

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)

Piya Mukherjee (State Bar #274217)

piya@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiffs

ELECTRONICALLY FILED

Superior Court of California,

County of Siskiyou

04/13/2026 at 04:45:31 PM

By: Natalie Hough, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SISKIYOU

MELINDA WHEELER and MALLORY
DUNN, individually, on behalf of
themselves and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

SISKIYOU HOSPITAL, INC., a
California Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. **25CV01525**

FIRST AMENDED 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;
9. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202, 203 AND 204;
10. FAILURE TO KEEP REQUIRED PAYROLL RECORDS IN VIOLATION OF CAL. LAB. CODE § 1174;
11. RETALIATION IN VIOLATION OF LABOR CODE § 1102.5;
12. DISCRIMINATION AND RETALIATION VIOLATION OF FEHA; and,
13. VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, et seq.].

DEMAND FOR A JURY TRIAL

1 Melinda Wheeler and Mallory Dunn (“PLAINTIFFS”), individually, on behalf of themselves
2 and all other similarly situated current and former employees allege on information and belief, except
3 for their own acts and knowledge which are based on personal knowledge, the following.

4
5 **THE PARTIES**

6 1. Siskiyou Hospital, Inc. (“DEFENDANT”) is a Corporation that at all relevant times
7 mentioned herein conducted and continues to conduct substantial business in California.

8 2. DEFENDANT provides healthcare services in California.

9 3. Plaintiff Melinda Wheeler has been employed by DEFENDANT in California since 2014
10 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest
11 periods and payment of minimum and overtime wages due for all time worked. Plaintiff Mallory Dunn
12 was employed by DEFENDANT in California from August of 2018 until December 2023 as a non-
13 exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
14 payment of minimum and overtime wages due for all time worked.

15 4. PLAINTIFFS bring this Class Action on behalf of themselves and a California class,
16 defined as all individuals who are or previously were employed by DEFENDANT in California,
17 including any employees staffed with DEFENDANT by a third party, and classified as non-exempt
18 employees (the “CALIFORNIA CLASS”) at any time during the period beginning February 18, 2021
19 and ending on the date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The
20 amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million
21 dollars (\$5,000,000.00).

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

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

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

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

20 **THE CONDUCT**

21 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
22 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
23 meaning the time during which an employee is subject to the control of an employer, including all
24 the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFFS and
25 CALIFORNIA CLASS Members to work without paying them for all the time they are under
26 DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFFS to work while
27 clocked out during what is supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS were
28 from time to time interrupted by work assignments while clocked out for what should have been

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

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

19 10. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
20 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
21 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their
22 performance for DEFENDANT. The non-discretionary incentive program provided all employees
23 paid on an hourly basis with incentive compensation when the employees met the various
24 performance goals set by DEFENDANT. However, when calculating the regular rate of pay in
25 order to pay overtime and meal and rest break premiums to PLAINTIFFS and other CALIFORNIA
26 CLASS Members, DEFENDANT failed to include the incentive compensation as part of the
27 employees' "regular rate of pay" for purposes of calculating overtime pay and meal and rest break
28 premium pay. Management and supervisors described the incentive program to potential and new

1 employees as part of the compensation package. As a matter of law, the incentive compensation
2 received by PLAINTIFFS and other CALIFORNIA CLASS Members must be included in the
3 “regular rate of pay.” The failure to do so has resulted in a underpayment of overtime compensation
4 and meal and rest break premiums to PLAINTIFFS and other CALIFORNIA CLASS Members by
5 DEFENDANT.

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

18 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA
19 CLASS Members were also required from time to time to work in excess of four (4) hours without
20 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
21 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from
22 time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of
23 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at
24 least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
25 PLAINTIFFS and other CALIFORNIA CLASS Members were also not provided with one hour
26 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers to
27 provide employees with off-duty rest periods, which the California Supreme Court defined as time
28 during which an employee is relieved from all work related duties and free from employer control.

1 In so doing, the Court held that the requirement under California law that employers authorize and
2 permit all employees to take rest period means that employers must relieve employees of all duties
3 and relinquish control over how employees spend their time which includes control over the
4 locations where employees may take their rest period. Employers cannot impose controls that
5 prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,
6 DEFENDANT's policy restricted PLAINTIFFS and other CALIFORNIA CLASS Members from
7 unconstrained walks and is unlawful based on DEFENDANT's rule which states PLAINTIFFS and
8 other CALIFORNIA CLASS Members cannot leave the work premises during their rest period.

