
August 23, 2024

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

B.T. TRANSPORTATION, INC.
dba LA COSTA LIMOUSINE and LA COSTA LIMOUSINE LTD
c/o Frederick Brown
2770 Loker Ave West
Carlsbad, CA 92008
Sent via Certified Mail and Return Receipt No. 9589 0710 5270 1756 9924 93

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

This notice is being sent in compliance with Cal. Lab. Code § 2699.3. Our offices represent Plaintiff JUSTIN JOHNSON (“Plaintiff”) and other aggrieved employees. Plaintiff was employed by Defendant B.T. TRANSPORTATION, INC. dba LA COSTA LIMOUSINE and LA COSTA LIMOUSINE LTD (“Defendant” and/or “Defendants”) in California from April of 2022 to April of 2024, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks.

Plaintiff alleges that within the past year, he personally suffered violations of the following Labor Codes Sections as a result of Defendant’s failure to pay Plaintiff for all time worked, provide Plaintiff with compliant meal periods, provide Plaintiff with compliant rest periods, provide Plaintiff with accurate itemized wage statements that facially comply with the requirements provided for in Labor Code Section 226, furnish wages to Plaintiff with the frequency as set forth under Labor Code Section 204, and reimburse Plaintiff for necessary business expenses: Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804. These violations are actionable under California Labor Code section 2699.3.

The information below provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. If the agency needs any further information, please do not hesitate to ask.

Plaintiff seeks to represent a group of aggrieved employees defined as any person currently

or formerly employed by Defendant who performed work in California and against whom one or more of the alleged violations listed above were committed during the relevant claim period (“Aggrieved Employees”). Plaintiff believes this group to be comprised of all current and former non-exempt employees who performed work for Defendant in California during the period beginning one year prior to the date of this Notice and continuing through the present.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate Plaintiff and other Aggrieved Employees for missed meal and rest periods, failed to pay Plaintiff and other Aggrieved Employees for all time worked, failed to compensate Plaintiff and other Aggrieved Employees for off-the-clock work, failed to pay Plaintiff and other Aggrieved Employees overtime at the correct regular rate of pay, failed to compensate Plaintiff and other Aggrieved Employees meal and rest premiums at the regular rate of pay, failed to pay Plaintiff and other Aggrieved Employees redeemed sick pay at the regular rate of pay, failed to reimburse Plaintiff and other Aggrieved Employees for business expenses, and failed to issue to Plaintiff and other Aggrieved Employees accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. Defendant’s uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows Defendants to illegally profit and gain an unfair advantage over competitors who comply with the law.

Meal Period Violations: Pursuant to the Industrial Welfare Commission Wage Orders, Defendants were required to pay Plaintiff and the Aggrieved Employees for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the last year, Defendants required Plaintiff and other Aggrieved Employees to work without paying them for all the time they were under Defendants’ control. Specifically, Defendants required Plaintiff to work while clocked out during what was supposed to be Plaintiff’s off-duty meal break. Indeed, there were many days where Plaintiff did not even receive a partial lunch. As a result, Plaintiff and other Aggrieved Employees forfeited minimum wage and overtime compensation by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. Defendants’ uniform policy and practice not to pay Plaintiff and other Aggrieved Employees for all time worked is evidenced by Defendants’ business records.

During the last year, as a result of their rigorous work schedules and Defendants’ inadequate staffing practices, Plaintiff and other Aggrieved Employees were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. Plaintiff and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five (5) hours during some shifts without receiving a meal break. Further, Defendants failed to provide Plaintiff and other Aggrieved Employees with a second off-duty meal period for some workdays in which these employees were required by Defendants to work ten (10) hours of work. The nature of the work performed by Plaintiff and other Aggrieved Employees does not qualify for the limited and narrowly construed “on-duty” meal period exception. When they were provided with meal periods, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on duty and on call. Defendant’s failure to provide Plaintiff and other

Aggrieved Employees with legally required meal breaks is evidenced by Defendants' business records. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees therefore forfeited meal breaks without additional compensation and in accordance with Defendants' strict corporate policy and practice.

Rest Period Violations: From time to time during the past year, Plaintiff and other Aggrieved Employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and Defendants' inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, Plaintiff and other Aggrieved Employees were, from time to time, required to remain on premises, on duty and/or on call, and not fully relieved of all duties. Plaintiff and other Aggrieved Employees were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and Defendants' inadequate staffing, Plaintiff and other Aggrieved Employees were from time to time denied their proper rest periods by Defendants and Defendants' managers.

