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on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

THORNTON HAYES, an individual on
behalf of himself and all others similarly
situated,

Plaintiff,

vs.

TOSCA SERVICES, LLC, a Delaware
Limited Liability Company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CVRI2406111

CLASS ACTION

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a);
6. Violation of Labor Code § 203;
7. Violation of Labor Code § 204;
8. Failure to Keep Required Payroll Records under Labor Code §§ 1174 and 1174.5;
9. Failure to Pay Reporting Time Pay;
10. Violation of Labor Code § 246;
11. Failure to Pay Wages Due, Negotiable and Payable in Cash on Demand (Labor Code §§ 212 and 213);
12. Failure to Pay Vacation Wages;
13. Failure to Reimburse Necessary Business Expenses § 2802; and
14. Violation of Business & Professions Code § 17200 *et seq.*
15. Penalties under PAGA, Labor Code § 2698

DEMAND FOR JURY TRIAL

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

8 7. Plaintiff is informed and believes and thereon alleges that each Defendant acted in
9 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried
10 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of
11 each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in
12 all respects as the employers or joint employers of Class Members. Defendants, and each of them,
13 exercised control over the wages, hours or working conditions of Class Members, or suffered or
14 permitted Class Members to work, or engaged, thereby creating a common law employment
15 relationship, with Class Members. Therefore, Defendants, and each of them, employed or jointly
16 employed Class Members.

17 8. Whenever and wherever reference is made in this Complaint to any act by a
18 defendant or defendants, such allegations and references shall also be deemed to mean the acts and
19 failures to act of each defendant acting individually, jointly, and severally.

20 9. Whenever and wherever reference is made to individuals who are not named as a
21 Defendant in this Complaint but were agents, servants, employees and/or supervisors of
22 Defendants, such individuals at all relevant times acted on behalf of Defendants within the scope
23 of their employment.

24 **JURISDICTION AND VENUE**

25 10. This Court has jurisdiction over this Action pursuant to California Code of Civil
26 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought
27 as a Class Action on behalf of similarly situated Class Members of Defendants pursuant to
28 California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial

1 district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and belief,
2 the obligations and liabilities giving rise to this lawsuit occurred in part in Riverside County.
3 Defendants maintain and operate facilities in Riverside County and employs Plaintiff and other
4 Class Members in Riverside County, while doing business throughout California.

5 **FACTUAL BACKGROUND**

6 11. Class Members consistently worked at Defendants behest without being paid all
7 wages due. Class Members were either not paid by Defendants for all hours worked or were not
8 paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that
9 Defendants failed to pay Class Members all wages due and owing, including by requiring off the
10 clock work, failing to incorporate non-discretionary bonuses and/or shift differentials into the
11 regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest break
12 premiums, failing to provide meal and rest breaks, failing to furnish accurate wage statements,
13 failing to timely pay wages including final wages, failing to maintain accurate records, failing to
14 pay reporting time pay, failing to provide sick pay, failing to pay wages due, negotiable and
15 payable in cash on demand, failing to pay out vacation days, and failing to reimburse necessary
16 business expenses all in violation of various provisions of the California Labor Code and
17 applicable Wage Orders.

18 12. During the course of Class Members' employment with Defendants, they were not
19 paid all wages they were owed, including for all work performed resulting in off the clock work.
20 Defendants required Class Members to perform pre-shift and post-shift off the clock work. For
21 instance, Defendants required Class Members to wait in line to be able to access time clocks and
22 clock in, and Class Members were not paid for this time. Defendants also required Class Members
23 to prepare for morning meetings by gathering paperwork and walkie-talkies, and Class Members
24 were not paid for this time. Class Members were also required to report to the shift lead for the
25 following shift after clocking out, and were not paid for this time. Furthermore, Defendants
26 frequently contacted Class Members on their personal cell phones with work demands outside of
27 scheduled work hours, and Class Members were not compensated for this time.

28 13. Defendants also failed to pay Class Members all wages due and owing because

1 Defendants failed to incorporate non-discretionary, performance-based cash bonuses and/or shift
2 differentials into the regular rate of pay. Contrary to the requirements of the Labor Code and IWC
3 Wage Orders under California law, Defendants did not incorporate these non-discretionary
4 bonuses and/or shift differentials paid to the Class Members into the regular rate of pay
5 Defendants used to calculate and pay for overtime pay, sick pay, and meal and rest break
6 premiums.

7 14. Moreover, Defendant required Plaintiff and the Class Members to, on occasion,
8 report for a scheduled work day to be told whether work was available for them or not, and when
9 there was no work, Plaintiff and the Class members would be sent home after waiting for hours.
10 On such days when Defendant required Plaintiff and the Class Members to report to work only to
11 be sent home because work was not available, they were not paid required reporting time wages
12 for the hours they waited without receiving their regular hourly rate of pay for them.

13 15. By implementing policies, programs, practices, procedures and protocols which
14 resulted in off the clock work, and the failure to incorporate non-discretionary bonuses and/or shift
15 differentials into the regular rate of pay, Defendants' willful actions resulted in the systematic
16 underpayment of wages to Class Members, including underpayment of overtime pay to Class
17 Members over the relevant time period. For example, the above described off the clock work
18 addressed above caused Plaintiff to begin receiving overtime pay later than they should have.

19 16. As a result of the above described requirements to work off the clock, the failure to
20 incorporate non-discretionary bonuses and/or shift differentials into the regular rate of pay, and the
21 other wage violations they endured at Defendants' hands, Class Members were not properly paid
22 all wages earned and all wages owed to them by Defendants, including when working more than
23 eight (8) hours in any given day and/or more than forty (40) hours in any given week.

24 17. As a result of Defendants' unlawful policies and practices, Class Members incurred
25 overtime hours worked for which they were not adequately and completely compensated, in
26 addition to the hours they were required to work off the clock. To the extent applicable,
27 Defendants also failed to pay Class Members at an overtime rate of 1.5 times the regular rate for
28 the first eight hours of the seventh consecutive work day in a week and overtime payments at the

1 rate of 2 times the regular rate for hours worked over eight (8) on the seventh consecutive work
2 day, as required under the Labor Code and applicable IWC Wage Orders.