9 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
10 record and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount of
11 time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
12 DEFENDANT was required to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all
13 time worked, meaning the time during which an employee was subject to the control of an
14 employer, including all the time the employee was permitted or suffered to permit this work.
15 DEFENDANT required these employees to work off the clock without paying them for all the time
16 they were under DEFENDANT's control. As such, DEFENDANT knew or should have known that
17 PLAINTIFFS and the other members of the CALIFORNIA CLASS were under compensated for all
18 time worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members forfeited time
19 worked by working without their time being accurately recorded and without compensation at the
20 applicable minimum wage and overtime wage rates. To the extent that the time worked off the
21 clock does not qualify for overtime premium payment, DEFENDANT fails to pay minimum wages
22 for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

23 14. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
24 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed
25 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides
26 that every employer shall furnish each of his or her employees with an accurate itemized wage
27 statement in writing showing, among other things, gross wages earned and all applicable hourly
28 rates in effect during the pay period and the corresponding amount of time worked at each hourly

1 rate. PLAINTIFFS and CALIFORNIA CLASS Members were paid on an hourly basis. As such,
2 the wage statements should reflect all applicable hourly rates during the pay period and the total
3 hours worked, and the applicable pay period in which the wages were earned pursuant to California
4 Labor Code Section 226(a). The wage statements DEFENDANT provided to PLAINTIFFS and
5 other CALIFORNIA CLASS Members failed to identify such information. More specifically, the
6 wage statements failed to identify the accurate total hours worked each pay period. When the hours
7 shown on the wage statements were added up, they did not equal the actual total hours worked
8 during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed
9 above in this paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement
10 that lists all the requirements under California Labor Code 226. As a result, DEFENDANT from
11 time to time provided PLAINTIFFS and the other members of the CALIFORNIA CLASS with
12 wage statements which violated Cal. Lab. Code § 226.

13 15. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other CALIFORNIA
14 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
15 Code Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-
16 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT
17 underpaid sick pay to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of
18 pay.

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

23 17. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
24 regular rate of pay. PLAINTIFFS and CALIFORNIA CLASS Members routinely earned non-
25 discretionary incentive wages which increased their regular rate of pay. However, when sick pay
26 was paid, it was paid at the base rate of pay for PLAINTIFFS and members of the CALIFORNIA
27 CLASS, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code
28 Section 246.

1 18. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
2 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting time
3 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and believe
4 and based thereon allege that such failure to pay sick pay at regular rate was willful, such that
5 PLAINTIFFS and members of the CALIFORNIA CLASS whose employment has separated are
6 entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

7 19. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to
8 collect or receive from an employee any part of wages theretofore paid by said employer to said
9 employee." DEFENDANT failed to pay all compensation due to PLAINTIFFS and other
10 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
11 payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all
12 aspects of the deductions from compensation payable to PLAINTIFFS and CALIFORNIA LABOR
13 SUB-CLASS Members, and thereby failed to pay these employees all wages due at each applicable
14 pay period and upon termination. PLAINTIFFS and members of the CALIFORNIA LABOR SUB-
15 CLASS seek recovery of all illegal deductions from wages according to proof, related penalties,
16 interest, attorney fees and costs.

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

27 21. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS
28 Members as a business expense, were required by DEFENDANT to use their own personal cellular

1 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but are
2 not reimbursed or indemnified by DEFENDANT for the cost associated with the use of their
3 personal cellular phones for DEFENDANT's benefit. Specifically, PLAINTIFFS and other
4 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cellular
5 phones. As a result, in the course of their employment with DEFENDANT, PLAINTIFFS and other
6 members of the CALIFORNIA CLASS incurred unreimbursed business expenses which included,
7 but were not limited to, costs related to the use of their personal cellular phones all on behalf of and
8 for the benefit of DEFENDANT.

9 22. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
10 required off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage Order
11 and Labor Code and failed to pay PLAINTIFFS all minimum and overtime wages due to
12 PLAINTIFFS. DEFENDANT did not have a policy or practice which provided timely off-duty
13 meal and rest breaks to PLAINTIFFS and also failed to compensate PLAINTIFFS for PLAINTIFFS'
14 missed meal and rest breaks. The nature of the work performed by the PLAINTIFFS did not prevent
15 PLAINTIFFS from being relieved of all of PLAINTIFFS' duties for the legally required off-duty
16 meal periods. As a result, DEFENDANT's failure to provide PLAINTIFFS with the legally
17 required meal periods is evidenced by DEFENDANT's business records. The amount in
18 controversy for PLAINTIFFS individually do not exceed the sum or value of \$75,000.

