

Ryan A. Quadrel (State Bar No. 308311)
rquadrel@blackstonepc.com
Shelby L. Miner (State Bar No. 318338)
sminer@blackstonepc.com
Alexandra Rose (State Bar No. 329407)
arose@blackstonepc.com
Theodore R. Tang (State Bar No. 313294)
ttang@blackstonepc.com
BLACKSTONE LAW, APC
8383 Wilshire Boulevard, Suite 745
Beverly Hills, California 90211
Telephone: (310) 622-4278 / Facsimile: (855) 786-6356

Attorneys for Plaintiff DEVIN DIZON,
individually, and on behalf of other similarly
situated employees

[Additional counsel listed on next page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

DEVIN DIZON, individually, and on behalf of
other similarly situated employees and
CRYSTAL MITCHELL, individually, and on
behalf of other similarly situated employees and
aggrieved employees pursuant to the California
Private Attorneys General Act,

Plaintiffs,

vs.

GUARDANT HEALTH, INC.; and DOES 1
through 25, inclusive,

Defendants.

Case No.: 25-CIV-01647

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

- (1) Violation of Cal. Labor Code §§ 1194, 1197, and 1197.1 (Minimum Wages)**
- (2) Violation of Cal. Labor Code §§ 510 and 1198 (Unpaid Overtime)**
- (3) Violation of Cal. Labor Code §§ 226.7 and 512(a) (Meal Break Violations)**
- (4) Violation of Cal. Labor Code § 226.7 (Rest Break Violations)**
- (5) Violation of Cal. Labor Code §§ 204 and 210 (Wages Not Timely Paid During Employment)**
- (6) Violation of Cal. Labor Code § 226(a) (Wage Statement Violations)**
- (7) Violation of Cal. Labor Code §§ 201, 202, and 203 (Untimely Final Wages)**
- (8) Violation of Cal. Labor Code §§ 2800 and 2802 (Failure to Reimburse Necessary Business Expenses)**

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(9) Violation of Cal. Labor Code §§ 201-203, 233, and 246 (Failure to Pay Sick Wages)

(10) Violation of Cal. Labor Code §§ 925 and Cal. Business & Professions Code § 16600, et seq. (Unlawful Non-Compete/Non-Solicitation Agreements)

(11) Violation of Cal. Business & Professions Code §§ 17200, et seq. (Unfair and Unlawful Business Practices)

(12) Violation of Cal. Labor Code §§ 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

Jeffrey S. Herman (State Bar #280058)

jeffrey@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff CRYSTAL MITCHELL

individually, and on behalf of other similarly

situated employees and aggrieved employees

pursuant to the California Private Attorneys General Act

1 Plaintiffs DEVIN DIZON (“Plaintiff Dizon”) and CRYSTAL MITCHELL (“Plaintiff
2 Mitchell”) (together, “Plaintiffs”), individually, and on behalf of other similarly situated employees
3 and aggrieved employees pursuant to the California Private Attorney General Act (“PAGA”), allege
4 as follows against Defendant GUARDANT HEALTH, INC. and DOES 1 through 25, inclusive
5 (collectively, “Defendants”):

6 **INTRODUCTION**

7 1. This is a class action to recover damages on behalf of Plaintiffs and all current and
8 former hourly-paid and/or non-exempt employees who worked for Defendants in the State of
9 California at any time during the period from four years prior to the date of the filing of the original
10 Complaint through final judgment (“Class Members”).

11 2. This is also an enforcement action under PAGA to recover civil penalties on behalf of
12 Plaintiff Mitchell, the State of California, and all hourly-paid and/or non-exempt employees who
13 worked for Defendants in the State of California at any time from one year prior to Plaintiff Mitchell’s
14 submission of written notice of Defendants’ alleged violations of the California Labor Code to the
15 Labor and Workforce Development Agency (“LWDA”) through final judgment (“Aggrieved
16 Employees”).

17 3. Plaintiffs allege that Defendants hired Plaintiffs, Class Members, and Aggrieved
18 Employees but, among other things, failed to properly pay them all wages owed for all time worked
19 (including minimum wages, straight time wages, and overtime wages), failed to provide them with all
20 meal periods and rest periods and associated premium wages to which they were entitled, failed to
21 timely pay them all wages due during their employment, failed to timely pay them all wages due upon
22 termination of their employment, failed to provide them with accurate itemized wage statements, failed
23 to reimburse them for necessary business expenses, failed to pay them all sick pay wages, maintained
24 an unlawful Alternative Work Week, and subjected them to and/or presented them with and/or
25 required them to sign agreements that contain unlawful post-employment non-compete/non-
26 solicitation provisions.

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4. As a result, Defendants violated, *inter alia*, California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 233, 246, 510, 511, 512(a), 925, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, the applicable Industrial Welfare Commission (“IWC”) Wage Order, and California Business and Professions Code sections 925, 16600, and 17200, *et seq.* Through this action, Plaintiffs seek to recover all available remedies including but not limited to actual and liquidated damages and attorney’s fees and costs.

JURISDICTION AND VENUE

5. This is a class action lawsuit brought pursuant to California Code of Civil Procedure section 382 and a PAGA action brought pursuant to California Labor Code sections 2698, *et seq.*

6. The monetary damages, restitution, statutory penalties, and other applicable legal and equitable relief sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

8. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, and/or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice. Further, no federal question is at issue because the claims asserted herein are based solely on California law.

9. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, employ individuals, and/or transact business in the State of California, County of San Mateo, including at 505 Penobscot Drive, Redwood City, California 94063.

THE PARTIES

10. At all times herein mentioned, Plaintiff DEVIN DIZON is and was an individual residing in the State of California.

1 11. At all times herein mentioned, Plaintiff CRYSTAL MITCHELL is and was an
2 individual residing in the State of California.

3 12. At all times herein mentioned, Defendant GUARDANT HEALTH, INC. is and was an
4 employer who does business in California, with locations throughout the State of California, and
5 whose employees are engaged throughout San Mateo County and the State of California, including at
6 505 Penobscot Drive, Redwood City, California 94063.

7 13. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein
8 under the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the Complaint
9 and serve such fictitiously named Defendants once their names and capacities become known.

10 14. Plaintiffs are informed and believe, and thereon allege, that the acts and omissions
11 alleged herein were performed by, or are attributable to defendant GUARDANT HEALTH, INC.
12 and/or DOES 1 through 25, each acting as the agent, employee, alter ego, and/or joint venturer of, or
13 working in concert with, each of the other co-Defendants and within the course and scope of such
14 agency, employment, joint venture, or concerted activity with legal authority to act on the others'
15 behalf. The acts of Defendants represent and were in accordance with Defendants' official policies.

16 15. At all relevant times, Defendants were the employers of Plaintiffs within the meaning
17 of all applicable state laws and statutes. Defendants directly or indirectly controlled or affected the
18 working conditions, wages, working hours, and conditions of employment of Plaintiffs so as to make
19 each of said Defendants employers and employers liable under the statutory provisions set forth herein.

20 16. Defendants had the authority to hire and terminate Plaintiffs, Class Members, and
21 Aggrieved Employees, to set work rules and conditions governing Plaintiffs, Class Members, and
22 Aggrieved Employees' employment, and to supervise their daily employment activities.

23 17. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs,
24 Class Members, and Aggrieved Employees' employment for them to be joint employers of Plaintiffs,
25 Class Members, and Aggrieved Employees.

26 18. Defendants directly hired and paid wages to Plaintiffs, Class Members, and
27 Aggrieved Employees.

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19. Defendants continue to employ hourly paid and/or non-exempt employees within the State of California.

20. At all relevant times, Defendants, and each of them, ratified each act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

21. Plaintiffs are informed and believe, and thereon allege, that each Defendant is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

GENERAL ALLEGATIONS

22. Plaintiff Dizon worked for Defendants from approximately August 2019 through approximately August 2022 as a Facilities Technician. Defendants jointly and severally employed Plaintiff Dizon. Plaintiff Dizon performed various duties for Defendants including, among other things, handling lab, HVAC, drywall, and plumbing matters.

23. Plaintiff Mitchell worked for Defendants from approximately February 2020 through June 2025 as a Reimbursement Specialist. Defendants jointly and severally employed Plaintiff Mitchell.

24. Plaintiffs are informed and believe, and thereon allege, that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid and/or non-exempt employees. As set forth in more detail below, this pattern and practice of wage abuse involved, *inter alia*, requiring Plaintiffs, Class Members, and Aggrieved Employees to work off-the-clock without compensation, failing to properly pay wages for all hours worked, failing to provide all meal and rest breaks to which they were entitled and failing to pay meal and rest break premiums when due, failing to timely pay wages during employment and upon termination of employment, failing to provide accurate wage statements, failing to reimburse necessary business-related expenses, failing to pay sick pay wages, maintaining an unlawful Alternative Work Week, and failing to adhere to other related protections afforded by the California Labor Code and the applicable IWC Wage Order. Plaintiffs further allege that Plaintiffs, Class Members, and Aggrieved Employees have been subjected to and/or presented with and/or required to sign agreements that contain one or more post-employment non-compete/non-

1 solicitation clauses that restrain their engagement in a lawful profession, trade or business.

2 25. Defendants knew or should have known that they had a duty to compensate Plaintiffs,
3 Class Members, and Aggrieved Employees pursuant to California law. Defendants had the financial
4 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so to increase
5 Defendants' profits.

6 **CLASS ACTION ALLEGATIONS**

7 26. Plaintiffs bring this lawsuit as a class action on behalf of Plaintiffs and all others
8 similarly situated, as members of a proposed class pursuant to California Code of Civil Procedure
9 section 382. The class satisfies the numerosity, commonality, typicality, adequacy, predominance, and
10 superiority requirements under California Code of Civil Procedure section 382.

11 27. The proposed **Class** is defined as follows:

12 **All current and former hourly-paid and/or non-exempt employees**
13 **who worked for Defendants in the State of California at any time**
14 **during the period from four years prior to the date of the filing of**
15 **the original Complaint through final judgment.**

16 28. The proposed **Former Employee Sub-Class** is defined as follows:

17 **All former hourly-paid and/or non-exempt employees who worked**
18 **for Defendants in the State of California at any time during the**
19 **period from four years prior to the date of the filing of the original**
20 **Complaint through final judgment.**

21 29. Plaintiffs reserve the right to establish additional subclasses as appropriate.

22 30. There is a well-defined community of interest in this litigation and the Class is easily
23 ascertainable. While the exact number and identities of Class Members are currently unknown to
24 Plaintiffs, such information can be ascertained through appropriate discovery from records maintained
25 by Defendants and their agents.

26 31. The Class is so numerous that the individual joinder of all its members is impracticable.

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1 32. Common questions of fact and law exist as to all Class Members, which predominate
2 over any questions affecting only individual members of the Class. The common legal and factual
3 questions which do not vary from Class Member to Class Member, and which may be determined
4 without reference to the individual circumstances of any Class Member include the following:

- 5 i. Whether Defendants had a policy and practice of failing to pay minimum wages to
6 Plaintiffs and the other Class Members for all hours worked;
- 7 ii. Whether Defendants had a policy and practice of failing to pay overtime wages to
8 Plaintiffs and the other Class Members for all overtime hours worked;
- 9 iii. Whether Defendants had a policy and practice of failing to provide meal periods to
10 Plaintiffs and the other Class Members;
- 11 iv. Whether Defendants had a policy and practice of failing to provide rest periods to
12 Plaintiffs and the other Class Members;
- 13 v. Whether Defendants failed to pay their hourly-paid and/or non-exempt employees in
14 the State of California for all hours worked, and for all missed, short, late, and/or
15 interrupted meal periods and rest breaks;
- 16 vi. Whether Defendants failed to timely pay all wages due to Plaintiffs and the other Class
17 Members during their employment;
- 18 vii. Whether Defendants' failure to pay wages, without abatement or reduction, in
19 accordance with the California Labor Code, was willful;
- 20 viii. Whether Defendants failed to pay all wages due to Plaintiffs and the other Class
21 Members within the required time upon their discharge or resignation;
- 22 ix. Whether Defendants failed to comply with wage reporting as required by the California
23 Labor Code, including, *inter alia*, section 226;
- 24 x. Whether Defendants failed to reimburse Plaintiffs and the other Class Members for
25 necessary business-related expenses and costs;
- 26 xi. Whether Defendants had a policy and practice of failing to pay sick pay wages to
27 Plaintiffs and the other Class Members;
- 28 xii. Whether Defendants maintained an unlawful Alternative Work Week;

- xiii. Whether Defendants' conduct was willful or reckless;
- xiv. Whether Defendants entered into, implemented, and enforced non-compete/non-solicitation agreements that are unlawful and void in violation of California Labor Code section 925 and California Business & Professions Code sections 16600, *et seq.*;
- xv. Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*;
- xvi. The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violation of California law; and
- xvii. Whether Plaintiff and the other Class Members are entitled to compensatory damages pursuant to the California Labor Code.

33. Plaintiffs' claims are typical of the claims of the Class, and Plaintiffs' interests are coincident with and not antagonistic to those of the other Class Members Plaintiffs seek to represent. Plaintiffs will fairly and adequately protect the interests of the members of the Class. Plaintiffs have retained attorneys experienced in the prosecution of class actions and Plaintiffs intend to prosecute this action vigorously.

34. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual litigation of the claims of all Class Members is impracticable. Even if every Class Member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also present the potential for varying, inconsistent, and/or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same factual and legal issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class Member.

35. Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the Class Members who are not named in the complaint anonymity that allows for the

1 vindication of their rights.

2 **PAGA ALLEGATIONS**

3 36. PAGA is and was applicable to Defendants' employment of Plaintiff Mitchell and the
4 Aggrieved Employees.