Unreimbursed Business Expenses: Defendants as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the Plaintiff and other Aggrieved Employees for required business expenses incurred by the Plaintiff and other Aggrieved Employees in direct consequence of discharging their duties on behalf of Defendants. Under California Labor Code Section 2802, employers are required to indemnify employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

Within the last year, in the course of their employment, Defendants required Plaintiff and other Aggrieved Employees to incur personal expenses for the use of their personal cell phones, personal expenses incurred for the acquisition of work uniforms, and personal expenses incurred for the maintenance of work uniforms as a result of and in furtherance of their job duties. Specifically, Plaintiff and other Aggrieved Employees were required to incur personal expenses for the use of their personal cell phones, personal expenses incurred for the acquisition of work uniforms, and personal expenses incurred for the maintenance of work uniforms. However, Defendants unlawfully failed to reimburse Plaintiff and other Aggrieved Employees for the personal expenses incurred the use of their personal cell phones, personal expenses incurred for the acquisition of work uniforms, and personal expenses incurred for the maintenance of work uniforms. As a result, in the course of their employment with Defendants, the Plaintiff and other Aggrieved Employees incurred unreimbursed business expenses that included, but were not limited to, costs related to the personal expenses incurred for the use of their personal cell phones, personal expenses incurred for the acquisition of work uniforms, and personal expenses incurred for the maintenance of work uniforms, all on behalf of and for the benefit of Defendants.

Wage Statement Violations: California Labor Code Section 226 requires an employer to furnish

its employees and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (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 the employee's 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 number of hours worked at each hourly rate by the employee. From time to time during the last year, when Plaintiff and other Aggrieved Employees missed meal and rest breaks, or were paid inaccurately for missed meal and rest period premiums, or were not paid for all hours worked, Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements which failed to show, among other things, all deductions, the total hours worked and all applicable hourly rates in effect during the pay period, and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Defendants also failed to provide Plaintiff and other Aggrieved Employees with complete and accurate wage statements that included all required elements listed above. Specifically, Defendants from time to time failed to provide Plaintiff and other Aggrieved Employees with wage statements that provide the accurate name and address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8). As a result, Defendants issued Plaintiff and other Aggrieved Employees with wage statements that violate Cal. Lab. Code § 226. Further, Defendants' violations are knowing and intentional, were not isolated due to an unintentional payroll error due to clerical or inadvertent mistake.

Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations: During the last year, from time-to-time, Defendants failed and continue to fail to accurately pay Plaintiff and other Aggrieved Employees for all hours worked. During the last year, from time-to-time Defendants required Plaintiff and other Aggrieved Employees to perform pre-shift or post-shift work. This resulted in Plaintiff and other Aggrieved Employees having to work while off-the-clock. Defendants directly benefited from the undercompensated off-the-clock work performed by Plaintiff and other Aggrieved Employees. Defendants controlled the work schedules, duties, and protocols, applications, assignments, and employment conditions of Plaintiff and other Aggrieved Employees.

Defendants were able to track the amount of time Plaintiff and other Aggrieved Employees spent working; however, Defendants failed to document, track, or pay Plaintiff and other Aggrieved Employees all wages earned and owed for all the work they performed. Plaintiff and other Aggrieved Employees were non-exempt employees, subject to the requirements of the California Labor Code. Defendants' policies and practices deprived Plaintiff and other Aggrieved Employees of all minimum regular, overtime, and double time wages owed for the off-the-clock work activities. Because Plaintiff and other Aggrieved Employees typically worked over forty (40) hours in a workweek, and more than eight (8) hours per day, Defendants' policies and practices also deprived them of overtime pay.

Defendants knew or should have known that Plaintiff's and other Aggrieved Employees' off-the-clock work was compensable under the law. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control, and benefit for the time spent working while off-the-clock, including but not limited to, undergoing pre-shift and post-shift work. Defendants' uniform policy and practice to not pay Plaintiff and other Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by

Defendants' business records.

Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay: From time to time during the last year, Defendants failed and continue to fail to accurately calculate and pay Plaintiff and other Aggrieved Employees for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. Defendants' uniform policy and practice not to pay Plaintiff and other Aggrieved Employees at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by Defendants' business records.

State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." Plaintiff and other Aggrieved Employees were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance. The second component of Plaintiff's and other Aggrieved Employees' compensation was Defendants' non-discretionary incentive program that paid Plaintiff and other Aggrieved Employees incentive wages based on their performance for Defendants. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by Defendants. However, from time to time, when calculating the regular rate of pay in those pay periods where Plaintiff and other Aggrieved Employees worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, Defendants failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package. As a matter of law, the incentive compensation received by Plaintiff and other Aggrieved Employees must be included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime and double time compensation, meal and rest period premium payments, and redeemed sick pay to Plaintiff and other Aggrieved Employees by Defendants.

Specifically, California Labor Code Section 246 mandates that paid sick time for non-exempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not the employee actually works overtime in that workweek. Defendants' conduct, as articulated herein, by failing to include the incentive compensation as part of the "regular rate of pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission ("IWC") Wage Order, Defendants as a matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate Plaintiff and other Aggrieved Employees at the correct rate of pay for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay as required by California law which allowed Defendants to illegally profit and gain an unfair advantage over competitors who complied with the law.

Unlawful Deductions: During the last year, Defendants, from time-to-time, unlawfully deducted wages from Plaintiff and Aggrieved Employees' pay without explanations and without authorization to do so or notice to Plaintiff and the Aggrieved Employees. As a result, Defendants violated Labor Code § 221.