19 **JURISDICTION AND VENUE**

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

24 24. Venue is proper in this Court pursuant to California Code of Civil Procedure,
25 Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT and
26 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in
27
28

1 this County and/or conducts substantial business in this County, and (ii) committed the wrongful
2 conduct herein alleged in this County against members of the CALIFORNIA CLASS.

3
4 **THE CALIFORNIA CLASS**

5 25. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive
6 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as a Class Action,
7 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals
8 who are or previously were employed by DEFENDANT in California, including any employees
9 staffed with DEFENDANT by a third party, and classified as non-exempt employees (the
10 "CALIFORNIA CLASS") at any time during the period beginning February 18, 2021 and ending on
11 the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in
12 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million
13 dollars (\$5,000,000.00).

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

16 27. DEFENDANT, as a matter of company policy, practice and procedure, and in
17 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
18 requirements, and the applicable provisions of California law, intentionally, knowingly, and
19 willfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks
20 missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though DEFENDANT
21 enjoyed the benefit of this work, required employees to perform this work and permits or suffers to
22 permit this work.

23 28. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
24 CLASS Member was paid accurately for all meal and rest breaks missed as required by California
25 laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place
26 during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to
27 ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This
28 common business practice is applicable to each and every CALIFORNIA CLASS Member can be

1 adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business &
2 Professions Code §§ 17200 (the "UCL") as causation, damages, and reliance are not elements of
3 this claim.

4 29. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
5 CLASS Members is impracticable.

6 30. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
7 by:

- 8 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof.
9 Code §§ 17200, (the "UCL"), by unlawfully, unfairly and/or deceptively
10 having in place company policies, practices and procedures that failed to
11 record and pay PLAINTIFFS and the other members of the CALIFORNIA
12 CLASS for all time worked, including minimum wages owed and overtime
13 wages owed for work performed by these employees; and,
14 (b) Committing an act of unfair competition in violation of the UCL, by failing
15 to provide the PLAINTIFFS and the other members of the CALIFORNIA
16 CLASS with the legally required meal and rest periods.

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

- 19 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that
20 the joinder of all such persons is impracticable and the disposition of their
21 claims as a class will benefit the parties and the Court;
22 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
23 are raised in this Complaint are common to the CALIFORNIA CLASS will
24 apply to every member of the CALIFORNIA CLASS;
25 (c) The claims of the representative PLAINTIFFS are typical of the claims of
26 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the other
27 members of the CALIFORNIA CLASS, was classified as a non-exempt
28 employee paid on an hourly basis who was subjected to the DEFENDANT's

1 deceptive practice and policy which failed to provide the legally required
2 meal and rest periods to the CALIFORNIA CLASS and thereby underpaid
3 compensation to PLAINTIFFS and CALIFORNIA CLASS. PLAINTIFFS
4 sustained economic injury as a result of DEFENDANT's employment
5 practices. PLAINTIFFS and the members of the CALIFORNIA CLASS
6 were and are similarly or identically harmed by the same unlawful, deceptive
7 and unfair misconduct engaged in by DEFENDANT; and,

- 8 (d) The representative PLAINTIFFS will fairly and adequately represent and
9 protect the interest of the CALIFORNIA CLASS, and has retained counsel
10 who are competent and experienced in Class Action litigation. There are no
11 material conflicts between the claims of the representative PLAINTIFFS and
12 the members of the CALIFORNIA CLASS that would make class
13 certification inappropriate. Counsel for the CALIFORNIA CLASS will
14 vigorously assert the claims of all CALIFORNIA CLASS Members.

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

- 17 (a) Without class certification and determination of declaratory, injunctive,
18 statutory and other legal questions within the class format, prosecution of
19 separate actions by individual members of the CALIFORNIA CLASS will
20 create the risk of:

- 21 1) Inconsistent or varying adjudications with respect to individual
22 members of the CALIFORNIA CLASS which would establish
23 incompatible standards of conduct for the parties opposing the
24 CALIFORNIA CLASS; and/or,
25 2) Adjudication with respect to individual members of the
26 CALIFORNIA CLASS which would as a practical matter be
27 dispositive of interests of the other members not party to the
28

1 adjudication or substantially impair or impede their ability to protect
2 their interests.