5 37. PAGA provides that any provision of law under the California Labor Code that
6 provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected
7 by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through
8 a civil action brought by an aggrieved employee on behalf of themselves and other current or former
9 employees pursuant to procedures outlined in California Labor Code section 2699.3.

10 38. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is
11 any person employed by the alleged violator and who suffered the violations alleged.

12 39. Plaintiff Mitchell and the other employees are "Aggrieved Employees" as defined by
13 California Labor Code section 2699(c).

14 40. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
15 including Plaintiff Mitchell, may pursue a civil action arising under PAGA after the following
16 requirements have been met:

17 a. The aggrieved employee shall give written notice by certified mail (hereinafter
18 "Employee's Notice") to the LWDA and the employer of the specific provisions of the
19 California Labor Code alleged to have been violated, including the facts and theories
20 to support the alleged violations.

21 b. The LWDA shall provide notice ("LWDA Response") to the employer and the
22 aggrieved employee by certified mail that it does not intend to investigate the alleged
23 violation within sixty (60) calendar days of the postmark date of the Employee's
24 Notice. Upon receipt of the LWDA Response, or if the LWDA Response is not
25 provided within sixty-five (65) calendar days of the postmark date of the Employee's
26 Notice, the aggrieved employee may commence a civil action pursuant to California
27 Labor Code section 2699 to recover civil penalties in addition to any other penalties to
28 which the employee may be entitled.

41. On February 21, 2025, Plaintiff Mitchell provided notice by electronic submission to the LWDA and by certified mail to Defendants regarding the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, pursuant to California Labor Code section 2699.3. **A true and correct copy of the Employee's Notice is attached hereto as Exhibit A.**

42. On June 15, 2026, Plaintiff Mitchell provided an amended notice by electronic submission to the LWDA and by certified mail to Defendants regarding additional specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, pursuant to California Labor Code section 2699.3. **A true and correct copy of the amended Employee's Notice is attached hereto as Exhibit B.**

43. Plaintiff Mitchell did not receive an LWDA Response within sixty-five (65) calendar days of providing either of the Employee's Notices.

44. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies for violations of, *inter alia*, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 233, 246, 510, 511, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 have been satisfied.

FIRST CAUSE OF ACTION

VIOLATION OF CAL. LABOR CODE §§ 1194, 1197, AND 1197.1

Failure to Pay Minimum Wage

(Against All Defendants)

45. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

46. California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Plaintiffs and the other Class Members were frequently suffered or permitted to work “off-the-clock” prior to clocking in or after clocking out for their shifts, such that they were not paid minimum wage for all hours worked.

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1 47. Moreover, Defendants had a policy, practice, and procedure of rounding employee time
2 such that Plaintiffs and some or all Class Members were systematically unpaid and/or underpaid for
3 time worked over the course of their employment.

4 48. Accordingly, Defendants regularly failed to pay at least minimum wages to Plaintiffs
5 and the other Class Members for all hours they worked in violation of California Labor Code sections
6 1194, 1197, and 1197.1.

7 49. Defendants knew or should have known that Plaintiffs and the other Class Members
8 were performing such work “off-the-clock” because, among other things, Defendants’ management
9 witnessed, authorized, was made aware of, and/or required Plaintiffs and Class Members to perform
10 such work.

11 50. Defendants’ failure to pay Plaintiffs and the other Class Members the minimum wage
12 as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections,
13 Plaintiffs and the other Class Members are entitled to recover the unpaid balance of their minimum
14 wage compensation, as well as interest, costs, and attorney’s fees.

15 51. Pursuant to California Labor Code section 1194.2, Plaintiffs and the other Class
16 Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully
17 unpaid and interest thereon.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF CAL. LABOR CODE §§ 510 AND 1198**

20 **Unpaid Overtime**

21 **(Against All Defendants)**

22 52. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

23 53. California Labor Code section 1198 and the applicable IWC Wage Order provide that
24 it is unlawful to employ persons for extended periods of time without compensating them at a rate of
25 pay either time-and-one-half or two-times that person’s regular rate of pay, depending on the number
26 of hours worked by the person on a daily and/or weekly basis.

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1 54. Specifically, the applicable IWC Wage Order provides that Defendants were required
2 to pay Plaintiffs and the other Class Members at the rate of time-and-one-half for all hours worked in
3 excess of eight (8) hours in a day, in excess of forty (40) hours in a week, and/or in excess of the first
4 eight (8) hours worked on the seventh consecutive day in a workweek.

5 55. The applicable IWC Wage Order further provides that Defendants were required to pay
6 Plaintiffs and the other Class Members overtime compensation at a rate of two (2) times their regular
7 rate of pay for all hours worked in excess of twelve (12) hours in a day and/or for all hours worked in
8 excess of eight (8) hours on the seventh consecutive day in a workweek.

9 56. California Labor Code section 510 codifies the right to overtime compensation at one-
10 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, in
11 excess of forty (40) hours in a week, and/or in excess of the first eight (8) hours worked on the seventh
12 consecutive day in a workweek, and to overtime compensation at twice the regular hourly rate for
13 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the
14 seventh day of work.

15 57. Plaintiffs and the other Class Members regularly worked in excess of eight (8) hours in
16 a day, in excess of twelve (12) hours in a day, in excess of forty (40) hours in a week, and/or in excess
17 of seven (7) consecutive days in a workweek. However, Defendants did not accurately record Plaintiffs
18 and the other Class Members' actual hours worked and intentionally and willfully failed to pay all
19 overtime wages owed to Plaintiffs and the other Class Members. Defendants' failure to pay correct
20 overtime wages included, *inter alia*: (a) when the combined total of the off-the-clock work discussed
21 *supra* and the on-the-clock work exceed the number of hours that trigger the payment of overtime
22 wages under California Labor Code sections 510 and 1198 and/or the applicable IWC Wage Order;
23 (b) when Defendants intentionally, willfully, and/or negligently mischaracterized overtime as straight
24 time; (c) when Defendants assigned more work than could reasonably be completed in a workday or
25 workweek to Plaintiffs and Class Members, but refused to authorize the overtime necessary for them
26 to complete the assigned work; and (d) when Defendants failed to include all required wages and
27 remuneration when calculating setting the overtime rate. Additionally, Defendants maintained an
28 unlawful Alternative Work Week.

58. Defendants' failure to pay Plaintiffs and the other Class Members as outlined above violates California Labor Code sections 510 and 1198 and the applicable IWC Wage Order and is therefore unlawful.

59. Pursuant to California Labor Code section 1194, Plaintiffs and the other Class Members are entitled to recover their unpaid overtime compensation, and interest, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

VIOLATION OF CAL. LABOR CODE §§ 226.7 AND 512(a)

Meal Break Violations

(Against All Defendants)

60. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

61. California Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order govern Plaintiffs and the other Class Members' employment by Defendants.

62. California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable IWC Order.

63. The applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

64. The applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause, or permit an employee to work a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

65. Plaintiffs and the other Class Members who were scheduled to work for shifts no longer than six (6) hours, and who did not waive their legally mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not

1 less than thirty (30) minutes.

2 66. Plaintiffs and the other Class Members who were scheduled to work for shifts in excess
3 of ten (10) hours but no longer than twelve (12) hours, and who did not waive their legally-mandated
4 meal periods by mutual consent, were required to work for periods longer than ten (10) hours without
5 a second uninterrupted meal period of not less than thirty (30) minutes.

6 67. Defendants intentionally and willfully required Plaintiffs and the other Class Members
7 to work during meal periods and failed to compensate Plaintiffs and the other Class Members for work
8 performed during meal periods. This includes, among other things, requiring Plaintiffs and Class
9 Members to work through their lunch breaks, permitting and/or requiring Plaintiffs and Class
10 Members to take late lunch breaks, permitting and/or requiring Plaintiffs and Class Members to take
11 short lunch breaks, interrupting and/or allowing others to interrupt Plaintiffs and Class Members
12 during their lunch breaks, failing to relieve Plaintiffs and Class Members of all duties during their
13 lunch breaks, and restricting Plaintiffs and Class Members from leaving the premises during their
14 lunch breaks.

15 68. Further, because of Defendants' rounding policy, meal breaks were at times incorrectly
16 recorded as compliant, when in reality they were untimely and/or cut short.

17 69. During the relevant time period, Defendants failed to pay Plaintiffs and the other Class
18 Members all meal period premiums due pursuant to California Labor Code section 226.7 and 512 and
19 the applicable IWC Wage Order. Defendants failed to include all required wages and remuneration,
20 including non-discretionary commissions, non-discretionary bonuses, and non-discretionary
21 performance pay, when calculating regular rates of pay for meal period premiums and/or merely using
22 straight time pay to calculate regular rates of pay for meal period premiums.

23 70. Defendants' conduct therefore violates the applicable IWC Wage Order and California
24 Labor Code sections 226.7 and 512(a).

25 71. Pursuant to the applicable IWC Wage Order and California Labor Code section
26 226.7(b), Plaintiffs and the other Class Members are entitled to recover from Defendants one
27 additional hour of pay at their regular rate of compensation for each workday that a compliant meal
28 period was not provided as well as interest thereon.

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF CAL. LABOR CODE § 226.7**

3 **Rest Break Violations**

4 **(Against All Defendants)**

5 72. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

6 73. California Labor Code section 226.7 and the applicable IWC Wage Order govern
7 Plaintiffs and the other Class Members' employment by Defendants.

8 74. California Labor Code section 226.7 provides that no employer shall require an
9 employee to work during any rest period mandated by an applicable order of the California IWC.

10 75. The applicable IWC Wage Order provides that "[e]very employer shall authorize and
11 permit all employees to take rest periods, which insofar as practicable shall be in the middle of each
12 work period" and that the "rest period time shall be based on the total hours worked daily at the rate
13 of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily
14 work time is less than three and one-half (3½) hours."

15 76. Defendants routinely required Plaintiffs and the other Class Members to work three
16 and one-half (3 ½) or more hours without authorizing or permitting a compliant ten (10) minute rest
17 period per each four (4) hour period, or major fraction thereof, worked.

18 77. Moreover, Defendants willfully required, suffered, and permitted Plaintiffs and the
19 other Class Members to work during what should have been their rest periods. Defendants also failed
20 to relieve Plaintiffs and the other Class Members of all duties for ten (10) minutes as required for
21 compliant rest breaks.

22 78. As a result, Plaintiffs worked through rest periods, took late rest periods, took
23 interrupted rest periods, and/or took short rest periods, if at all.

24 79. Pursuant to the applicable IWC Wage Order and California Labor Code section
25 226.7(b), Plaintiffs and the other Class Members were entitled to recover from Defendants one (1)
26 additional hour of pay at their regular hourly rate of compensation for each workday that compliant
27 rest period(s) were not provided.

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80. Defendants had no policy or practice to pay a premium when rest periods were missed, short, late, and/or interrupted, or otherwise failed to comply with California law, and thus Defendants failed to pay Plaintiffs and the other Class Members the full rest period premium due to them in violation of California Labor Code section 226.7 and the applicable IWC Wage Order. Defendants failed to include all required wages and remuneration, including non-discretionary commissions, non-discretionary bonuses, and non-discretionary performance pay, when calculating regular rates of pay for rest period premiums and/or merely using straight time pay to calculate regular rates of pay for rest period premiums.

81. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiffs and the other Class Members are entitled to recover from Defendants one additional hour of pay at their regular rate of compensation for each workday compliant rest period(s) were not provided as well as interest thereon.

FIFTH CAUSE OF ACTION

VIOLATION OF CAL. LABOR CODE §§ 204 AND 210

Wages Not Timely Paid During Employment

(Against All Defendants)

82. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

83. California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and 26th day of the month during which the labor was performed.

84. California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

85. California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

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1 86. As a result of the violations set forth in detail herein (failure to pay overtime, failure to
2 pay minimum wages, failure to pay sick pay wages, meal break violations, and rest break violations),
3 Defendants intentionally and willfully failed to timely pay Plaintiffs and the other Class Members all
4 wages due to them within the period permissible under California Labor Code section 204.

5 87. Plaintiffs and the other Class Members are entitled to recover all available remedies for
6 Defendants' violations of California Labor Code section 204, including statutory penalties pursuant to
7 California Labor Code section 210(b).

8 **SIXTH CAUSE OF ACTION**

9 **VIOLATION OF CAL. LABOR CODE § 226(a)**

10 **Wage Statement Violations**

11 **(Against All Defendants)**

12 88. Plaintiffs incorporates by reference the allegations in all preceding paragraphs.

13 89. At all material times set forth herein, California Labor Code section 226(a) provides
14 that every employer shall furnish each of its employees an accurate itemized wage statement in writing,
15 including, but not limited to, the name and address of the legal entity that is the employer, total hours
16 worked, and all applicable hourly rates.

17 90. As a result of the violations set forth in detail herein (failure to pay overtime, failure to
18 pay minimum wages, failure to pay sick pay wages, meal break violations, and rest break violations),
19 Defendants intentionally and willfully failed to provide Plaintiffs and the other Class Members with
20 complete and accurate wage statements. The deficiencies include, among other things, the failure to
21 state all hours worked, the failure to state the actual gross wages earned, the failure to include meal
22 and rest break premiums, and the failure to include correct rates of pay. Accordingly, Defendants
23 violated California Labor Code section 226(a).

24 91. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiffs
25 and the other Class Members have suffered injury and damage to their statutorily protected rights.

