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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN DIEGO**

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

Plaintiffs,

v.

PROSCIEN TO, INC., a Delaware corporation;  
PROSCIEN TO CLINICAL RESEARCH  
VENTURES, INC., a Delaware corporation;  
and DOES 1-50, Inclusive,

Defendants.

Case No: 37-2023-00051828-CU-OE-CTL

**FIRST AMENDED 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 REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;  
7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;  
8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;  
9) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant PROSCIENTO, INC. (“Defendant Prosciento”) is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant PROSCIENTO CLINICAL RESEARCH VENTURES, INC. (“Defendant Prosciento Clinical Research”) is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant Prosciento and Defendant Prosciento Clinical Research were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANT operates a clinical research company throughout the state of California, including the county of San Diego, where PLAINTIFF worked.

1           5.     PLAINTIFF was employed by DEFENDANT in California from July of 2007 to  
2 May of 2023 as a non-exempt employee, paid on an hourly basis, and entitled to the legally  
3 required meal and rest periods and payment of minimum and overtime wages due for all time  
4 worked.

5           6.     PLAINTIFF brings this Class Action on behalf of himself and a California class,  
6 defined as all persons who are or previously were employed by Defendant Prosciento and/or  
7 Defendant Prosciento Clinical Research in California and classified as non-exempt employees  
8 (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the  
9 filing of this Complaint and ending on the date as determined by the Court (the "CLASS  
10 PERIOD"). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS  
11 Members is under five million dollars (\$5,000,000.00).

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

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

1 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,  
2 inclusive, are responsible in some manner for one or more of the events and happenings that  
3 proximately caused the injuries and damages hereinafter alleged.

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

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

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

23         12.    DEFENDANT's uniform policies and practices alleged herein were unlawful,  
24 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain  
25 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

26         13.    PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction  
27 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
28 other members of the CALIFORNIA CLASS who has been economically injured by

1 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable  
2 relief.

### 3 **JURISDICTION AND VENUE**

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

8 15. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
9 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs  
10 the CALIFORNIA CLASS across California, including in this County, and committed the  
11 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

### 12 **THE CONDUCT**

13 16. In violation of the applicable sections of the California Labor Code and the  
14 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a  
15 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
19 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF  
20 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,  
21 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest  
22 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS  
23 Members for business expenses, and failed to issue to PLAINTIFF and the members of the  
24 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all  
25 applicable hourly rates in effect during the pay periods and the corresponding amount of time  
26 worked at each hourly rate and/or failing to adhere to the Labor Code Section 226(a)(1)-(9).  
27 DEFENDANT's uniform policies and practices are intended to purposefully avoid the accurate  
28 and full payment for all time worked as required by California law which allows DEFENDANT

1 to illegally profit and gain an unfair advantage over competitors who comply with the law. To  
2 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against  
3 DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

4 **A. Meal Period Violations**

5 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
6 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
7 meaning the time during which an employee is subject to the control of an employer, including  
8 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
9 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
10 without paying them for all the time they were under DEFENDANT's control. Specifically,  
11 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be  
12 PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
13 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
14 Members forfeited minimum wage and overtime compensation by regularly working without their  
15 time being accurately recorded and without compensation at the applicable minimum wage and  
16 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other  
17 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
18 records.

19 18. From time to time during the CLASS PERIOD, as a result of their rigorous work  
20 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other  
21 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty  
22 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
23 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for  
24 more than five (5) hours during some shifts without receiving a meal break. Further,  
25 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second  
26 off-duty meal period for some workdays in which these employees are required by DEFENDANT  
27 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other  
28 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-

1 duty” meal period exception. When they were provided with meal periods, PLAINTIFF and other  
2 CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on  
3 duty and on call. DEFENDANT’s failure to provide PLAINTIFF and the CALIFORNIA CLASS  
4 Members with legally required meal breaks is evidenced by DEFENDANT’s business records.  
5 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks  
6 without additional compensation and in accordance with DEFENDANT’s strict corporate policy  
7 and practice.

8 **B. Rest Period Violations**

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

23 **C. Unreimbursed Business Expenses**

24 20. DEFENDANT 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 DEFENDANT. 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 her  
3 employee for all necessary expenditures or losses incurred by the employee in direct consequence  
4 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,  
5 even though unlawful, unless the employee, at the time of obeying the directions, believed them  
6 to be unlawful."

7         21. In the course of their employment, DEFENDANT required PLAINTIFF and other  
8 CALIFORNIA CLASS Members to use their personal cell phones and personal vehicles, as well  
9 as to purchase their own uniform and personal protective equipment ("PPE"), as a result of and  
10 in furtherance of their job duties, including but not limited to receiving and/or responding to work-  
11 related communications and performing work-related duties. However, DEFENDANT  
12 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for the  
13 use of their personal cell phones and personal vehicles and the purchase their own uniform and  
14 PPE. As a result, in the course of their employment with DEFENDANT, the PLAINTIFF and  
15 other CALIFORNIA CLASS Members incurred unreimbursed business expenses that included,  
16 but were not limited to, costs related to the use of their personal cell phones and personal vehicles  
17 and the purchase of their own uniforms and protective eyewear.

18         **D. Wage Statement Violations**

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

27         23. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
28 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for

1 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
2 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
3 accurate wage statements which failed to accurately show, among other things, gross hours  
4 worked, net wages earned, all deductions, the total hours worked and all applicable hourly rates  
5 in effect during the pay period and the corresponding amount of time worked at each hourly rate,  
6 correct rates of pay for penalty payments or missed meal and rest periods.

7 24. In addition to the foregoing, DEFENDANT, from time to time, failed to provide  
8 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
9 Cal. Lab. Code § 226 by failing to accurately identify the name and address of the legal entity that  
10 is the employer.

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

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

16 26. During the CLASS PERIOD, from time-to-time DEFENDANT failed and  
17 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS  
18 for all hours worked.

19 27. During the CLASS PERIOD, from time-to-time DEFENDANT required  
20 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
21 work, including but not limited to, pre-shift Covid-19 health screenings that included temperature  
22 checks and health questionnaires. This resulted in PLAINTIFF and other members of the  
23 CALIFORNIA CLASS to have to work while off-the-clock, including but not limited to  
24 responding to communications from supervisors or coworkers.

