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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHARLIE PAK, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiffs,
v.

RHO-CHEM, LLC a California limited
liability company, and DOES 1-50, Inclusive,
Defendants.

Case No: **25STCV01134**

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION
OF CAL. BUS. & PROF. CODE §17200 *et*
seq;
- 2) FAILURE TO PAY MINIMUM WAGES
IN VIOLATION OF CAL. LAB. CODE §§
1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF CAL. LAB. CODE §§
510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED
MEAL PERIODS IN VIOLATION OF
CAL. LAB. CODE §§ 226.7 & 512 AND
THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED
REST PERIODS IN VIOLATION OF
CAL. LAB. CODE §§ 226.7 & 512 AND
THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE WAGES WHEN
DUE IN VIOLATION OF CAL. LAB.
CODE §§ 201, 202 AND 203;
- 7) FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN
VIOLATION OF CAL. LAB. CODE § 226;
- 9) FAILURE TO REIMBURSE
EMPLOYEES FOR REQUIRED
EXPENSES IN VIOLATION OF LABOR
CODE § 2802;

10)VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT LABOR
CODE §§ 2698 ET SEQ.

DEMAND FOR A JURY TRIAL

PLAINTIFF CHARLIE PAK ("PLAINTIFF"), an individual, on behalf of himself and all other similarly situated current and former employees, alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

A. Defendants

1. Defendant RHO-CHEM, LLC ("DEFENDANT RHO-CHEM"), is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California, county of Los Angeles, owns, operates, and/or manages hazardous waste removal services.

2. "DEFENDANTS," as used herein, refers collectively to Defendant RHO-CHEM, LLC and DOES 1 through 50, inclusive. PLAINTIFF alleges that DEFENDANTS' various separate corporate entities are used by an individual or individuals, or by another corporation, to accomplish inequitable purposes, including to limit liability for the unlawful acts of DEFENDANTS.

3. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50, inclusive, are

1 responsible in some manner for one or more of the events and happenings that proximately caused
2 the injuries and damages hereinafter alleged.

3 4. The agents, servants and/or employees of the DEFENDANTS and each of them
4 acting on behalf of the DEFENDANTS acted within the course and scope of his, her or its
5 authority as the agent, servant and/or employee of the DEFENDANTS, and personally
6 participated in the conduct alleged herein on behalf of the DEFENDANTS with respect to the
7 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the
8 other DEFENDANTS and all DEFENDANTS are jointly and severally liable to PLAINTIFF and
9 the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result of
10 the conduct of the DEFENDANTS' agents, servants and/or employees.

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

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

22 7. PLAINTIFF was employed by DEFENDANT in California from June 2023 to
23 October 2024. At all times Plaintiff was employed by Defendant, Plaintiff was classified by
24 DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally
25 required meal and rest periods and payment of minimum and overtime wages due for all time
26 worked.

27 8. PLAINTIFF brings this Class Action on behalf of himself and a California class,
28 defined as all persons who are or previously were employed by DEFENDANT in California and

1 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
2 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
3 by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the
4 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

5 9. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
6 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
7 the CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed to
8 lawfully compensate these employees. DEFENDANT’s uniform policy and practice alleged
9 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained
10 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
11 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
12 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
13 other members of the CALIFORNIA CLASS who have been economically injured by
14 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable
15 relief.

16 10. DEFENDANTS’ uniform policies and practices alleged herein were unlawful,
17 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain
18 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

19 11. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
20 injunction enjoining such conduct by DEFENDANTS in the future, relief for the named
21 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
22 injured by DEFENDANTS’ past and current unlawful conduct, and all other appropriate legal and
23 equitable relief.

24 **JURISDICTION AND VENUE**

25 12. This Court has jurisdiction over this Action pursuant to California Code of Civil
26 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
27 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
28 DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

1 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,
2 Sections 395 and 395.5, because DEFENDANT operates in Los Angeles County, California,
3 employs the CALIFORNIA CLASS in parts of this County, and committed the wrongful conduct
4 herein alleged in this County against the CALIFORNIA CLASS.

5 **JOINT EMPLOYER**

6 14. The Private Attorney General Act (“PAGA”) permits an aggrieved employee to
7 enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* §
8 2699(a).)