26 92. Specifically, Plaintiffs and the other Class Members have been injured by Defendants'
27 intentional violation of California Labor Code section 226(a) because they were denied both their legal
28 right to receive, and their protected interest in receiving accurate, itemized wage statements under

1 California Labor Code section 226(a). In addition, because Defendants failed to provide the accurate
2 number of total hours worked on wage statements, Plaintiffs and the other Class Members have been
3 prevented by Defendants from determining if all hours worked were paid and the extent of the
4 underpayment. Plaintiffs had to file this lawsuit, and will further have to conduct discovery,
5 reconstruct time records, and perform computations in order to analyze whether in fact Plaintiffs and
6 the other Class Members were paid correctly and the extent of the underpayment, thereby causing
7 Plaintiffs to incur expenses and lost time. Plaintiffs would not have had to engage in these efforts and
8 incur these costs had Defendants provided the accurate number of total hours worked. This has also
9 delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

10 93. Plaintiffs and the other Class Members are entitled to recover from Defendants the
11 greater of their actual damages caused by Defendants' failure to comply with California Labor Code
12 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000).

13 **SEVENTH CAUSE OF ACTION**

14 **VIOLATION OF CAL. LABOR CODE §§ 201, 202, AND 203**

15 **Untimely Final Wages**

16 **(Against All Defendants)**

17 94. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

18 95. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
19 to timely pay all earned and unpaid wages to an employee who is discharged. California Labor Code
20 section 201 mandates that if an employer discharges an employee, the employee's wages accrued and
21 unpaid at the time of discharge are due and payable immediately. California Labor Code section 202
22 mandates that if an employee quits, his or her wages shall become due and payable not later than
23 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of
24 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
25 quitting.

26 96. California Labor Code section 203 provides that if an employer willfully fails to pay,
27 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
28 discharged or who 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 therefore is commenced; but the wages shall not continue for more than thirty (30) days.

97. As a result of the violations set forth in detail herein (failure to pay overtime, failure to pay minimum wages, failure to pay sick pay wages, meal break violations, and rest break violations), at the time that Plaintiffs and the other Class Members' employment with Defendants ended, Defendants knowingly and willfully failed to pay them all wages owed to them pursuant to California Labor Code sections 201 and 202, including, without limitation, overtime wages, minimum wages, meal period premium wages, and rest period premium wages, and all wages due to Plaintiffs and Class Members as they became due, as required per California Labor Code section 204.

98. As a result, Plaintiffs and the other Class Members are entitled to all available statutory penalties, including the waiting time penalties provided in California Labor Code section 203, together with interest thereon, as well as other available remedies.

EIGHTH CAUSE OF ACTION

VIOLATION OF CAL. LABOR CODE §§ 2800 AND 2802

Failure to Reimburse Necessary Business Expenses

(Against All Defendants)

99. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

100. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of the employee's job duties or in direct consequence of the employee's job duties or in direct consequence of the employee's obedience to the directions of the employer.

101. Plaintiffs and the other Class Members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants, including but not limited to, costs related to the usage of personal cell phones and home offices for work-related purposes.

102. Defendants intentionally and willfully failed to reimburse Plaintiffs and the other Class Members for all necessary business-related expenses and costs. Plaintiffs and the other Class Members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of employment, plus interest accrued from the date on which Plaintiff and the other

1 Class Members incurred the necessary expenditures at the same rate as judgments in civil actions in
2 the State of California.

3 **NINTH CAUSE OF ACTION**

4 **VIOLATION OF CAL. LABOR CODE §§ 201- 203, 233, AND 246**

5 **Failure to Pay Sick Pay Wages**

6 **(Against All Defendants)**

7 103. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

8 104. California Labor Code section 233 provides that an employer must permit an employee
9 to use accrued sick leave in accordance with California Labor Code section 246.5 at the employee's
10 then current rate of entitlement. California Labor Code section 246 provides that an employee is
11 entitled to sick pay wages for use of accrued sick leave pursuant to California Labor Code section
12 246.5. Specifically, once accrued sick leave is used as paid sick time, an employee has a vested right
13 to sick pay wages, which an employer must calculate and compensate based on one of two
14 calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the same manner as
15 the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not
16 the employee actually works overtime in that workweek," or (ii) "Paid sick time for nonexempt
17 employees shall be calculated by dividing the employee's total wages, not including overtime
18 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of
19 employment." Under California Labor Code sections 218 and 233, employees may sue to recover
20 underpaid sick pay wages as damages.

21 105. As a matter of policy and practice, Defendants pay sick pay wages to Plaintiffs and the
22 other Class Members at the incorrect rate of pay. Plaintiffs and the other Class Members regularly use
23 accrued sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter of
24 policy and practice, Defendants pay sick pay wages to Plaintiffs and the other Class Members at the
25 base hourly pay, as opposed to the regular rate of pay, which would consider all non-hourly
26 remuneration in addition to base hourly wages, or the rate resulting from dividing the employee's total
27 wages, not including overtime premium pay, by the employee's total hours worked in the full pay
28 periods of the prior ninety (90) days of employment. As a result, Defendants underpaid sick pay wages

1 to Plaintiffs and the other Class Members.

2 106. California Labor Code section 246 specifically requires that, upon use of accrued sick
3 leave, vested sick pay wages are due and to be paid no later than the payday for the next regular payroll
4 period after accrued sick leave is used as paid sick time. Similarly, California Labor Code section 201
5 provides that if an employer discharges an employee, wages earned and unpaid at the time of discharge
6 are due and payable immediately. California Labor Code section provides that an employee is entitled
7 to receive all unpaid wages no later than 72 hours after an employee quits his or her employment,
8 unless the employee has given 72-hour notice of his or her intention to quit, in which case the employee
9 is entitled to his or her wages at the time of quitting. The California Labor Code penalizes untimely
10 payments. For example, California Labor Code section 203 provides that if an employer willfully fails
11 to pay wages owed in accordance with California Labor Code section 201-202, then the wages of the
12 employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages
13 shall not continue for more than thirty (30) days. Under California Labor Code sections 203 and 218,
14 employees may sue to recover applicable penalties.

15 107. As alleged herein and as a matter of policy and practice, Defendants routinely underpay
16 sick pay wages and thus did not timely pay Plaintiffs and the other Class Members all owing and
17 underpaid sick pay wages. As a result, Defendants violated California Labor Code sections 201-203,
18 233, and 246, among other California Labor Code provisions. Plaintiffs are informed and believe that
19 Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the
20 California Labor Code as it relates to Plaintiffs' allegations, especially since the California Supreme
21 Court has explained that "[c]ourts have recognized that 'wages' also include those benefits to which
22 an employee is entitled as a part of his or her compensation, including money, room, board, clothing,
23 vacation pay, and sick pay." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)
24 (emphasis added). Because Defendants willfully fail to timely pay Plaintiffs and the other Class
25 Members all sick pay wages due, Defendants are subject to applicable penalties.

26 108. Such a pattern, practice, and uniform administration of corporate policy is unlawful
27 and entitles Plaintiffs and the other Class Members to underpaid sick pay wages, including interest
28 thereon, applicable penalties, attorney's fees, and costs of suit.

1 **TENTH CAUSE OF ACTION**

2 **VIOLATION OF CAL. LABOR CODE § 925 AND CAL. BUSINESS & PROFESSIONS**

3 **CODE §§ 16600, *ET SEQ.***

4 **Unlawful Non-Compete/Non-Solicitation Agreements**

5 **(Against All Defendants)**

6 109. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

7 110. California Labor Code section 925(a)(2) prohibits an employer from requiring an
8 employee who primarily resides and works in California, as a condition of employment, to agree to a
9 provision that would “deprive the employee of the substantive protection of California with respect to
10 a controversy arising in California.” In direct contravention to California Labor Code section
11 925(a)(2), Defendants require employees who primarily reside and work in California, as a condition
12 of employment, to agree to non-compete/non-solicitation provisions – provisions that would deprive
13 employees of the substantive protection of California with respect to a controversy arising in
14 California. California Labor Code section 925(b) provides that “[a]ny provision of a contract that
15 violates subdivision (a) is voidable by the employee, and if a provision is rendered void at the request
16 of the employee, the matter shall be adjudicated in California and California law shall govern the
17 dispute.” Further, California Labor Code section 925(c) provides that “[i]n addition to injunctive relief
18 and any other remedies available, a court may award an employee who is enforcing his or her rights
19 under this section reasonable attorney’s fees.”

20 111. California Business and Professions Code section 16600 prohibits non-
21 competition/non-solicitation agreements. Specifically, the Code states “[e]xcept as provided in this
22 chapter, every contract by which anyone is restrained from engaging in a lawful profession, trade, or
23 business of any kind is to that extent void.”

24 112. Any contract restraining anyone from engaging in a lawful profession, trade, or
25 business of any kind – a non-compete/non-solicitation contract - therefore is against public policy if
26 the contract does not fall within one of the limited exceptions in California Business and Professions
27 Code section 16600. None of the limited exceptions are applicable here. An agreement that restrains
28 anyone from engaging in a lawful profession, trade, or business of any kind is a non-compete.

113. California Business and Professions Code section 16600.5 provides:

- i. Any contract that is void under this chapter is unenforceable regardless of where and when the contract was signed.
- ii. An employer or former employer shall not attempt to enforce a contract that is void under this chapter regardless of whether the contract was signed and the employment was maintained outside of California.
- iii. An employer shall not enter into a contract with an employee or prospective employee that includes a provision that is void under this chapter.
- iv. An employer that enters into a contract that is void under this chapter or attempts to enforce a contract that is void under this chapter commits a civil violation.
- v. (1) An employee, former employee, or prospective employee may bring a private right of action to enforce this chapter for injunctive relief or the recovery of actual damages, or both. (2) In addition to the remedies described in paragraph (1), a prevailing employee, former employee, or prospective employee in an action based on a violation of this chapter shall be entitled to recover reasonable attorney's fees and costs

114. At all times relevant, Plaintiffs and the other Class Members have been subjected to and/or presented with and/or required to sign agreements that contain one or more post-employment non-compete/non-solicitation clauses that restrain their engagement in a lawful profession, trade or business.

115. Accordingly, Plaintiffs and the other Class Members seek any and all remedies including, but not limited to, declaratory and injunctive relief, damages, monetary relief, and recovery of reasonable attorneys' fees and costs pursuant to including but not limited to those permitted by California Labor Code section 925 and California Business and Professions Code section 16600, *et. seq.*

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1 **ELEVENTH CAUSE OF ACTION**

2 **VIOLATION OF CAL. BUSINESS & PROFESSIONS CODE §§ 17200, *ET. SEQ.***

3 **Unfair and Unlawful Business Practices**

4 **(Against All Defendants)**

5 116. Plaintiffs incorporate by reference the allegations in all preceding paragraphs.

6 117. Each and every one of Defendants' acts and omissions in violation of the California
7 Labor Code and/or the applicable IWC Wage Order as alleged in this Complaint, including but not
8 limited to Defendants' failure and refusal to pay overtime compensation, Defendants' failure and
9 refusal to pay minimum wages, Defendants' failure and refusal to provide required meal periods and/or
10 pay meal period premiums, Defendants' failure and refusal to provide required rest periods and/or pay
11 the required rest break premiums, Defendants' failure and refusal to timely pay wages at the correct
12 rate during employment, Defendants' failure and refusal to furnish accurate itemized wage statements,
13 Defendants' failure and refusal to reimburse business-related expenses and costs, Defendants' failure
14 to timely pay wages upon termination, Defendants' failure to pay sick pay wages, Defendants'
15 maintaining an unlawful Alternative Work Week, and Defendants' entering into, implementation of,
16 and enforcement of unlawful non-compete/non-solicitation agreements or provisions constitutes an
17 unfair and unlawful business practice under California Business and Professions Code § 17200 *et seq.*

18 118. Defendants' violations of California wage and hour laws constitute unfair and unlawful
19 business practices because, among other things, they were done repeatedly over a significant period
20 of time, and in a systematic manner, to the detriment of Plaintiffs and the other Class Members.

21 119. Defendants have avoided payment of overtime wages, minimum wages, meal period
22 premiums, rest period premiums, timely wages at the correct rate of pay, and other benefits as required
23 by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage
24 Order. Further, Defendants have failed to record, report, and pay the correct sums of assessment to the
25 state authorities under the California Labor Code and other applicable regulations.

26 120. As a result of Defendants' unfair and unlawful business practices, Defendants have
27 reaped unfair and illegal profits during Plaintiffs and the other Class Members' tenure at the expense
28 of Plaintiffs, the other Class Members, and members of the public. Defendants should be made to

1 disgorge their ill-gotten gains and to restore them to Plaintiffs and the other Class Members.

2 121. Defendants' unfair and unlawful business practices entitle Plaintiffs and the other Class
3 Members to seek preliminary and permanent injunctive relief, including but not limited to orders that
4 Defendants account for, disgorge, and restore to Plaintiffs and the other Class Members the wages and
5 other compensation unlawfully withheld from them. Plaintiffs and the other Class Members are
6 entitled to restitution of all monies to be disgorged from Defendants in an amount according to proof
7 at the time of trial.

8 **TWELFTH CAUSE OF ACTION**

9 **VIOLATION OF CAL. LABOR CODE §§ 2699, *ET SEQ.***

10 **California Private Attorneys General Act**

11 **(Against All Defendants)**

12 122. Plaintiff Mitchell incorporates by reference the allegations in all preceding paragraphs.

13 123. Plaintiff Mitchell brings this action on a representative basis on behalf of other
14 Aggrieved Employees and the State of California, in Plaintiff Mitchell's capacity as a private attorney
15 general pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*

16 124. PAGA expressly provides for a private right of action to recover civil penalties for
17 violations of the Labor Code as follows: "*Notwithstanding any other provision of law, any provision*
18 *of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce*
19 *Development Agency or any of its departments, divisions, commissions, boards, agencies, or*
20 *employees, for a violation of this code, may, as an alternative, be recovered through a civil action*
21 *brought by an aggrieved employee on behalf of himself or herself and other current or former*
22 *employees pursuant to the procedures specified in Section 2699.3.*" Cal. Lab. Code § 2699(a).