3 18. Therefore, from at least four (4) years prior to the filing of this lawsuit and
4 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
5 Members for all hours worked, and failing to pay minimum wages for all time worked, as required
6 by California law. Defendants thus failed to pay Class Members at least minimum wages for all
7 the time they worked for Defendants in violation of the Labor Code and applicable IWC Wage
8 Orders as the actual times when Class Members were under the control and direction of
9 Defendants was under reported in the hours reflected on the timekeeping records. Furthermore,
10 Defendants' willful actions resulted in the systematic underpayment of wages to Class Members,
11 including underpayment of overtime pay to Class Members over a period of time.

12 19. Therefore, from at least four (4) years prior to the filing of this lawsuit and
13 continuing to the present, Defendants had a consistent policy or practice of failing to pay Class
14 Members for all hours worked. Also, from at least four (4) years prior to the filing of this lawsuit
15 and continuing to the present, Defendants also had a consistent policy or practice of failing to pay
16 Class Members their true and correct overtime compensation at premium overtime rates for all
17 hours worked in excess of eight (8) hours a day and/or forty (40) hours a week, and double-time
18 rates for all hours worked in excess of twelve (12) hours a day, in violation of Labor Code § 510
19 and the corresponding sections of IWC Wage Orders.

20 20. Additionally, Defendants failed to provide all the legally required unpaid, off-duty
21 meal periods and all the legally required paid, off-duty rest periods to Class Members, as required
22 by the applicable Wage Order and Labor Code. Class Members were required to perform work as
23 ordered by Defendants for more than five (5) hours during a shift but were often required to do so
24 without receiving a lawful and timely meal break. In addition to untimely meal periods,
25 Defendants also required Class Members to respond to work demands. Defendants placed their
26 needs over Class Members lawful meal and rest breaks and this resulted in Class Members often
27 having to work through their scheduled meal and/or rest breaks, or otherwise taking shortened
28 ones, because the demands of the job would not avail them the opportunity to take a lawfully

uninterrupted and off duty meal and/or rest break.

21. On the occasions when Class Members worked over 10 hours in a shift, Defendants also failed to provide them with a second, uninterrupted, timely and duty-free meal period. As a result, Defendants' failure to provide Class Members with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants also failed to pay Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period or rest break that Defendants failed to provide or deficiently provided.

22. Therefore, for at least four years prior to the filing of this action and through to the present, Defendants have regularly required Class Members to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of wages at each Class Member's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided. To the extent Class Members were permitted to take meal periods, they were not permitted to leave the premises, and were required to carry walkie-talkies and respond to work demands.

23. Meal period violations thus occurred in one or more of the following manners:

- (a) Class Members were not provided full thirty-minute duty free meal periods for work days in excess of five (5) hours and were not compensated one (1) hour's wages in lieu thereof, all in violation of, among others, Labor Code §§ 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 (10) 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 (5) hours of continuous work during

1 a shift; and

2 (e) Class Members were restricted in their ability to take a full thirty-minute
3 meal period.

4 24. Class Members were also not authorized and permitted to take lawful rest periods,
5 were systematically required by Defendants to work through or during breaks and were not
6 provided with one (1) hour's wages in lieu thereof. Class Members were restricted in their ability
7 to take their full ten (10) minutes net rest time or were otherwise not provided with duty-free rest
8 periods. Therefore, from at least four years prior to the filing of this lawsuit and continuing to the
9 present, Defendants have consistently failed to provide Class Members with paid rest breaks of not
10 less than ten minutes for every work period of four or more consecutive hours; or major fraction
11 thereof, nor did Defendant pay Class Members premium pay for each day on which requisite rest
12 breaks were not provided or were deficiently provided. To the extent Class Members were
13 permitted to take rest breaks, they were not permitted to leave the premises, and were required to
14 carry walkie-talkies and respond to work demands.

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

16 (a) Class Members were required to work without being provided a minimum
17 ten (10) minute rest period for every four (4) hours or major fraction
18 thereof worked and were not compensated one (1) hour of pay at their
19 regular rate of compensation for each workday that a rest period was not
20 provided;

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

23 (c) Class Members were required to remain on-duty during rest periods or
24 otherwise had their rest periods interrupted by work demands.

25 26. Defendants also consistently failed to issue accurate itemized wage statements as
26 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members did
27 not correctly list the total number of hours worked, and failed to accurately account for unpaid
28 wages and overtime because their actual hours worked were under-reported due to off the clock

1 work. Moreover, the wage statements given to Class Members failed to incorporate non-
2 discretionary bonuses and/or shift differentials into the regular rate of pay used to calculate and
3 pay overtime compensation. Additionally, the wage statements given to Class Members failed to
4 accurately account for premium pay for deficiently provided meal periods and rest breaks.

5 27. From at least four (4) years prior to filing this lawsuit and continuing to the present,
6 Defendants have thus also had a consistent policy of failing to pay all wages owed to Class
7 Members at the time of their termination of within seventy-two (72) hours of their resignation, as
8 required by California wage-and-hour laws. Specifically, Plaintiff and Class Members were not
9 paid all regular and overtime wages because Defendants failed to pay for all hours worked by
10 requiring off the clock work, and failing to incorporate non-discretionary bonuses and/or shift
11 differentials into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and
12 meal and rest break premiums. Additionally, Defendants failed to pay premium wages owed for
13 unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants'
14 failure to pay said wages within the required time was willful within the meaning of Labor Code §
15 203.

16 28. Defendants failed to pay Plaintiff and Class Members with an order, check, draft,
17 note, memorandum, or other acknowledgment of indebtedness that was payable on demand,
18 without discount at some established place of business in the state. Defendants' issued pay cards to
19 Plaintiff and Class Members for wages earned. These pay cards were useable for a fee and did not
20 have a provision for use and payment in California at no cost to the employee. Therefore,
21 Defendants' failed to provide Plaintiff and Class Members with checks, drafts, notes or other
22 acknowledgements of indebtedness that were payable on demand without discount as required by
23 Labor Code § 212, which required Plaintiff and Class Members to incur fees to use, was not fully
24 cashable, and not usable at all financial institutions.