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

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

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

21 1) The interests of the members of the CALIFORNIA CLASS in
22 individually controlling the prosecution or defense of separate actions
23 in that the substantial expense of individual actions will be avoided to
24 recover the relatively small amount of economic losses sustained by
25 the individual CALIFORNIA CLASS Members when compared to
26 the substantial expense and burden of individual prosecution of this
27 litigation;
28

- 1 2) Class certification will obviate the need for unduly duplicative
2 litigation that would create the risk of:
- 3 A. Inconsistent or varying adjudications with respect to
4 individual members of the CALIFORNIA CLASS, which
5 would establish incompatible standards of conduct for the
6 DEFENDANT; and/or,
- 7 B. Adjudications with respect to individual members of the
8 CALIFORNIA CLASS would as a practical matter be
9 dispositive of the interests of the other members not parties to
10 the adjudication or substantially impair or impede their ability
11 to protect their interests;
- 12 3) In the context of wage litigation because a substantial number of
13 individual CALIFORNIA CLASS Members will avoid asserting their
14 legal rights out of fear of retaliation by DEFENDANT, which may
15 adversely affect an individual's job with DEFENDANT or with a
16 subsequent employer, the Class Action is the only means to assert
17 their claims through a representative; and,
- 18 4) A class action is superior to other available methods for the fair and
19 efficient adjudication of this litigation because class treatment will
20 obviate the need for unduly and unnecessary duplicative litigation that
21 is likely to result in the absence of certification of this action pursuant
22 to Cal. Code of Civ. Proc. § 382.

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

- 25 (a) The questions of law and fact common to the CALIFORNIA CLASS
26 predominate over any question affecting only individual CALIFORNIA
27 CLASS Members because the DEFENDANT's employment practices are
28 applied with respect to the CALIFORNIA CLASS;

- 1 (b) A Class Action is superior to any other available method for the fair and
2 efficient adjudication of the claims of the members of the CALIFORNIA
3 CLASS because in the context of employment litigation a substantial number
4 of individual CALIFORNIA CLASS Members will avoid asserting their
5 rights individually out of fear of retaliation or adverse impact on their
6 employment;
- 7 (c) The members of the CALIFORNIA CLASS are so numerous that it is
8 impractical to bring all members of the CALIFORNIA CLASS before the
9 Court;
- 10 (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be
11 able to obtain effective and economic legal redress unless the action is
12 maintained as a Class Action;
- 13 (e) There is a community of interest in obtaining appropriate legal and equitable
14 relief for the acts of unfair competition, statutory violations and other
15 improprieties, and in obtaining adequate compensation for the damages and
16 injuries which DEFENDANT's actions have inflicted upon the
17 CALIFORNIA CLASS;
- 18 (f) There is a community of interest in ensuring that the combined assets of
19 DEFENDANT are sufficient to adequately compensate the members of the
20 CALIFORNIA CLASS for the injuries sustained;
- 21 (g) DEFENDANT has acted or refused to act on grounds generally applicable to
22 the CALIFORNIA CLASS, thereby making final class-wide relief
23 appropriate with respect to the CALIFORNIA CLASS as a whole;
- 24 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
25 the business records of DEFENDANT; and,
- 26 (i) Class treatment provides manageable judicial treatment calculated to bring an
27 efficient and rapid conclusion to all litigation of all wage and hour related
28

1 claims arising out of the conduct of DEFENDANT as to the members of the
2 CALIFORNIA CLASS.

3 34. DEFENDANT maintains records from which the Court can ascertain and identify by
4 job title each of DEFENDANT's employees who have been intentionally subjected to
5 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFFS will
6 seek leave to amend the Complaint to include any additional job titles of similarly situated
7 employees when they have been identified.

8
9 **THE CALIFORNIA LABOR SUB-CLASS**

10 35. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
11 Ninth and Tenth causes Action on behalf of a California sub-class, defined as all members of the
12 CALIFORNIA CLASS who are or previously were employed by DEFENDANT in California,
13 including any employees staffed with DEFENDANT by a third party, and classified as non-exempt
14 employees (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period of February
15 18, 2021 and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-
16 CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the
17 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
18 (\$5,000,000.00).

19 36. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
20 Commission ("IWC") Wage Order requirements, and the applicable provisions of California law,
21 intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to
22 correctly calculate compensation for the time worked by PLAINTIFFS and the other members of the
23 CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even
24 though DEFENDANT enjoyed the benefit of this work, required employees to perform this work
25 and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA
26 LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly
27 cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims
28

1 by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR
2 SUB-CLASS PERIOD should be adjusted accordingly.