Timekeeping Manipulation: During the last year, Defendants, from time-to-time, did not have an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time Plaintiff and other Aggrieved Employees worked each day, including regular time, overtime hours, sick pay, meal and rest breaks. As a result, Defendants were able to and did in fact, unlawfully, and unilaterally alter the time recorded in Defendants' timekeeping system for Plaintiff and other Aggrieved Employees in order to avoid paying these employees for all hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed rest breaks. As a result, Plaintiff and other Aggrieved Employees, from time-to-time, forfeited time worked by working without their time being accurately recorded and without compensation at the applicable pay rates.

The mutability of the timekeeping system also allowed Defendants to alter employee time records by recording fictitious thirty (30) minute meal breaks in Defendants' timekeeping system so as to create the appearance that Plaintiff and other Aggrieved Employees clocked out for thirty (30) minute meal break when in fact the employees were not at all times provided an off-duty meal break. This practice is a direct result of Defendants' uniform policy and practice of denying employees uninterrupted thirty (30) minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As a result, Plaintiff and other Aggrieved Employees forfeited wages due to them for all hours worked at Defendants' direction, control and benefit for the time the timekeeping system was inoperable. Defendants' uniform policy and practice to not pay Plaintiff and the Aggrieved Employees wages for all hours worked in accordance with applicable law is evidenced by Defendants' business records.

Unlawful Rounding Practices: During the last year, Defendants did not have in place an immutable timekeeping system to accurately record and pay Plaintiff and other Aggrieved Employees for the actual time these employees worked each day, including overtime hours. Specifically, Defendants had in place an unlawful rounding policy and practice that resulted in Plaintiff and the Aggrieved Employees being undercompensated for all of their time worked. As a result, Defendants were able to and did in fact unlawfully, and unilaterally round the time recorded in Defendants' timekeeping system for Plaintiff and the Aggrieved Employees in order to avoid paying these employees for all their time worked, including the applicable overtime compensation for overtime worked. As a result, Plaintiff and other Aggrieved Employees, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

Further, the mutability of Defendants' timekeeping system and unlawful rounding policy and practice resulted in Plaintiff's and the Aggrieved Employees' time being inaccurately recorded. As a result, from time to time, Defendants' unlawful rounding policy and practice caused Plaintiff and other Aggrieved Employees to perform work as ordered by Defendants for more than five (5) hours during a shift without receiving an off-duty meal break.

Untimely Payment of Wages: Pursuant to California Labor Code section 204, Plaintiff and the

Aggrieved Employees were entitled to timely payment of wages during their employment. Plaintiff and the Aggrieved Employees, from time to time, did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal period premium wages, and rest period premium wages within permissible time period. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant to Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Plaintiff and the Aggrieved Employees were, from time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202. To date, Defendants have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to him or any penalty wages owed to him under Cal. Lab. Code § 203.

Sick Pay Violations: Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to time, including within the last year, Defendants failed to have a policy or practice in place that provided Plaintiff and other Aggrieved Employees with sick days and/or paid sick leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide and allow employees to use at least 40 hours or five days of paid sick leave per year. California Labor Code Section 246(i) requires an employer to furnish its employees with written wage statements setting forth the amount of paid sick leave available. From time to time, including within the last year, Defendants violated Cal. Lab. Code § 246 by failing to furnish Plaintiff and other Aggrieved Employees with wage statements setting forth the amount of paid sick leave available.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues his investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided in compliance with California Labor Code section 2695, *et seq.* .

If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Very truly yours,

JCL LAW FIRM, APC



Jean-Claude Lapuyade, Esq.

ZAKAY LAW GROUP, APLC

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

JUSTIN JOHNSON, an individual, on behalf of
himself, and on behalf of all persons similarly
situated,

Plaintiff,

v.

B.T. TRANSPORTATION, INC., dba LA
COSTA LIMOUSINE and LA COSTA
LIMOUSINE LTD, a California corporation;
and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL.

LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802.

DEMAND FOR A JURY TRIAL

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

PRELIMINARY ALLEGATIONS

1. Defendant B.T. TRANSPORTATION, INC. dba LA COSTA LIMOUSINE and LA COSTA LIMOUSINE LTD (“DEFENDANT and/or DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT provides chauffer services in California, including in the county of San Diego, where PLAINTIFF worked.

3. PLAINTIFF was employed by DEFENDANTS in California from April of 2022 to April of 2024 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all persons who are or previously were employed by DEFENDANT in California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined

1 by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the
2 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

14 6. The true names and capacities, whether individual, corporate, subsidiary,
15 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are
16 presently unknown to PLAINTIFFS who therefore sues these DEFENDANTS by such fictitious
17 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this
18 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
19 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief
20 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
21 inclusive, are responsible in some manner for one or more of the events and happenings that
22 proximately caused the injuries and damages hereinafter alleged.

