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on behalf of himself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

STEPHEN KESHI, JR., an individual on  
behalf of himself and all others similarly  
situated,

Plaintiff,

vs.

MUSCLEHEAD, INC., a California  
Corporation; MUSCLEBOUND, INC., a  
California Corporation; ANAHEIM  
CORPORATE FITNESS, INC., a California  
Corporation; SANTA ANITA CORPORATE  
FITNESS, INC., a California Corporation;  
GETFIT2, LP., a business entity of unknown  
form; CULVER CITY CORPORATE  
FITNESS, INC., a California Corporation;  
FULLERTON CORPORATE FITNESS,  
INC., a California Corporation; GLENDALE  
CORPORATE FITNESS, INC., a California  
Corporation; SANTA BARBARA  
CORPORATE FITNESS, INC., a California  
Corporation; LA MIRADA FIT, LP., a  
California Limited Partnership; CARSON  
CORPORATE FITNESS, INC., a California  
Corporation; LOS ANGELES CORPORATE  
FITNESS, INC., a California Corporation;  
MONTCLAIR CORPORATE FITNESS,  
INC., a California Corporation;  
NORTHRIDGE CORPORATE FITNESS,  
INC., a California Corporation; OXNARD  
CORPORATE FITNESS, INC., a California  
Corporation; SIMI VALLEY CORPORATE  
FITNESS, INC., a California Corporation;  
THOUSAND OAKS CORPORATE

**FILED**  
Superior Court of California  
County of Los Angeles  
02/21/2025

David W. Stryker, Executive Officer / Clerk of Court  
By: M. Arellanes Deputy

Case No.: 24STCV33533

CLASS ACTION

Assigned for All Purposes To:  
Hon. Elaine Lu  
Dept.: 9

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR:**

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

**DEMAND FOR JURY TRIAL**

FITNESS, INC., a California Corporation;  
VALENCIA CORPORATE FITNESS, INC.,  
a California Corporation; WEST COVINA  
CORPORATE FITNESS, INC., a California  
Corporation; WILLIAM BANOS, an  
individual; and DOES 1 through 50,  
inclusive,

Defendants.

### **INTRODUCTION**

1. Plaintiff STEPHEN KESHI, JR., (“Plaintiff”) brings this action on behalf of himself and the Class Members who are defined as “all current and former employees within the State of California who, at any time from four (4) years prior to the filing of this lawsuit, are or were employed as non-exempt hourly employees by Defendant MUSCLEHEAD, INC., a California Corporation; and/or Defendant MUSCLEBOUND, INC., a California Corporation; and/or Defendant ANAHEIM CORPORATE FITNESS, INC., a California Corporation; and/or Defendant SANTA ANITA CORPORATE FITNESS, INC., a California Corporation; and/or Defendant GETFIT2, LP., a business entity of unknown form; and/or Defendant CULVER CITY CORPORATE FITNESS, INC., a California Corporation; and/or Defendant FULLERTON CORPORATE FITNESS, INC., a California Corporation; and/or Defendant GLENDALE CORPORATE FITNESS, INC., a California Corporation; and/or Defendant SANTA BARBARA CORPORATE FITNESS, INC., a California Corporation; and/or Defendant LA MIRADA FIT, LP., a California Limited Partnership; and/or Defendant CARSON CORPORATE FITNESS, INC., a California Corporation; and/or Defendant LOS ANGELES CORPORATE FITNESS, INC., a California Corporation; and/or Defendant MONTCLAIR CORPORATE FITNESS, INC., a California Corporation; and/or Defendant NORTHRIDGE CORPORATE FITNESS, INC., a California Corporation; and/or Defendant OXNARD CORPORATE FITNESS, INC., a California

Corporation; and/or Defendant SIMI VALLEY CORPORATE FITNESS, INC., a California Corporation; and/or Defendant THOUSAND OAKS CORPORATE FITNESS, INC., a California Corporation; and/or Defendant VALENCIA CORPORATE FITNESS, INC., a California Corporation; and/or Defendant WEST COVINA CORPORATE FITNESS, INC., a California Corporation; and/or Defendant WILLIAM BANOS, an individual; and/or DOES 1 through 50, inclusive” (all Defendants being collectively referred to herein as “Defendants”).

2. Plaintiff alleges that Defendants, and each of them, violated various provisions of the California Labor Code, relevant orders of the Industrial Welfare Commission (IWC), and the California Business & Professions Code, and seeks redress for these violations.

3. Upon information and belief, Plaintiff was employed by Defendants and (1) shared similar job duties and responsibilities; (2) was subjected to the same policies and practices; and (3) endured similar violations at the hands of Defendants as the other Class Members who served in similar and related positions.

## THE PARTIES

### A. The Plaintiff

4. Plaintiff STEPHEN KESHI, JR., resides in California, during the time period relevant to this Complaint, was employed by Defendants as a non-exempt hourly employee within the State of California.

## B. The Defendants

5. Defendant MUSCLEHEAD, INC., is a California Corporation with its principal place of business in Burbank, California and is registered with the California Secretary of State. Defendant MUSCLEHEAD, INC., has been the employer listed on the employment records issued to Plaintiff during the relevant time period that Plaintiff was employed with Defendants. Defendant MUSCLEHEAD, INC., employs Plaintiff and the Class Members in California, including at Defendants' offices and facilities in Los Angeles, California, and throughout California, and conducts business throughout California. Upon information and belief, Defendant MUSCLEHEAD, INC., acted as a joint employer and/or integrated enterprise with the other Defendants.