9 15. Section 558 of the California Labor Code provides that “any employer *or other*
10 *person* acting on behalf of an employer who violates, or causes to be violated, a section of this
11 chapter or any provision regulating hours and days of work in any order of the Industrial Welfare
12 Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).);

13 16. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other*
14 *person* acting either individually or as an officer, agent, or employee of another person, who pays
15 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state
16 or local law, or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* §
17 1197.1(a).)

18 17. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have
19 held that a corporate employer’s owners, officers and directors, are subject to civil penalties for
20 the employer’s failure to pay appropriate wages to its employees, and, since liability under either
21 558 or 1197.1 does not depend on a finding of an alter ego, no alter ego allegations or findings are
22 necessary. *Atempa v. Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v.*
23 *Cjaders Food, Inc.* (2009 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203
24 Cal.App.4th 1112, 1145-1146.

25 18. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS,
26 and each of them, are subject to civil penalties for their failure to pay PLAINTIFF and the
27 AGGRIEVED EMPLOYEES, defined below, the appropriate wages as complained of herein and
28 proximately caused the complaints, injuries, and damages alleged herein.

1 19. At all relevant times, each DEFENDANT, whether named or fictitious, was the
2 agent, employee or other person acting on behalf of each other Defendant, and, in participating in
3 the acts alleged in this Complaint, acted within the scope of such agency or employment and
4 ratified the acts of the other.

5 20. Each DEFENDANT, whether named or fictitious, exercised control over
6 PLAINTIFF'S wages, working hours, and/or working conditions.

7 21. Each Defendant, whether named or fictitious, acted in all respects pertinent to this
8 action as the agent of the other DEFENDANTS, carried out a joint scheme, business plan or
9 policy, and the acts of each DEFENDANT are legally attributable to the other DEFENDANTS.

10 **THE CONDUCT**

11 22. In violation of the applicable sections of the California Labor Code and the
12 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
13 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
14 failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS all minimum
15 wages, provide legally compliant meal and rest periods, failed to accurately compensate
16 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
17 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
18 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS
19 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA
20 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other
21 members of the CALIFORNIA CLASS meal and rest premiums at the regular rate, and failed to
22 issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
23 statements showing, among other things, all applicable hourly rates in effect during the pay
24 periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS'
25 uniform policies and practices are intended to purposefully avoid the accurate and full payment
26 for all time worked as required by California law which allows DEFENDANTS to illegally profit
27 and gain an unfair advantage over competitors who comply with the law.

28 //

1 **A. Meal Period Violations**

2 23. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
3 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
4 meaning the time during which an employee is subject to the control of an employer, including all
5 the time the employee is suffered or permitted to work. During the CLASS PERIOD,
6 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without
7 paying them for all the time they were under DEFENDANTS' control.

8 24. Specifically, DEFENDANTS required PLAINTIFF to work during what was
9 supposed to be PLAINTIFF'S off-duty meal break as a result of the nature and constraints of the
10 position. DEFENDANTS required PLAINTIFF and other CALIFORNIA CLASS MEMBERS to
11 wait until vehicles completed pumping before leaving their assigned areas. As a result,
12 PLAINTIFF regularly forfeited meal periods and/or postponed his meal periods.

13 25. As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited
14 minimum wage and overtime compensation by regularly working without their time being
15 accurately recorded and without compensation at the applicable minimum wage and overtime
16 rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other
17 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business
18 records.

19 26. From time to time during the CLASS PERIOD, as a result of their rigorous work
20 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
21 CALIFORNIA CLASS Members are unable to take thirty (30) minute off-duty meal breaks and
22 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA
23 CLASS Members were required to perform work as ordered by DEFENDANTS for more than
24 five (5) hours during some shifts without receiving a meal break. The nature of the work
25 performed by PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for the
26 limited and narrowly construed "on-duty" meal period exception. DEFENDANTS' failure to
27 provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal breaks
28 is evidenced by DEFENDANTS' business records. PLAINTIFF and other members of the

1 CALIFORNIA CLASS, therefore, forfeit meal breaks without additional compensation and in
2 accordance with DEFENDANTS' strict corporate policy and practice.