25 29. Defendants also violated California Labor Code § 246 by not providing all required
26 paid sick days to Plaintiff and Class Members at the regular rate of pay. Labor Code § 246
27 provides that an employee who "works in California for the same employer for 30 or more days
28 within a year from the commencement of employment is entitled to paid sick days as specified in

1 this section.” Labor Code § 246(l)(1) states that “Paid sick time for nonexempt employees shall be
2 calculated in the same manner as the regular rate of pay for the workweek in which the employee
3 uses paid sick time...” Defendants failed to provide Plaintiff and Class Members with all their
4 required and earned sick days at the regular rate of pay, in violation of Labor Code § 246.

5 30. Defendants also had a common policy and practice of systemically failing to pay
6 Plaintiff and Employees the requisite and accrued vacation time pay in accordance with California
7 Law. Specifically, Plaintiff and Employees accrued vested vacation time and/or paid time off.
8 However, Defendants failed to pay all accrued vacation time and/or paid time off owed to Plaintiff
9 and Class Members upon their separation from employment at the regular rate of pay.

10 31. Additionally, from at least four (4) years prior to the filing of this lawsuit and
11 continuing to the present, Defendants have regularly required Class Members to incur business
12 expenses in the course of performing their required job duties for Defendants including for cell
13 phone expenses and mileage. Upon information and belief, Class Members incurred similar costs.
14 These expenses incurred by Class Members were necessary and required of them in performing
15 their assigned job duties, but Defendants failed to reimburse Class Members for all such necessary
16 expenditures, thus entitling them to reimbursement according to proof as required under Labor
17 Code § 2802 and the applicable provisions of the IWC Wage Orders.

18 32. Further, the facilities where Defendants required the Aggrieved Employees to work
19 were intolerably hot, and Plaintiff and upon information and belief the Aggrieved Employees were
20 concerned that they would suffer from heat-related injuries during their work shifts. By failing to
21 maintain temperatures providing reasonable comfort levels consistent with industry-wide
22 standards for the nature and process of the work performed, Defendants violated paragraph 15 of
23 the applicable IWC Wage Orders, and are entitled to civil penalties as appropriate.

24 33. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to,
25 *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 212, 213, 226, 226.3, 226.7, 227.3, 246, 248,
26 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2698 *et*
27 *seq.*, and California Code of Regulations, Title 8, section 11000 *et seq.*

28 34. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff

1 and the Class Members seek injunctive relief, restitution, and disgorgement of all benefits
2 Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or
3 fraudulent practices alleged in this Complaint.

4 **CLASS ALLEGATIONS**

5 35. Plaintiff seeks to represent the Subclasses composed of and defined as follows:

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

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

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

14 d. Subclass 4. Rest Break Subclass. All Class Members who were subject to
15 Defendants' policy and/or practice of failing to authorize and permit Class Members to take
16 uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction
17 thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu
18 thereof.

19 e. Subclass 5. Wage Statement Subclass. All Class Members who, within the
20 applicable limitations period, were not provided with accurate itemized wage statements.

21 f. Subclass 6. Termination Pay Subclass. All Class Members who, within the
22 applicable limitations period, either voluntarily or involuntarily separated from their employment
23 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon
24 termination.

25 g. Subclass 7: Failure to Timely Pay Wages Twice Monthly Subclass. All Class
26 Members who were subject to Defendants' policy and practice of not timely paying all wages
27 earned when they were due and payable at least twice monthly.

28 h. Subclass 8. 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.

i. Subclass 9. Reporting Time Pay Subclass. All Class Members who, within the applicable limitations period, were not paid reporting time pay.

j. Subclass 10 Sick Days Subclass. All Class Members who, within the applicable limitations period, were not paid for their sick days.

k. Subclass 11. Pay Card Subclass. All persons employed by Defendants in California who were paid by pay card (or similar means) at any time during the relevant time period.

l. Subclass 12. Vacation Pay Class: All Class members who earned paid vacation time and/or paid time off without receiving compensation for all vested paid vacation time at the regular rate of pay.

m. Subclass 13. Expense Reimbursement Subclass. All Class Members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendant and who were subject to a policy and/or practice under which such expenses were not reimbursed.

n. Subclass 14. 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.

36. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or 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.

37. 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 in a practice whereby Defendants failed to correctly calculate compensation for the time worked by Class Members, even though Defendants enjoyed the benefit of this work, required Class Members to perform this work and permitted or suffered to permit this work. Defendants have uniformly denied these Class Members wages to which these employees are entitled and failed to

1 provide meal periods or authorize and permit rest periods, in order to unfairly cheat the
2 competition and unlawfully profit.

3 38. This action has been brought and may properly be maintained as a class action
4 under the provisions of Code of Civil Procedure § 382 because there is a well-defined community
5 of interest in litigation and proposed class is easily ascertainable.

6 **A. Numerosity**

7 39. The potential members of the class as defined are so numerous that joinder of all
8 the member of the class is impracticable. While the precise number of class member has not been
9 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
10 time period relevant to this lawsuit, hundreds of employees who satisfy the Class definition within
11 the State of California.

12 40. Accounting for employee turnover during the relevant time period increases this
13 number substantially. Plaintiff alleges that Defendants' employment records will provide
14 information as to the number and location of all Class Members.