25 28. DEFENDANT directed and directly benefited from the undercompensated off-the-  
26 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

27  
28

1           29. DEFENDANT controlled the work schedules, duties, and protocols, applications,  
2 assignments, and employment conditions of PLAINTIFF and the other members of the  
3 CALIFORNIA CLASS.

4           30. DEFENDANT was able to track the amount of time PLAINTIFF and the other  
5 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to  
6 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
7 wages earned and owed for all the work they performed.

8           31. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
9 exempt employees, subject to the requirements of the California Labor Code.

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

16          33. DEFENDANT knew or should have known that PLAINTIFF and the other  
17 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

18          34. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
19 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and  
20 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and  
21 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
22 hours worked in accordance with applicable law is evidenced by DEFENDANT's business  
23 records.

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

26          35. From time to time during the CLASS PERIOD, DEFENDANT failed and  
27 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
28 Members for their overtime and double time hours worked, meal and rest period premiums, and

1 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
2 forfeited wages due to them for working overtime without compensation at the correct overtime  
3 and double time rates, meal and rest period premiums, and redeemed sick pay rates.  
4 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at  
5 the correct rate for all overtime and double time worked, meal and rest period premiums, and sick  
6 pay in accordance with applicable law is evidenced by DEFENDANT's business records.

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

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

17         38. However, from time to time, when calculating the regular rate of pay in those pay  
18 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double  
19 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-  
20 discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus  
21 compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked  
22 rather than just all non-overtime hours worked. Management and supervisors described the  
23 incentive/bonus program to potential and new employees as part of the compensation package.  
24 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
25 CLASS Members must be included in the "regular rate of pay." The failure to do so has resulted  
26 in a systematic underpayment of overtime and double time compensation, meal and rest period  
27 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS  
28 Members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that

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

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

16 **G. Violations for Untimely Payment of Wages**

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

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

1 at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

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

5 **H. Sick Pay Violations**

6 43. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after  
7 July 1, 2015, works in California for the same employer for 30 or more days within a year from  
8 the commencement of employment is entitled to paid sick days as specified in this section.”  
9 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From  
10 time to time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF  
11 and other members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

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

17 **I. Unlawful Deductions**

18 45. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFF  
19 and CALIFORNIA CLASS Members’ pay without explanations and without authorization to do  
20 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result, DEFENDANT  
21 violated Labor Code § 221.

22 **J. Timekeeping Manipulation**

23 46. During the CLASS PERIOD, DEFENDANT, from time-to-time, did not have an  
24 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
25 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
26 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
27 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and  
28 unilaterally alter the time recorded in DEFENDANT’S timekeeping system for PLAINTIFF and

1 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all  
2 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and  
3 missed rest breaks.

4 47. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
5 time-to-time, forfeited time worked by working without their time being accurately recorded and  
6 without compensation at the applicable pay rates.

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

14 49. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
15 forfeited wages due to them for all hours worked at DEFENDANT'S direction, control and  
16 benefit for the time the timekeeping system was inoperable. DEFENDANT'S uniform policy  
17 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for  
18 all hours worked in accordance with applicable law is evidenced by DEFENDANT'S business  
19 records.

20 **K. Unlawful Rounding Practices**

21 50. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
22 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
23 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
24 including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding  
25 policy and practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being  
26 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did  
27 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping  
28 system for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying

1 these employees for all their time worked, including the applicable overtime compensation for  
2 overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from  
3 time to time, forfeited compensation for their time worked by working without their time being  
4 accurately recorded and without compensation at the applicable overtime rates.

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

11 52. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
12 off duty meal and rest breaks and were not fully relieved of duty for his rest and meal periods.  
13 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)  
14 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
15 provide PLAINTIFF with a second off-duty meal period each workday in which they were  
16 required by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided  
17 PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call for the  
18 rest break. DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what  
19 was supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest  
20 breaks without additional compensation and in accordance with DEFENDANT'S strict corporate  
21 policy and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that  
22 failed to comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse  
23 PLAINTIFF for required business expenses related to the use of his personal cell phone, personal  
24 vehicle, and purchase of his work uniforms and PPE, on behalf of and in furtherance of his  
25 employment with DEFENDANT. To date, DEFENDANT has not fully paid PLAINTIFF the  
26 minimum, overtime and double time compensation still owed to them or any penalty wages owed  
27 to them under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually  
28 does not exceed the sum or value of \$75,000.

**CLASS ACTION ALLEGATIONS**

53. 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 Prosciento and/or Defendant Prosciento Clinical Research 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 by the Court (the “CLASS PERIOD”).

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

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

56. Common questions of law and fact regarding DEFENDANT’s conduct, including but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate the regular rate of pay for overtime compensation, failure to accurately calculate the regular rate of compensation for missed meal and rest period premiums, failing to provide legally compliant meal and rest periods, failed to reimburse for business expenses, failure to provide accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum wage and overtime, exist as to all members of the class and predominate over any questions affecting solely any individual members of the class. Among the questions of law and fact common to the class are:

- a. Whether DEFENDANT maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANT maintained legally compliant rest period policies and practices;

- c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members accurate premium payments for missed meal and rest periods;
- d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members accurate overtime wages;
- e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANT's conduct and actions alleged herein.

58. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and PLAINTIFF have the same interests as the other members of the class.

59. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

60. PLAINTIFF retained able class counsel with extensive experience in class action litigation.

1           61. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the  
2 interest of the other CALIFORNIA CLASS Members.

3           62. There is a strong community of interest among PLAINTIFF and the members of  
4 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
5 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
6 sustained.

7           63. The questions of law and fact common to the CALIFORNIA CLASS Members  
8 predominate over any questions affecting only individual members, including legal and factual  
9 issues relating to liability and damages.