3 **B. Rest Period Violations**

4 27. During the CLASS PERIOD, for these same reasons, PLAINTIFF and other
5 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
6 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
7 DEFENDANTS' policies and practices. Further, for the same reasons, these employees were
8 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)
9 to four (4) hours from time to time, and a first and second rest period of at least ten (10) minutes
10 for some shifts worked of between six (6) and eight (8) hours from time to time. When they were
11 provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from
12 time to time, required to remain on duty and/or on call. PLAINTIFF and other CALIFORNIA
13 CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their
14 rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF and other
15 CALIFORNIA CLASS Members were from time to time denied their proper rest periods by
16 DEFENDANTS and DEFENDANTS' managers.

17 **C. Unreimbursed Business Expenses**

18 28. DEFENDANTS as a matter of corporate policy, practice, and procedure,
19 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
20 and the CALIFORNIA CLASS for required business expenses incurred by the PLAINTIFF and
21 other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf
22 of DEFENDANTS. Under California Labor Code Section 2802, employers are required to
23 indemnify employees for all expenses incurred in the course and scope of their employment. Cal.
24 Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
25 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
26 of his or her duties, or of his or her obedience to the directions of the employer, even though
27 unlawful, unless the employee, at the time of obeying the directions, believed them to be
28 unlawful."

1 29. In the course of their employment, DEFENDANTS required PLAINTIFF and
2 other CALIFORNIA CLASS Members to use their personal cell phones as a result of and in
3 furtherance of their job duties as employees for DEFENDANT. But for the use of their own
4 personal cell phones, PLAINTIFF and the CALIFORNIA CLASS Members could not complete
5 their essential job duties. For example, PLAINTIFF and other CALIFORNIA CLASS Members
6 were expected to respond to text messages from their supervisor containing status updates during
7 meal and rest periods. However, DEFENDANTS unlawfully failed to reimburse PLAINTIFF and
8 other CALIFORNIA CLASS Members for their use of their personal cell phones. As a result, in
9 the course of their employment with DEFENDANTS, the PLAINTIFF and other CALIFORNIA
10 CLASS Members incurred unreimbursed business expenses, including but not limited to, costs
11 related to the use of their personal cellular phones, all on behalf of and for the benefit of
12 DEFENDANT.

13 **D. Wage Statement Violations**

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

23 31. During the CLASS PERIOD, when PLAINTIFF and other CALIFORNIA CLASS
24 Members missed meal and rest breaks, or were paid inaccurately for missed meal and rest period
25 premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide
26 PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage
27 statements which failed to show, among other things, the total hours worked and all applicable
28 hourly rates in effect during the pay period, and the corresponding amount of time worked at each

hourly rate, correct rates of pay for penalty payments or missed meal and rest periods.

32. DEFENDANTS, therefore failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code § 226.

33. As a result, DEFENDANTS issued PLAINTIFF and other members of the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS' violations are knowing and intentional, and were not isolated due to an unintentional payroll error or inadvertent mistake.

E. Violations for Untimely Payment of Wages

34. Pursuant to California Labor Code section 204, PLAINTIFF and the CALIFORNIA CLASS Members were entitled to the timely payment of wages during their employment. PLAINTIFF and the CALIFORNIA CLASS Members, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within the permissible time period.

CLASS ACTION ALLEGATIONS

35. PLAINTIFF brings the First through Ninth Causes of Action as a class action pursuant to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former non-exempt California employees ("CALIFORNIA CLASS") during the period beginning four years prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

36. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal and rest period policies, failed to compensate for off-the-clock work, failure to provide accurate itemized wage statements, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

37. The members of the class are so numerous that joinder of all class members is impractical.

1 38. Common questions of law and fact regarding DEFENDANTS' conduct, including
2 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failing to provide
3 legally compliant meal and rest periods, failure to provide accurate itemized wage statements, and
4 failure to ensure they are paid at least minimum wage and overtime, exist as to all members of the
5 class and predominate over any questions affecting solely any individual members of the class.

6 Among the questions of law and fact common to the class are:

- 7 a. Whether DEFENDANTS maintained legally compliant meal period policies and
8 practices;
- 9 b. Whether DEFENDANTS maintained legally compliant rest period policies and
10 practices;
- 11 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
12 CLASS Members premium payments for missed meal and rest periods;
- 13 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
14 CLASS Members at least minimum wage for all hours worked;
- 15 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS
16 Members accurate overtime wages;
- 17 f. Whether DEFENDANTS issued legally compliant wage statements;
- 18 g. Whether DEFENDANTS failed to compensate PLAINTIFF and the CALIFORNIA
19 CLASS Members for required business expenses;
- 20 h. Whether DEFENDANTS committed an act of unfair competition by systematically
21 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
22 CLASS for all time worked;
- 23 i. Whether DEFENDANTS committed an act of unfair competition by systematically
24 failing to record all meal and rest breaks missed by PLAINTIFF and other
25 CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed the
26 benefit of this work, required employees to perform this work, and permits or
27 suffers to permit this work;

1 39. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a
2 result of DEFENDANTS' conduct and actions alleged herein.