1           6. Defendant MUSCLEBOUND, INC. is a California Corporation with its principal  
2 place of business in Northridge, California. Upon information and belief, Defendant  
3 MUSCLEBOUND, INC. acted as a joint employer and/or integrated enterprise with the other  
4 Defendants.

5           7. Defendant ANAHEIM CORPORATE FITNESS, INC. is a California Corporation  
6 with its principal place of business in Burbank, California. Upon information and belief,  
7 Defendant ANAHEIM CORPORATE FITNESS, INC. acted as a joint employer and/or integrated  
8 enterprise with the other Defendants.

9           8. Defendant SANTA ANITA CORPORATE FITNESS, INC. is a California  
10 Corporation with its principal place of business in Northridge, California. Upon information and  
11 belief, Defendant SANTA ANITA CORPORATE FITNESS, INC. acted as a joint employer  
12 and/or integrated enterprise with the other Defendants.

13           9. Defendant GETFIT2, LP. is a business entity of unknown form. Upon information  
14 and belief, Defendant GETFIT2, LP., acted as a joint employer and/or integrated enterprise with  
15 the other Defendants.

16           10. Defendant CULVER CITY CORPORATE FITNESS, INC. is a California  
17 Corporation with its principal place of business in Northridge, California. Upon information and  
18 belief, Defendant CULVER CITY CORPORATE FITNESS, INC. acted as a joint employer  
19 and/or integrated enterprise with the other Defendants.

20           11. Defendant FULLERTON CORPORATE FITNESS, INC. is a California  
21 Corporation with its principal place of business in Burbank, California. Upon information and  
22 belief, Defendant FULLERTON CORPORATE FITNESS, INC. acted as a joint employer and/or  
23 integrated enterprise with the other Defendants.

24           12. Defendant GLENDALE CORPORATE FITNESS, INC. is a California  
25 Corporation with its principal place of business in Northridge, California. Upon information and  
26 belief, Defendant GLENDALE CORPORATE FITNESS, INC. acted as a joint employer and/or  
27 integrated enterprise with the other Defendants.

28           13. Defendant SANTA BARBARA CORPORATE FITNESS, INC. is a California

1 Corporation with its principal place of business in Northridge, California. Upon information and  
2 belief, Defendant SANTA BARBARA CORPORATE FITNESS, INC. acted as a joint employer  
3 and/or integrated enterprise with the other Defendants.

4 14. Defendant LA MIRADA FIT, LP. is a California Limited Partnership with its  
5 principal place of business in Northridge, California. Upon information and belief, Defendant LA  
6 MIRADA FIT, LP. acted as a joint employer and/or integrated enterprise with the other  
7 Defendants.

8 15. Defendant CARSON CORPORATE FITNESS, INC. is a California Corporation  
9 with its principal place of business in Northridge, California. Upon information and belief,  
10 Defendant CARSON CORPORATE FITNESS, INC. acted as a joint employer and/or integrated  
11 enterprise with the other Defendants.

12 16. Defendant LOS ANGELES CORPORATE FITNESS, INC. is a California  
13 Corporation with its principal place of business in Burbank, California. Upon information and  
14 belief, Defendant LOS ANGELES CORPORATE FITNESS, INC. acted as a joint employer  
15 and/or integrated enterprise with the other Defendants.

16 17. Defendant MONTCLAIR CORPORATE FITNESS, INC. is a California  
17 Corporation with its principal place of business in Northridge, California. Upon information and  
18 belief, Defendant MONTCLAIR CORPORATE FITNESS, INC. acted as a joint employer and/or  
19 integrated enterprise with the other Defendants.

20 18. Defendant NORTHRIDGE CORPORATE FITNESS, INC. is a California  
21 Corporation with its principal place of business in Northridge, California. Upon information and  
22 belief, Defendant NORTHRIDGE CORPORATE FITNESS, INC. acted as a joint employer  
23 and/or integrated enterprise with the other Defendants.

24 19. Defendant OXNARD CORPORATE FITNESS, INC. is a California Corporation  
25 with its principal place of business in Northridge, California. Upon information and belief,  
26 Defendant OXNARD CORPORATE FITNESS, INC. acted as a joint employer and/or integrated  
27 enterprise with the other Defendants.

28 20. Defendant SIMI VALLEY CORPORATE FITNESS, INC. is a California

1 Corporation with its principal place of business in Burbank, California. Upon information and  
2 belief, Defendant SIMI VALLEY CORPORATE FITNESS, INC. acted as a joint employer and/or  
3 integrated enterprise with the other Defendants.

4 21. Defendant THOUSAND OAKS CORPORATE FITNESS, INC. is a California  
5 Corporation with its principal place of business in Burbank, California. Upon information and  
6 belief, Defendant THOUSAND OAKS CORPORATE FITNESS, INC. acted as a joint employer  
7 and/or integrated enterprise with the other Defendants.

8 22. Defendant VALENCIA CORPORATE FITNESS, INC. is a California Corporation  
9 with its principal place of business in Burbank, California. Upon information and belief,  
10 Defendant VALENCIA CORPORATE FITNESS, INC. acted as a joint employer and/or  
11 integrated enterprise with the other Defendants.

12 23. Defendant WEST COVINA CORPORATE FITNESS, INC. is a California  
13 Corporation with its principal place of business in Northridge, California. Upon information and  
14 belief, Defendant WEST COVINA CORPORATE FITNESS, INC. acted as a joint employer  
15 and/or integrated enterprise with the other Defendants.