15 **B. Commonality**

16 41. There are questions of law and fact common to the Class that predominates over
17 any questions affecting only individual Class Members. These common questions of law and fact
18 include:

- 19 a. Whether Defendants failed to pay Class Members minimum wages;
- 20 b. Whether Defendants failed to pay Class Members wages for all hours worked;
- 21 c. Whether Defendants failed to pay Class Members overtime as required under Labor
22 Code § 510;
- 23 d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable
24 IWC Wage Orders, by failing to provide Class Members with requisite meal
25 periods or premium pay in lieu thereof;
- 26 e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage
27 Orders, by failing to authorize and permit Class Members to take requisite rest
28 breaks or provide premium pay in lieu thereof;

- 1 f. Whether Defendants violated Labor Code § 226(a) by providing Class Members
2 with inaccurate wage statements;
- 3 g. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay
4 wages and compensation due and owing at the time of termination of employment;
- 5 h. Whether Defendants' conduct was willful;
- 6 i. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage
7 Orders by failing to maintain accurate records of Class Members' earned wages and
8 work periods;
- 9 j. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class
10 Members during the relevant time period for all hours worked, whether regular or
11 overtime;
- 12 k. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;
- 13 l. Whether Defendants failed to pay reporting time pay;
- 14 m. Whether Defendants failed to pay Class Members for sick days;
- 15 n. Whether Defendants failed to pay wages due, negotiable, and payable in cash on
16 demand;
- 17 o. Whether Defendant violated Labor Code § 227.3 by failing to pay Class Members
18 for accrued vacation time upon separation;
- 19 p. Whether Defendants violated Labor Code § 2802 by failing to reimburse all
20 necessary business expenses Defendants required them to incur in performing their
21 job duties;
- 22 q. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 23 r. Whether Class Members are entitled to equitable relief pursuant to Business and
24 Professions Code § 17200 *et seq.*

25 **C. Typicality**

26 42. The claims of the named plaintiff is typical of those of Class Members. The Class
27 Members all sustained injuries and damages arising out of and caused by Defendants' common
28 course of conduct in violation of statutes, as well as regulations that have the force and effect of

1 law, as alleged herein.

2 **D. Adequacy of Representation**

3 43. Plaintiff will fairly and adequately represent and protect the interest of the Class
4 Members. Counsel who represents Class Members are experienced and competent in litigating
5 employment class actions.

6 **E. Superiority of Class Action**

7 44. A class action is superior to other available means for the fair and efficient
8 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
9 questions of law and fact common to all Class Members predominate over any questions affecting
10 only individual Class Members. Each Class Member has been damaged and is entitled to recovery
11 by reason of Defendants' illegal policies or practices of failing to compensate Class Members
12 properly.

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

25 46. Class action treatment will allow those persons similarly situated to litigate their
26 claims in the manner that is most efficient and economical for the parties and the judicial system.
27 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.
28 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would

1 set forth the subject and nature of the instant action. The Defendants' own business records can be
2 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent
3 that any further notice is required additional media and/or mailings can be used.

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

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

18 **FIRST CAUSE OF ACTION**

19 **FAILURE TO PAY MINIMUM WAGES**

20 **(Against All Defendants)**

21 49. Plaintiff re-alleges and incorporate all preceding paragraphs, as though set forth in
22 full herein.

23 50. Defendants failed to pay Class Members minimum wages for all hours worked.
24 Defendants had a consistent policy of misstating Class Members' time records and failing to pay
25 Class Members for all hours worked. Class Members would work hours and not receive wages,
26 including as alleged above in connection with off the clock work. Additionally, Defendants failed
27 to incorporate non-discretionary bonuses and/or shift differentials into the regular rate of pay used
28 to calculate and pay overtime. Defendants, and each of them, have intentionally and improperly

1 changed, adjusted and/or modified the hours of Class Members, which resulted in off the clock
2 work and underpayment of all wages owed to Class Members over a period of time, while
3 benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay
4 minimum wages to Class Members, to their detriment. Additionally, Defendants had a consistent
5 policy of failing to pay Class Members for hours worked during alleged meal and rest periods for
6 which Class Members were consistently denied, as also addressed herein. Defendants' uniform
7 pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class
8 as a whole, as a result of implementing a uniform policy and practice that denied accurate
9 compensation to Class Members as to minimum wage pay.

10 51. In California, employees must be paid at least the then applicable state minimum
11 wage for all hours worked. (IWC Wage Order MW-2014). Additionally, pursuant to California
12 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
13 timely pay its employees for all hours worked. Defendants failed to do so.

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

17 53. The applicable minimum wages fixed by the commission for work during the
18 relevant period is found in Paragraph 4(A)-4(D) of the IWC Wage Orders.

19 54. The minimum wage provisions of California Labor Code are enforceable by private
20 civil action pursuant to Labor Code § 1194(a) which states: "Notwithstanding any agreement to
21 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal
22 overtime compensation applicable to the employee is entitled to recover in a civil action the
23 unpaid balance of the full amount of this minimum wage or overtime compensation, including
24 interest thereon, reasonable attorney's fees and costs of suit."

25 55. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
26 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
27 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
28 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for

1 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may
2 be used as a credit against a minimum wage obligation.

3 56. In committing these violations of the California Labor Code, Defendants
4 inaccurately recorded, or required Class Members to input times that did not reflect their actual
5 hours worked, or calculated the correct time worked and consequently underpaid the actual time
6 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all
7 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare
8 Commission requirements and other applicable laws and regulations. As a result of these
9 violations, Defendant also failed to timely pay all wages earned in accordance with California
10 Labor Code § 1194.

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

15 58. In addition to restitution for all unpaid wages, pursuant to California Labor Code §
16 1197.1, Class Members are entitled to recover a penalty of \$100.00 for the initial failure to timely
17 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
18 employee minimum wages.

19 59. Pursuant to California Labor Code § 1194.2, Class Members are further entitled to
20 recover liquidated damages in an amount equal to wages unlawfully unpaid and interest thereon.

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

24 61. Wherefore, Class Members are entitled to recover the unpaid minimum wages
25 (including double minimum wages), liquidated damages in an amount equal to the minimum
26 wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant
27 to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request
28 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the

assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code, including § 558, and/or other applicable statutes.

SECOND CAUSE OF ACTION

FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510

(Against All Defendants)

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

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

64. By their conduct, as set forth herein, Defendants violated California Labor Code § 510 (and the relevant orders of the Industrial Welfare Commission) by failing to pay Class Members: (a) time and one-half their regular hourly rates for hours worked in excess of eight (8) hours in a workday or in excess of forty (40) hours in any workweek or for the first eight (8) hours worked on the seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours worked in excess of twelve (12) hours in any one (1) day or for hours worked in excess of eight (8) hours on any seventh day of work in a workweek.