10           64. A class action is superior to other available methods for the fair and efficient  
11 adjudication of this controversy because joinder of all class members is impractical. Moreover,  
12 since the damages suffered by individual members of the class may be relatively small, the  
13 expense and burden of individual litigation makes it practically impossible for the members of  
14 the class individually to redress the wrongs done to them. Without class certification and  
15 determination of declaratory, injunctive, statutory, and other legal questions within the class  
16 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS  
17 will create the risk of:

- 18           a. Inconsistent or varying adjudications with respect to individual members of the  
19 CALIFORNIA CLASS which would establish incompatible standards of conduct  
20 for the parties opposing the CALIFORNIA CLASS; and/or,  
21           b. Adjudication with respect to individual members of the CALIFORNIA CLASS  
22 which would as a practical matter be dispositive of the interests of the other  
23 members not party to the adjudication or substantially impair or impeded their  
24 ability to protect their interests.

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

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1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

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

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

8 67. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
9 Code § 17021.

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

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

21 69. By the conduct alleged herein, DEFENDANT has engaged and continues to  
22 engage in a business practice which violates California law, including but not limited to, the  
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
24 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and  
25 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
26 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
27 constitute unfair competition, including restitution of wages wrongfully withheld.

28 70. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair  
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous  
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California  
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

12 72. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
13 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
14 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
15 DEFENDANT.

16 73. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
17 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
18 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
19 required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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1           76. By and through the unlawful and unfair business practices described herein,  
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
3 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
4 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
5 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
6 to unfairly compete against competitors who comply with the law.

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

12           78. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
13 and do, seek such relief as may be necessary to restore to them the money and property which  
14 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
15 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and  
16 unfair business practices, including earned but unpaid wages for all time worked.

17           79. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
18 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,  
19 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
20 engaging in any unlawful and unfair business practices in the future.

21           80. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
22 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of  
23 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a  
24 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
25 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable  
26 legal and economic harm unless DEFENDANT is restrained from continuing to engage in these  
27 unlawful and unfair business practices.

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

7           89. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
8 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
9 minimum wage compensation for their time worked for DEFENDANT.

10           90. During the CLASS PERIOD, PLAINTIFF and the other members of the  
11 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a  
12 failure to pay all earned wages.

13           91. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
14 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
15 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have  
16 suffered and will continue to suffer an economic injury in amounts which are presently unknown  
17 to them, and which will be ascertained according to proof at trial.

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

25           93. In performing the acts and practices herein alleged in violation of California labor  
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act  
28 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the

1 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the  
2 consequences to them, and with the despicable intent of depriving them of their property and  
3 legal rights, and otherwise causing them injury in order to increase company profits at the  
4 expense of these employees.

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

### 16 **THIRD CAUSE OF ACTION**

#### 17 **Failure To Pay Overtime Compensation**

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

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

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

23 96. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
24 for DEFENDANT's willful and intentional violations of the California Labor Code and the  
25 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees  
26 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,  
27 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

10           100. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
11 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time  
12 they worked, including overtime work.

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

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

26           103. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
27 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
28 overtime compensation for their time worked for DEFENDANT.

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

9           105. During the CLASS PERIOD, PLAINTIFF and the other members of the  
10 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to,  
11 constituting a failure to pay all earned wages.

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

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

24           108. DEFENDANT knew or should have known that PLAINTIFF and the other  
25 members of the CALIFORNIA CLASS were undercompensated for their time worked.  
26 DEFENDANT systematically elected, either through intentional malfeasance or gross  
27 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and  
28 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay

1 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct overtime wages  
2 for their overtime worked.

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

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

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

##### 22 **Failure To Provide Required Meal Periods**

23 **(Cal. Lab. Code §§ 226.7 & 512)**

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

25 111. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and  
26 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
27 Complaint.  
28

1           112. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally  
2 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as  
3 required by the applicable Wage Order and Labor Code. The nature of the work performed by  
4 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being  
5 relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
6 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often  
7 not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
8 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with  
9 legally required meal breaks prior to their fifth (5th) hour of work is evidenced by  
10 DEFENDANT's business records. Further, DEFENDANT failed to provide PLAINTIFF and  
11 CALIFORNIA CLASS Members with a second off-duty meal period in some workdays in which  
12 these employees were required by DEFENDANT to work ten (10) hours of work. As a result,  
13 PLAINTIFF and other members of the CALIFORNIA CLASS forfeited meal breaks without  
14 additional compensation and in accordance with DEFENDANT's strict corporate policy and  
15 practice.

16           113. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
17 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members  
18 who were not provided a meal period, in accordance with the applicable Wage Order, one  
19 additional hour of compensation at each employee's regular rate of pay for each workday that a  
20 meal period was not provided.

21           114. As a proximate result of the aforementioned violations, PLAINTIFF and  
22 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,  
23 and seek all wages earned and due, interest, penalties, expenses and costs of suit.  
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1 **FIFTH CAUSE OF ACTION**

2 **Failure To Provide Required Rest Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

22 117. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
23 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members  
24 who were not provided a rest period, in accordance with the applicable Wage Order, one  
25 additional hour of compensation at each employee's regular rate of pay for each workday that  
26 rest period was not provided.

118. 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 Reimburse Employees For Required Expenses**

**(Cal. Lab. Code §§ 2802)**

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

119. 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.

120. Cal. Lab. Code § 2802 provides, in relevant part, 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.

121. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses which included, but were not limited to, their personal cell phones, personal vehicles and the cost of their uniforms and PPE as a result of and in furtherance of their job duties, including but not limited to receiving and/or responding to work-related communications and performing work-related duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANTS to use their personal cell phones and personal vehicles and purchase their own uniforms and PPE to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from using their personal cell phones and personal vehicles and purchasing their own uniforms and PPE for DEFENDANT within the course and scope of their employment for

1 DEFENDANT. These expenses were necessary to complete their principal job duties.  
2 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.  
3 Although these expenses were necessary expenses incurred by PLAINTIFF and the  
4 CALIFORNIA CLASS members, DEFENDANT failed to indemnify and reimburse  
5 PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is  
6 required to do under the laws and regulations of California.

7 122. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred  
8 by them and the CALIFORNIA CLASS members in the discharge of their job duties for  
9 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the  
10 statutory rate and costs under Cal. Lab. Code § 2802.

### 11 **SEVENTH CAUSE OF ACTION**

#### 12 **Failure To Provide Accurate Itemized Statements**

13 **(Cal. Lab. Code § 226)**

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

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

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

- 20 a. Gross wages earned,
- 21 b. (2) total hours worked by the employee, except for any employee whose  
22 compensation is solely based on a salary and who is exempt from payment of  
23 overtime under subdivision (a) of Section 515 or any applicable order of the  
24 Industrial Welfare Commission,
- 25 c. the number of piece-rate units earned and any applicable piece rate if the employee  
26 is paid on a piece-rate basis,
- 27 d. all deductions, provided that all deductions made on written orders of the employee  
28 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.