3 37. DEFENDANT maintains records from which the Court can ascertain and
4 identify by name and job title, each of DEFENDANT's employees who have been intentionally
5 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
6 PLAINTIFFS will seek leave to amend the complaint to include any additional job titles of similarly
7 situated employees when they have been identified.

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

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

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

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

- 26 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFFS
27 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due
28

1 for overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab.
2 Code § 1194;

3 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1, by failing to accurately
4 pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
5 CLASS the correct minimum wage pay for which DEFENDANT is liable
6 pursuant to Cal. Lab. Code §§ 1194 and 1197;

7 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate
9 itemized statement in writing showing the corresponding correct amount of
10 wages earned by the employee;

11 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
12 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
13 CLASS with all legally required off-duty, uninterrupted thirty (30) minute
14 meal breaks and the legally required off-duty rest breaks;

15 (e) Violating Cal. Lab. Code §§ 201, 202, 203 and/or 204, which require timely
16 payment of all wages and provide that when an employee is discharged or
17 quits from employment, the employer must pay the employee all wages due
18 without abatement, by failing to tender full payment and/or restitution of
19 wages owed or in the manner required by California law to the members of
20 the CALIFORNIA LABOR SUB-CLASS who have terminated their
21 employment;

22 (f) Violating Cal. Lab. Code § 1174 by failing to keep required payroll-related
23 records; and,

24 (g) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and
25 the CALIFORNIA LABOR SUB-CLASS members with necessary expenses
26 incurred in the discharge of their job duties.

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

- 1 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
2 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
3 Members is impracticable and the disposition of their claims as a class will
4 benefit the parties and the Court;
- 5 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
6 are raised in this Complaint are common to the CALIFORNIA LABOR SUB-
7 CLASS and will apply to every member of the CALIFORNIA LABOR SUB-
8 CLASS;
- 9 (c) The claims of the representative PLAINTIFFS are typical of the claims of
10 each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS,
11 like all the other members of the CALIFORNIA LABOR SUB-CLASS, were
12 non-exempt employee paid on an hourly basis who was subjected to the
13 DEFENDANT's practice and policy which failed to pay the correct amount
14 of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS
15 sustained economic injury as a result of DEFENDANT's employment
16 practices. PLAINTIFFS and the members of the CALIFORNIA LABOR
17 SUB-CLASS were and are similarly or identically harmed by the same
18 unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT;
19 and,
- 20 (d) The representative PLAINTIFFS will fairly and adequately represent and
21 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has
22 retained counsel who are competent and experienced in Class Action
23 litigation. There are no material conflicts between the claims of the
24 representative PLAINTIFFS and the members of the CALIFORNIA LABOR
25 SUB-CLASS that would make class certification inappropriate. Counsel for
26 the CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of
27 all CALIFORNIA LABOR SUB-CLASS Members.
28

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

3 (a) Without class certification and determination of declaratory, injunctive,
4 statutory and other legal questions within the class format, prosecution of
5 separate actions by individual members of the CALIFORNIA LABOR SUB-
6 CLASS will create the risk of:

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

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

22 (c) Common questions of law and fact predominate as to the members of the
23 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
24 violations of California Law as listed above, and predominate over any
25 question affecting only individual CALIFORNIA LABOR SUB-CLASS
26 Members, and a Class Action is superior to other available methods for the
27 fair and efficient adjudication of the controversy, including consideration of:
28

- 1) The interests of the members of the CALIFORNIA LABOR SUB-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 LABOR SUB-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 LABOR SUB-CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that

1 is likely to result in the absence of certification of this action pursuant
2 to Cal. Code of Civ. Proc. § 382.

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

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

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

14
15 **FIRST CAUSE OF ACTION**

16 **For Unlawful Business Practices**

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

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

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

22 45. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
23 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 competition as
27 follows:
28

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

5 Cal. Bus. & Prof. Code § 17203.

6 47. By the conduct alleged herein, DEFENDANT has engaged and continues to engage
7 in a business practice which violates California law, including but not limited to, the applicable
8 Industrial Wage Order(s), the California Code of Regulations and the California Labor Code
9 including Sections 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 588,
10 1174, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and federal regulations
11 promulgated thereunder, for which this Court should issue declaratory and other equitable relief
12 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
13 held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

19 49. By the conduct alleged herein, DEFENDANT's practices were deceptive and
20 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated meal
21 and rest periods, the required amount of compensation for missed meal and rest periods and
22 overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse all
23 necessary business expenses incurred, and failed to provide Fair Labor Standards Act overtime
24 wages due for overtime worked as a result of failing to include non-discretionary incentive
25 compensation into their regular rates of pay for purposes of computing the proper overtime pay due
26 to a business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and
27 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, and for
28

1 which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code §
2 17203, including restitution of wages wrongfully withheld.