23 125. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
24 agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to
25 exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.
26 Plaintiff Mitchell and the other hourly-paid, non-exempt employees are "Aggrieved Employees" as
27 defined by California Labor Code section 2699(c).

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1 126. Defendants' conduct, as alleged herein, violates numerous sections of the California
2 Labor Code, including, but not limited to, the following:

- 3 a. Violation of California Labor Code sections 510 and 1198 for failure to pay overtime
4 wages, as set forth more fully above;
- 5 b. Violation of California Labor Code sections 1194, 1197, and 1197.1 for failure to pay
6 minimum wages, as set forth more fully above;
- 7 c. Violation of California Labor Code sections 226.7 and 512(a) for failure to provide
8 legally required meal periods, as set forth more fully above;
- 9 d. Violation of California Labor Code sections 226.7 and 512(a) for failure to pay
10 required meal period premiums, as set forth more fully above;
- 11 e. Violation of California Labor Code section 226.7 for failure to provide legally required
12 rest periods, as set forth more fully above;
- 13 f. Violation of California Labor Code section 226.7 for failure to pay required rest period
14 premiums, as set forth more fully above;
- 15 g. Violation of California Labor Code section 204 for failure to timely pay wages to
16 Plaintiff Mitchell and Aggrieved Employees during employment, as set forth more
17 fully above;
- 18 h. Violation of California Labor Code sections 201, 202, and 203 for failure to pay all
19 wages at time of discharge from employment, as set forth more fully above;
- 20 i. Violation of California Labor Code section 226(a) for failure to provide accurate wage
21 statements to Plaintiff Mitchell and Aggrieved Employees, as set forth more fully
22 above;
- 23 j. of California Labor Code section 1174(d) for failure to keep complete and accurate
24 payroll records relating to Plaintiff Mitchell and Aggrieved Employees;
- 25 k. Violation of California Labor Code sections 2800 and 2802 for failure to reimburse
26 Plaintiff Mitchell and Aggrieved Employees for necessary business-related expenses,
27 as set forth more fully above;

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1 1. Violation of California Labor Code sections 201-203, 233, and 246 for failure to pay
2 sick pay wages, as set forth more fully above; and

3 m. Violation of California Code of Regulations, Title 8, Section 1 1070(14) for failure to
4 provide suitable seating.

5 127. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
6 and 2699.5, Plaintiff Mitchell, acting in the public interest as a private attorney general, seeks
7 assessment and collection of civil penalties for Plaintiff Mitchell, all Aggrieved Employees, and the
8 State of California against Defendants for violations of California Labor Code sections set forth herein,
9 including penalties under California Labor Code sections 2699, 558, 210, 1197.1, 226, 226.3, 1174.5,
10 and 1197.1, penalties under the applicable IWC Wage Order, and any and all additional penalties and
11 remedies as provided by the California Labor Code and/or other statutes.

12 128. Pursuant to California Labor Code section 2699(m), civil penalties recovered by
13 Aggrieved Employees shall be distributed as follows: sixty-five percent (65%) to the LWDA for the
14 enforcement of labor laws and education of employers and employees about their rights and
15 responsibilities and thirty-five (35%) to the Aggrieved Employees.

16 129. Plaintiff Mitchell retained counsel to file this court action, and to assess and collect the
17 civil penalties owed by Defendants. Plaintiff Mitchell therefore seeks an award of reasonable
18 attorney's fees and costs pursuant to California Labor Code sections 210, 218.5, and 2699(g)(1), and
19 any other applicable statute.

20 **PRAYER FOR RELIEF**

21 Plaintiffs, on behalf of all others similarly situated and other aggrieved employees pursuant to
22 the California Private Attorneys General Act, pray for relief and judgment against Defendants, jointly
23 and severally, as follows:

24 **Class Certification**

- 25 1. That this action be certified as a class action as to the first eleven causes of action;
26 2. That Plaintiffs be appointed as the representatives of the Class as to the first eleven
27 causes of action;
28 3. That counsel for Plaintiffs be appointed as Class Counsel; and

1 4. That Defendants provide to Class Counsel the names and most current/last known
2 contact information (addresses, e-mails, and telephone numbers) of all Class Members.

3 **As to the First Cause of Action**

4 5. That the Court declare, adjudge, and decree that Defendants violated California Labor
5 Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiffs and the
6 other Class Members;

7 6. For general unpaid wages and such general and special damages as may be appropriate;

8 7. For statutory wage penalties pursuant to California Labor Code section 1197.1 for
9 Plaintiffs and the other Class Members in the amount as may be established according to proof at trial;

10 8. For pre-judgment interest on any unpaid compensation from the date such amounts
11 were due;

12 9. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
13 Labor Code section 1194(a);

14 10. For liquidated damages pursuant to California Labor Code section 1194.2; and

15 11. For such other and further relief as the Court may deem just and proper.

16 **As to the Second Cause of Action**

17 12. That the Court declare, adjudge, and decree that Defendants violated California Labor
18 Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to pay all
19 overtime wages due to Plaintiffs and the other Class Members;

20 13. For general unpaid wages at overtime wage rates and such general and special damages
21 as may be appropriate;

22 14. For pre-judgment interest on any unpaid overtime compensation commencing from the
23 date such amounts were due;

24 15. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California
25 Labor Code section 1194(a); and

26 16. For such other and further relief as the Court may deem just and proper.

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As to the Third Cause of Action

17. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7 and 512 and the applicable IWC Wage Order by willfully failing to provide all meal periods (including second meal periods) to Plaintiffs and the other Class Members;

18. For premium wages pursuant to California Labor Code section 226.7(c);

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For pre-judgment interest on any unpaid wages from the date such amounts were due;

21. For reasonable attorneys' fees and costs of suit incurred herein; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause Action

23. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226.7 and the applicable IWC Wage Order by willfully failing to provide all rest periods to Plaintiffs and the other Class Members;

24. For premium wages pursuant to California Labor Code section 226.7(c);

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For pre-judgment interest on any unpaid wages from the date such amounts were due;

and

27. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

28. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiffs and the other Class Members;

29. For statutory penalties pursuant to California Labor Code section 210; and

30. For such other and further relief as the Court deems just and proper.

As to the Sixth Cause of Action

31. That the Court declare, adjudge, and decree that Defendants violated the provisions of California Labor Code section 226(a) as to Plaintiffs and the other Class Members, and willfully failed to provide accurate itemized wage statements to them;

- 1 32. For actual, consequential, and incidental losses and damages, according to proof;
2 33. For statutory penalties pursuant to California Labor Code section 226(e);
3 34. For injunctive relief to ensure compliance with this section, pursuant to
4 California Labor Code section 226(h); and
5 35. For such other and further relief as the Court may deem just and proper.

6 **As to the Seventh Cause of Action**

7 36. That the Court declare, adjudge, and decree that Defendants violated California Labor
8 Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of
9 termination of the employment of Plaintiffs and the other Class Members no longer employed by
10 Defendants;

- 11 37. For all actual, consequential, and incidental losses and damages, according to proof;
12 38. For statutory wage penalties pursuant to California Labor Code section 203 for
13 Plaintiffs and the other Class Members who have left Defendants' employ;
14 39. For pre-judgment interest on any unpaid compensation from the date due; and
15 40. For such other and further relief as the Court may deem just and proper.

16 **As to the Eighth Cause of Action**

17 41. That the Court declare, adjudge, and decree that Defendants violated California Labor
18 Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other Class Members
19 for all necessary business-related expenses as required by California Labor Code sections 2800 and
20 2802;

- 21 42. For actual, consequential, and incidental losses and damages, according to proof;
22 43. For the imposition of civil penalties and/or statutory penalties;
23 44. For reasonable attorneys' fees and costs of suit incurred herein; and
24 45. For such other and further relief as the Court may deem just and proper.

25 **As to the Ninth Cause of Action**

26 46. For the Court declare, adjudge, and decree that Defendants violated California Labor
27 Code sections 201, 202, 203, 233, and 246 by willfully failing to pay sick pay wages at the correct
28 regular rate of pay to Plaintiffs and the other Class Members;

47. For all actual, consequential, and incidental losses and damages, according to proof;
and

48. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

49. For any and all remedies including, but not limited to, declaratory and injunctive relief, damages, monetary relief, and recovery of reasonable attorneys' fees and costs pursuant to including but not limited to those permitted by California Labor Code section 925 and California Business and Professions Code sections 16600, *et. seq.*; and

50. For such other and further relief as the Court may deem just and proper.

As to the Eleventh Cause of Action

51. That the Court declare, adjudge, and decree that Defendants violated the following California Labor Code sections as to Plaintiffs and the other Class Members: 1194, 1197, and 1197.1 (by failing to pay minimum wages); 510 and 1198 (by failing to pay overtime wages); 226.7 and 512(a) (by failing to provide meal and rest periods or compensation in lieu thereof); 204 (by failing to timely pay wages during employment); 226(a) (by failing to provide accurate wage statements); 201, 202, and 203 (by failing to pay all wages owed upon termination); 2800 and 2802 (by failing to reimburse business-related expenses), 201-203, 233, and 246 (by failing to pay sick pay wages); and California Business and Professions Code section 16600 (unlawful non-compete agreements);

52. For restitution of unpaid wages to Plaintiff and all the other Class Members and all pre-judgment interest from the day such amounts were due and payable;

53. For the appointment of a receiver to receive, manage, and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, *et seq.*;

54. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

55. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, *et seq.*

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As to the Twelfth Cause of Action

56. For the imposition of civil penalties pursuant to California Labor Code sections 2699, 210, 558, 226, 226.3, 1174.5, and 1197.1 and all other penalties allowed by the California Labor Code and/or other applicable statutes;

57. For injunctive relief;

58. For statutory attorneys' fees and costs pursuant to sections 210, 218.5, and 2699(g)(1) of the California Labor Code; and

59. For such other and further relief as the Court may deem proper.

Dated: August 19, 2026

BLACKSTONE LAW, APC

By: /s/ Theodore R. Tang

Ryan A. Quadrel, Esq.
Shelby L. Miner, Esq.
Alexandra Rose, Esq.
Theodore R. Tang, Esq.

Attorneys for Plaintiff DEVIN DIZON, individually, and on behalf of other similarly situated employees

Dated: August 19, 2026

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

By: /s/ Sergio J. Puche

Norman B. Blumenthal, Esq.
Kyle R. Nordrehaug, Esq.
Aparajit Bhowmik, Esq.
Nicholas J. De Blouw, Esq.
Jeffrey S. Herman, Esq.
Sergio J. Puche, Esq.

Attorneys for Plaintiff CRYSTAL MITCHELL, individually, and on behalf of other similarly situated employees and aggrieved employees pursuant to the California Private Attorneys General Act

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a jury trial with respect to all issues triable of right by jury.

3
4 Dated: August 19, 2026

BLACKSTONE LAW, APC

5
6 By: /s/ Theodore R. Tang

Ryan A. Quadrel, Esq.

7 Shelby L. Miner, Esq.

8 Alexandra Rose, Esq.

Theodore R. Tang, Esq.

9 *Attorneys for* Plaintiff DEVIN DIZON,
10 individually, and on behalf of other similarly
11 situated employees

12 Dated: August 19, 2026

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

13
14 /s/ Sergio J. Puche

15 By: Norman B. Blumenthal, Esq.

Kyle R. Nordrehaug, Esq.

16 Aparajit Bhowmik, Esq.

17 Nicholas J. De Blouw, Esq.

Jeffrey S. Herman, Esq.

18 Sergio J. Puche

19 *Attorneys for* Plaintiff CRYSTAL
20 MITCHELL, individually, and on behalf of
21 other similarly situated employees and
22 aggrieved employees pursuant to the California
23 Private Attorneys General Act
24
25
26
27
28

EXHIBIT A

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

February 21, 2025

CA3618

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Guardant Health, Inc.
Certified Mail #9589071052701755844823
INCORPORATING SERVICES, LTD.
7801 Folsom Blvd #202, Sacramento, CA
95826

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2100, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Guardant Health, Inc. in California, including any employees staffed with Guardant Health, Inc. by a third party, and classified as non-exempt employees during the time period of February 21, 2024 until a date as determined by the Court. Our offices represent Plaintiff Crystal Mitchell (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Guardant Health, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California since February of 2020. Plaintiff has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest

periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, 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.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *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 Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

/s/ Nicholas J. De Blouw
Nicholas J. De Blouw, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

Victoria Rivapalacio (State Bar #275115)

victoria@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

CRYSTAL MITCHELL, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

GUARDANT HEALTH, INC., a Corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200;
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;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-203, 233, 246; and,
9. DISCRIMINATION AND RETALIATION VIOLATION OF FEHA; and,
10. RETALIATION IN VIOLATION OF LABOR CODE § 1102.5, et seq.

DEMAND FOR A JURY TRIAL

Crystal Mitchell ("PLAINTIFF"), an individual, on behalf of herself and all other

1 similarly situated current and former employees alleges on information and belief, except for
2 her own acts and knowledge which are based on personal knowledge, the following.

3
4 **THE PARTIES**

5 1. Guardant Health, Inc. (“DEFENDANT”) is a corporation that at all relevant times
6 mentioned herein conducted and continues to conduct substantial business in California.

7 2. DEFENDANT is an American biotechnology company based in Palo Alto,
8 California.

9 3. PLAINTIFF is currently employed by DEFENDANT in California.
10 PLAINTIFF’S employment with DEFENDANT started in February of 2020. PLAINTIFF has
11 been at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly
12 basis, and entitled to the legally required meal and rest periods and payment of minimum and
13 overtime wages due for all time worked.