16 24. Plaintiff is informed and believes Defendant WILLIAM BANOS is a natural  
17 person who employed Plaintiff and Class Members.

18 25. At all times herein mentioned, Defendant MUSCLEHEAD, INC.;  
19 MUSCLEBOUND, INC.; ANAHEIM CORPORATE FITNESS, INC.; SANTA ANITA  
20 CORPORATE FITNESS, INC.; GETFIT2, LP.; CULVER CITY CORPORATE FITNESS, INC.;  
21 FULLERTON CORPORATE FITNESS, INC.; GLENDALE CORPORATE FITNESS, INC.;  
22 SANTA BARBARA CORPORATE FITNESS, INC.; LA MIRADA FIT, LP.; CARSON  
23 CORPORATE FITNESS, INC.; LOS ANGELES CORPORATE FITNESS, INC.; MONTCLAIR  
24 CORPORATE FITNESS, INC.; NORTHRIDGE CORPORATE FITNESS, INC.; OXNARD  
25 CORPORATE FITNESS, INC.; SIMI VALLEY CORPORATE FITNESS, INC.; THOUSAND  
26 OAKS CORPORATE FITNESS, INC.; VALENCIA CORPORATE FITNESS, INC.; and WEST  
27 COVINA CORPORATE FITNESS, INC. are referred to as (the "Companies").

28 26. Plaintiff is informed and believes and thereon alleges that the Companies and

1 Owner acted in all respects pertinent to this action as an integrated enterprise. Upon information  
2 and belief, the Companies share common management, an interrelationship between operations, a  
3 centralized control of labor relations and common ownership or financial control.

4 27. Plaintiff is informed and believes and based thereon alleges that WILLIAM  
5 BANOS is a natural person who is the owner, director, officer, or managing agent of the  
6 Companies, who violated, or caused to be violated, the Labor Code Sections alleged herein, and is  
7 liable under Labor Code §558.1.

8 28. Plaintiff is informed and believes and thereon alleges that Defendant WILLIAM  
9 BANOS, at all times relevant to this complaint, was the alter ego of the Companies. Plaintiff  
10 alleges, upon information and belief, that Defendant WILLIAM BANOS, either individually or  
11 with members of his family, owned, controlled, and dominated the Companies; that he  
12 commingled the funds of the Companies with his personal assets, as well as the assets of other  
13 entities owned in whole or in part by them; that the failed to segregate the funds of these separate  
14 entities; that they wrongly diverted corporate funds or assets to non-corporate uses; that he treated  
15 the assets of the Companies as his own; that he held himself out as being personally liable for the  
16 debts of the Companies; that he failed to maintain minutes or adequate corporate records and  
17 confused the records of various entities; that he used the same office or business location and  
18 employed the same employees and attorneys for all entities; that he failed to adequately capitalize  
19 the Companies; that he used the Companies as a mere shell, instrumentality, or conduit for the  
20 business of an individual or individuals, namely, himself and his family; that he disregarded legal  
21 formalities and failed to maintain arm's-length relationships among related entities; that he used  
22 the corporate entity to procure labor, services, and merchandise for himself or other entities; that  
23 he diverted assets from the Companies to the detriment of creditors, or manipulated assets and  
24 liabilities between entities so as to concentrate the assets in one and the liabilities in another; that  
25 he used the Companies as subterfuges of illegal transactions; and that he formed and used the  
26 Companies to transfer to it his existing liabilities. Plaintiff further avers that recognizing the acts  
27 and conduct described in this complaint as those only of the Companies would promote an  
28 inequitable and unjust result, namely, the deprivation of Plaintiff's fundamental rights under the

1 Labor Code, as described herein.

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

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

19 31. Whenever and wherever reference is made in this Complaint to any act by a  
20 Defendant or Defendants, such allegations and references shall also be deemed to mean the acts  
21 and failures to act of each Defendant acting individually, jointly, and severally.

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

#### 26 **JURISDICTION AND VENUE**

27 33. This Court has jurisdiction over this Action pursuant to California Code of Civil  
28 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is brought as

1 a Class Action on behalf of similarly situated Class Members of Defendants pursuant to California  
2 Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial district pursuant  
3 to California Code of Civil Procedure § 395 *et seq.* Upon information and belief, the obligations and  
4 liabilities giving rise to this lawsuit occurred in part in Los Angeles County. Defendants maintain  
5 and operate facilities in Los Angeles County and employs Plaintiff and other Class Members in Los  
6 Angeles County, while doing business throughout California.

7 **FACTUAL BACKGROUND**

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

18 35. During the course of Class Members' employment with Defendants, Class Members  
19 were not paid all wages they were owed. Class Members were required to perform pre-shift and  
20 post-shift off the clock work which they were not compensated for despite being subject to  
21 Defendants' control. Specifically, Plaintiff was required to assist members and guests prior to  
22 clocking in and after clocking out for his scheduled shift. Upon information and belief, Class  
23 Members were also required to perform similar off the clock work. Additionally, Class Members  
24 were also required to wait for the Paycom program to become available to clock in for their  
25 scheduled shift. Furthermore, Class Members were required to work through portions of their meal  
26 periods while they were off the clock and were not paid for this time. Defendants also contacted  
27 Class Members on their personal cell phones with work demands outside of scheduled work hours,  
28 and Class Members were not paid for this time.