3 40. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
4 PLAINTIFF has the same interests as the other members of the class.

5 41. PLAINTIFF will fairly and adequately represent and protect the interests of the
6 CALIFORNIA CLASS Members.

7 42. PLAINTIFF retained able class counsel with extensive experience in class action
8 litigation.

9 43. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
10 interest of the other CALIFORNIA CLASS Members.

11 44. There is a strong community of interest among PLAINTIFF and the members of
12 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are
13 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
14 sustained.

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

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

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

b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would, as a practical matter, be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

47. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT.

FIRST CAUSE OF ACTION

Unlawful Business Practices

(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)

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

49. DEFENDANTS are a “person” as that term is defined under Cal. Bus. And Prof. Code § 17021.

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code § 17203).

1 51. By the conduct alleged herein, DEFENDANTS have engaged and continue to
2 engage in a business practice that violates California law, including but not limited to, the
3 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
4 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 351, 558, 1194, 1197,
5 1197.1, 1198, 2802, and 2804 and for which this Court should issue declaratory and other
6 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and
7 remedy the conduct held to constitute unfair competition, including restitution of wages
8 wrongfully withheld.

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

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

23 54. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
24 unfair, and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the
25 other members of the CALIFORNIA CLASS to be underpaid during their employment with
26 DEFENDANTS.

27 55. By the conduct alleged herein, DEFENDANTS' practices were also unfair and
28 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to provide

1 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS Members as
2 required by Cal. Lab. Code §§ 226.7 and 512.

3 56. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
4 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
5 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
6 each workday in which a second off-duty meal period was not timely provided for each ten (10)
7 hours of work.

8 57. PLAINTIFF further demands on behalf of himself and on behalf of each
9 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
10 not timely provided as required by law.

11 58. By and through the unlawful and unfair business practices described herein,
12 DEFENDANTS have obtained valuable property, money and services from PLAINTIFF and the
13 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
14 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
15 detriment of these employees and to the benefit of DEFENDANTS so as to allow
16 DEFENDANTS to unfairly compete against competitors who comply with the law.

17 59. All the acts described herein as violations of, among other things, the Industrial
18 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
19 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and
20 unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business
21 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

22 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
23 and do, seek such relief as may be necessary to restore to them the money and property which
24 DEFENDANTS have acquired or of which PLAINTIFF and the other members of the
25 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
26 business practices, including earned but unpaid wages for all time worked.

27 61. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
28 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,

1 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from
2 engaging in any unlawful and unfair business practices in the future.

3 62. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
4 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
5 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a
6 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
7 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
8 and economic harm unless DEFENDANTS are restrained from continuing to engage in these
9 unlawful and unfair business practices.

10 **SECOND CAUSE OF ACTION**

11 **Failure To Pay Minimum Wages**

12 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

13 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL DEFENDANTS)**

14 63. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
16 Complaint.

17 64. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
18 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
19 Welfare Commission requirements for DEFENDANTS' failure to accurately calculate and pay
20 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

23 66. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
24 commission is the minimum wage to be paid to employees, and the payment of a less wage than
25 the minimum so fixed is unlawful.

26 67. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
27 including minimum wage compensation and interest thereon, together with the costs of suit.
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1 68. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and the
2 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
3 work. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and
4 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
5 CALIFORNIA CLASS.

6 69. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
7 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
8 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
9 and the other members of the CALIFORNIA CLASS in regard to minimum wage.

10 70. In committing these violations of the California Labor Code, DEFENDANTS
11 inaccurately calculated the correct time worked and consequently underpaid the actual time
12 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS acted
13 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
14 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
15 laws and regulations.

16 71. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
17 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
18 minimum wage compensation for their time worked for DEFENDANTS.

19 72. During the CLASS PERIOD, PLAINTIFF and the other members of the
20 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
21 failure to pay all earned wages.