14 4. PLAINTIFF brings this Class Action on behalf of herself and a California class,
15 defined as all individuals who are or previously were employed by DEFENDANT in California,
16 including any employees staffed with DEFENDANT by a third party, and classified as non-
17 exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning four
18 (4) years prior to the filing of this Complaint and ending on the date as determined by the Court
19 (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim
20 of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred
23 during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice
24 which failed to lawfully compensate these employees. DEFENDANT’s policy and practice
25 alleged herein was an unlawful, unfair and deceptive business practice whereby
26 DEFENDANT retained and continues to retain wages due PLAINTIFF and the other
27 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the
28 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the

1 future, relief for the named PLAINTIFF and the other members of the CALIFORNIA
2 CLASS who have been economically injured by DEFENDANT's past and current unlawful
3 conduct, and all other appropriate legal and equitable relief.

4 6. The true names and capacities, whether individual, corporate, subsidiary,
5 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
6 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
7 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
8 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
9 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
10 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
11 50, inclusive, are responsible in some manner for one or more of the events and happenings
12 that proximately caused the injuries and damages hereinafter alleged.

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

21 22 **THE CONDUCT**

23 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
24 was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time
25 worked, meaning the time during which an employee is subject to the control of an
26 employer, including all the time the employee is suffered or permitted to work.
27 DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without
28 paying them for all the time they are under DEFENDANT's control. Among other things,

1 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
2 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
3 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
4 break. DEFENDANT, as a matter of established company policy and procedure, administers
5 a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and
6 CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the
7 course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less
8 than they would have been paid had they been paid for actual recorded time rather than
9 "rounded" time. Additionally, DEFENDANT engages in the practice of requiring
10 PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clock in that
11 DEFENDANT, as a condition of employment, required these employees to submit to
12 mandatory temperature checks and symptom questionnaires for COVID-19 screening prior
13 to clocking into DEFENDANT's timekeeping system for the workday. As a result,
14 PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage, overtime
15 wage compensation, and off-duty meal breaks by working without their time being correctly
16 recorded and without compensation at the applicable rates. DEFENDANT's policy and
17 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time
18 worked, is evidenced by DEFENDANT's business records.

19 9. State and federal law provides that employees must be paid overtime and meal
20 and rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF
21 and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive
22 pay that is tied to specific elements of an employee's performance.

23 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS
24 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
25 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
26 performance for DEFENDANT. The non-discretionary incentive program provided all
27 employees paid on an hourly basis with incentive compensation when the employees met the
28 various performance goals set by DEFENDANT. However, when calculating the regular

1 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
2 other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
3 compensation as part of the employees' "regular rate of pay" for purposes of calculating
4 overtime pay and meal and rest break premium pay. Management and supervisors described
5 the incentive program to potential and new employees as part of the compensation package.
6 As a matter of law, the incentive compensation received by PLAINTIFF and other
7 CALIFORNIA CLASS Members must be included in the "regular rate of pay." The failure
8 to do so has resulted in a underpayment of overtime compensation and meal and rest break
9 premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

10 11. As a result of their rigorous work schedules, PLAINTIFF and other
11 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute
12 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
13 and other CALIFORNIA CLASS Members were required from time to time to perform
14 work as ordered by DEFENDANT for more than five (5) hours during some shifts without
15 receiving a meal break. Further, DEFENDANT from time to time failed to provide
16 PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period for
17 some workdays in which these employees were required by DEFENDANT to work ten (10)
18 hours of work. DEFENDANT also engaged in the practice of rounding the meal period
19 times to avoid paying penalties to PLAINTIFF and other CALIFORNIA CLASS Members.
20 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks
21 without additional compensation and in accordance with DEFENDANT's corporate policy
22 and practice.

23 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
24 CALIFORNIA CLASS Members were also required from time to time to work in excess of
25 four (4) hours without being provided ten (10) minute rest periods. Further, these employees
26 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at
27 least two (2) to four (4) hours from time to time, a first and second rest period of at least ten
28 (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to

1 time, and a first, second and third rest period of at least ten (10) minutes for some shifts
2 worked of ten (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA
3 CLASS Members were also not provided with one hour wages in lieu thereof. Additionally,
4 the applicable California Wage Order requires employers to provide employees with off-
5 duty rest periods, which the California Supreme Court defined as time during which an
6 employee is relieved from all work related duties and free from employer control. In so
7 doing, the Court held that the requirement under California law that employers authorize and
8 permit all employees to take rest period means that employers must relieve employees of all
9 duties and relinquish control over how employees spend their time which includes control
10 over the locations where employees may take their rest period. Employers cannot impose
11 controls that prohibit an employee from taking a brief walk - five minutes out, five minutes
12 back. Here, DEFENDANT's policy restricted PLAINTIFF and other CALIFORNIA
13 CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's rule
14 which states PLAINTIFF and other CALIFORNIA CLASS Members cannot leave the work
15 premises during their rest period.

16 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to
17 accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the
18 actual amount of time these employees worked. Pursuant to the Industrial Welfare
19 Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and other
20 CALIFORNIA CLASS Members for all time worked, meaning the time during which an
21 employee was subject to the control of an employer, including all the time the employee was
22 permitted or suffered to permit this work. DEFENDANT required these employees to work
23 off the clock without paying them for all the time they were under DEFENDANT's control.
24 As such, DEFENDANT knew or should have known that PLAINTIFF and the other
25 members of the CALIFORNIA CLASS were under compensated for all time worked. As a
26 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time worked by
27 working without their time being accurately recorded and without compensation at the
28 applicable minimum wage and overtime wage rates. To the extent that the time worked off

1 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
2 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
3 1197, and 1197.1.

4 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
5 other members of the CALIFORNIA CLASS with complete and accurate wage statements
6 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
7 Code § 226 provides that every employer shall furnish each of his or her employees with an
8 accurate itemized wage statement in writing showing, among other things, gross wages
9 earned and all applicable hourly rates in effect during the pay period and the corresponding
10 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS
11 Members were paid on an hourly basis. As such, the wage statements should reflect all
12 applicable hourly rates during the pay period and the total hours worked, and the applicable
13 pay period in which the wages were earned pursuant to California Labor Code Section
14 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
15 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
16 wage statements failed to identify the accurate total hours worked each pay period. When
17 the hours shown on the wage statements were added up, they did not equal the actual total
18 hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
19 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
20 itemized wage statement that lists all the requirements under California Labor Code 226. As
21 a result, DEFENDANT from time to time provided PLAINTIFF and the other members of
22 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

23 15. DEFENDANT underpaid sick pay wages to PLAINTIFF and other
24 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in
25 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt
26 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate
27
28

1 of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS
2 Members at their base rates of pay.

3 16. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
4 employees be calculated by dividing the employee's total wages, not including overtime
5 premium pay, by the employee's total hours worked in the full pay periods of the prior 90
6 days of employment.

7 17. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay
8 at the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely
9 earned non-discretionary incentive wages which increased their regular rate of pay.
10 However, when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and
11 members of the CALIFORNIA CLASS, as opposed to the correct, higher regular rate of
12 pay, as required under Cal. Lab. Code Section 246.

13 18. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
14 and other members of the CALIFORNIA CLASS their correct wages and accordingly owe
15 waiting time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is
16 informed and believes and based thereon alleges that such failure to pay sick pay at regular
17 rate was willful, such that PLAINTIFF and members of the CALIFORNIA CLASS whose
18 employment has separated are entitled to waiting time penalties pursuant to Cal. Lab. Code
19 Sections 201-203.

20 19. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
21 to collect or receive from an employee any part of wages theretofore paid by said employer
22 to said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and
23 other CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from
24 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members,
25 failed to disclose all aspects of the deductions from compensation payable to PLAINTIFF
26 and CALIFORNIA LABOR SUB-CLASS Members, and thereby failed to pay these
27 employees all wages due at each applicable pay period and upon termination. PLAINTIFF
28

1 and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
2 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

3 20. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
4 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses
5 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct
6 consequence of discharging their duties on behalf of DEFENDANT. Under California
7 Labor Code Section 2802, employers are required to indemnify employees for all expenses
8 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
9 states that "an employer shall indemnify his or her employee for all necessary expenditures
10 or losses incurred by the employee in direct consequence of the discharge of his or her
11 duties, or of his or her obedience to the directions of the employer, even though unlawful,
12 unless the employee, at the time of obeying the directions, believed them to be unlawful."

13 21. In the course of their employment PLAINTIFF and other CALIFORNIA
14 CLASS Members as a business expense, were required by DEFENDANT to use their own
15 personal cellular phones as a result of and in furtherance of their job duties as employees for
16 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost
17 associated with the use of their personal cellular phones for DEFENDANT's benefit.
18 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by
19 DEFENDANT to use their personal cellular phones. As a result, in the course of their
20 employment with DEFENDANT, PLAINTIFF and other members of the CALIFORNIA
21 CLASS incurred unreimbursed business expenses which included, but were not limited to,
22 costs related to the use of their personal cellular phones all on behalf of and for the benefit of
23 DEFENDANT.

24 22. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
25 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage
26 Order and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due
27 to PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-
28 duty meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for

1 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the
2 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties
3 for the legally required off-duty meal periods. As a result, DEFENDANT's failure to
4 provide PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's
5 business records. The amount in controversy for PLAINTIFF individually does not exceed
6 the sum or value of \$75,000.

7 **JURISDICTION AND VENUE**

8 23. This Court has jurisdiction over this Action pursuant to California Code of
9 Civil Procedure, Section 410.10 and California Business & Professions Code, Section
10 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly
11 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

12 24. Venue is proper in this Court pursuant to California Code of Civil Procedure,
13 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
14 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
15 facilities in this County and/or conducts substantial business in this County, and (ii)
16 committed the wrongful conduct herein alleged in this County against members of the
17 CALIFORNIA CLASS.

18 **THE CALIFORNIA CLASS**

19 25. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and
20 Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as
21 a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class,
22 defined as all individuals who are or previously were employed by DEFENDANT in
23 California, including any employees staffed with DEFENDANT by a third party, and
24 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
25 period beginning four (4) years prior to the filing of this Complaint and ending on the date
26 as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in
27
28

1 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five
2 million dollars (\$5,000,000.00).

3 26. To the extent equitable tolling operates to toll claims by the CALIFORNIA
4 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
5 accordingly.

6 27. DEFENDANT, as a matter of company policy, practice and procedure, and in
7 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage
8 Order requirements, and the applicable provisions of California law, intentionally,
9 knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to record all
10 meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members,
11 even though DEFENDANT enjoyed the benefit of this work, required employees to perform
12 this work and permits or suffers to permit this work.

13 28. DEFENDANT has the legal burden to establish that each and every
14 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as
15 required by California laws. The DEFENDANT, however, as a matter of policy and
16 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails
17 to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS
18 Member is paid as required by law. This common business practice is applicable to each
19 and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as
20 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, (the
21 "UCL") as causation, damages, and reliance are not elements of this claim.

22 29. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
23 CLASS Members is impracticable.

24 30. DEFENDANT violated the rights of the CALIFORNIA CLASS under
25 California law by:

- 26 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
27 Prof. Code §§ 17200, (the "UCL"), by unlawfully, unfairly and/or
28 deceptively having in place company policies, practices and procedures

1 that failed to record and pay PLAINTIFF and the other members of the
2 CALIFORNIA CLASS for all time worked, including minimum wages
3 owed and overtime wages owed for work performed by these
4 employees; and,

- 5 (b) Committing an act of unfair competition in violation of the UCL, by
6 failing to provide the PLAINTIFF and the other members of the
7 CALIFORNIA CLASS with the legally required meal and rest periods.

8 31. This Class Action meets the statutory prerequisites for the maintenance of a
9 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 10 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
11 that the joinder of all such persons is impracticable and the disposition
12 of their claims as a class will benefit the parties and the Court;
- 13 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
14 issues that are raised in this Complaint are common to the
15 CALIFORNIA CLASS will apply to every member of the
16 CALIFORNIA CLASS;
- 17 (c) The claims of the representative PLAINTIFF are typical of the claims
18 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
19 the other members of the CALIFORNIA CLASS, was classified as a
20 non-exempt employee paid on an hourly basis who was subjected to the
21 DEFENDANT's deceptive practice and policy which failed to provide
22 the legally required meal and rest periods to the CALIFORNIA CLASS
23 and thereby underpaid compensation to PLAINTIFF and
24 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
25 result of DEFENDANT's employment practices. PLAINTIFF and the
26 members of the CALIFORNIA CLASS were and are similarly or
27 identically harmed by the same unlawful, deceptive and unfair
28 misconduct engaged in by DEFENDANT; and,

1 (d) The representative PLAINTIFF will fairly and adequately represent and
2 protect the interest of the CALIFORNIA CLASS, and has retained
3 counsel who are competent and experienced in Class Action litigation.
4 There are no material conflicts between the claims of the representative
5 PLAINTIFF and the members of the CALIFORNIA CLASS that would
6 make class certification inappropriate. Counsel for the CALIFORNIA
7 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
8 Members.

9 32. In addition to meeting the statutory prerequisites to a Class Action, this action
10 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

11 (a) Without class certification and determination of declaratory, injunctive,
12 statutory and other legal questions within the class format, prosecution
13 of separate actions by individual members of the CALIFORNIA
14 CLASS will create the risk of:

15 1) Inconsistent or varying adjudications with respect to individual
16 members of the CALIFORNIA CLASS which would establish
17 incompatible standards of conduct for the parties opposing the
18 CALIFORNIA CLASS; and/or,

19 2) Adjudication with respect to individual members of the
20 CALIFORNIA CLASS which would as a practical matter be
21 dispositive of interests of the other members not party to the
22 adjudication or substantially impair or impede their ability to
23 protect their interests.