1           36. Defendants also failed to pay Class Members all wages due and owing because  
2 Defendants failed to incorporate non-discretionary and/or commissions into the regular rate of pay.  
3 Contrary to the requirements of the Labor Code and IWC Wage Orders under California law,  
4 Defendants did not incorporate these non-discretionary and/or commissions to the Class Members  
5 into the regular rate of pay Defendants used to calculate and pay for overtime compensation, sick  
6 pay, and meal and rest break premiums.

7           37. By implementing policies, programs, practices, procedures and protocols which  
8 resulted in off the clock work, the failure to incorporate non-discretionary bonuses and/or  
9 commissions into the regular rate of pay used to calculate and pay overtime compensation, sick pay,  
10 and meal and rest break premiums, Defendants' willful actions resulted in the systematic  
11 underpayment of wages to Class Members, including underpayment of overtime pay to Class  
12 Members over the relevant time period. For example, the above described off the clock work caused  
13 Plaintiff and Class Members to begin receiving overtime pay later than they should have.

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

19           39. As a result of Defendants' unlawful policies and practices, Class Members incurred  
20 overtime hours worked for which they were not adequately and completely compensated, in addition  
21 to the hours they were required to work off the clock. To the extent applicable, Defendants also  
22 failed to pay Class Members at an overtime rate of 1.5 times the regular rate for the first eight hours  
23 of the seventh consecutive work day in a week and overtime payments at the rate of 2 times the  
24 regular rate for hours worked over eight (8) on the seventh consecutive work day, as required under  
25 the Labor Code and applicable IWC Wage Orders.

26           40. Therefore, from at least four (4) years prior to the filing of this lawsuit and continuing  
27 to the present, Defendants had a consistent policy or practice of failing to pay Class Members for  
28 all hours worked, and failing to pay minimum wages for all time worked, as required by California

1 law. Defendants thus failed to pay Class Members at least minimum wages for all the time they  
2 worked for Defendants in violation of the Labor Code and applicable IWC Wage Orders as the  
3 actual times when Class Members were under the control and direction of Defendants was under  
4 reported in the hours reflected on the timekeeping records. Furthermore, Defendants' willful actions  
5 resulted in the systematic underpayment of wages to Class Members, including underpayment of  
6 overtime pay to Class Members over a period of time.

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

15 42. Moreover, Defendants required Plaintiff to report for a scheduled workday and  
16 would, on occasion, send Plaintiff home within the first two (2) hours of work. On such days when  
17 Defendants required Plaintiff to report to work only to be sent home, he was not paid required  
18 reporting time wages. Based on information and belief, Class members were subject to similar  
19 treatment and did not receive the required reporting time wages.

20 43. 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, Defendants  
25 also required Class Members to respond to work demands. Defendants placed their needs over Class  
26 Members lawful meal and rest breaks, and this resulted in Class Members often having to work  
27 through their scheduled meal and/or rest breaks, or otherwise taking shortened ones, because the  
28 demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off

1 duty meal and/or rest break. Additionally, to the extent Class Members were permitted to take meal  
2 periods, they were required to respond to work demands.

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

10 45. Therefore, for at least four years prior to the filing of this action and through to the  
11 present, Defendants have regularly required Class Members to work shifts in excess of five (5) hours  
12 without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and  
13 shifts in excess of (10) hours without providing them with second meal periods of not less than thirty  
14 minutes; nor did Defendants pay Class Members "premium pay," i.e. one hour of wages at each  
15 Class Member's effective hourly rate of pay, for each meal period that Defendants failed to provide  
16 or deficiently provided.

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

- 18 (a) Class Members were not provided full thirty-minute duty free meal periods  
19 for work days in excess of five (5) hours and were not compensated one (1)  
20 hour's wages in lieu thereof, all in violation of, among others, Labor Code  
21 §§ 226.7, 512, and the applicable Industrial Welfare Commission Wage  
22 Order(s);
- 23 (b) Class Members were not provided second full thirty-minute duty free meal  
24 periods for work days in excess of ten (10) hours;
- 25 (c) Class Members were required to work through at least part of their daily  
26 meal period(s);
- 27 (d) Meal periods were provided after five (5) hours of continuous work during  
28 a shift; and

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

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

13 48. Rest period violations therefore arose in one or more of the following manners:

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

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

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

23 49. Defendants also consistently failed to issue accurate itemized wage statements as  
24 required by Labor Code § 226(a). Specifically, the wage statements given to Class Members failed  
25 to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to  
26 calculate and pay overtime compensation, sick pay, and meal and rest break premiums. Thus, the  
27 wage statements do not provide accurate hourly rates for overtime and the statements do not comply  
28 with Labor Code § 226(a)(9). Further, the wage statements given to Class Members failed to

1 accurately account for unpaid wages and overtime because Defendants under-reported Class  
2 Members' actual hours worked due to the off the clock work. Additionally, the wage statements  
3 given to Class Members failed to accurately account for premium pay for deficiently provided meal  
4 periods and rest breaks.

5 50. 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 Members  
7 at the time of their termination or within seventy-two (72) hours of their resignation, as required by  
8 California wage-and-hour laws. Specifically, Class Members were not paid all regular and overtime  
9 wages because Defendants failed to pay for all hours worked by requiring off the clock work, and  
10 failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used  
11 to calculate and pay for overtime compensation, sick pay, and meal and rest break premiums.  
12 Additionally, Defendants failed to pay premium wages owed for unprovided meal periods and rest  
13 periods, as further detailed in this Complaint. Defendants' failure to pay said wages within the  
14 required time was willful within the meaning of Labor Code § 203.