125. When DEFENDANT 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, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT 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.

126. 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.

127. DEFENDANT 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).

### **EIGHTH CAUSE OF ACTION**

#### **Failure To Pay Wages When Due**

**(Cal. Lab. Code § 203)**

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

128. 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.

129. 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.

130. 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."

131. 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.

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

1           133. 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           134. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
6           terminated, and DEFENDANT has not tendered payment of wages to these employees who  
7           missed meal and rest breaks, as required by law.

8           135. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself and the  
9           members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demands up to  
10          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 demands an accounting  
12          and payment of all wages due, plus interest and statutory costs as allowed by law.

13                                   **NINTH CAUSE OF ACTION**

14                                   **Violation of the Private Attorneys General Act**

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

16                                   **(Alleged by PLAINTIFF against all Defendants)**

17          136. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
18          herein, the prior paragraphs of this Complaint.

19          137. PAGA is a mechanism by which the State of California itself can enforce state  
20          labor laws through the employee suing under the PAGA who does so as the proxy or agent of the  
21          state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
22          fundamentally a law enforcement action designed to protect the public and not to benefit private  
23          parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means  
24          of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting  
25          PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved  
26          employees, acting as private attorneys general to recover civil penalties for Labor Code violations  
27          ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.  
28

1           138. PLAINTIFF, and such persons that may be added from time to time who satisfy the  
2 requirements and exhaust the administrative procedures under the Private Attorney General Act,  
3 bring this individual PAGA and Representative Action on behalf of the State of California with  
4 respect to himself and all non-exempt employees who worked for DEFENDANT in California (the  
5 “AGGRIEVED EMPLOYEES”) during the time period of November 15, 2022, until the present  
6 (the “PAGA PERIOD”).

7           139. On November 15, 2023, PLAINTIFF gave written notice by certified mail to the  
8 Labor and Workforce Development Agency (the "Agency") and the employer of the specific  
9 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See  
10 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting period  
11 for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to Section  
12 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant to Section  
13 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as  
14 herein defined.

15           140. The policies, acts and practices heretofore described were and are an unlawful  
16 business act or practice because DEFENDANTS (a) failed to pay PLAINTIFF and AGGRIEVED  
17 EMPLOYEES minimum wages and overtime wages, (b) failed to provide PLAINTIFF and  
18 AGGRIEVED EMPLOYEES legally required meal and rest breaks, (c) failed to pay PLAINTIFF  
19 and AGGRIEVED EMPLOYEES at the correct regular rate of pay, (d) failed to pay PLAINTIFF  
20 and AGGRIEVED EMPLOYEES for all time worked, and (e) failed to timely pay wages, all in  
21 violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not  
22 limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3,  
23 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5,  
24 1199, 2802, and 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to  
25 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties  
26 as prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the  
27 State of California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED  
28 EMPLOYEES.

141. For all provisions of the Labor Code for which civil penalty is not specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE, including PLAINTIFF, per pay period for the initial violation and two hundred dollars (\$200) for each AGGRIEVED EMPLOYEE, including PLAINTIFF, per pay period for each subsequent violation. PLAINTIFF and the AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney’s fees and costs in connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.”], Emphasis added, reh'g denied (June 13, 2018).)

#### **PRAYER FOR RELIEF**

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

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- c. An order requiring DEFENDANTS to pay all overtime wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
- d. Restitutionary disgorgement of DEFENDANT’s ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT’s violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

21           3. On behalf of the PLAINTIFF, the State of California and with respect to all

22 AGGRIEVED EMPLOYEES: Recovery of civil penalties as prescribe by the Labor Code Private

23 Attorneys General Act of 2004;

24

25

26

27

28 ///

1 4. On all claims:

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

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

4 An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,

5 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

6  
7 DATED: January 25, 2024

8 **ZAKAY LAW GROUP, APLC**

9 By: 

10 Shani O. Zakay

11 Attorney for PLAINTIFF

12 **DEMAND FOR A JURY TRIAL**

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

14  
15 DATED: January 25, 2024

16 **ZAKAY LAW GROUP, APLC**

17 By: 

18 Shani O. Zakay

19 Attorney for PLAINTIFF

# **EXHIBIT 1**



Client # 66701

November 15, 2023

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

**PROSCIENITO, INC.**

c/o California Counsel Group, Inc.  
949 W. Hawthorn Street, Ste. 11  
San Diego, CA 92101

***Via Certified U.S. Mail with Return Receipt No. 9589 0710 5270 1466 9054 79***

**PROSCIENITO CLINICAL RESEARCH VENTURES, INC.**

c/o California Counsel Group, Inc.  
949 W. Hawthorn Street, Ste. 11  
San Diego, CA 92101

***Via Certified U.S. Mail with Return Receipt No. 9589 0710 5270 1466 9054 86***

**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, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiff JUSTIN CABATIT (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendant PROSCIENITO, INC. (“Defendant Prosciento”) and Defendant PROSCIENITO CLINICAL RESEARCH VENTURES, INC. (“Defendant Prosciento Clinical Research”) (hereinafter, collectively, “Defendants”). Plaintiff was employed by Defendants from July of 2007 to May of 2023, 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. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendants failed to provide accurate wage statements to him and other aggrieved employees, which among other violations of California Labor Code section 226(a). Said conduct, in addition to the foregoing 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, violates the applicable Industrial Welfare Commission Wage

Order(s), and is therefore actionable under California Labor Code section 2699.3.

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt employees who worked for Defendant Prosciento and/or Defendant Prosciento Clinical Research in California during the relevant claim period.**

A true and correct copy of the proposed Complaint by Plaintiff against Defendants, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendants, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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, Defendants are 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 to enable Plaintiff to proceed with the Complaint against Defendants as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,



Shani O. Zakay  
Attorney for Plaintiff

**JCL LAW FIRM, APC**

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Attorneys for PLAINTIFF

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN DIEGO**

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

Plaintiffs,

v.