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

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

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

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

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

25 55. All the acts described herein as violations of, among other things, the Industrial
26 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
27 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and
28

1 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business
2 practices in violation of Cal. Bus. & Prof. Code §§ 17200.

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

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

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

19
20 **SECOND CAUSE OF ACTION**

21 **For Failure To Pay Minimum Wages**

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

23 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

24 **and Against All Defendants)**

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

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

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

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

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

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

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

25 66. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
26 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
27 the correct minimum wage compensation for their time worked for DEFENDANT.
28

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

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

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

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

26 71. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
27 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well
28 as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the

1 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation
2 is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have
3 terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or
4 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
5 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-
6 CLASS Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in
7 good faith. Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are
8 entitled to seek and recover statutory costs.

9
10 **THIRD CAUSE OF ACTION**

11 **For Failure To Pay Overtime Compensation**

12 **[Cal. Lab. Code § 510]**

13 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

14 72. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
15 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this
16 Complaint.

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

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

26 75. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
27 including minimum wage and overtime compensation and interest thereon, together with the costs
28

1 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
2 than those fixed by the Industrial Welfare Commission is unlawful.

3 76. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
4 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
5 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked, including
6 overtime work.

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

14 78. In committing these violations of the California Labor Code, DEFENDANT
15 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
16 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in
17 an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
18 California Labor Code, the Industrial Welfare Commission requirements and other applicable laws
19 and regulations. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, the
20 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
21 full compensation for overtime worked.

22 79. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
23 from the overtime requirements of the law. None of these exemptions are applicable to the
24 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
25 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject
26 to a valid collective bargaining agreement that would preclude the causes of action contained herein
27 this Complaint. Rather, PLAINTIFFS bring this Action on behalf of herself and the CALIFORNIA
28

1 LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable, non-waivable rights
2 provided by the State of California.

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

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

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

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

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

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

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

15 16 **FOURTH CAUSE OF ACTION**

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

18 **[Cal. Lab. Code §§ 226.7 & 512]**

19 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

20 86. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
21 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
22 this Complaint.

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

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

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

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

20 **FIFTH CAUSE OF ACTION**

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

22 **[Cal. Lab. Code §§ 226.7 & 512]**

23 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

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

27 91. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from
28 time to time required to work in excess of four (4) hours without being provided ten (10) minute

1 rest periods. Further, these employees from time to time were denied their first rest periods of at
2 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second
3 rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8)
4 hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of
5 ten (10) hours or more from time to time. PLAINTIFFS and other CALIFORNIA LABOR SUB-
6 CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their
7 rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members
8 were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

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

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

17 **SIXTH CAUSE OF ACTION**

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

19 **[Cal. Lab. Code § 226]**

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

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

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

- 26 (1) gross wages earned,
27 (2) total hours worked by the employee, except for any employee whose compensation is
28 solely based on a salary and who is exempt from payment of overtime under subdivision (a)
of Section 515 or any applicable order of the Industrial Welfare Commission,

(3) the number of piecerate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
(4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
(5) net wages earned,
(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.

96. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members 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 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period. When the hours shown on the wage statements were added up, they did not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor Code 226. As a result, DEFENDANT from time to time provided PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code § 226.

97. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA

LABOR SUB-CLASS. These damages include, but are not limited to, costs expended calculating the correct wages for all missed meal and rest breaks and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

SEVENTH CAUSE OF ACTION

For Failure to Reimburse Employees for Required Expenses

[Cal. Lab. Code § 2802]

(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

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

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

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

100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically,

1 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were required by
2 DEFENDANT to use their personal cellular phones and home offices in order to perform work
3 related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFFS and the
4 CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal
5 cellular phones and home offices for DEFENDANT within the course and scope of their
6 employment for DEFENDANT. These expenses were necessary to complete their principal job
7 duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this
8 expectation. Although these expenses were necessary expenses incurred by PLAINTIFFS and the
9 CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse
10 PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for these expenses as an
11 employer is required to do under the laws and regulations of California.