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

23 52. Defendants also failed to provide suitable seating to Class Members. The  
24 operations at Defendants' facilities allowed for the presence and use of a stool or seat by Class  
25 Members during the performance of their work duties. The nature of the effected job positions can  
26 reasonably be accomplished while using a stool or seat. However, Defendants failed to provide  
27 Class Members suitable seating when the nature of these employees' work reasonably permitted  
28 sitting.

53. In light of the foregoing, Plaintiff and Class Members bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698 *et seq.*, 2802, 2926, 2927 and California Code of Regulations, Title 8, section 11000 *et seq.*

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

### **CLASS ALLEGATIONS**

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

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

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

c. Subclass 3. Reporting Time Pay Subclass. All Class Members who, within the applicable limitations period, were not paid reporting time pay.

d. Subclass 4. Meal Period Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Class Member's regular rate of pay in lieu thereof.

e. Subclass 5. Rest Break Subclass. All Class Members who were subject to Defendants' policy and/or practice of failing to authorize and permit Class Members to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Class Member's regular rate of pay in lieu thereof.

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

g. Subclass 7. Termination Pay Subclass. All Class Members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment

1 and were subject to Defendants' policy and/or practice of failing to timely pay wages upon  
2 termination.

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

6 i. Subclass 9. Payroll Records Subclass. All Class Members who were subject to  
7 Defendants' policy and/or practice of failing to keep accurate time and wage records as required by  
8 California wage-and-hour laws.

9 j. Subclass 10. Expense Reimbursement Subclass. All Class Members who incurred  
10 necessary and reasonable expenses in connection with performing their job duties for Defendant and  
11 who were subject to a policy and/or practice under which such expenses were not reimbursed.

12 k. Subclass 11. UCL Subclass. All Class Members who are owed restitution as a result  
13 of Defendants' business acts and practices, to the extent such acts and practices are found to be  
14 unlawful, deceptive, and/or unfair.

15 56. Plaintiff reserves the right under California Rule of Court 3.765 to amend or modify  
16 the class description with greater particularity or further division into subclasses or limitation to  
17 particular issues. To the extent equitable tolling operates to toll claims by the Class against  
18 Defendants, the Class Period should be adjusted accordingly.

19 57. Defendants, as a matter of company policy, practice and procedure, and in violation  
20 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements,  
21 and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in  
22 a practice whereby Defendants failed to correctly calculate compensation for the time worked by  
23 Class Members, even though Defendants enjoyed the benefit of this work, required Class Members  
24 to perform this work and permitted or suffered to permit this work. Defendants have uniformly  
25 denied these Class Members wages to which these employees are entitled and failed to provide meal  
26 periods or authorize and permit rest periods, in order to unfairly cheat the competition and  
27 unlawfully profit.

28 58. This action has been brought and may properly be maintained as a class action under

the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in litigation and proposed class is easily ascertainable.

**A. Numerosity**

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

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

**B. Commonality**

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

- a. Whether Defendants failed to pay Class Members minimum wages;
- b. Whether Defendants failed to pay Class Members wages for all hours worked;
- c. Whether Defendants failed to pay Class Members overtime as required under Labor Code § 510;
- d. Whether Defendants failed to pay reporting time pay;
- e. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Class Members with requisite meal periods or premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Class Members to take requisite rest breaks or provide premium pay in lieu thereof;
- g. Whether Defendants violated Labor Code § 226(a) by providing Class Members with inaccurate wage statements;

- 1 h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay  
2 wages and compensation due and owing at the time of termination of employment;  
3 i. Whether Defendants' conduct was willful;  
4 j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage  
5 Orders by failing to maintain accurate records of Class Members' earned wages and  
6 work periods;  
7 k. Whether Defendants violated Labor Code § 1194 by failing to compensate all Class  
8 Members during the relevant time period for all hours worked, whether regular or  
9 overtime;  
10 l. Whether Defendants violated Labor Code § 204 by failing to timely pay wages;  
11 m. Whether Defendants violated Labor Code § 2802 by failing to reimburse all  
12 necessary business expenses Defendants required them to incur in performing their  
13 job duties;  
14 n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and  
15 o. Whether Class Members are entitled to equitable relief pursuant to Business and  
16 Professions Code § 17200 *et seq.*

17 **C. Typicality**

18 62. The claims of the named Plaintiff is typical of those of Class Members. The Class  
19 Members all sustained injuries and damages arising out of and caused by Defendants' common  
20 course of conduct in violation of statutes, as well as regulations that have the force and effect of  
21 law, as alleged herein.

22 **D. Adequacy of Representation**

23 63. Plaintiff will fairly and adequately represent and protect the interest of the Class  
24 Members. Counsel who represents Class Members are experienced and competent in litigating  
25 employment class actions.

26 **E. Superiority of Class Action**

27 64. A class action is superior to other available means for the fair and efficient  
28 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and

1 questions of law and fact common to all Class Members predominate over any questions affecting  
2 only individual Class Members. Each Class Member has been damaged and is entitled to recovery  
3 by reason of Defendants' illegal policies or practices of failing to compensate Class Members  
4 properly.