PROSCIENTO, INC., a Delaware corporation;  
PROSCIENTO CLINICAL RESEARCH  
VENTURES, INC., a Delaware 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 REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;  
7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;  
8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant PROSCIENTO, INC. (“Defendant Prosciento”) is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant PROSCIENTO CLINICAL RESEARCH VENTURES, INC. (“Defendant Prosciento Clinical Research”) is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant Prosciento and Defendant Prosciento Clinical Research were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANT operates a clinical research company throughout the state of California, including the county of San Diego, where PLAINTIFF worked.

5. PLAINTIFF was employed by DEFENDANT in California from July of 2007 to May of 2023 as a non-exempt employee, paid on an hourly basis, and entitled to the legally

1 required meal and rest periods and payment of minimum and overtime wages due for all time  
2 worked.

3         6. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
4 defined as all persons who are or previously were employed by Defendant Prosciento and/or  
5 Defendant Prosciento Clinical Research in California and classified as non-exempt employees  
6 (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the  
7 filing of this Complaint and ending on the date as determined by the Court (the "CLASS  
8 PERIOD"). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS  
9 Members is under five million dollars (\$5,000,000.00).

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

21         8. The true names and capacities, whether individual, corporate, subsidiary,  
22 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are  
23 presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious  
24 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this  
25 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are  
26 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief  
27 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,  
28

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

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

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

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

22 12. DEFENDANT's uniform policies and practices alleged herein were unlawful,  
23 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain  
24 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

25 13. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction  
26 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
27 other members of the CALIFORNIA CLASS who has been economically injured by  
28

1 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable  
2 relief.

### 3 **JURISDICTION AND VENUE**

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

8 15. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
9 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs  
10 the CALIFORNIA CLASS across California, including in this County, and committed the  
11 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

### 12 **THE CONDUCT**

13 16. In violation of the applicable sections of the California Labor Code and the  
14 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a  
15 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
19 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF  
20 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,  
21 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest  
22 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS  
23 Members for business expenses, and failed to issue to PLAINTIFF and the members of the  
24 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all  
25 applicable hourly rates in effect during the pay periods and the corresponding amount of time  
26 worked at each hourly rate and/or failing to adhere to the Labor Code Section 226(a)(1)-(9).  
27 DEFENDANT's uniform policies and practices are intended to purposefully avoid the accurate  
28 and full payment for all time worked as required by California law which allows DEFENDANT

1 to illegally profit and gain an unfair advantage over competitors who comply with the law. To  
2 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against  
3 DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

4 **A. Meal Period Violations**

5 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
6 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
7 meaning the time during which an employee is subject to the control of an employer, including  
8 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
9 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
10 without paying them for all the time they were under DEFENDANT's control. Specifically,  
11 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be  
12 PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
13 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
14 Members forfeited minimum wage and overtime compensation by regularly working without their  
15 time being accurately recorded and without compensation at the applicable minimum wage and  
16 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other  
17 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
18 records.

19 18. From time to time during the CLASS PERIOD, as a result of their rigorous work  
20 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other  
21 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty  
22 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
23 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for  
24 more than five (5) hours during some shifts without receiving a meal break. Further,  
25 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second  
26 off-duty meal period for some workdays in which these employees are required by DEFENDANT  
27 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other  
28 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-

1 duty” meal period exception. When they were provided with meal periods, PLAINTIFF and other  
2 CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on  
3 duty and on call. DEFENDANT’s failure to provide PLAINTIFF and the CALIFORNIA CLASS  
4 Members with legally required meal breaks is evidenced by DEFENDANT’s business records.  
5 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks  
6 without additional compensation and in accordance with DEFENDANT’s strict corporate policy  
7 and practice.

8 **B. Rest Period Violations**

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

23 **C. Unreimbursed Business Expenses**

24 20. DEFENDANT 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 DEFENDANT. 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 her  
3 employee for all necessary expenditures or losses incurred by the employee in direct consequence  
4 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,  
5 even though unlawful, unless the employee, at the time of obeying the directions, believed them  
6 to be unlawful."

7 21. In the course of their employment, DEFENDANT required PLAINTIFF and other  
8 CALIFORNIA CLASS Members to use their personal cell phones and personal vehicles, as well  
9 as to purchase their own uniform and personal protective equipment ("PPE"), as a result of and  
10 in furtherance of their job duties, including but not limited to receiving and/or responding to work-  
11 related communications and performing work-related duties. However, DEFENDANT  
12 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for the  
13 use of their personal cell phones and personal vehicles and the purchase their own uniform and  
14 PPE. As a result, in the course of their employment with DEFENDANT, the PLAINTIFF and  
15 other CALIFORNIA CLASS Members incurred unreimbursed business expenses that included,  
16 but were not limited to, costs related to the use of their personal cell phones and personal vehicles  
17 and the purchase of their own uniforms and protective eyewear.

18 **D. Wage Statement Violations**

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

27 23. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
28 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for

1 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
2 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
3 accurate wage statements which failed to show, among other things, all deductions, the total hours  
4 worked and all applicable hourly rates in effect during the pay period and the corresponding  
5 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed  
6 meal and rest periods.

7         24. In addition to the foregoing, DEFENDANT, from time to time, failed to provide  
8 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
9 Cal. Lab. Code § 226.

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

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

15         26. During the CLASS PERIOD, from time-to-time DEFENDANT failed and  
16 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS  
17 for all hours worked.

18         27. During the CLASS PERIOD, from time-to-time DEFENDANT required  
19 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
20 work, including but not limited to, pre-shift Covid-19 health screenings that included temperature  
21 checks and health questionnaires. This resulted in PLAINTIFF and other members of the  
22 CALIFORNIA CLASS to have to work while off-the-clock, including but not limited to  
23 responding to communications from supervisors or coworkers.

24         28. DEFENDANT directed and directly benefited from the undercompensated off-the-  
25 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

26         29. DEFENDANT controlled the work schedules, duties, and protocols, applications,  
27 assignments, and employment conditions of PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS.

1           30. DEFENDANT was able to track the amount of time PLAINTIFF and the other  
2 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to  
3 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
4 wages earned and owed for all the work they performed.