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

16 **EIGHTH CAUSE OF ACTION**

17 **For Failure to Pay Sick Pay Wages**

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

19 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

20 **and Against All Defendants)**

21 102. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
22 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs
23 of this Complaint.

24 103. Cal Lab. Code § 233 provides that an employer must permit an employee to
25 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate
26 of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use
27 of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is
28 used as paid sick time, an employee has a vested right to sick pay wages, which an employer must

1 calculate and compensate based on one of two calculations: (i) “Paid sick time for nonexempt
2 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
3 which the employee uses paid sick time, whether or not the employee actually works overtime in
4 that workweek,” or (ii) “Paid sick time for nonexempt employees shall be calculated by dividing the
5 employee’s total wages, not including overtime premium pay, by the employee’s total hours worked
6 in the full pay periods of the prior 90 days of employment.” Under Cal Lab. Code §§ 218 and 233,
7 employees may sue to recover underpaid sick pay wages as damages.

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

19 105. Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick leave,
20 vested sick pay wages are due and to be paid no later than the payday for the next regular payroll
21 period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code § 201 provides
22 that if an employer discharges an employee, wages earned and unpaid at the time of discharge are
23 due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive
24 all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the
25 employee has given 72-hour notice of his or her intention to quit, in which case the employee is
26 entitled to his or her wages at the time of quitting. The Labor Code penalizes untimely payments.
27 For example, Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in
28 accordance with Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a

1 penalty from the due date, and at the same rate until paid, but the wages shall not continue for more
2 than thirty (30) days. Under Cal. Lab. Code §§ 203 and 218, employees may sue to recover
3 applicable penalties.

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

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

21
22 **NINTH CAUSE OF ACTION**

23 **For Failure to Pay Wages When Due**

24 **[Cal. Lab. Code §§ 201, 202, 203, 204]**

25 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**
26 **and Against All Defendants)**
27
28

1 108. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
2 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior
3 paragraphs of this Complaint.

4 109. Cal. Lab. Code § 200 provides, in relevant part, that:

5 As used in this article:

6 (a) "Wages" includes all amounts for labor performed by employees of
every description, whether the amount is fixed or ascertained by the
standard of time, task, piece, Commission basis, or other method of calculation.

7 (b) "Labor" includes labor, work, or service whether rendered or
8 performed under contract, subcontract, partnership, station plan, or other
agreement if the labor to be paid for is performed personally by the person
demanding payment.

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

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

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

19 112. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR
20 SUB-CLASS Members' employment contract.

21 113. Cal. Lab. Code § 203 provides, in relevant part, that:

22 If an employer willfully fails to pay, without abatement or reduction, in
23 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
24 employee who is 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 therefor is commenced; but the wages shall not continue
for more than 30 days.

25 114. Cal. Lab. Code § 204 provides, in relevant part, that:

26 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1 or
27 204.2, earned by any person in any employment are due and payable twice
28 during each calendar month, on days designated in advance by the employer as
the regular paydays. Labor performed between the 1st and 15th days,
inclusive, of any calendar month shall be paid for between the 16th and the

1 26th day of the month during which the labor was performed, and labor
2 performed between the 16th and the last day, inclusive, of any calendar month,
shall be paid for between the 1st and 10th day of the following month...

3 (b)(1) Notwithstanding any other provision of this section, all wages earned
4 for labor in excess of the normal work period shall be paid no later than the
payday for the next regular payroll period...

5 (d) The requirements of this section shall be deemed satisfied by the payment
6 of wages for weekly, biweekly, or semimonthly payroll if the wages are paid
not more than seven calendar days following the close of the payroll period.