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

27 74. DEFENDANTS knew or should have known that PLAINTIFF and the other
28 members of the CALIFORNIA CLASS were under-compensated for their time worked.

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

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

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

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1 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
2 including, the overtime work performed in excess of eight (8) hours in a workday, and/or forty
3 (40) hours in any workweek.

4 84. In committing these violations of the California Labor Code, DEFENDANTS
5 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
6 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANTS acted in an illegal
7 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
8 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
9 regulations.

10 85. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
11 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
12 overtime compensation for their time worked for DEFENDANTS.

13 86. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
14 from the overtime requirements of the law. None of these exemptions are applicable to
15 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
16 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
17 agreement that would preclude the causes of action contained herein this Complaint. Rather,
18 PLAINTIFF bring this Action on behalf of himself, and the CALIFORNIA CLASS, based on
19 DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State of
20 California.

21 87. During the CLASS PERIOD, PLAINTIFF and the other members of the
22 CALIFORNIA CLASS were paid less for regular and overtime hours worked than they were
23 entitled to, constituting a failure to pay all earned wages.

24 88. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
25 CALIFORNIA CLASS overtime wages for the time they worked, which was in excess of the
26 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even
27 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly required
28 to work, and did, in fact, work overtime, and did, in fact, work overtime as to which

1 DEFENDANTS failed to accurately record and pay as evidenced by DEFENDANTS' business
2 records and witnessed by employees.

3 89. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned
4 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
5 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA
6 CLASS have suffered and will continue to suffer an economic injury in amounts which are
7 presently unknown to them, and which will be ascertained according to proof at trial.

8 90. DEFENDANTS knew or should have known that PLAINTIFF and the other
9 members of the CALIFORNIA CLASS were under compensated for their time worked.
10 DEFENDANTS systematically elected, either through intentional malfeasance or gross
11 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
12 procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
13 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct wages for their
14 time worked.

15 91. In performing the acts and practices herein alleged in violation of California Labor
16 Laws and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
17 and provide them with the requisite compensation, DEFENDANTS acted and continue to act
18 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
19 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
20 consequences to them, and with the despicable intent of depriving them of their property and legal
21 rights, and otherwise causing them injury in order to increase company profits at the expense of
22 these employees.

23 92. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS
24 request recovery of overtime wages, according to proof, interest, statutory costs, as well as the
25 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
26 California Labor Code and/or other applicable statutes. To the extent overtime compensation is
27 determined to be owed to the PLAINTIFF and the CALIFORNIA CLASS Members who have
28 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or

202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein. DEFENDANTS’ conduct as alleged herein was willful, intentional, and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and recover statutory costs.

FOURTH CAUSE OF ACTION

Failure To Provide Required Meal Periods

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)

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

94. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work schedules, and DEFENDANTS’ policies and practices, PLAINTIFF and other CALIFORNIA CLASS Members were often not fully relieved of duty by DEFENDANTS for their meal periods and/or were interrupted during their meal periods. Additionally, DEFENDANTS’ failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS’ employee testimony. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation and in accordance with DEFENDANTS’ strict policy and practice.

95. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not provided a meal period, in accordance with the applicable Wage Order,

one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided.

96. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

FIFTH CAUSE OF ACTION

Failure To Provide Required Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)

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

98. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours. , and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and the nature and constraints of the job, PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers. In addition, DEFENDANTS failed to compensate PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the applicable Wage Order and Labor Code. As a result, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest periods is evidenced by DEFENDANTS' business records.

99. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS

1 Members who were not provided a rest period, in accordance with the applicable Wage Order,
2 one additional hour of compensation at each employee's regular rate of pay for each workday that
3 rest period was not provided.

4 100. As a proximate result of the aforementioned violations, PLAINTIFF and
5 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
6 and seek all wages earned and due, interest, penalties, expenses and costs of suit.

7 **SIXTH CAUSE OF ACTION**

8 **Failure To Pay Wages When Due**

9 **(Cal. Lab. Code § 203)**

10 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)**

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

14 102. Cal. Lab. Code § 200 provides that:

15 As used in this article:

- 16 d. "Wages" includes all amounts for labor performed by employees of every
17 description, whether the amount is fixed or ascertained by the standard of time, task,
18 piece, Commission basis, or other method of calculation.
19 e. "Labor" includes labor, work, or service whether rendered or performed under
20 contract, subcontract, partnership, station plan, or other agreement if the to be paid
21 for is performed personally by the person demanding payment.