24 (b) The parties opposing the CALIFORNIA CLASS have acted or refused
25 to act on grounds generally applicable to the CALIFORNIA CLASS,
26 making appropriate class-wide relief with respect to the CALIFORNIA
27 CLASS as a whole in that DEFENDANT failed to pay all wages due to
28 members of the CALIFORNIA CLASS as required by law;

1) With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFF seeks declaratory relief holding that the DEFENDANT's policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

(c) Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA CLASS Members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;

2) Class certification will obviate the need for unduly duplicative litigation that would 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 DEFENDANT; and/or,

1 B. Adjudications with respect to individual members of the
2 CALIFORNIA CLASS would as a practical matter be
3 dispositive of the interests of the other members not
4 parties to the adjudication or substantially impair or
5 impede their ability to protect their interests;

6 3) In the context of wage litigation because a substantial number of
7 individual CALIFORNIA CLASS Members will avoid asserting
8 their legal rights out of fear of retaliation by DEFENDANT,
9 which may adversely affect an individual's job with
10 DEFENDANT or with a subsequent employer, the Class Action
11 is the only means to assert their claims through a representative;
12 and,

13 4) A class action is superior to other available methods for the fair
14 and efficient adjudication of this litigation because class
15 treatment will obviate the need for unduly and unnecessary
16 duplicative litigation that is likely to result in the absence of
17 certification of this action pursuant to Cal. Code of Civ. Proc. §
18 382.

19 33. This Court should permit this action to be maintained as a Class Action
20 pursuant to Cal. Code of Civ. Proc. § 382 because:

21 (a) The questions of law and fact common to the CALIFORNIA CLASS
22 predominate over any question affecting only individual CALIFORNIA
23 CLASS Members because the DEFENDANT's employment practices
24 are applied with respect to the CALIFORNIA CLASS;

25 (b) A Class Action is superior to any other available method for the fair
26 and efficient adjudication of the claims of the members of the
27 CALIFORNIA CLASS because in the context of employment litigation
28 a substantial number of individual CALIFORNIA CLASS Members

1 will avoid asserting their rights individually out of fear of retaliation or
2 adverse impact on their employment;

3 (c) The members of the CALIFORNIA CLASS are so numerous that it is
4 impractical to bring all members of the CALIFORNIA CLASS before
5 the Court;

6 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
7 be able to obtain effective and economic legal redress unless the action
8 is maintained as a Class Action;

9 (e) There is a community of interest in obtaining appropriate legal and
10 equitable relief for the acts of unfair competition, statutory violations
11 and other improprieties, and in obtaining adequate compensation for the
12 damages and injuries which DEFENDANT's actions have inflicted
13 upon the CALIFORNIA CLASS;

14 (f) There is a community of interest in ensuring that the combined assets of
15 DEFENDANT are sufficient to adequately compensate the members of
16 the CALIFORNIA CLASS for the injuries sustained;

17 (g) DEFENDANT has acted or refused to act on grounds generally
18 applicable to the CALIFORNIA CLASS, thereby making final class-
19 wide relief appropriate with respect to the CALIFORNIA CLASS as a
20 whole;

21 (h) The members of the CALIFORNIA CLASS are readily ascertainable
22 from the business records of DEFENDANT; and,

23 (i) Class treatment provides manageable judicial treatment calculated to
24 bring a efficient and rapid conclusion to all litigation of all wage and
25 hour related claims arising out of the conduct of DEFENDANT as to
26 the members of the CALIFORNIA CLASS.

27 34. DEFENDANT maintains records from which the Court can ascertain and
28 identify by job title each of DEFENDANT's employees who have been intentionally

1 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
2 PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of
3 similarly situated employees when they have been identified.

4
5 **THE CALIFORNIA LABOR SUB-CLASS**

6 35. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,
7 and Eighth causes Action on behalf of a California sub-class, defined as all members of the
8 CALIFORNIA CLASS who are or previously were employed by DEFENDANT in
9 California, including any employees staffed with DEFENDANT by a third party, and
10 classified as non exempt employees (the "CALIFORNIA LABOR SUB-CLASS") at any
11 time during the period three (3) years prior to the filing of the complaint and ending on the
12 date as determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD")
13 pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate
14 claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
15 (\$5,000,000.00).

16 36. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
17 Commission ("IWC") Wage Order requirements, and the applicable provisions of California
18 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
19 failed to correctly calculate compensation for the time worked by PLAINTIFF and the other
20 members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to
21 these employees, even though DEFENDANT enjoyed the benefit of this work, required
22 employees to perform this work and permitted or suffered to permit this work.
23 DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to
24 which these employees are entitled in order to unfairly cheat the competition and unlawfully
25 profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
26 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD
27 should be adjusted accordingly.

28 37. DEFENDANT maintains records from which the Court can ascertain and

1 identify by name and job title, each of DEFENDANT's employees who have been
2 intentionally subjected to DEFENDANT's company policy, practices and procedures as
3 herein alleged. PLAINTIFF will seek leave to amend the complaint to include any
4 additional job titles of similarly situated employees when they have been identified.

5 38. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
6 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

7 39. Common questions of law and fact exist as to members of the CALIFORNIA
8 LABOR SUB-CLASS, including, but not limited, to the following:

- 9 (a) Whether DEFENDANT unlawfully failed to correctly calculate and
10 pay compensation due to members of the CALIFORNIA LABOR
11 SUB-CLASS for missed meal and rest breaks in violation of the
12 California Labor Code and California regulations and the applicable
13 California Wage Order;
- 14 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
15 members of the CALIFORNIA LABOR SUB-CLASS with accurate
16 itemized wage statements;
- 17 (c) Whether DEFENDANT has engaged in unfair competition by the
18 above-listed conduct;
- 19 (d) The proper measure of damages and penalties owed to the members of
20 the CALIFORNIA LABOR SUB-CLASS; and,
- 21 (e) Whether DEFENDANT's conduct was willful.

22 40. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
23 CLASS under California law by:

- 24 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
25 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
26 CLASS all wages due for overtime worked, for which DEFENDANT is
27 liable pursuant to Cal. Lab. Code § 1194;
- 28

- 1 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1, by failing to
2 accurately pay PLAINTIFF and the members of the CALIFORNIA
3 LABOR SUB-CLASS the correct minimum wage pay for which
4 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 5 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and
6 the members of the CALIFORNIA LABOR SUB-CLASS with an
7 accurate itemized statement in writing showing the corresponding
8 correct amount of wages earned by the employee;
- 9 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
10 PLAINTIFF and the other members of the CALIFORNIA LABOR
11 SUB-CLASS with all legally required off-duty, uninterrupted thirty
12 (30) minute meal breaks and the legally required off-duty rest breaks;
- 13 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
14 when an employee is discharged or quits from employment, the
15 employer must pay the employee all wages due without abatement, by
16 failing to tender full payment and/or restitution of wages owed or in the
17 manner required by California law to the members of the
18 CALIFORNIA LABOR SUB-CLASS who have terminated their
19 employment; and,
- 20 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF
21 and the CALIFORNIA LABOR SUB-CLASS members with necessary
22 expenses incurred in the discharge of their job duties.

23 41. This Class Action meets the statutory prerequisites for the maintenance of a
24 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 25 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS
26 are so numerous that the joinder of all CALIFORNIA LABOR SUB-
27 CLASS Members is impracticable and the disposition of their claims as
28 a class will benefit the parties and the Court;

- 1 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
2 issues that are raised in this Complaint are common to the
3 CALIFORNIA LABOR SUB-CLASS and will apply to every member
4 of the CALIFORNIA LABOR SUB-CLASS;
- 5 (c) The claims of the representative PLAINTIFF are typical of the claims
6 of each member of the CALIFORNIA LABOR SUB-CLASS.
7 PLAINTIFF, like all the other members of the CALIFORNIA LABOR
8 SUB-CLASS, was a non-exempt employee paid on an hourly basis who
9 was subjected to the DEFENDANT's practice and policy which failed
10 to pay the correct amount of wages due to the CALIFORNIA LABOR
11 SUB-CLASS. PLAINTIFF sustained economic injury as a result of
12 DEFENDANT's employment practices. PLAINTIFF and the members
13 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
14 identically harmed by the same unlawful, deceptive, and unfair
15 misconduct engaged in by DEFENDANT; and,
- 16 (d) The representative PLAINTIFF will fairly and adequately represent and
17 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and
18 has retained counsel who are competent and experienced in Class
19 Action litigation. There are no material conflicts between the claims of
20 the representative PLAINTIFF and the members of the CALIFORNIA
21 LABOR SUB-CLASS that would make class certification
22 inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
23 will vigorously assert the claims of all CALIFORNIA LABOR SUB-
24 CLASS Members.

25 42. In addition to meeting the statutory prerequisites to a Class Action, this action
26 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 27 (a) Without class certification and determination of declaratory, injunctive,
28 statutory and other legal questions within the class format, prosecution

1 of separate actions by individual members of the CALIFORNIA
2 LABOR SUB-CLASS will create the risk of:

- 3 1) Inconsistent or varying adjudications with respect to individual
4 members of the CALIFORNIA LABOR SUB-CLASS which
5 would establish incompatible standards of conduct for the
6 parties opposing the CALIFORNIA LABOR SUB-CLASS; or,
7 2) Adjudication with respect to individual members of the
8 CALIFORNIA LABOR SUB-CLASS which would as a
9 practical matter be dispositive of interests of the other members
10 not party to the adjudication or substantially impair or impede
11 their ability to protect their interests.

12 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have
13 acted or refused to act on grounds generally applicable to the
14 CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide
15 relief with respect to the CALIFORNIA LABOR SUB-CLASS as a
16 whole in that DEFENDANT fails to pay all wages due. Including the
17 correct wages for all time worked by the members of the
18 CALIFORNIA LABOR SUB-CLASS as required by law;

19 (c) Common questions of law and fact predominate as to the members of
20 the CALIFORNIA LABOR SUB-CLASS, with respect to the practices
21 and violations of California Law as listed above, and predominate over
22 any question affecting only individual CALIFORNIA LABOR SUB-
23 CLASS Members, and a Class Action is superior to other available
24 methods for the fair and efficient adjudication of the controversy,
25 including consideration of:

- 26 1) The interests of the members of the CALIFORNIA LABOR
27 SUB-CLASS in individually controlling the prosecution or
28 defense of separate actions in that the substantial expense of

1 individual actions will be avoided to recover the relatively small
2 amount of economic losses sustained by the individual
3 CALIFORNIA LABOR SUB-CLASS Members when compared
4 to the substantial expense and burden of individual prosecution
5 of this litigation;

- 6 2) Class certification will obviate the need for unduly duplicative
7 litigation that would create the risk of:
- 8 A. Inconsistent or varying adjudications with respect to
9 individual members of the CALIFORNIA LABOR SUB-
10 CLASS, which would establish incompatible standards of
11 conduct for the DEFENDANT; and/or,
 - 12 B. Adjudications with respect to individual members of the
13 CALIFORNIA LABOR SUB-CLASS would as a
14 practical matter be dispositive of the interests of the other
15 members not parties to the adjudication or substantially
16 impair or impede their ability to protect their interests;
- 17 3) In the context of wage litigation because a substantial number of
18 individual CALIFORNIA LABOR SUB-CLASS Members will
19 avoid asserting their legal rights out of fear of retaliation by
20 DEFENDANT, which may adversely affect an individual's job
21 with DEFENDANT or with a subsequent employer, the Class
22 Action is the only means to assert their claims through a
23 representative; and,
- 24 4) A class action is superior to other available methods for the fair
25 and efficient adjudication of this litigation because class
26 treatment will obviate the need for unduly and unnecessary
27 duplicative litigation that is likely to result in the absence of
28

1 certification of this action pursuant to Cal. Code of Civ. Proc. §
2 382.

3 43. This Court should permit this action to be maintained as a Class Action
4 pursuant to Cal. Code of Civ. Proc. § 382 because:

- 5 (a) The questions of law and fact common to the CALIFORNIA LABOR
6 SUB-CLASS predominate over any question affecting only individual
7 CALIFORNIA LABOR SUB-CLASS Members;
- 8 (b) A Class Action is superior to any other available method for the fair
9 and efficient adjudication of the claims of the members of the
10 CALIFORNIA LABOR SUB-CLASS because in the context of
11 employment litigation a substantial number of individual
12 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting
13 their rights individually out of fear of retaliation or adverse impact on
14 their employment;
- 15 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
16 numerous that it is impractical to bring all members of the
17 CALIFORNIA LABOR SUB-CLASS before the Court;
- 18 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS
19 Members, will not be able to obtain effective and economic legal
20 redress unless the action is maintained as a Class Action;
- 21 (e) There is a community of interest in obtaining appropriate legal and
22 equitable relief for the acts of unfair competition, statutory violations
23 and other improprieties, and in obtaining adequate compensation for the
24 damages and injuries which DEFENDANT's actions have inflicted
25 upon the CALIFORNIA LABOR SUB-CLASS;
- 26 (f) There is a community of interest in ensuring that the combined assets of
27 DEFENDANT are sufficient to adequately compensate the members of
28 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

- 1 (g) DEFENDANT has acted or refused to act on grounds generally
2 applicable to the CALIFORNIA LABOR SUB-CLASS, thereby
3 making final class-wide relief appropriate with respect to the
4 CALIFORNIA LABOR SUB-CLASS as a whole;
- 5 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
6 ascertainable from the business records of DEFENDANT. The
7 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
8 CLASS Members who worked for DEFENDANT in California at any
9 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 10 (i) Class treatment provides manageable judicial treatment calculated to
11 bring a efficient and rapid conclusion to all litigation of all wage and
12 hour related claims arising out of the conduct of DEFENDANT as to
13 the members of the CALIFORNIA LABOR SUB-CLASS.