65. Defendants had a consistent policy of not paying Class Members wages for all hours worked, including by requiring off the clock work, as addressed above. Additionally, Defendants failed to incorporate non-discretionary bonuses and/or shift differentials into the regular rate of pay used to calculate and pay overtime. Defendants, and each of them, have intentionally and improperly changed, adjusted and/or modified certain employees’ hours, including Plaintiff’s, in order to avoid paying Class Members all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor

1 Standards and Enforcement. Defendants have also violated these provisions by requiring Class
2 Members to work through portions of their meal period. Therefore, Class Members were not
3 properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours
4 in a given day, and/or forty hours in a given week. Based on information and belief, Defendants
5 did not make available to Class Members a reasonable protocol for correcting time records when
6 Class Members worked overtime hours or to fix incorrect time entries.

7 66. Defendants' failure to pay Class Members the unpaid balance of regular wages
8 owed and overtime compensation, as required by California law, violates the provisions of Labor
9 Code §§ 510 and 1198, and is therefore unlawful.

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

23 68. Defendants' failure to pay compensation in a timely fashion also constituted a
24 violation of California Labor Code § 204, which requires that all wages shall be paid
25 semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct
26 violation of that provision of the California Labor Code, Defendants have failed to pay all wages
27 and overtime compensation earned by Class Members. Each such failure to make a timely
28 payment of compensation to Class Members constitutes a separate violation of California Labor

1 Code § 204.

2 69. Class Members have been damaged by these violations of California Labor Code
3 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

4 70. Consequently, pursuant to the California Labor Code, including Labor Code §§
5 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),
6 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime
7 compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the
8 assessment of any statutory penalties against Defendants, and each of them, and any additional
9 sums as provided by the Labor Code and/or other statutes.

10 **THIRD CAUSE OF ACTION**

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

12 **(Against All Defendants)**

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

15 72. Class Members regularly worked shifts greater than five (5) hours and in some
16 instances, greater than ten (10) hours. Pursuant to Labor Code § 512 an employer may not employ
17 someone for a shift of more than five (5) hours without providing him or her with a meal period of
18 not less than thirty (30) minutes or for a shift of more than ten (10) hours without providing him or
19 her with a second meal period of not less than thirty (30) minutes.

20 73. Defendants failed to provide Class Members with meal periods as required under
21 the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this
22 resulted in Class Members consistently having to work through their scheduled meal breaks
23 because the demands of the job would not avail them the opportunity to take a lawfully
24 uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions
25 when Class Members worked more than ten (10) hours in a given shift, they did so without
26 receiving a second uninterrupted thirty (30) minute meal period as required by law. To the extent
27 Class Members were permitted to take meal periods, they were not permitted to leave the
28 premises, and were required to carry walkie-talkies and respond to work demands.

74. Defendants thus failed to provide Class Members with meal periods as required by the Labor Code, including by not providing them with the opportunity to take meal breaks, by providing them late or for less than thirty (30) minutes, or by requiring them to perform work during breaks.

75. Moreover, Defendants failed to compensate Class Members for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 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. Defendants failed to compensate Class Members for each meal period not provided or inadequately provided, as required under Labor Code § 226.7.

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

FOURTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

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

78. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes net rest time per four (4) work hours.

79. Class Members consistently worked consecutive four (4) hour shifts and were generally scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and permit them to take rest periods. Pursuant to the Labor Code and the applicable IWC Wage Order, Class Members were entitled to paid rest breaks of not less than ten (10) minutes for

1 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely
2 rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. To the extent
3 Class Members were permitted to take rest breaks, they were not permitted to leave the premises,
4 and were required to carry walkie-talkies and respond to work demands. Defendants placed their
5 needs over Class Members lawful rest breaks and this resulted in Class Members consistently
6 having to work through their scheduled rest breaks because the demands of the job would not avail
7 them the opportunity to take a lawfully uninterrupted and off-duty rest break. Thus, Class
8 Members were consistently denied of their rest breaks.

9 80. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders
10 provide that if an employer fails to provide an employee rest period in accordance with this
11 section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of
12 compensation for each workday that the rest period is not provided.

13 81. Defendants, and each of them, have therefore intentionally and improperly denied
14 rest periods to Class Members in violation of Labor Code §§ 226.7 and 512 and paragraph 12 of
15 the applicable IWC Wage Orders.

16 82. Defendants failed to authorize and permit Class Members to take rest periods, as
17 required by the Labor Code. Moreover, Defendants did not compensate Class Members with an
18 additional hour of pay at each Class Member's effective hourly rate for each day that Defendants
19 failed to provide them with adequate rest breaks, as required under Labor Code § 226.7.

20 83. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC
21 Wage Orders, Class Members are entitled to damages in an amount equal to one (1) hour of wages
22 at their effective hourly rates of pay for each day worked without the required rest breaks, a sum to
23 be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each
24 of them, in a sum as provided by the Labor Code and/or other statutes.

25 **FIFTH CAUSE OF ACTION**
26 **VIOLATION OF LABOR CODE § 226(a)**
27 **(Against All Defendants)**

28 84. Plaintiff re-alleges and incorporates all preceding paragraphs, as though set forth in

1 full herein.

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

9 86. Defendants failed to provide Class Members with accurate itemized wage
10 statements in writing, as required by the Labor Code. Specifically, the wage statements given to
11 Class Members did not correctly list the total number of hours worked, and failed to accurately
12 account for unpaid wages and overtime because their actual hours worked were under-reported
13 due to off the clock work. Moreover, the wage statements given to Class Members failed to
14 incorporate non-discretionary bonuses and/or shift differentials into the regular rate of pay used to
15 calculate and pay overtime compensation. Additionally, the wage statements given to Class
16 Members failed to accurately account for premium pay for deficiently provided meal periods and
17 rest breaks.

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

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

16 89. Therefore, as a direct and proximate cause of Defendants’ violation of Labor Code
17 § 226(a), Class Members suffered injuries, including among other things confusion over whether
18 they received all wages owed them, the difficulty and expense involved in reconstructing pay
19 records, and forcing them to make mathematical computations to analyze whether the wages paid
20 in fact compensated them correctly for all hours worked.