23 7. The agents, servants and/or employees of the Defendants and each of them acting
24 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
25 agent, servant and/or employee of the Defendants, and personally participated in the conduct
26 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
27 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
28 Defendants are jointly and severally liable to PLAINTIFF and the other members of the

1 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
2 Defendants' agents, servants and/or employees.

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

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

14 10. DEFENDANTS' uniform policies and practices alleged herein were unlawful,
15 unfair, and deceptive business practices whereby DEFENDANTS retained and continue to retain
16 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

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

22 **JURISDICTION AND VENUE**

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

27 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,
28 Sections 395 and 395.5, because DEFENDANTS operate in locations across California, employ

1 the CALIFORNIA CLASS across California, including in this County, and committed the
2 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

3 **THE CONDUCT**

4 14. In violation of the applicable sections of the California Labor Code and the
5 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
6 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
7 failed to provide legally compliant meal and rest periods, failed to accurately compensate
8 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
9 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
10 time worked, failed compensate PLAINTIFF and the other members of the CALIFORNIA
11 CLASS for off-the-clock work, failed to pay PLAINTIFF and the other members of the
12 CALIFORNIA CLASS overtime at the correct regular rate of pay, failed to compensate
13 PLAINTIFF and other members of the CALIFORNIA CLASS meal and rest premiums at the
14 regular rate of pay, failed to pay PLAINTIFF and other CALIFORNIA CLASS Members
15 redeemed sick pay at the regular rate of pay, failed to reimburse PLAINTIFF and other
16 CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and
17 the members of the CALIFORNIA CLASS with accurate itemized wage statements showing,
18 among other things, all applicable hourly rates in effect during the pay periods and the
19 corresponding amount of time worked at each hourly rate. DEFENDANTS’ uniform policies and
20 practices are intended to purposefully avoid the accurate and full payment for all time worked as
21 required by California law which allows DEFENDANTS to illegally profit and gain an unfair
22 advantage over competitors who comply with the law. To the extent equitable tolling operates to
23 toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should
24 be adjusted accordingly.

25 **A. Meal Period Violations**

26 15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
27 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
28 meaning the time during which an employee is subject to the control of an employer, including

1 all the time the employee is suffered or permitted to work. From time to time during the CLASS
2 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work
3 without paying them for all the time they were under DEFENDANTS' control. Specifically,
4 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
5 be PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not
6 even receive a partial lunch. As a result, PLAINTIFF and other CALIFORNIA CLASS Members
7 forfeited minimum wage and overtime compensation by regularly working without their time
8 being accurately recorded and without compensation at the applicable minimum wage and
9 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other
10 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business
11 records.

12 16. From time to time during the CLASS PERIOD, as a result of their rigorous work
13 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
14 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
15 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
16 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANTS for
17 more than five (5) hours during some shifts without receiving a meal break. Further,
18 DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
19 second off-duty meal period for some workdays in which these employees are required by
20 DEFENDANTS to work ten (10) hours of work. The nature of the work performed by
21 PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for the limited and
22 narrowly construed "on-duty" meal period exception. When they were provided with meal
23 periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time,
24 required to remain on duty and on call. Further, DEFENDANTS from time to time required
25 PLAINTIFF and other CALIFORNIA CLASS Members to maintain cordless communication
26 devices in order to receive and respond to work-related communications during what was
27 supposed to be their off-duty meal breaks. DEFENDANTS' failure to provide PLAINTIFF and
28 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by

1 DEFENDANTS' business records. As a result of their rigorous work schedules and
2 DEFENDANTS' inadequate staffing, PLAINTIFF and other members of the CALIFORNIA
3 CLASS therefore forfeit meal breaks without additional compensation and in accordance with
4 DEFENDANTS' strict corporate policy and practice.

5 **B. Rest Period Violations**

6 17. From time to time during the CLASS PERIOD, PLAINTIFF and other
7 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
8 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
9 DEFENDANTS' inadequate staffing. Further, for the same reasons, these employees were denied
10 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
11 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
12 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
13 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
14 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
15 CLASS Members were, from time to time, required to remain on duty and/or on call. Further,
16 DEFENDANTS from time to time required PLAINTIFF and other CALIFORNIA CLASS
17 Members to maintain cordless communication devices in order to receive and respond to work-
18 related communications during what was supposed to be their off-duty rest breaks. PLAINTIFF
19 and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*
20 thereof. As a result of their rigorous work schedules and DEFENDANTS' inadequate staffing,
21 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their
22 proper rest periods by DEFENDANTS and DEFENDANTS' managers.

23 **C. Unreimbursed Business Expenses**

24 18. DEFENDANTS as a matter of corporate policy, practice, and procedure,
25 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
26 and the other CALIFORNIA CLASS Members for required business expenses incurred by the
27 PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging
28 their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802, employers

1 are required to indemnify employees for all expenses incurred in the course and scope of their
2 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or
3 her employee for all necessary expenditures or losses incurred by the employee in direct
4 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
5 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
6 believed them to be unlawful."