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

17         66. Class action treatment will allow those persons similarly situated to litigate their  
18 claims in the manner that is most efficient and economical for the parties and the judicial system.  
19 Plaintiff is unaware of any difficulties in managing this case that should preclude class treatment.  
20 Plaintiff contemplates the eventual issuance of notice to the proposed Class Members that would  
21 set forth the subject and nature of the instant action. The Defendants' own business records can be  
22 utilized for assistance in the preparation and issuance of the contemplated notices. To the extent  
23 that any further notice is required, additional media and/or mailings can be used.

24         67. Defendants, as prospective and actual employers of the Class Members, had a  
25 special fiduciary duty to disclose to prospective Class Members the true facts surrounding  
26 Defendants' pay practices, policies and working conditions imposed upon Class Members as well  
27 as the effect of any alleged arbitration agreements that may have been forced upon them. In  
28 addition, Defendants knew they possessed special knowledge about pay practices and policies,

1 most notably intentionally refusing to pay for all hours actually worked which should have been  
2 recorded in Defendants' pay records and the consequence of the alleged arbitration agreements  
3 and policies and practices on Class Members.

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

10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO PAY MINIMUM WAGES**

12 **(Against All Defendants)**

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

15 70. Defendants failed to pay Class Members minimum wages for all hours worked.  
16 Defendants had a consistent policy of misstating Class Members' time records and failing to pay  
17 Class Members for all hours worked. Class Members would work hours and not receive wages,  
18 including as alleged above in connection with off the clock work. Additionally, Defendants failed  
19 to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to  
20 calculate and pay overtime compensation, sick pay and meal and rest break premiums.  
21 Defendants, and each of them, have intentionally and improperly changed, adjusted and/or  
22 modified the hours of Class Members, which resulted in off the clock work and underpayment of  
23 all wages owed to Class Members over a period of time, while benefiting Defendants. During the  
24 relevant time period, Defendants thus regularly failed to pay minimum wages to Class Members,  
25 to their detriment. Additionally, Defendants had a consistent policy of failing to pay Class  
26 Members for hours worked during alleged meal and rest periods for which Class Members were  
27 consistently denied, as also addressed herein. Defendants' uniform pattern of unlawful wage and  
28 hour practices manifested, without limitation, applicable to the Class as a whole, as a result of

1 implementing a uniform policy and practice that denied accurate compensation to Class Members  
2 as to minimum wage pay.

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

7 72. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states:  
8 “The minimum wage for employees fixed by the commission is the minimum wage to be paid to  
9 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

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

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

18 75. As described in California Labor Code §§ 1185 and 1194.2, any action for wages  
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,  
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage  
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage for  
22 all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may  
23 be used as a credit against a minimum wage obligation.

24 76. In committing these violations of the California Labor Code, Defendants  
25 inaccurately recorded, or required Class Members to input times that did not reflect their actual  
26 hours worked, or calculated the correct time worked and consequently underpaid the actual time  
27 worked by Class Members. Defendants acted in an illegal attempt to avoid the payment of all  
28 earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare

Commission requirements and other applicable laws and regulations. As a result of these violations, Defendant also failed to timely pay all wages earned in accordance with California Labor Code § 1194.

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

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

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

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

81. Wherefore, Class Members are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members of the Class further request 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)**

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

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

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

14           85.     Defendants had a consistent policy of not paying Class Members wages for all  
15 hours worked, including by requiring off the clock work, as addressed above. Additionally,  
16 Defendants failed to incorporate non-discretionary bonuses and/or commissions into the regular  
17 rate of pay used to calculate and pay overtime compensation, sick pay and meal and rest break  
18 premiums. Defendants, and each of them, have intentionally and improperly rounded, changed,  
19 adjusted, and/or modified certain employees’ hours, including Plaintiff’s, in order to avoid paying  
20 Class Members all earned and owed straight time and overtime wages and other benefits, in  
21 violation of the California Labor Code, the California Code of Regulations and the IWC Wage  
22 Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants  
23 have also violated these provisions by requiring Class Members to work through portions of their  
24 meal period. Therefore, Class Members were not properly compensated, nor were they paid  
25 overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a  
26 given week. Based on information and belief, Defendants did not make available to Class  
27 Members a reasonable protocol for correcting time records when Class Members worked overtime  
28 hours or to fix incorrect time entries.

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

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

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

24           89. Class Members have been damaged by these violations of California Labor Code  
25 §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission).

26           90. Consequently, pursuant to the California Labor Code, including Labor Code §§  
27 204, 510, 558, and 1194, and the applicable IWC Wage Order, paragraph 3(A) and 4(B),  
28 Defendants are liable to Class Members for the full amount of all their unpaid wages and overtime

1 compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the  
2 assessment of any statutory penalties against Defendants, and each of them, and any additional  
3 sums as provided by the Labor Code and/or other statutes.

4 **THIRD CAUSE OF ACTION**  
5 **FAILURE TO PAY REPORTING TIME PAY**  
6 **(Against all Defendants)**

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

9 92. Section 5(A) of the applicable Wage Order(s), requires that for "[E]ach workday an  
10 employee is required to report for work and does report, but is not put to work or is furnished less  
11 than half said employee's usual or scheduled day's work, the employee shall be paid for half the  
12 usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4)  
13 hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

14 93. As addressed in detail above, Defendants followed a uniform policy of failing to pay  
15 reporting time pay in accordance with the applicable IWC Wage Order requirements. For example,  
16 Defendant required Plaintiff to report for a scheduled workday and would, on occasion, send  
17 Plaintiff home within the first two (2) hours of work. On such days when Defendant required  
18 Plaintiff to report to work only to be sent home, he was not paid required reporting time wages.  
19 Based on information and belief, Class members were subject to similar treatment and did not  
20 receive the required reporting time wages.