21 90. Pursuant to Labor Code §§ 226(a) and 226(e) and 1174, and the applicable IWC
22 Wage Order, paragraph 7(B), Class Members are entitled to recover the greater of all actual
23 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one
24 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
25 penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and
26 reasonable attorneys’ fees.

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SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 203
(Against All Defendants)

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

92. Numerous Class Members are no longer employed by Defendants; they either quit Defendants' employ or were fired therefrom.

93. Defendants failed to pay these Class Members all wages due and certain at the time of termination or within seventy-two (72) hours of resignation.

94. The wages withheld from these Class Members by Defendants remained due and owing for more than thirty (30) days from the date of separation from employment.

95. Defendants failed to pay Class Members without abatement, all wages as defined by applicable California law. Specifically, Plaintiff and Class Members were not paid all regular and overtime wages because Defendants failed to pay for all hours worked by requiring off the clock work, and failing to incorporate non-discretionary bonuses and/or shift differentials into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest break premiums. Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the required time was willful within the meaning of Labor Code § 203.

96. Defendants' failure to pay wages, as alleged entitles these Class Members to penalties under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

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

98. Labor Code § 204 instructs that: "All wages, ...earned by any person in any

1 employment are due and payable twice during each calendar month, on days designated in
2 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,
3 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
4 during which the labor was performed, and labor performed between the 16th and the last day,
5 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
6 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of
7 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven
8 calendar days following the close of the payroll period.” As detailed above, Defendants
9 maintained a consistently applied policy and practice of not paying all wages earned between the
10 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned
11 between the 16th and the last day of the month between the 1st and 10th day of the following month.
12 Defendants similarly failed to pay all wages earned by not more than seven calendar days
13 following the close of the payroll period. These failures arose from Defendants’ failure to pay for
14 all hours worked.

15 99. All wages due and owing to Plaintiff and the Class Members, including as required
16 under Labor Code § 510, were therefore not timely paid by Defendants, as addressed in detail
17 above. Additionally, wages required by Labor Code § 1194 and other sections became due and
18 payable to each Class Member in each pay period that he or she was not provided with a meal
19 period or rest period or paid straight or overtime wages or commissions to which he or she was
20 entitled.

21 100. Defendants thus violated Labor Code § 204 by systematically refusing to pa*y
22 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
23 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
24 payday for the period involved, not less than the applicable minimum wage for all hours worked in
25 the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for longer
26 hours than those fixed by the order or under conditions of labor prohibited by the order is
27 unlawful.” Plaintiff and the Class Members may therefore pursue damages and penalties for
28 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders, including

1 penalties under paragraph 20 of the applicable IWC Wage Orders.

2 101. As a result of the unlawful acts of Defendants, Plaintiff and Class Members seek to
3 represent they have been deprived of wages in amounts to be determined at trial, and they are
4 entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs,
5 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
6 applicable IWC Wage Orders.

7 **EIGHTH CAUSE OF ACTION**

8 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**
9 **AND 1174.5**

10 **(Against All Defendants)**

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

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

17 104. During the course of Plaintiff's and Class Members' employment, Defendants
18 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as
19 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper
20 wages, overtime, and premium pay as discussed above.

21 105. Accordingly, Defendants are liable for civil penalties pursuant to the California
22 Labor Code § 1174.5 for the three (3) years prior to the filing of this Complaint.

23 **NINTH CAUSE OF ACTION**

24 **FAILURE TO PAY REPORTING TIME PAY**

25 **(Against all Defendants)**

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

28 107. Section 5(A) of the applicable Wage Order(s), requires that for "[E]ach workday an

1 employee is required to report for work and does report, but is not put to work or is furnished less
2 than half said employee's usual or scheduled day's work, the employee shall be paid for half the
3 usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4)
4 hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

5 108. As addressed in detail above, Defendants followed a uniform policy of failing to
6 pay reporting time pay on in accordance with the applicable IWC Wage Order requirements. For
7 example, Defendant required Plaintiff and the Class members to, on occasion, report for a
8 scheduled work day to be told whether work was available for them or not, and when there was no
9 work, Plaintiff and the Class members would be sent home after waiting for hours. On such days
10 when Defendant required Plaintiff and the Class Members to report to work only to be sent home
11 because work was not available, they were not paid required reporting time wages for the hours
12 they waited without receiving their regular hourly rate of pay for them.

13 109. Plaintiff brings this claim for failure to pay reporting time pay as required by
14 Section 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which
15 instructs that: "the maximum hours of work and the standard conditions of labor fixed by the
16 commission shall be the maximum hours of work and the standard conditions of labor for
17 employees. The employment of any employee for longer hours than those fixed by the order or
18 under conditions of labor prohibited by the order is unlawful."

19 110. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class
20 members, despite the fact that they were required by Defendants to report for work and were under
21 Defendants' control during these times and were unable to use their time for their own purposes.
22 The failure to pay for reporting time pay is a violation of the California wage orders and is a
23 failure to pay all wages owed, which is a violation of Labor Code §1198.

24 111. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class
25 members are entitled to recover civil penalties, in addition to other penalties, for each underpaid
26 Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50 for the initial
27 violation and \$100 for subsequent violations during each relevant pay period when Defendants
28 failed to pay reporting time pay. These reporting time pay violations also give rise to violations of

1 Labor Code §§ 203, 226, and under the PAGA.

2 112. Accordingly, Plaintiff seeks to recover unpaid reporting time pay which Defendants
3 failed to pay Plaintiff and the Class members pursuant to Sections 5(A) and 20(A) of the
4 applicable IWC Wage Orders and civil penalties and attorneys' fees and costs as may be
5 authorized.