14
15 **FIRST CAUSE OF ACTION**

16 **For Unlawful Business Practices**

17 **[Cal. Bus. And Prof. Code §§ 17200]**

18 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

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

22 45. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
23 Code § 17021.

24 46. California Business & Professions Code §§ 17200, (the “UCL”) defines unfair
25 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
26 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
27 competition as follows:
28

1 Any person who engages, has engaged, or proposes to engage in unfair
2 competition may be enjoined in any court of competent jurisdiction. The court
3 may make such orders or judgments, including the appointment of a receiver,
4 as may be necessary to prevent the use or employment by any person of any
5 practice which constitutes unfair competition, as defined in this chapter, or as
6 may be necessary to restore to any person in interest any money or property,
7 real or personal, which may have been acquired by means of such unfair
8 competition.

9 Cal. Bus. & Prof. Code § 17203.

10 47. By the conduct alleged herein, DEFENDANT has engaged and continues to
11 engage in a business practice which violates California law, including but not limited to, the
12 applicable Industrial Wage Order(s), the California Code of Regulations and the California
13 Labor Code including Sections 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802
14 and the Fair Labor Standards Act and federal regulations promulgated thereunder, for which
15 this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof.
16 Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
17 unfair competition, including restitution of wages wrongfully withheld.

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

24 49. By the conduct alleged herein, DEFENDANT's practices were deceptive and
25 fraudulent in that DEFENDANT's policy and practice failed to provide the legally
26 mandated meal and rest periods, the required amount of compensation for missed meal and
27 rest periods and overtime and minimum wages owed, failed to timely pay wages, and failed
28 to reimburse all necessary business expenses incurred, and failed to provide Fair Labor
Standards Act overtime wages due for overtime worked as a result of failing to include non-
discretionary incentive compensation into their regular rates of pay for purposes of
computing the proper overtime pay due to a business practice that cannot be justified,

1 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
2 in violation of Cal. Bus. Code §§ 17200, and for which this Court should issue injunctive
3 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of
4 wages wrongfully withheld.

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

9 51. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
10 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to
11 provide all legally required meal breaks to PLAINTIFF and the other members of the
12 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

13 52. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
14 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty
15 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of
16 pay for each workday in which a second off-duty meal period was not timely provided for
17 each ten (10) hours of work.

18 53. PLAINTIFF further demands on behalf of herself and each member of the
19 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off
20 duty paid rest period was not timely provided as required by law.

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

27 55. All the acts described herein as violations of, among other things, the
28 Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the

1 California Labor Code, were unlawful and in violation of public policy, were immoral,
2 unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful,
3 unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200.

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

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

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

20
21 **SECOND CAUSE OF ACTION**

22 **For Failure To Pay Minimum Wages**

23 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

24 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**
25 **and Against All Defendants)**

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

1 60. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
2 CLASS bring a claim for DEFENDANT's willful and intentional violations of the
3 California Labor Code and the Industrial Welfare Commission requirements for
4 DEFENDANT's failure to accurately calculate and pay minimum wages to PLAINTIFF and
5 CALIFORNIA CLASS Members.

6 61. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by
7 the commission is the minimum wage to be paid to employees, and the payment of a less
8 wage than the minimum so fixed is unlawful.

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

12 63. DEFENDANT maintained a wage practice of paying PLAINTIFF and the
13 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
14 amount of time they work. As set forth herein, DEFENDANT's policy and practice was to
15 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the
16 other members of the CALIFORNIA LABOR SUB-CLASS.

17 64. DEFENDANT's unlawful wage and hour practices manifested, without
18 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
19 implementing a policy and practice that denies accurate compensation to PLAINTIFF and
20 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
21 wage pay.

22 65. In committing these violations of the California Labor Code, DEFENDANT
23 inaccurately calculated the correct time worked and consequently underpaid the actual time
24 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
25 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and
26 other benefits in violation of the California Labor Code, the Industrial Welfare Commission
27 requirements and other applicable laws and regulations.

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

5 67. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
6 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
7 Members to work without paying them for all the time they were under DEFENDANT's
8 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
9 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
10 that they were entitled to, constituting a failure to pay all earned wages.

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

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

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

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

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

16 17 **THIRD CAUSE OF ACTION**

18 **For Failure To Pay Overtime Compensation**

19 **[Cal. Lab. Code § 510]**

20 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
21 **Defendants)**

22 72. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
23 CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior
24 paragraphs of this Complaint.

25 73. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
26 CLASS bring a claim for DEFENDANT's willful and intentional violations of the
27 California Labor Code and the Industrial Welfare Commission requirements for
28 DEFENDANT's failure to pay these employees for all overtime worked, including, work

1 performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,
2 and/or forty (40) hours in any workweek.

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

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

12 76. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
13 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
14 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,
15 including overtime work.

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

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

1 other applicable laws and regulations. As a direct result of DEFENDANT's unlawful wage
2 practices as alleged herein, the PLAINTIFF and the other members of the CALIFORNIA
3 LABOR SUB-CLASS did not receive full compensation for overtime worked.

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

12 80. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
13 the other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for
14 overtime worked that they are entitled to, constituting a failure to pay all earned wages.

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

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

1 83. DEFENDANT knew or should have known that PLAINTIFF and the other
2 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all
3 overtime worked. DEFENDANT elected, either through intentional malfeasance or gross
4 nonfeasance, to not pay employees for their labor as a matter of company policy, practice
5 and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF
6 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

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

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

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **For Failure to Provide Required Meal Periods**

3 **[Cal. Lab. Code §§ 226.7 & 512]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
5 **Defendants)**

6 86. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
8 paragraphs of this Complaint.

9 87. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
10 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
11 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
12 and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA
13 LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of
14 all of their duties for the legally required off-duty meal periods. As a result of their rigorous
15 work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
16 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
17 Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
18 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)
19 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
20 DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
21 second off-duty meal period in some workdays in which these employees were required by
22 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFF
23 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
24 breaks without additional compensation and in accordance with DEFENDANT's strict
25 corporate policy and practice.

26 88. DEFENDANT further violates California Labor Code §§ 226.7 and the
27 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
28 LABOR SUB-CLASS Members who were not provided a meal period, in accordance with

1 the applicable Wage Order, one additional hour of compensation at each employee's regular
2 rate of pay for each workday that a meal period was not provided.

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

7 **FIFTH CAUSE OF ACTION**

8 **For Failure to Provide Required Rest Periods**

9 **[Cal. Lab. Code §§ 226.7 & 512]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
11 **Defendants)**

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

15 91. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
16 from time to time required to work in excess of four (4) hours without being provided ten
17 (10) minute rest periods. Further, these employees from time to time were denied their first
18 rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
19 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
20 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten
21 (10) minutes for some shifts worked of ten (10) hours or more from time to time.

22 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
23 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
24 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically
25 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

26 92. DEFENDANT further violated California Labor Code §§ 226.7 and the
27 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
28 LABOR SUB-CLASS Members who were not provided a rest period, in accordance with

1 the applicable Wage Order, one additional hour of compensation at each employee's regular
2 rate of pay for each workday that rest period was not provided.

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

7 **SIXTH CAUSE OF ACTION**

8 **For Failure to Provide Accurate Itemized Statements**

9 **[Cal. Lab. Code § 226]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
11 **Defendants)**

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

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

- 18 (1) gross wages earned,
19 (2) total hours worked by the employee, except for any employee whose
20 compensation is solely based on a salary and who is exempt from payment of
21 overtime under subdivision (a) of Section 515 or any applicable order of the
22 Industrial Welfare Commission,
23 (3) the number of piece-rate units earned and any applicable piece rate if the employee
24 is paid on a piece-rate basis,
25 (4) all deductions, provided that all deductions made on written orders of the
26 employee may be aggregated and shown as one item,
27 (5) net wages earned,
28 (6) the inclusive dates of the period for which the employee is paid,
(7) 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 or an
employee identification number other than a social security number may be shown on
the itemized statement,
(8) the name and address of the legal entity that is the employer, and
(9) all applicable hourly rates in effect during the pay period and the corresponding
number of hours worked at each hourly rate by the employee.

1 96. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
2 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate
3 wage statements which failed to show, among other things, the correct gross and net wages
4 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
5 employees with an accurate itemized wage statement in writing showing, among other
6 things, gross wages earned and all applicable hourly rates in effect during the pay period and
7 the corresponding amount of time worked at each hourly rate. PLAINTIFF and
8 CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As such, the
9 wage statements should reflect all applicable hourly rates during the pay period and the total
10 hours worked, and the applicable pay period in which the wages were earned pursuant to
11 California Labor Code Section 226(a). The wage statements DEFENDANT provided to
12 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members failed to identify
13 such information. More specifically, the wage statements failed to identify the accurate total
14 hours worked each pay period. When the hours shown on the wage statements were added
15 up, they did not equal the actual total hours worked during the pay period in violation of
16 Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
17 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the
18 requirements under California Labor Code 226. As a result, DEFENDANT from time to
19 time provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
20 CLASS with wage statements which violated Cal. Lab. Code § 226.

21 97. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.
22 Code § 226, causing injury and damages to PLAINTIFF and the other members of the
23 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
24 expended calculating the correct wages for all missed meal and rest breaks and the amount
25 of employment taxes which were not properly paid to state and federal tax authorities.
26 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of
27 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty
28 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred

1 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §
2 226, in an amount according to proof at the time of trial (but in no event more than four
3 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the
4 CALIFORNIA LABOR SUB-CLASS herein).

5
6 **SEVENTH CAUSE OF ACTION**

7 **For Failure to Reimburse Employees for Required Expenses**

8 **[Cal. Lab. Code § 2802]**

9 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
10 **Defendants)**

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

14 99. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

20 100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,
21 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
22 CLASS members for required expenses incurred in the discharge of their job duties for
23 DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the
24 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not
25 limited to, costs related to using their personal cellular phones on behalf of and for the
26 benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR
27 SUB-CLASS Members were required by DEFENDANT to use their personal cellular
28 phones and home offices in order to perform work related job tasks. DEFENDANT's policy
and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
CLASS members for expenses resulting from using their personal cellular phones and home

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

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

12 **EIGHTH CAUSE OF ACTION**

13 **For Failure to Pay Sick Pay Wages**

14 **[Cal. Lab. Code §§ 201-203, 233, 246]**

15 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**
16 **and Against All Defendants)**

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

20 103. Cal Lab. Code § 233 provides that an employer must permit an employee to
21 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then
22 current rate of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to
23 sick pay wages for use of accrued sick leave pursuant to Cal Lab. Code § 246.5.
24 Specifically, once accrued sick leave is used as paid sick time, an employee has a vested
25 right to sick pay wages, which an employer must calculate and compensate based on one of
26 two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the
27 same manner as the regular rate of pay for the workweek in which the employee uses paid
28 sick time, whether or not the employee actually works overtime in that workweek," or (ii)

1 “Paid sick time for nonexempt employees shall be calculated by dividing the employee’s
2 total wages, not including overtime premium pay, by the employee’s total hours worked in
3 the full pay periods of the prior 90 days of employment.” Under Cal Lab. Code §§ 218 and
4 233, employees may sue to recover underpaid sick pay wages as damages.

5 104. As a matter of policy and practice, DEFENDANT pays sick pay wages to
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the
7 incorrect rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-
8 SUB-CLASS regularly use accrued sick leave in the workweeks in which they also earn
9 non-hourly remuneration. As a matter of policy and practice, DEFENDANT pays sick pay
10 wages to PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS
11 at the base hourly pay, as opposed to the regular rate of pay, which would consider all non-
12 hourly remuneration in addition to base hourly wages, or the rate resulting from dividing the
13 employee’s total wages, not including overtime premium pay, by the employee’s total hours
14 worked in the full pay periods of the prior 90 days of employment. As a result,
15 DEFENDANT underpaid sick pay wages to PLAINTIFF and the other members of the
16 CALIFORNIA LABOR-SUB-CLASS.

17 105. Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick
18 leave, vested sick pay wages are due and to be paid no later than the payday for the next
19 regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab.
20 Code § 201 provides that if an employer discharges an employee, wages earned and unpaid
21 at the time of discharge are due and payable immediately. Cal. Lab. Code § 202 provides
22 that an employee is entitled to receive all unpaid wages no later than 72 hours after an
23 employee quits his or her employment, unless the employee has given 72-hour notice of his
24 or her intention to quit, in which case the employee is entitled to his or her wages at the time
25 of quitting. The Labor Code penalizes untimely payments. For example, Cal. Lab. Code §
26 203 provides that if an employer willfully fails to pay wages owed in accordance with Cal.
27 Lab. Code §§ 201-202, then the wages of the employee shall continue as a penalty from the
28 due date, and at the same rate until paid, but the wages shall not continue for more than

1 thirty (30) days. Under Cal. Lab. Code §§ 203 and 218, employees may sue to recover
2 applicable penalties.

3 106. As alleged herein and as a matter of policy and practice, DEFENDANT
4 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other
5 members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay
6 wages. As a result, DEFENDANT violates Cal. Lab. Code §§ 201-203, 233, and 246,
7 among other Labor Code provisions. PLAINTIFF is informed and believes that
8 DEFENDANT was advised by skilled lawyers and knew, or should have known, of the
9 mandates of the Labor Code as it relates to PLAINTIFF's allegations, especially since the
10 California Supreme Court has explained that "[c]ourts have recognized that 'wages' also
11 include those benefits to which an employee is entitled as a part of his or her compensation,
12 including money, room, board, clothing, vacation pay, *and sick pay.*" *Murphy v. Kenneth*
13 *Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT
14 willfully fails to timely pay PLAINTIFF and the other members of the CALIFORNIA
15 LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable
16 penalties.