7 19. In the course of their employment, DEFENDANTS required PLAINTIFF and
8 other CALIFORNIA CLASS Members to incur personal expenses for the use of their personal
9 cell phones, personal expenses incurred for the acquisition of work uniforms, and personal
10 expenses incurred for the maintenance of work uniforms as a result of and in furtherance of their
11 job duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required
12 to use their personal cell phones, personal expenses incurred for the acquisition of work
13 uniforms, and personal expenses incurred for the maintenance of work uniforms in order to
14 perform work related tasks. However, DEFENDANTS unlawfully failed to reimburse
15 PLAINTIFF and other CALIFORNIA CLASS Members for the use of their personal cell phones,
16 personal expenses incurred for the acquisition of work uniforms, and personal expenses incurred
17 for the maintenance of work uniforms. As a result, in the course of their employment with
18 DEFENDANTS, the PLAINTIFF and other CALIFORNIA CLASS Members incurred
19 unreimbursed business expenses that included, but were not limited to, costs related to the use of
20 their personal cell phones, personal expenses incurred for the acquisition of work uniforms, and
21 personal expenses incurred for the maintenance of work uniforms, all on behalf of and for the
22 benefit of DEFENDANTS.

23 **D. Wage Statement Violations**

24 20. California Labor Code Section 226 required an employer to furnish its employees
25 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
26 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
27 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
28 name of the employee and only the last four digits of the employee's social security number or an

1 employee identification number other than a social security number, (8) the name and address of
2 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
3 period and the corresponding number of hours worked at each hourly rate by the employee.

4 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other
5 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
6 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS
7 also failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and
8 accurate wage statements which failed to show, among other things, all deductions, the total hours
9 worked and all applicable hourly rates in effect during the pay period and the corresponding
10 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
11 meal and rest periods.

12 22. Further, DEFENDANT from time to time failed to provide PLAINTIFF and other
13 CALIFORNIA CLASS Members with wage statements that provide the accurate name and
14 address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

15 23. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide
16 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
17 Cal. Lab. Code § 226.

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

22 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

23 25. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
24 continue to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
25 for all hours worked.

26 26. During the CLASS PERIOD, from time-to-time DEFENDANTS required
27 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
28 work, including but not limited to, receiving and responding to work-related communications and

1 waiting for dispatchers to confirm jobs. This resulted in PLAINTIFF and other members of the
2 CALIFORNIA CLASS having to work while off-the-clock.

3 27. DEFENDANTS directed and directly benefited from the undercompensated off-
4 the-clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

5 28. DEFENDANTS controlled the work schedules, duties, and protocols, applications,
6 assignments, and employment conditions of PLAINTIFF and the other members of the
7 CALIFORNIA CLASS.

8 29. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
9 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
10 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
11 wages earned and owed for all the work they performed.

12 30. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
13 exempt employees, subject to the requirements of the California Labor Code.

14 31. DEFENDANTS' policies and practices deprived PLAINTIFF and the other
15 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed
16 for the off-the-clock work activities. Because PLAINTIFF and the other members of the
17 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than
18 eight (8) hours per day, DEFENDANTS' policies and practices also deprived them of overtime
19 pay.

20 32. DEFENDANTS knew or should have known that PLAINTIFF and the other
21 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

22 33. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
23 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control, and
24 benefit for the time spent working while off-the-clock, including but not limited to, receiving and
25 responding to work-related communications and waiting for dispatchers to confirm jobs.
26 DEFENDANTS' uniform policy and practice to not pay PLAINTIFF and the members of the
27 CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is
28 evidenced by DEFENDANTS' business records.

F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and Redeemed Sick Pay

34. From time to time during the CLASS PERIOD, DEFENDANTS failed and continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS Members for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. DEFENDANTS' uniform policy and practice not to pay the CALIFORNIA CLASS Members at the correct rate for all overtime and double time worked, meal and rest period premiums, and sick pay in accordance with applicable law is evidenced by DEFENDANTS' business records.

35. State law provides that employees must be paid overtime at one-and-one-half times their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were compensated at an hourly rate plus incentive pay that was tied to specific elements of an employee's performance.

36. The second component of PLAINTIFF's and other CALIFORNIA CLASS Members' compensation was DEFENDANTS' non-discretionary incentive program that paid PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their performance for DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by DEFENDANTS.

37. However, from time to time, when calculating the regular rate of pay in those pay periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the incentive/bonus program to potential and new employees as part of the compensation package.

1 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
2 CLASS Members must be included in the “regular rate of pay.” The failure to do so has resulted
3 in a systematic underpayment of overtime and double time compensation, meal and rest period
4 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS
5 Members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that
6 paid sick time for non-exempt employees shall be calculated in the same manner as the regular
7 rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or
8 not the employee actually works overtime in that workweek. DEFENDANTS’ conduct, as
9 articulated herein, by failing to include the incentive compensation as part of the “regular rate of
10 pay” for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the
11 underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

12 38. In violation of the applicable sections of the California Labor Code and the
13 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
14 matter of company policy, practice, and procedure, intentionally and knowingly failed to
15 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
16 of pay for all overtime and double time worked, meal and rest period premiums, and redeemed
17 sick pay as required by California law which allowed DEFENDANTS to illegally profit and gain
18 an unfair advantage over competitors who complied with the law. To the extent equitable tolling
19 operates to toll claims by the CALIFORNIA CLASS Members against DEFENDANTS, the
20 CLASS PERIOD should be adjusted accordingly.