5           31. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
6 exempt employees, subject to the requirements of the California Labor Code.

7           32. DEFENDANT's policies and practices deprived PLAINTIFF and the other  
8 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed  
9 for the off-the-clock work activities. Because PLAINTIFF and the other members of the  
10 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than  
11 eight (8) hours per day, DEFENDANT's policies and practices also deprived them of overtime  
12 pay.

13           33. DEFENDANT knew or should have known that PLAINTIFF and the other  
14 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

15           34. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
16 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and  
17 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and  
18 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
19 hours worked in accordance with applicable law is evidenced by DEFENDANT's business  
20 records.

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

23           35. From time to time during the CLASS PERIOD, DEFENDANT failed and  
24 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
25 Members for their overtime and double time hours worked, meal and rest period premiums, and  
26 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
27 forfeited wages due to them for working overtime without compensation at the correct overtime  
28 and double time rates, meal and rest period premiums, and redeemed sick pay rates.

1 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at  
2 the correct rate for all overtime and double time worked, meal and rest period premiums, and sick  
3 pay in accordance with applicable law is evidenced by DEFENDANT's business records.

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

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

14 38. However, from time to time, when calculating the regular rate of pay in those pay  
15 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double  
16 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-  
17 discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus  
18 compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked  
19 rather than just all non-overtime hours worked. Management and supervisors described the  
20 incentive/bonus program to potential and new employees as part of the compensation package.  
21 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
22 CLASS Members must be included in the "regular rate of pay." The failure to do so has resulted  
23 in a systematic underpayment of overtime and double time compensation, meal and rest period  
24 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS  
25 Members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that  
26 paid sick time for non-exempt employees shall be calculated in the same manner as the regular  
27 rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or  
28 not the employee actually works overtime in that workweek. DEFENDANTS' conduct, as

1 articulated herein, by failing to include the incentive compensation as part of the “regular rate of  
2 pay” for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the  
3 underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

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

13 **G. Violations for Untimely Payment of Wages**

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

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

27 42. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely  
28 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose

1 employment ended during the CLASS PERIOD.

2 **H. Sick Pay Violations**

3 43. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after  
4 July 1, 2015, works in California for the same employer for 30 or more days within a year from  
5 the commencement of employment is entitled to paid sick days as specified in this section.”  
6 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From  
7 time to time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF  
8 and other members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

9 44. California Labor Code Section 246(i) requires an employer to furnish its  
10 employees with written wage statements setting forth the amount of paid sick leave available.  
11 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF  
12 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount  
13 of paid sick leave available.

14 **I. Unlawful Deductions**

15 45. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFF  
16 and CALIFORNIA CLASS Members’ pay without explanations and without authorization to do  
17 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result, DEFENDANT  
18 violated Labor Code § 221.

19 **J. Timekeeping Manipulation**

20 46. During the CLASS PERIOD, DEFENDANT, from time-to-time, did not have an  
21 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
22 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
23 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
24 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and  
25 unilaterally alter the time recorded in DEFENDANT’S timekeeping system for PLAINTIFF and  
26 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all  
27 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and  
28 missed rest breaks.

1           47. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
2 time-to-time, forfeited time worked by working without their time being accurately recorded and  
3 without compensation at the applicable pay rates.

4           48. The mutability of the timekeeping system also allowed DEFENDANT to alter  
5 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANT's  
6 timekeeping system so as to create the appearance that PLAINTIFF and other members of the  
7 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees  
8 were not at all times provided an off-duty meal break. This practice is a direct result of  
9 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)  
10 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

11           49. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
12 forfeited wages due to them for all hours worked at DEFENDANT'S direction, control and  
13 benefit for the time the timekeeping system was inoperable. DEFENDANT'S uniform policy  
14 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for  
15 all hours worked in accordance with applicable law is evidenced by DEFENDANT'S business  
16 records.

17 **K. Unlawful Rounding Practices**

18           50. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
19 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
20 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
21 including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding  
22 policy and practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being  
23 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did  
24 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping  
25 system for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying  
26 these employees for all their time worked, including the applicable overtime compensation for  
27 overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from  
28 time to time, forfeited compensation for their time worked by working without their time being

1 accurately recorded and without compensation at the applicable overtime rates.

2 51. Further, the mutability of DEFENDANTS' timekeeping system and unlawful  
3 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time  
4 being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding  
5 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work  
6 as ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an  
7 off-duty meal break.

8 52. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
9 off duty meal and rest breaks and were not fully relieved of duty for his rest and meal periods.  
10 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)  
11 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
12 provide PLAINTIFF with a second off-duty meal period each workday in which they were  
13 required by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided  
14 PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call for the  
15 rest break. DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what  
16 was supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest  
17 breaks without additional compensation and in accordance with DEFENDANT'S strict corporate  
18 policy and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that  
19 failed to comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse  
20 PLAINTIFF for required business expenses related to the use of his personal cell phone, personal  
21 vehicle, and purchase of his work uniforms and PPE, on behalf of and in furtherance of his  
22 employment with DEFENDANT. To date, DEFENDANT has not fully paid PLAINTIFF the  
23 minimum, overtime and double time compensation still owed to them or any penalty wages owed  
24 to them under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually  
25 does not exceed the sum or value of \$75,000.

#### 26 **CLASS ACTION ALLEGATIONS**

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

1 Defendant Prosciento Clinical Research in California and classified as non-exempt employees  
2 (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to  
3 the filing of this Complaint and ending on the date as determined by the Court (the "CLASS  
4 PERIOD").

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

11 55. The members of the class are so numerous that joinder of all class members is  
12 impractical.

13 56. Common questions of law and fact regarding DEFENDANT's conduct, including  
14 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to  
15 accurately calculate the regular rate of pay for overtime compensation, failure to accurately  
16 calculate the regular rate of compensation for missed meal and rest period premiums, failing to  
17 provide legally compliant meal and rest periods, failed to reimburse for business expenses,  
18 failure to provide accurate itemized wage statements accurate, and failure to ensure they are paid  
19 at least minimum wage and overtime, exist as to all members of the class and predominate over  
20 any questions affecting solely any individual members of the class. Among the questions of law  
21 and fact common to the class are:

- 22 a. Whether DEFENDANT maintained legally compliant meal period policies and  
23 practices;
- 24 b. Whether DEFENDANT maintained legally compliant rest period policies and  
25 practices;
- 26 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
27 Members accurate premium payments for missed meal and rest periods;
- 28

- d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members accurate overtime wages;
- e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANT's conduct and actions alleged herein.

58. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and PLAINTIFF have the same interests as the other members of the class.

59. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

60. PLAINTIFF retained able class counsel with extensive experience in class action litigation.

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

62. There is a strong community of interest among PLAINTIFF and the members of the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained.

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

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

- a. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or,
- b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

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

### FIRST CAUSE OF ACTION

## Unlawful Business Practices

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

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

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

5           67. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
6 Code § 17021.

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

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

15           69. By the conduct alleged herein, DEFENDANT has engaged and continues to  
16 engage in a business practice which violates California law, including but not limited to, the  
17 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
18 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and  
19 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
20 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
21 constitute unfair competition, including restitution of wages wrongfully withheld.

22           70. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair  
23 in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous  
24 or substantially injurious to employees, and were without valid justification or utility for which  
25 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California  
26 Business & Professions Code, including restitution of wages wrongfully withheld.

27           71. By the conduct alleged herein, DEFENDANT’s practices were deceptive and  
28 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally

1 mandated meal and rest periods and the required amount of compensation for missed meal and  
2 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all  
3 necessary business expenses incurred, due to a systematic business practice that cannot be  
4 justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission  
5 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should  
6 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
7 restitution of wages wrongfully withheld.

8 72. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
9 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
10 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
11 DEFENDANT.

12 73. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
13 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
14 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
15 required by Cal. Lab. Code §§ 226.7 and 512.

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

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

24 76. By and through the unlawful and unfair business practices described herein,  
25 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
26 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
27 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
28

detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete against competitors who comply with the law.

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

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

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

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

## **SECOND CAUSE OF ACTION**

### **Failure To Pay Minimum Wages**

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

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

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

4 82. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
5 for DEFENDANT's willful and intentional violations of the California Labor Code and the  
6 Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate  
7 and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

10 84. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
11 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
12 the minimum so fixed is unlawful.

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

15 86. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
16 other members of the CALIFORNIA CLASS without regard to the correct amount of time they  
17 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and  
18 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
19 CALIFORNIA CLASS.

20 87. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,  
21 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
22 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
23 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

24 88. In committing these violations of the California Labor Code, DEFENDANT  
25 inaccurately calculated the correct time worked and consequently underpaid the actual time  
26 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANTS  
27 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in  
28

1 violation of the California Labor Code, the Industrial Welfare Commission requirements and  
2 other applicable laws and regulations.

3 89. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
4 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
5 minimum wage compensation for their time worked for DEFENDANT.

6 90. During the CLASS PERIOD, PLAINTIFF and the other members of the  
7 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a  
8 failure to pay all earned wages.

9 91. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
10 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
11 time they worked, PLAINTIFF and the other members of the CALIFORNIA CLASS have  
12 suffered and will continue to suffer an economic injury in amounts which are presently unknown  
13 to them, and which will be ascertained according to proof at trial.

14 92. DEFENDANT knew or should have known that PLAINTIFF and the other  
15 members of the CALIFORNIA CLASS were under-compensated for their time worked.  
16 DEFENDANT systematically elected, either through intentional malfeasance or gross  
17 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
18 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
19 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages  
20 for their time worked.

21 93. In performing the acts and practices herein alleged in violation of California labor  
22 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
23 and provide them with the requisite compensation, DEFENDANT acted and continues to act  
24 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the  
26 consequences to them, and with the despicable intent of depriving them of their property and  
27 legal rights, and otherwise causing them injury in order to increase company profits at the  
28 expense of these employees.

1 94. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request  
2 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the  
3 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the  
4 California Labor Code and/or other applicable statutes. To the extent minimum wage  
5 compensation is determined to be owed to the CALIFORNIA CLASS Members who have  
6 terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or  
7 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.  
8 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS  
9 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good  
10 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and  
11 recover statutory costs.

### 12 **THIRD CAUSE OF ACTION**

#### 13 **Failure To Pay Overtime Compensation**

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

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

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

19 96. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
20 for DEFENDANT's willful and intentional violations of the California Labor Code and the  
21 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees  
22 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,  
23 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

5            100. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
6 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time  
7 they worked, including overtime work.

8            101. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,  
9 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
10 implementing a uniform policy and practice that failed to accurately record overtime worked by  
11 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to  
12 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,  
13 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve  
14 (12) hours in a workday, and/or forty (40) hours in any workweek.

15            102. In committing these violations of the California Labor Code, DEFENDANT  
16 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
17 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal  
18 attempt to avoid the payment of all earned wages, and other benefits in violation of the California  
19 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and  
20 regulations.

21            103. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
22 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
23 overtime compensation for their time worked for DEFENDANT.

24            104. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
25 from the overtime requirements of the law. None of these exemptions are applicable to  
26 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the  
27 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining  
28 agreement that would preclude the causes of action contained herein this Complaint. Rather,

1 PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA CLASS based on  
2 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of  
3 California.

4 105. During the CLASS PERIOD, PLAINTIFF and the other members of the  
5 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to,  
6 constituting a failure to pay all earned wages.

7 106. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the  
8 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the  
9 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even  
10 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly  
11 required to work, and did in fact work overtime, and did in fact work overtime as to which  
12 DEFENDANT failed to accurately record and pay as evidenced by DEFENDANT's business  
13 records and witnessed by employees.

14 107. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
15 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
16 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA  
17 CLASS have suffered and will continue to suffer an economic injury in amounts which are  
18 presently unknown to them, and which will be ascertained according to proof at trial.

19 108. DEFENDANT knew or should have known that PLAINTIFF and the other  
20 members of the CALIFORNIA CLASS were undercompensated for their time worked.  
21 DEFENDANT systematically elected, either through intentional malfeasance or gross  
22 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and  
23 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
24 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct overtime wages  
25 for their overtime worked.