6 **TENTH CAUSE OF ACTION**
7 **VIOLATION OF LABOR CODE § 246**
8 **(Against All Defendants)**

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

11 114. Labor Code Section 246(i) requires that employers notify employees each pay
12 period of the paid sick leave they have available for use. Pursuant to Labor Code §246(i), "An
13 employer shall provide an employee with written notice that sets forth the amount of paid sick
14 leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either
15 the employee's itemized wage statement described in Section 226 or in a separate writing provided
16 on the designated pay date with the employee's payment of wages. If an employer provides
17 unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this
18 section by indicating on the notice or the employee's itemized wage statement 'unlimited.'"

19 115. Defendants failed to provide required California paid sick days and further failed to
20 distribute and maintain required documentation concerning how many sick days were available, in
21 violation of Labor Code §§246, 246(a), 246(b)(1), and 247.5.

22 **ELEVENTH CAUSE OF ACTION**
23 **FAILURE TO PAY WAGES DUE, NEGOTIABLE AND PAYABLE IN CASH ON**
24 **DEMAND**
25 **(Lab. Code §§ 212 and 213)**
26 **(Against All Defendants)**

27 116. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged
28 herein.

1 117. Labor Code § 212 states that no employer “shall issue in payment of wages due” by
2 “order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is
3 negotiable and payable in cash, on demand, without discount, at some established place of
4 business in the state.”

5 118. Defendants failed to pay Plaintiff and Class Members with an order, check, draft,
6 note, memorandum, or other acknowledgment of indebtedness that was payable on demand,
7 without discount at some established place of business in the state. Defendants issued pay cards to
8 Plaintiff and Class Members for wages earned. These pay cards were useable for a fee and did not
9 have a provision for use and payment in California at no cost to the employee. Therefore,
10 Defendants failed to provide Plaintiff and Class Members with checks, drafts, notes or other
11 acknowledgements of indebtedness that were payable on demand without discount as required by
12 Labor Code § 212, which required Plaintiff and Class Members to incur fees to use, was not fully
13 cashable, and not usable at all financial institutions.

14 119. Such a pattern, practice and uniform administration of corporate policy regarding
15 illegal employee compensation as described herein is unlawful and creates an entitlement to
16 recovery by Plaintiff and Class Members in a civil action for damages and wages owed and for
17 costs and attorneys' fees.

18 **TWELFTH CAUSE OF ACTION**
19 **FAILURE TO PAY VACATION WAGES**
20 **(Against All Defendants)**

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

23 121. Pursuant to California Labor Code § 227.3, whenever a contract of employment or
24 employment policy provides for vacation time and an employee is terminated without having
25 taken off her vested vacation time, all vested vacation time shall be paid to her as wages at her
26 final rate in accordance with said contract of employment or policy respecting eligibility or time
27 served.

28 122. At all relevant times during the applicable limitations period, Plaintiff and

1 Employees accrued vacation time, and/or paid time off, during their employment with Defendants.

2 123. However, Defendants implemented a common policy and practice of failing to pay
3 Plaintiff and Employees for all accrued vacation wages upon separation of employment, in
4 violation of Labor Code 227.3.

5 124. By reason of the above, Plaintiff and Employees are entitled to restitution for all
6 unpaid amounts due and owing to within four (4) years of the date of the filing of the original
7 Complaint until the date of entry of judgment.

8 125. Plaintiff, on behalf of herself and Employees, seeks interest thereon pursuant to
9 California Labor Code section 218.6, costs pursuant to California Labor Code section 218.6, and
10 reasonable attorneys' fees pursuant to California Code of Civil Procedure section 1021.5.

11 **THIRTEENTH CAUSE OF ACTION**

12 **REIMBURSEMENT OF NECESSARY EXPENDITURES UNDER LABOR CODE § 2802**

13 **(Against All Defendants)**

14 126. Plaintiff re-alleges and incorporates all preceding paragraphs as though set forth in
15 full herein.

16 127. Under Labor Code § 2802(a) an employer must indemnify its employees for all
17 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
18 of his or her duties, or of his or her obedience to the directions of the employer.

19 128. Defendants have regularly required Class Members to incur business expenses in the
20 course of performing their required job duties for Defendants including for cell phone expenses and
21 mileage. These expenses incurred by Class Members were necessary and required of them in
22 performing their assigned job duties, but Defendants failed to reimburse Class Members for all such
23 necessary expenditures. Class Members were not reimbursed for those lawful and necessary work
24 related expenses or losses incurred in direct discharge of their job duties during employment with
25 Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the
26 applicable IWC Wage Orders, paragraph 9.

27 129. As a result of the unlawful acts of Defendants, Class Members have been deprived
28 of reimbursement in amounts to be determined at trial; they are entitled to recovery of such amounts,

1 plus interest and penalties thereon, attorneys' fees, and costs.

2 **FOURTEENTH CAUSE OF ACTION**
3 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***
4 **(Against All Defendants)**

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

7 131. Plaintiff, on behalf of himself, Class Members, and the general public, brings this
8 claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of Defendants as
9 alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Class
10 Members and the general public. Plaintiff seeks to enforce important rights affecting the public
11 interest within the meaning of Code of Civil Procedure § 1021.5.

12 132. Plaintiff is a "person" within the meaning of Business & Professions Code
13 § 17204, has suffered injury, and therefore has standing to bring this cause of action for injunctive
14 relief, restitution, and other appropriate equitable relief.

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

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

1 employers and their employees from competitors who lower costs to themselves by failing to
2 comply with minimum labor standards.

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

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

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

15 138. By the conduct alleged herein, Defendants have engaged and continue to engage in
16 a business practice which violates California and federal law, including but not limited to, the
17 applicable Industrial Wage Order(s), the California Code of Regulations, and the California Labor
18 Code including Sections 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, for which this Court
19 should issue declaratory and other equitable relief pursuant to California Business & Professions
20 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute unfair
21 competition, including restitution of wages wrongfully withheld.

22 139. As a proximate result of the above-mentioned acts of Defendants, Class Members
23 have been damaged, in a sum to be proven at trial.

24 140. Unless restrained by this Court Defendants will continue to engage in such
25 unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this Court
26 should make such orders or judgments, including the appointment of a receiver, as may be
27 necessary to prevent the use by Defendants or their agents or employees of any unlawful or
28 deceptive practice prohibited by the Business & Professions Code, including but not limited to the

1 disgorgement of such profits as may be necessary to restore Class Members to the money
2 Defendants have unlawfully failed to pay.