21 **G. Unlawful Deductions**

22 39. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
23 and CALIFORNIA CLASS Members’ pay without explanations and without authorization to do
24 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
25 DEFENDANTS violated Labor Code § 221.

26 **H. Timekeeping Manipulation**

27 40. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
28 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of

1 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
2 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
3 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and
4 unilaterally alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and
5 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all
6 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and
7 missed rest breaks.

8 41. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
9 time-to-time, forfeited time worked by working without their time being accurately recorded and
10 without compensation at the applicable pay rates.

11 42. The mutability of the timekeeping system also allowed DEFENDANTS to alter
12 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
13 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
14 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
15 were not at all times provided an off-duty meal break. This practice is a direct result of
16 DEFENDANTS' uniform policy and practice of denying employees uninterrupted thirty (30)
17 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

18 43. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
19 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control and
20 benefit for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy
21 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for
22 all hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
23 records.

24 **I. Unlawful Rounding Practices**

25 44. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in
26 place an immutable timekeeping system to accurately record and pay PLAINTIFFS and other
27 CALIFORNIA CLASS Members for the actual time these employees worked each day,
28 including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding

1 policy and practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being
2 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did
3 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping
4 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid paying
5 these employees for all their time worked, including the applicable overtime compensation for
6 overtime worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members, from
7 time to time, forfeited compensation for their time worked by working without their time being
8 accurately recorded and without compensation at the applicable overtime rates.

9 45. Further, the mutability of DEFENDANTS' timekeeping system and unlawful
10 rounding policy and practice resulted in PLAINTIFFS and CALIFORNIA CLASS Members'
11 time being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful
12 rounding policy and practice caused PLAINTIFFS and CALIFORNIA CLASS Members to
13 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without
14 receiving an off-duty meal break.

15 **J. Violations for Untimely Payment of Wages**

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

21 47. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the
22 wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant
23 to Cal. Lab. Code § 202, if an employee quits his or her employment, "his or her wages shall
24 become due and payable not later than 72 hours thereafter, unless the employee has given 72
25 hours previous notice of his or her intention to quit, in which case the employee is entitled to his
26 or her wages at the time of quitting." PLAINTIFF and the CALIFORNIA CLASS Members
27 were, from time to time, not timely provided the wages earned and unpaid at the time of their
28 discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

1 48. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely
2 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose
3 employment ended during the CLASS PERIOD.

4 **K. Sick Pay Violations**

5 49. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after
6 July 1, 2015, works in California for the same employer for 30 or more days within a year from
7 the commencement of employment is entitled to paid sick days as specified in this section.”
8 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From
9 time to time, DEFENDANTS failed to have a policy or practice in place that provided
10 PLAINTIFF and other members of the CALIFORNIA CLASS with sick days and/or paid sick
11 leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide
12 and allow employees to use at least 40 hours or five days of paid sick leave per year.

13 50. California Labor Code Section 246(i) requires an employer to furnish its
14 employees with written wage statements setting forth the amount of paid sick leave available.
15 From time to time, DEFENDANTS violated Cal. Lab. Code § 246 by failing to furnish
16 PLAINTIFF and other members of the CALIFORNIA CLASS with wage statements setting forth
17 the amount of paid sick leave available.

18 51. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
19 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
20 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
21 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
22 provide PLAINTIFF with a second off-duty meal period each workday in which he was required
23 by DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided
24 PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call for the
25 rest break. DEFENDANTS policy caused PLAINTIFF to remain on-call and on-duty during
26 what was supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and
27 rest breaks without additional compensation and in accordance with DEFENDANTS’ strict
28 corporate policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with

1 paystubs that failed to comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed
2 to reimburse PLAINTIFF for required business expenses related to the personal expenses
3 incurred for the use of their personal cell phone, personal expenses incurred for the acquisition
4 of work uniforms, and personal expenses incurred for the maintenance of work uniforms on
5 behalf of and in furtherance of his employment with DEFENDANTS. To date, DEFENDANTS
6 have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed
7 to him or any penalty wages owed to him under Cal. Lab. Code § 203. The amount in controversy
8 for PLAINTIFF individually does not exceed the sum or value of \$75,000.

9 **CLASS ACTION ALLEGATIONS**

10 52. PLAINTIFF brings this Class Action on behalf of himself, and a California class
11 defined as all persons who are or previously were employed by DEFENDANT in California and
12 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
13 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
14 by the Court (the “CLASS PERIOD”).

15 53. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
16 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
17 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
18 illegal meal and rest period policies, failed to reimburse for business expenses, failed compensate
19 for off-the-clock work, failure to provide accurate itemized wage statements, failure to maintain
20 required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

21 54. The members of the class are so numerous that joinder of all class members is
22 impractical.