21 94. Plaintiff brings this claim for failure to pay reporting time pay as required by Section  
22 5 of the applicable IWC Wage Orders pursuant to California Labor Code §1198, which instructs  
23 that: "the maximum hours of work and the standard conditions of labor fixed by the commission  
24 shall be the maximum hours of work and the standard conditions of labor for employees. The  
25 employment of any employee for longer hours than those fixed by the order or under conditions of  
26 labor prohibited by the order is unlawful."

27 95. Reporting time pay constitutes wages that remain unpaid to Plaintiff and the Class  
28 members, despite the fact that they were required by Defendants to report for work and were under

Defendants' control during these times and were unable to use their time for their own purposes. The failure to pay for reporting time pay is a violation of the California wage orders and is a failure to pay all wages owed, which is a violation of Labor Code §1198.

96. Under Section 20(A) of the applicable IWC Wage Orders, Plaintiff and the Class members are entitled to recover civil penalties, in addition to other penalties, for each underpaid Employee for violation of Section 5 of the IWC Wage Orders in the amount of \$50 for the initial violation and \$100 for subsequent violations during each relevant pay period when Defendants failed to pay reporting time pay. These reporting time pay violations also give rise to violations of Labor Code §§ 203, 226, and under the PAGA.

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

#### **FOURTH CAUSE OF ACTION**

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

##### **(Against All Defendants)**

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

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

100. Defendants failed to provide Class Members with meal periods as required under the Labor Code. Defendants placed their needs over Class Members lawful meal breaks and this resulted in Class Members consistently having to work through their scheduled meal breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty meal break. Furthermore, upon information and belief, on the occasions when Class Members worked more than ten (10) hours in a given shift, they did so without

1 receiving a second uninterrupted thirty (30) minute meal period as required by law. Additionally,  
2 to the extent Class Members were permitted to take meal periods, they were required to respond to  
3 work demands.

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

8 102. Moreover, Defendants failed to compensate Class Members for each meal period  
9 not provided or inadequately provided, as required under Labor Code § 226.7 and paragraph 11 of  
10 the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee  
11 a meal period in accordance with this section, the employer shall pay the employee one (1) hour of  
12 pay at the employee's regular rate of compensation for each workday that the meal period is not  
13 provided. Defendants failed to compensate Class Members for each meal period not provided or  
14 inadequately provided, as required under Labor Code § 226.7.

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

20 **FIFTH CAUSE OF ACTION**

21 **REST-BREAK LIABILITY UNDER LABOR CODE § 226.7**

22 **(Against All Defendants)**

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

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

28 106. 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 each consecutive four (4) hour shift, and Defendants failed to provide Class Members with timely rest breaks of not less than ten (10) minutes for each consecutive four (4) hour shift. Defendants placed their needs over Class Members lawful rest breaks and this resulted in Class Members consistently having to work through their scheduled rest breaks because the demands of the job would not avail them the opportunity to take a lawfully uninterrupted and off-duty rest break. Moreover, to the extent Class Members were able to take rest breaks, they were required to respond to work demands. Thus, Class Members were consistently denied of their rest breaks.

107. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that if an employer fails to provide an employee rest 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 rest period is not provided.

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

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

110. Therefore, pursuant to Labor Code § 226.7 and paragraph 12 of the applicable IWC Wage Orders, 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 day worked without the required rest breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

**SIXTH CAUSE OF ACTION**  
**VIOLATION OF LABOR CODE § 226(a)**

**(Against All Defendants)**

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

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

113. Defendants failed to provide Class Members with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Class Members failed to incorporate non-discretionary bonuses and/or commissions into the regular rate of pay used to calculate and pay overtime compensation, sick pay, and meal and rest break premiums. Thus, the wage statements do not provide accurate hourly rates for overtime and the statements do not comply with Labor Code § 226(a)(9). Further, the wage statements given to Class Members failed to accurately account for unpaid wages and overtime because Defendants under-reported Class Members' actual hours worked due to off the clock work. Additionally, the wage statements given to Class Members failed to accurately account for premium pay for deficiently provided meal periods and rest breaks.

114. Throughout the liability period, Defendants intentionally failed to furnish to Class Members, upon each payment of wages, itemized statements accurately showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding

1 number of hours worked at each hourly rate by the employee pursuant to Labor Code § 226,  
2 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide  
3 Class Members with such timely and accurate wage and hour statements.

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

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

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

1 reasonable attorneys' fees.

2 **SEVENTH CAUSE OF ACTION**  
3 **VIOLATION OF LABOR CODE § 203**  
4 **(Against All Defendants)**

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

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

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

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

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

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

24 ///

25 ///

26 **EIGHTH CAUSE OF ACTION**  
27 **VIOLATION OF LABOR CODE § 204**  
28 **(Against All Defendants)**

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

3           125. Labor Code § 204 instructs that: “All wages, ...earned by any person in any  
4 employment are due and payable twice during each calendar month, on days designated in  
5 advance by the employer as the regular paydays. Labor performed between the 1st and 15th days,  
6 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month  
7 during which the labor was performed, and labor performed between the 16th and the last day,  
8 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following  
9 month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of  
10 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven  
11 calendar days following the close of the payroll period.” As detailed above, Defendants  
12 maintained a consistently applied policy and practice of not paying all wages earned between the  
13 1<sup>st</sup> and 15<sup>th</sup> days of a month between the 16<sup>th</sup> and 26<sup>th</sup> day and failed to pay all wages earned  
14 between the 16<sup>th</sup> and the last day of the month between the 1<sup>st</sup> and 10<sup>th</sup> day of the following month.  
15 Defendants similarly failed to pay all wages earned by not more than seven calendar days  
16 following the close of the payroll period. These failures all arose from Defendants’ failure to pay  
17 for all hours worked, and failing to incorporate non-discretionary bonuses and/or commissions  
18 into the regular rate of pay used to calculate and pay for overtime pay, sick pay, and meal and rest  
19 break premiums, as detailed above.