3 **FIFTEENTH CAUSE OF ACTION**
4 **VIOLATION OF LABOR CODE § 2698, ET SEQ.**
5 **(Against All Defendants)**

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

8 142. Plaintiff and the Employees in the Class are also Class Members as defined under
9 Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and either were
10 or are employed by the alleged violators, Defendants (“Class Members”) during the relevant time
11 period.

12 143. In failing to pay Class Members minimum wages and overtime, not providing
13 proper meal and rest periods, failing to provide accurate wage statements, and failing to Pay
14 Employees upon termination or timely upon resignation, all discussed above, Defendants failed to
15 timely pay Class Members wages on a semimonthly basis as required under Labor Code § 204.
16 Defendants also failed to maintain records showing accurate hours worked daily and the wages
17 paid to Class Members, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC
18 Wage Orders.

19 144. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
20 for Defendants’ violation of Labor Code provisions included under Labor Code 2699.5, including
21 the penalty provisions, without limitation, based, inter alia, on the following California Labor
22 Code sections: 201, 202, 203, 204, 226, 226.2, 226.7, 510, 512, 558, 1174, 1174.5, 1185, 1194,
23 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, and 2698 *et seq.*

24 145. More specifically, after complying with the notice procedures of Labor Code §
25 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
26 and other similarly Class Members, a PAGA claim for violations of the above addressed
27 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
28 including as follows:

1 (a) Wage Claims: For failure to provide Plaintiff and the Class Members all earned
2 regular pay and minimum wages for regular hours worked and for failure to pay overtime
3 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
4 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
5 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
6 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
7 to Labor Code § 2699(g)(1);

8 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Class
9 Members off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
10 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
11 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
12 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
13 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
14 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
15 pursuant to Labor Code § 2699(g)(1);

16 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to
17 provide Plaintiff and Class Members with accurate, itemized wage statements and failure to
18 maintain employment records for Plaintiff and Class Members under Labor Code §§ 226, 1174,
19 and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all
20 civil and statutory penalties and wages available and applicable under Labor Code §§ 226, 226.3,
21 558, 1174.5, 1199, 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for
22 attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing
23 inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a),
24 Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3,
25 which in addition to other penalties provided by law, subjects Defendants to "a penalty in the
26 amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and
27 one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

28 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at

1 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
2 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
3 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
4 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code
5 § 2699(g)(1);

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

12 146. As also addressed above, Plaintiff, on behalf of the Class Members, also seeks the
13 penalties and remedies set forth in Labor Code § 558, which states:

14 (a) Any employer or other person acting on behalf of an employer who violates, or
15 causes to be violated, a section of this chapter or any provision regulating hours and days of work
16 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:
17 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period
18 for which the employee was underpaid in addition to an amount sufficient to recover underpaid
19 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
20 for each pay period for which the employee was underpaid in addition to an amount sufficient to
21 recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
22 employee.

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

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

147. Plaintiff has exhausted her administrative remedies by sending a certified letter to the LWDA and Defendants postmarked on **October 23, 2024**, 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

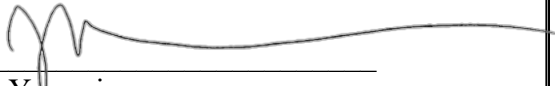
WHEREFORE, Plaintiff prays for the following relief:

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 Class Members 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 Class Members 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 Class Members for each day requisite rest breaks were not provided or were deficiently provided where no premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may be proven;
7. For penalties pursuant to Labor Code § 226(e) for Class Members, as may be proven;

- 1 8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were
2 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
- 3 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
4 for all class members in violation of Labor Code § 204, as may be proven;
- 5 10. For penalties pursuant to Labor Code § 246, as may be proven;
- 6 11. For penalties pursuant to Labor Code §§ 213 for all Class Members who were not
7 paid wages due, negotiable, and payable in cash on demand;
- 8 12. For penalties pursuant to Labor Code § 227.3 for all Class Members who were not
9 paid for all accrued vacation time at separation.
- 10 13. For restitution and/or damages for all amounts unlawfully withheld from the wages
11 for all Class Members in violation of Labor Code § 2802, as may be proven;
- 12 14. For restitution for unfair competition pursuant to Business & Professions Code
13 § 17200 *et seq.*, including disgorgement or profits, as may be proven;
- 14 15. For an order enjoining Defendants and their agents, servants, and employees, and
15 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
16 duties adumbrated in this Complaint;
- 17 16. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;
- 18 17. For other wages and penalties under the Labor Code as may be proven;
- 19 18. For all general, special, and incidental damages as may be proven;
- 20 19. For an award of pre-judgment and post-judgment interest;
- 21 20. For an award providing for the payment of the costs of this suit;
- 22 21. For an award of attorneys' fees; and
- 23 22. For such other and further relief as this Court may deem proper and just.

24 DATED: December 27, 2024

D.LAW, INC.

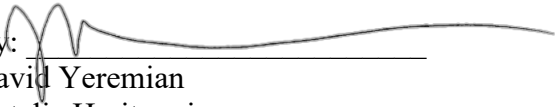
25
26 By: 
27 David Yeremian
Natalie Haritounian
28 Jonas Agle
Attorneys for Plaintiff THORNTON HAYES,
and all others similarly situated

DEMAND FOR JURY TRIAL

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

DATED: December 27, 2024

D.LAW, INC.

By: 
David Yeremian
Natalie Haritounian
Jonas Agle
Attorneys for Plaintiff THORNTON HAYES,
and all others similarly situated

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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, Suite 840, Glendale, CA 91203.

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☐ **(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.

☐ (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[X] (ONLY BY ELECTRONIC TRANSMISSION) I electronically served the foregoing document in PDF format. I caused a true copy of the foregoing document(s) listed above to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address(es) shown above. Each transmission was reported as complete and without error.

[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.

Executed on December 27, 2024, at Glendale, California.

/s/ Silvia Pimentel
Silvia Pimentel