23 55. Common questions of law and fact regarding DEFENDANTS’ conduct, including
24 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
25 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
26 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
27 compliant meal and rest periods, failure to reimburse for business expenses, failure to provide
28 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum

1 wage and overtime, exist as to all members of the class and predominate over any questions
2 affecting solely any individual members of the class. Among the questions of law and fact
3 common to the class are:

- 4 a. Whether DEFENDANT maintained legally compliant meal period policies and
5 practices;
- 6 b. Whether DEFENDANT maintained legally compliant rest period policies and
7 practices;
- 8 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
9 Members accurate premium payments for missed meal and rest periods;
- 10 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
11 Members accurate overtime wages;
- 12 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
13 Members at least minimum wage for all hours worked;
- 14 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
15 CLASS Members for required business expenses;
- 16 g. Whether DEFENDANT issued legally compliant wage statements;
- 17 h. Whether DEFENDANT committed an act of unfair competition by systematically
18 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
19 CLASS for all time worked;
- 20 i. Whether DEFENDANT committed an act of unfair competition by systematically
21 failing to record all meal and rest breaks missed by PLAINTIFF and other
22 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
23 of this work, required employees to perform this work and permits or suffers to
24 permit this work;
- 25 j. Whether DEFENDANT committed an act of unfair competition in violation of the
26 UCL, by failing to provide the PLAINTIFF and the other members of the
27 CALIFORNIA CLASS with the legally required meal and rest periods.
28

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

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

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

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

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

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

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

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

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

1 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
2 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
3 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

19 71. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
20 unfair, and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the
21 other members of the CALIFORNIA CLASS to be underpaid during their employment with
22 DEFENDANTS.

23 72. By the conduct alleged herein, DEFENDANTS' practices were also unfair and
24 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to provide
25 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
26 required by Cal. Lab. Code §§ 226.7 and 512.

27 73. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
28 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal

1 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
2 each workday in which a second off-duty meal period was not timely provided for each ten (10)
3 hours of work.

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

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

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

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

23 78. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
24 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
25 and deceptive, and that injunctive relief should be issued restraining DEFENDANTS from
26 engaging in any unlawful and unfair business practices in the future.

27 PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy
28 and/or adequate remedy at law that will end the unlawful and unfair business practices of

1 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
2 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
3 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
4 and economic harm unless DEFENDANTS are restrained from continuing to engage in these
5 unlawful and unfair business practices.

6 **SECOND CAUSE OF ACTION**

7 **Failure To Pay Minimum Wages**

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

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

13 80. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
14 for DEFENDANTS' willful and intentional violations of the California Labor Code and the
15 Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately calculate
16 and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

19 82. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
20 commission is the minimum wage to be paid to employees, and the payment of a less wage than
21 the minimum so fixed is unlawful.

22 83. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
23 including minimum wage compensation and interest thereon, together with the costs of suit.

24 84. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and
25 the other members of the CALIFORNIA CLASS without regard to the correct amount of time
26 they work. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully
27 and intentionally deny timely payment of wages due to PLAINTIFF and the other members of
28 the CALIFORNIA CLASS.

1 85. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
3 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
4 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

14 88. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
16 failure to pay all earned wages.

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

22 90. DEFENDANTS knew or should have known that PLAINTIFF and the other
23 members of the CALIFORNIA CLASS were under-compensated for their time worked.
24 DEFENDANTS systematically elected, either through intentional malfeasance or gross
25 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
26 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay
27 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
28 for their time worked.

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

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

20 **THIRD CAUSE OF ACTION**

21 **Failure To Pay Overtime Compensation**

22 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

23 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

27 94. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
28 for DEFENDANTS' willful and intentional violations of the California Labor Code and the

1 Industrial Welfare Commission requirements for DEFENDANTS' failure to pay these employees
2 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
3 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

6 96. Cal. Lab. Code § 510 provides that employees in California shall not be employed
7 more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless
8 they receive additional compensation beyond their regular wages in amounts specified by law.

9 97. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
10 including minimum and overtime compensation and interest thereon, together with the costs of
11 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
12 than those fixed by the Industrial Welfare Commission is unlawful.

13 98. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
14 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
15 they worked, including overtime work.

16 99. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
17 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
18 implementing a uniform policy and practice that failed to accurately record overtime worked by
19 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to
20 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
21 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
22 (12) hours in a workday, and/or forty (40) hours in any workweek.

23 100. In committing these violations of the California Labor Code, DEFENDANTS
24 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
25 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANTS acted in an illegal
26 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
27 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
28 regulations.

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

4 102. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
5 from the overtime requirements of the law. None of these exemptions are applicable to
6 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
7 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
8 agreement that would preclude the causes of action contained herein this Complaint. Rather,
9 PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA CLASS based on
10 DEFENDANTS' violations of non-negotiable, non-waivable rights provided by the State of
11 California.

