and

28 23. For such other and further relief as this Court may deem proper and just.

1
2 DATED: June 25, 2025

D.LAW, INC.

3 By 
4 Jean Hopkins Power
5 Roman Shkodnik
6 Attorneys for Plaintiffs Clifford
7 Brooks Sr. and William John
8 Hastings and the putative class
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DEMAND FOR JURY TRIAL

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

DATED: June 25, 2025

D.LAW, INC.

By 
Jean Hopkins Power
Roman Shkodnik
Attorneys for Plaintiffs Clifford
Brooks Sr. and William John
Hastings and the putative class

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is: 450 N Brand Blvd, Ste. 840, Glendale, CA 91203.

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[X] (BY MAIL) I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kathryn Perez