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

26           127. Defendants thus violated Labor Code § 204 by systematically refusing to pay  
27 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the  
28 applicable IWC Wage Orders, employers are required “to pay each employee, on the established

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

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

12 **NINTH CAUSE OF ACTION**

13 **FAILURE TO KEEP REQUIRED PAYROLL RECORDS UNDER LABOR CODE § 1174**  
14 **AND 1174.5**

15 **(Against All Defendants)**

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

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

22 131. During the course of Plaintiff's and Class Members' employment, Defendants  
23 consistently failed to maintain accurate time and wage records for Plaintiff and Class Members as  
24 required by California Labor Code § 1174 by failing to pay Plaintiff and Class Members proper  
25 wages, overtime, and premium pay as discussed above.

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

28 **TENTH CAUSE OF ACTION**



1 interest within the meaning of Code of Civil Procedure § 1021.5.

2 139. Plaintiff is a “person” within the meaning of Business & Professions Code  
3 § 17204, has suffered an injury, and therefore has standing to bring this cause of action for  
4 injunctive relief, restitution, and other appropriate equitable relief.

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

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

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

27 143. Defendants’ conduct, as alleged above, constitutes unfair competition in violation  
28 of the Business & Professions Code § 17200 *et seq.*

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

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

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

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

21 **TWELFTH CAUSE OF ACTION**  
22 **VIOLATION OF LABOR CODE § 2698, ET SEQ.**  
23 **(Against All Defendants)**

24 148. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in  
25 full herein.

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

Members”).

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

151. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699 for Defendants’ violation of Labor Code provisions included under Labor Code 2699.5, including the penalty provisions, without limitation, based, inter alia, on the following California Labor Code sections: 201, 202, 203, 204, 210, 226, 226.3, 226.7, 227.3, 510, 512, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2802, 2926, 2927, *et seq.*

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

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

(b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Class Members off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under

1 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC  
2 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under  
3 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,  
4 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs  
5 pursuant to Labor Code § 2699(g)(1);

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

19 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at  
20 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 202, 203, 204,  
21 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor  
22 Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the  
23 applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code §  
24 2699(g)(1);

25 (e) All Alleged Violations of the IWC Wage Orders and Other Labor Code  
26 Sections: For any above addressed violation of the applicable provisions of the IWC Wage  
27 Orders, each of which constitute separate violations of Labor Code § 1198 and Labor Code §  
28 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and

1 paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to  
2 Labor Code § 2699(g)(1).

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

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

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

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

22 154. Plaintiff has exhausted his administrative remedies by sending a certified letter to  
23 the LWDA and Defendants postmarked on **December 18, 2024**, addressing in detail the specific  
24 provisions of the Labor Code Defendants have violated and addressing the facts and legal theories  
25 to support the alleged violations and requested penalties. The LWDA has not provided notice of  
26 its intent to investigate the alleged violations within 65 calendar days of the postmark date of the  
27 letter, and Plaintiff adds this claim seeking penalties under the PAGA for the violations addressed  
28 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;
8. For penalties pursuant to Labor Code § 203 for all Class Members who quit or were fired in an amount equal to their daily wage times thirty (30) days, as may be proven;
9. For restitution and/or damages for all amounts unlawfully withheld from the wages for all class members in violation of Labor Code § 204, as may be proven;
10. For penalties pursuant to Labor Code §§ 226 and 1198.5, as may be proven;
11. For restitution and/or damages for all amounts unlawfully withheld from the wages for all Class Members in violation of Labor Code § 2802, as may be proven;
12. For restitution for unfair competition pursuant to Business & Professions Code

§ 17200 *et seq.*, including disgorgement or profits, as may be proven;

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

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

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

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

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

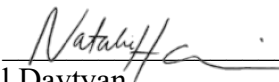
18. For an award providing for the payment of the costs of this suit;

19. For an award of attorneys' fees; and

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

DATED: February 21, 2025

D.LAW, INC.

By:   
Emil Davtyan  
David Yeremian  
Natalie Haritonian  
Andrea A. Amaya Silva  
Attorneys for Plaintiff STEPHEN KESHI,  
JR., and all others similarly situated

**DEMAND FOR JURY TRIAL**

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

DATED: February 21, 2025

D.LAW, INC.

By: Natalie Haritounian  
Emil Davtyan  
David Yeremian  
Natalie Haritounian  
Andrea A. Amaya Silva  
Attorneys for Plaintiff STEPHEN KESHI,  
JR., 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 91205.

Ash Bhargava State Bar No. 265508  
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 Cerritos, California 90703-9364  
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**[X] (BY MAIL)** I placed such envelope with postage thereon fully paid in the United States mail at Glendale, California. I am “readily familiar” with this firm’s practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

**[ ] (BY OVERNIGHT DELIVERY)** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

Executed on February 21, 2025, at Glendale, California.

  
Silvia Pimentel