12 103. During the CLASS PERIOD, PLAINTIFF and the other members of the
13 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to, constituting
14 a failure to pay all earned wages.

15 104. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of
16 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
17 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even
18 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly required
19 to work, and did in fact work overtime, and did in fact work overtime as to which DEFENDANTS
20 failed to accurately record and pay as evidenced by DEFENDANTS' business records and
21 witnessed by employees.

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

27 106. DEFENDANTS knew or should have known that PLAINTIFF and the other
28 members of the CALIFORNIA CLASS were undercompensated for their time worked.

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

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

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

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

FIFTH CAUSE OF ACTION

Failure To Provide Required Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

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

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

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

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

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

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

SIXTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

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

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

118. Cal. Labor Code § 226 provides that an employer must furnish employees with an "accurate itemized" statement in writing showing:

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an

employee identification number other than social security number may be shown on the itemized statement,

h. the name and address of the legal entity that is the employer, and

i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

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

120. Further, DEFENDANT from time to time failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with wage statements that provide the accurate name and address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

121. In addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of California Labor Code Section 226.

122. DEFENDANTS knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct wages for all missed meal and rest breaks and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period

pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein).

SEVENTH CAUSE OF ACTION

Failure To Pay Wages When Due

(Cal. Lab. Code § 203)

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

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

124. Cal. Lab. Code § 200 provides that:

As used in this article:

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

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

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

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

127. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members' employment contract.

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1 128. Cal. Lab. Code § 203 provides:

2 If an employer willfully fails to pay, without abatement or reduction, in accordance with
3 Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who
4 quits, the wages of the employee shall continue as a penalty from the due date thereof at
the same rate until paid or until an action therefor is commenced; but the wages shall not
continue for more than 30 days.

5 129. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
6 terminated, and DEFENDANTS have not tendered payment of wages to these employees who
7 missed meal and rest breaks, as required by law.

8 130. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
9 members of the CALIFORNIA CLASS whose employment has ended, PLAINTIFF demands up
10 to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all
11 employees who terminated employment during the CLASS PERIOD and demand an accounting
12 and payment of all wages due, plus interest and statutory costs as allowed by law.

13 **EIGHTH CAUSE OF ACTION**

14 **Failure To Reimburse Employees for Required Expenses**

15 **(Cal. Lab. Code §§ 2802)**

16 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

20 132. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

24 133. From time to time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab.
25 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
26 members for required expenses incurred in the discharge of their job duties for DEFENDANTS'
27 benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA CLASS
28 members for expenses which included, but were not limited to, the use of their personal cell

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

17 134. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred
18 by him and the CALIFORNIA CLASS members in the discharge of their job duties for
19 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the
20 statutory rate and costs under Cal. Lab. Code § 2802.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, PLAINTIFF prays for a judgment against each Defendant, jointly and
23 severally, as follows:

24 1. On behalf of the CALIFORNIA CLASS:

- 25 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
26 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
27 b. An order temporarily, preliminarily and permanently enjoining and restraining
28 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

- 1 c. An order requiring DEFENDANTS to pay all overtime wages and all sums
2 unlawfully withheld from compensation due to PLAINTIFF and the other members
3 of the CALIFORNIA CLASS; and
- 4 d. Restitutionary disgorgement of DEFENDANTS' ill-gotten gains into a fluid fund
5 for restitution of the sums incidental to DEFENDANTS' violations due to
6 PLAINTIFF and to the other members of the CALIFORNIA CLASS.
- 7 2. On behalf of the CALIFORNIA CLASS:
- 8 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
9 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
10 to Cal. Code of Civ. Proc. § 382;
- 11 b. Compensatory damages, according to proof at trial, including compensatory
12 damages for overtime compensation due to PLAINTIFF and the other members of
13 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
14 thereon at the statutory rate;
- 15 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
16 the applicable IWC Wage Order;
- 17 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
18 which a violation occurs and one hundred dollars (\$100) per each member of the
19 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
20 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for
21 violation of Cal. Lab. Code § 226
- 22 e. The wages of all terminated employees from the CALIFORNIA CLASS as a
23 penalty from the due date thereof at the same rate until paid or until an action
24 therefore is commenced, in accordance with Cal. Lab. Code § 203.
- 25 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
26 CLASS incurred in the course of their job duties, plus interest, and costs of suit.
- 27 3. On all claims:
- 28 a. An award of interest, including prejudgment interest at the legal rate;

- 1 b. Such other and further relief as the Court deems just and equitable; and
2 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
3 including, but not limited to, pursuant to Labor Code § 218.5, § 226, § 246 and/or
4 § 1194.

5
6 DATED: August 23, 2024

ZAKAY LAW GROUP, APLC

7
8 By: 
9 Shani Zakay
Attorney for PLAINTIFF

10 **DEMAND FOR A JURY TRIAL**

11 PLAINTIFF demands a jury trial on issues triable to a jury.
12

13 DATED: August 23, 2024

ZAKAY LAW GROUP, APLC

14
15 By: 
16 Shani Zakay
Attorney for PLAINTIFF
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