26 109. In performing the acts and practices herein alleged in violation of California labor  
27 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
28 and provide them with the requisite compensation, DEFENDANT acted and continues to act

1 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the  
3 consequences to them, and with the despicable intent of depriving them of their property and  
4 legal rights, and otherwise causing them injury in order to increase company profits at the  
5 expense of these employees.

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

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

##### 17 **Failure To Provide Required Meal Periods**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

23 112. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally  
24 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as  
25 required by the applicable Wage Order and Labor Code. The nature of the work performed by  
26 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being  
27 relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
28 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often

1 not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
2 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with  
3 legally required meal breaks prior to their fifth (5th) hour of work is evidenced by  
4 DEFENDANT's business records. Further, DEFENDANT failed to provide PLAINTIFF and  
5 CALIFORNIA CLASS Members with a second off-duty meal period in some workdays in which  
6 these employees were required by DEFENDANT to work ten (10) hours of work. As a result,  
7 PLAINTIFF and other members of the CALIFORNIA CLASS forfeited meal breaks without  
8 additional compensation and in accordance with DEFENDANT's strict corporate policy and  
9 practice.

10 113. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
11 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members  
12 who were not provided a meal period, in accordance with the applicable Wage Order, one  
13 additional hour of compensation at each employee's regular rate of pay for each workday that a  
14 meal period was not provided.

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

#### 18 **FIFTH CAUSE OF ACTION**

##### 19 **Failure To Provide Required Rest Periods**

20 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

25 116. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were  
26 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
27 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
28 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten

1 (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second  
2 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
3 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour  
4 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
5 CALIFORNIA CLASS Members were periodically denied their proper rest periods by  
6 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate  
7 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the  
8 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide  
9 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest  
10 periods is evidenced by DEFENDANT's business records.

11 117. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
12 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members  
13 who were not provided a rest period, in accordance with the applicable Wage Order, one  
14 additional hour of compensation at each employee's regular rate of pay for each workday that  
15 rest period was not provided.

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

## 19 **SIXTH CAUSE OF ACTION**

### 20 **Failure To Reimburse Employees For Required Expenses**

21 **(Cal. Lab. Code §§ 2802)**

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

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

26 120. Cal. Lab. Code § 2802 provides, in relevant part, that:

27 An employer shall indemnify his or her employee for all necessary expenditures or  
28 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

1 unlawful, unless the employee, at the time of obeying the directions, believed them  
2 to be unlawful.

3 121. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.  
4 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
5 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
6 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS  
7 members for expenses which included, but were not limited to, their personal cell phones,  
8 personal vehicles and the cost of their uniforms and PPE as a result of and in furtherance of their  
9 job duties, including but not limited to receiving and/or responding to work-related  
10 communications and performing work-related duties. Specifically, PLAINTIFF and other  
11 CALIFORNIA CLASS Members were required by DEFENDANTS to use their personal cell  
12 phones and personal vehicles and purchase their own uniforms and PPE to execute their essential  
13 job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure  
14 was to not reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses  
15 resulting from using their personal cell phones and personal vehicles and purchasing their own  
16 uniforms and PPE for DEFENDANT within the course and scope of their employment for  
17 DEFENDANT. These expenses were necessary to complete their principal job duties.  
18 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.  
19 Although these expenses were necessary expenses incurred by PLAINTIFF and the  
20 CALIFORNIA CLASS members, DEFENDANT failed to indemnify and reimburse  
21 PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is  
22 required to do under the laws and regulations of California.

23 122. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred  
24 by them and the CALIFORNIA CLASS members in the discharge of their job duties for  
25 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the  
26 statutory rate and costs under Cal. Lab. Code § 2802.

## 27 **SEVENTH CAUSE OF ACTION**

### 28 **Failure To Provide Accurate Itemized Statements**

**(Cal. Lab. Code § 226)**

**(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. 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.

125. When DEFENDANT 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, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other

1 CALIFORNIA CLASS Members with complete and accurate wage statements which failed to  
2 show, among other things, all deductions, the accurate gross wages earned, net wages earned,  
3 the total hours worked and all applicable hourly rates in effect during the pay period and the  
4 corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty  
5 payments or missed meal and rest periods.

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

9 127. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code  
10 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA  
11 CLASS. These damages include, but are not limited to, costs expended calculating the correct  
12 wages for all missed meal and rest breaks and the amount of employment taxes which were not  
13 properly paid to state and federal tax authorities. These damages are difficult to estimate.  
14 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to  
15 recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the  
16 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay  
17 period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but  
18 in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective  
19 member of the CALIFORNIA CLASS herein).

## 20 **EIGHTH CAUSE OF ACTION**

### 21 **Failure To Pay Wages When Due**

22 **(Cal. Lab. Code § 203)**

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

24 128. 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.

27 129. Cal. Lab. Code § 200 provides that:

28 As used in this article:

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

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

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

11 If an employee not having a written contract for a definite period quits his or her  
12 employment, his or her wages shall become due and payable not later than 72 hours  
13 thereafter, unless the employee has given 72 hours previous notice of his or her intention  
14 to quit, in which case the employee is entitled to his or her wages at the time of quitting.  
15 Notwithstanding any other provision of law, an employee who quits without providing a  
16 72-hour notice shall be entitled to receive payment by mail if he or she so requests and  
17 designates a mailing address. The date of the mailing shall constitute the date of payment  
18 for purposes of the requirement to provide payment within 72 hours of the notice of  
19 quitting.

20 132. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS  
21 Members' employment contract.

22 133. Cal. Lab. Code § 203 provides:

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

28 134. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
terminated, and DEFENDANT has not tendered payment of wages to these employees who  
missed meal and rest breaks, as required by law.

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

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**PRAYER FOR RELIEF**

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

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- c. An order requiring DEFENDANTS to pay all overtime wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
- d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding

an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226

e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

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

3. On all claims:

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

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

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

DATED: November \_\_, 2023

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_

Shani O. Zakay

Attorney for PLAINTIFF

**DEMAND FOR A JURY TRIAL**

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

DATED: November \_\_, 2023

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_

Shani O. Zakay

Attorney for PLAINTIFF

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c/o California Counsel Group, Inc.  
949 W. Hawthorne Street, Ste. 11  
San Diego, CA 92101



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San Diego, CA 92101



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**2. Article Number (Transfer from service label)**

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Domestic Return Receipt