17 107. Such a pattern, practice, and uniform administration of corporate policy is
18 unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-
19 SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties,
20 attorney's fees, and costs of suit.

21 22 **NINTH CAUSE OF ACTION**

23 **[Discrimination and Retaliation For the Exercise of Rights Guaranteed Under the**
24 **FEHA, Participating in Protected Activities, and/or Opposing DEFENDANT's Failure**
25 **to Provide Such Rights]**

26 **Violation of FEHA Government Section 12900, *et. seq.***

27 **(By PLAINTIFF Against All Defendants)**

1 108. PLAINTIFF realleges and incorporates by reference, as though fully set forth
2 herein, the prior paragraphs of this Complaint.

3 109. PLAINTIFF went on pregnancy leave to have her second child in September
4 of 2023. PLAINTIFF continued to take medical leave after her pregnancy up until
5 November of 2024 and she then returned to work for DEFENDANT. Upon returning from
6 protected Pregnancy and Medical leave DEFENDANT retaliated and discriminated against
7 PLAINTIFF by making her choose between termination or job demotion. Prior to taking
8 leave, PLAINTIFF's role with DEFENDANT was not one that required her to take phone
9 calls most of her work shift. When DEFENDANT demoted PLAINTIFF after her return
10 from protected leave, her new role requires much more phone calls than her prior role and
11 DEFENDANT knew that PLAINTIFF works from home with two toddlers and that this new
12 demotion would be next to impossible for her to excel at her job. Further, DEFENDANT
13 also unilaterally changed the requirements for PLAINTIFF's "loyalty" bonus and failed to
14 pay PLAINTIFF this bonus as a result of her pregnancy leave. As a result of PLAINTIFF's
15 taking protected leave for pregnancy and FMLA issues, DEFENDANT fabricated
16 performance and conduct issues about PLAINTIFF, denied PLAINTIFF employment
17 opportunities, privileges, and wages under the Labor Code, and PLAINTIFF was plagued
18 with ongoing work pressures, obligations, and mistreatment by her supervisors as a result of
19 PLAINTIFF's willingness to raise formal complaints described herein. As a result of the
20 good faith complaints PLAINTIFF made to DEFENDANT regarding the discriminatory
21 practices stated above and for taking protected leave, and in direct retaliation for those
22 complaints, DEFENDANT has demoted PLAINTIFF and failed to pay PLAINTIFF the
23 proper wages, PLAINTIFF raised complaints of illegality while she worked for
24 DEFENDANT and was believed to be willing to raise complaints, and DEFENDANT
25 retaliated against her by taking adverse employment actions as described herein. Prior to
26 filing this action PLAINTIFF exhausted her administrative remedies by filing a timely
27 administrative complaint with the Department of Fair Employment and Housing ("DFEH")
28 and received a DFEH Right to Sue letter on February 20, 2025.

1 110. DEFENDANT's conduct, as alleged, violated FEHA, Government Code
2 Section 12900, *et seq.*, and DEFENDANT committed unlawful employment practices,
3 including the following bases for liability:

4 a. Taking adverse employment actions against PLAINTIFF, including
5 discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or
6 otherwise discriminating against PLAINTIFF, in whole or in part on the basis of
7 PLAINTIFF's taking of protected pregnancy and medical leave in violation of Government
8 Code Section 12940(a);

9 b. Harassing PLAINTIFF and/or creating a hostile work environment, in
10 whole or in part on the basis of PLAINTIFF's pregnancy and medical leave;

11 c. Failing to take all reasonable steps to prevent discrimination and
12 harassment based on pregnancy and medical leave in violation of Government Code section
13 12940(k);

14 d. Retaliating against PLAINTIFF for seeking to exercise rights
15 guaranteed under FEHA, participating in protected activities, and/or opposing
16 DEFENDANT's failure to provide such rights, in violation of Government Code Section
17 12940(h).

18 111. As a proximate result of DEFENDANT's willful, knowing, and intentional
19 discrimination against PLAINTIFF, PLAINTIFF has sustained and continues to sustain
20 substantial losses of earnings and other employment benefits.

21 112. As a proximate result of DEFENDANT's willful, knowing, and intentional
22 discrimination against PLAINTIFF, PLAINTIFF has suffered and continues to suffer
23 humiliation, emotional distress, and physical and mental pain and anguish, all to
24 PLAINTIFF's damage in a sum according to proof.

25 113. PLAINTIFF has incurred and continues to incur legal expenses and attorneys'
26 fees. Pursuant to Government Code Section 12965(b), PLAINTIFF is entitled to recover
27 reasonable attorneys' fees and costs (including expert costs) in an amount according to
28 proof.

114. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive manner, and fraudulent manner entitling PLAINTIFF to punitive damages against DEFENDANT.

TENTH CAUSE OF ACTION

Retaliation

[Violation of Cal. Lab. Code § 1102.5, *et seq.*]

(By PLAINTIFF Against All Defendants)

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

116. At all relevant times, Labor Code section 1102.5 was in effect and was binding on DEFENDANT. This statute prohibits DEFENDANT from retaliating against any employee, including PLAINTIFF, for raising complaints of illegality and/or belief that the employee may disclose illegality.

117. PLAINTIFF went on pregnancy leave to have her second child in September of 2023. PLAINTIFF continued to take medical leave after her pregnancy up until November of 2024 and she then returned to work for DEFENDANT. Upon returning from protected Pregnancy and Medical leave DEFENDANT retaliated and discriminated against PLAINTIFF by making her choose between termination or job demotion. Prior to taking leave, PLAINTIFF's role with DEFENDANT was not one that required her to take phone calls most of her work shift. When DEFENDANT demoted PLAINTIFF after her return from protected leave, her new role requires much more phone calls than her prior role and DEFENDANT knew that PLAINTIFF works from home with two toddlers and that this new demotion would be next to impossible for her to excel at her job. Further, DEFENDANT also unilaterally changed the requirements for PLAINTIFF's "loyalty" bonus and failed to pay PLAINTIFF this bonus as a result of her pregnancy leave. As a result of PLAINTIFF's taking protected leave for pregnancy and FMLA issues, DEFENDANT fabricated performance and conduct issues about PLAINTIFF, denied PLAINTIFF employment

1 opportunities, privileges, and wages under the Labor Code, and PLAINTIFF was plagued
2 with ongoing work pressures, obligations, and mistreatment by her supervisors as a result of
3 PLAINTIFF's willingness to raise formal complaints described herein. As a result of the
4 good faith complaints PLAINTIFF made to DEFENDANT regarding the discriminatory
5 practices stated above and for taking protected leave, and in direct retaliation for those
6 complaints, DEFENDANT has demoted PLAINTIFF and failed to pay PLAINTIFF the
7 proper wages, PLAINTIFF raised complaints of illegality while he worked for
8 DEFENDANT and was believed to be willing to raise complaints, and DEFENDANT
9 retaliated against her by taking adverse employment actions as described herein.

10 118. As a proximate result of DEFENDANT'S willful, knowing, and intentional
11 violation(s) of Labor Code section 1102.5, PLAINTIFF has suffered and continues to suffer
12 humiliation, emotional distress, and mental and physical pain and anguish, all to her damage
13 in a sum according to proof.

14 119. As a result of DEFENDANT'S adverse employment actions against
15 PLAINTIFF, PLAINTIFF has suffered general and special damages in sums according to
16 proof.

17 120. DEFENDANT'S misconduct was committed intentionally, in a malicious,
18 oppressive manner, and fraudulent manner entitling PLAINTIFF to punitive damages
19 against defendants.

20 **PRAYER FOR RELIEF**

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

23 1. On behalf of the CALIFORNIA CLASS:

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

- 1 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
2 withheld from compensation due to PLAINTIFF and the other members of the
3 CALIFORNIA CLASS; and,
4 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
5 for restitution of the sums incidental to DEFENDANT's violations due to
6 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

7 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 8 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
9 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class
10 action pursuant to Cal. Code of Civ. Proc. § 382;
11 B) Compensatory damages, according to proof at trial, including compensatory
12 damages for minimum and overtime compensation due PLAINTIFF and the other
13 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
14 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
15 statutory rate;
16 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
17 in which a violation occurs and one hundred dollars (\$100) per each member of
18 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
19 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
20 an award of costs for violation of Cal. Lab. Code § 226;
21 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
22 the applicable IWC Wage Order;
23 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
24 1197;
25 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
26 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
27 costs of suit.; and,
28

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

4 3. On behalf of PLAINTIFF for the Ninth and Tenth Causes of Action:

5 A) For all special damages which were sustained as a result of DEFENDANT's
6 conduct, including, but not limited to, back pay, front pay, lost compensation and
7 job benefits that PLAINTIFF would have received but for the retaliatory practices
8 of DEFENDANT; and,

9 B) For all exemplary damages, according to proof, which were sustained as a result
10 of DEFENDANT's conduct.

11 4. On all claims:

12 A) An award of interest, including prejudgment interest at the legal rate;

13 B) Such other and further relief as the Court deems just and equitable; and,

14 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
15 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,
16 and/or §2802.

17
18
19
20 Dated: February 20, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

21
22 By: _____

23 Norman B. Blumenthal
Nicholas J. De Blouw

24 *Attorneys for Plaintiff*
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DEMAND FOR A JURY TRIAL

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

Dated: February 20, 2025

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiff

EXHIBIT B

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

sergiojulian@bamlawca.com

WRITERS EXT:

1002

June 15, 2026
CA3618

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

GUARDANT HEALTH, INC.
Certified Mail #9589071052704052148250
Pillsbury Winthrop Shaw Pittman LLP
Joanna L. Brooks, Esq.
Joanna.Brooks@pillsbury.com
Alekszandir Morton, Esq.
Alekzandir.Morton@pillsburylaw.com
Nathan Wexler, Esq.
Nathan.Wexler@pillsburylaw.com

Amended Notice for LWDA, Case No. LWDA-CM-1081507-25

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2100, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

Our offices represent Plaintiff Crystal Mitchell (“Plaintiff Mitchell”), and other Aggrieved Employees in a lawsuit against Defendant Guardant Health, Inc., (“Defendant”).

Plaintiff Mitchell originally sent a PAGA Notice on February 21, 2025, which gave notice to the LWDA, and Defendant, to enable Plaintiff Mitchell to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.*

This Amended Notice is intended to amend Plaintiff Mitchell’s original PAGA Notice and to add additional claims and facts.

“Aggrieved Employees” refers to all individuals who are or previously were employed by Guardant Health, Inc. in California, including any employees staffed with Guardant Health, Inc. by a third party, and classified as non-exempt employees during the time period of February 21, 2024 until a date as determined by the Court. Our offices represent Plaintiff Crystal Mitchell

("Plaintiff") and other Aggrieved Employees in a lawsuit against Guardant Health, Inc. ("Defendant"). Plaintiff was employed by Defendant in California as a reimbursement specialist from February of 2020 to June 2025. Plaintiff was at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but "furnished less than half said employee's usual or scheduled day's work," Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours' worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Defendant also failed to properly calculate and pay overtime wages by: (a) implementing an invalid Alternative Workweek Schedule that purported to authorize 10-hour shifts without daily overtime; and (b) systematically excluding non-discretionary bonuses from the regular rate of pay when calculating overtime and premium wages. Even if Defendant's AWS elections were valid, they were applied inconsistently to employees working standard 8-hour schedules, rendering them invalid under California law

This Amended notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *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 Employees.

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

Respectfully,

/s/ Sergio J. Puche
Sergio J. Puche, Esq.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN MATEO

I, Lorena Bautista, certify and declare as follows:

I am over eighteen years of age and not a party to the within action; my business address is 8383 Wilshire Blvd, Suite 745, Beverly Hills, California 90211. On August 19, 2026, I served a copy of the following document(s):

• **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**

on the interested parties as follows:

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal

Norm@bamlawca.com

Nicholas J. De Blouw

DeBlouw@bamlawca.com

Jeffrey S. Herman

jeffrey@bamlawca.com

Sergio Julian Puche

sergiojulian@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Attorneys for Plaintiff CRYSTAL MITCHELL

PILLSBURY WINTHROP SHAW PITTMAN LLP

JoAnna Brooks

joanna.brooks@pillsburylaw.com

Alekzandir Morton

alekzandir.morton@pillsburylaw.com

Nathan Wexler

nathan.wexler@pillsburylaw.com

Four Embarcadero Center, 22nd Floor

San Francisco, California 94111-5998

Telephone: 415.983.1000

Facsimile: 415.983.1200

Attorneys for Defendant GUARDANT HEALTH, INC.

☒ **BY ELECTRONIC MAIL (E-MAIL):** I caused said document(s) to be delivered electronically to be delivered to the above referenced addressee(s) via email from email address lbautista@blackstonepc.com pursuant to California Code of Civil

1 Procedure section 1010.6(e)(1). I did not receive any electronic message or other
2 indication that the transmission was unsuccessful.

3 ☒ **BY ONLINE SUBMISSION:** The above-referenced documents were transmitted to
4 the California Labor and Workforce Development Agency through the online system
5 established for the submission of notices and documents, in conformity with California
6 Labor Code section 2699(I). I did not receive, within a reasonable time after the
7 transmission, any electronic message or other indication that the transmission was
8 unsuccessful.

9 ☒ **STATE:** I declare under penalty of perjury under the laws of the State of California
10 that the above is true and correct.

11 Executed on August 19, 2026 at Beverly Hills, California.

12 /s/ Lorena Bautista
13 Lorena Bautista
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