22 103. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an
23 employee, the wages earned and unpaid at the time of discharge are due and payable
24 immediately."

25 104. Cal. Lab. Code § 202 provides, in relevant part, that:

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

subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

111. When DEFENDANTS did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANTS violated Cal. Lab. Code § 226 in that DEFENDANTS failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods.

112. DEFENDANTS knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct wages for all missed meal and rest breaks and the amount of employment taxes which were not

1 properly paid to state and federal tax authorities. These damages are difficult to estimate.
2 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to
3 recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
4 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay
5 period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but
6 in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective
7 member of the CALIFORNIA CLASS herein).

8 **EIGHTH CAUSE OF ACTION**

9 **Failure to Reimburse Business Expenses**

10 **(Cal. Lab. Code §2802)**

11 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)**

12 113. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
13 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
14 Complaint.

15 114. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
16 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
17 Complaint.

18 115. Cal. Lab. Code § 2802 provides, in relevant part, that:

19 An employer shall indemnify his or her employee for all necessary expenditures or losses
20 incurred by the employee in direct consequence of the discharge of his or her duties, or of
21 his or her obedience to the directions of the employer, even though unlawful, unless the
employee, at the time of obeying the directions, believed them to be unlawful.

22 116. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal.
23 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
24 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
25 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of
26 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to
27 using their personal cellular phone on behalf of and for the benefit of DEFENDANTS.
28 Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by

1 DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of
2 DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse
3 PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using
4 their personal cellular phones and vehicles for DEFENDANTS within the course and scope of
5 their employment for DEFENDANTS. These expenses were necessary to complete their
6 principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any
7 waiver of their expectation. Although these expenses were necessary expenses incurred by
8 PLAINTIFF and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify
9 and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as
10 an employer is required to do under the laws and regulations of California.

11 117. PLAINTIFF therefore demands reimbursement on behalf of himself and the
12 members of the CALIFORNIA CLASS for expenditures or losses incurred in the discharge their
13 job duties and on behalf of DEFENDANTS, or his/her obedience to the directions of
14 DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

15 **NINTH CAUSE OF ACTION**

16 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

17 **(Cal. Lab. Code §§2698 et seq.)**

18 **(Alleged by PLAINTIFF against all DEFENDANTS)**

19 118. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
20 herein, the prior paragraphs of this Complaint.

21 119. PAGA is a mechanism by which the State of California itself can enforce state
22 labor laws through the employee suing under the PAGA who does so as the proxy or agent of the
23 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
24 fundamentally a law enforcement action designed to protect the public and not to benefit private
25 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
26 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
27 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved
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employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

120. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to himself and all employees who worked for DEFENDANTS in California during the time period of November 7, 2023, until the present (the "AGGRIEVED EMPLOYEES").

121. On November 7, 2024, PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency (the "Agency") and the employer of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

122. The policies, acts and practices heretofore described were and are an unlawful business act or practice because DEFENDANTS (a) failed to pay AGGRIEVED EMPLOYEES minimum wages and overtime wages, (b) failed to provide AGGRIEVED EMPLOYEES legally required meal and rest breaks, (c) failed to pay AGGRIEVED EMPLOYEES for all time worked, and (d) failed to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 351, 510, 512, 558, 1194, 1197, 1197.1, 1197.14, 1199 and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:
 - a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
 - c. An order requiring DEFENDANTS to pay all overtime wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
 - d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.
2. On behalf of the CALIFORNIA CLASS:
 - a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
 - c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
 - d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
 - e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action

therefore is commenced, in accordance with Cal. Lab. Code § 203;

f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

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

a. Recovery of civil penalties as prescribe by the Labor Code Private Attorneys General Act of 2004;

4. On all claims:

a. An award of interest, including prejudgment interest at the legal rate;

b. Such other and further relief as the Court deems just and equitable; and

c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

DATED: January 16, 2025

SELIGSON LAW P.C

By: Kenneth Seligson
Kenneth Seligson
Attorney for PLAINTIFF

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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

DATED: January 16, 2025

SELIGSON LAW P.C.

By: *Kenneth Seligson*
Kenneth Seligson
Attorney for PLAINTIFF