7 115. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-
8 CLASS Members has terminated and DEFENDANT has not tendered payment of all wages
9 owed as required by law. Additionally, at all times during the term of PLAINTIFF's
10 employment with DEFENDANT, PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
11 Members earned and accrued vested vacation and holiday time on the date of their
12 termination pursuant to DEFENDANT's uniform vacation policies and applicable California
13 law. The amount of vacation pay PLAINTIFFS and the other CALIFORNIA LABOR SUB-
14 CLASS Members earned and accumulated is evidenced by DEFENDANT's business
15 records. Additionally, DEFENDANT also underpaid accrued vested vacation wages to
16 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS MEMBERS by failing to pay
17 such wages at the regular rate of pay and more specifically the final rate of pay that included
18 all non-discretionary incentive compensation. Rather than pay vacation wages at the regular
19 rate of pay, DEFENDANT underpaid vacation wages to PLAINTIFFS and other
20 CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of
21 including all of PLAINTIFF's and CALIFORNIA LABOR SUB-CLASS Members' non-
22 discretionary incentive compensation into the vacation wage payment calculations.
23 DEFENDANT failed to specify in DEFENDANT's written vacation policy the rate at which
24 PLAINTIFFS and other CALIFORNIA LABOR CLASS Members would be paid vacation
25 upon leaving employment with DEFENDANT. As a result of DEFENDANT's unlawful
26 practice, policy and procedure to deny paying the PLAINTIFFS and the other members of
27 the CALIFORNIA LABOR SUB-CLASS all of their vested vacation and holiday time,
28 DEFENDANT failed to pay the PLAINTIFFS and the members of the CALIFORNIA

1 LABOR SUB-CLASS all vested vacation time as wages due upon employment termination,
2 in violation of the California Labor Code, Sections 201, 202, 203 and 227.3. Similarly,
3 DEFENDANT underpaid waiting time penalties to PLAINTIFFS and other CALIFORNIA
4 LABOR SUB-CLASS Members at their base rates of pay, instead of including all of
5 PLAINTIFF's' and CALIFORNIA LABOR SUB-CLASS Members' non-discretionary
6 compensation into the waiting time penalty calculations. This failure by DEFENDANT is
7 believed to be the result of DEFENDANT's unlawful, unfair and deceptive refusal to
8 provide compensation for earned, accrued and vested vacation and holiday time, as well as
9 the corresponding waiting time penalties that were paid. DEFENDANT perpetrated this
10 unlawful, unfair and deceptive practice to the detriment of the PLAINTIFFS and the
11 members of the CALIFORNIA LABOR SUB-CLASS . DEFENDANT's uniform practice
12 and policy of failing to pay the LABOR SUB-CLASS Members for all vested vacation and
13 holiday time accumulated at employment termination violated and continues to violate
14 Section 227.3 of the California Labor Code.

15 116. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and
16 the members of the CALIFORNIA LABOR SUB-CLASS whose employment has
17 terminated and who have not been fully paid their wages due to them, PLAINTIFFS demand
18 thirty days of pay as penalty for not paying all wages due at time of termination for all
19 employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS
20 PERIOD and demands an accounting and payment of all wages due, plus interest and
21 statutory costs as allowed by law.

22
23 **TENTH CAUSE OF ACTION**

24 **Failure to Keep Required Payroll Records**

25 **[Violation of Cal. Lab. Code § 1174]**

26 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
27 **Defendants)**
28

1 117. PLAINTIFFS, and the other members of the CALIFORNIA LABOR
2 SUB-CLASS, reallege and incorporate by reference, as though fully set forth herein, the
3 prior paragraphs of this Complaint.

4 118. Cal. Lab. Code § 1174 provides, in relevant part, that employers in California
5 are required to:

6 Keep, at a central location in the state or at the plants or establishments at
7 which employees are employed, payroll records showing the hours worked
8 daily by and the wages paid to, and the number of piece-rate units earned by
9 and any applicable piece rate paid to, employees employed at the respective
10 plants or establishments. These records shall be kept in accordance with rules
established for this purpose by the commission, but in any case shall be kept
on file for not less than three years. An employer shall not prohibit an
employee from maintaining a personal record of hours worked, or, if paid on a
piece-rate basis, piece-rate units earned.

11 119. In violation of Cal. Lab. Code § 1174, DEFENDANT has intentionally and
12 willfully failed to keep accurate and complete payroll-related records showing the hours
13 worked daily and the wages paid to Plaintiff and the other class members.

14 120. As a result of DEFENDANT's violation, PLAINTIFFS and the members of
15 the CALIFORNIA LABOR SUB-CLASS have been injured based on the denial of their
16 legal rights to having available, accurate, and complete payroll records pursuant to Cal. Lab.
17 Code § 1174.

18 **ELEVENTH CAUSE OF ACTION**

19 **Retaliation**

20 **[Violation of Cal. Lab. Code § 1102.5]**

21 **(By Plaintiff Wheeler and Against All Defendants)**

22 121. Plaintiff Wheeler reallege and incorporates by reference, as though fully set forth herein,
23 the prior paragraphs of this Complaint.

24 122. At all relevant times, Labor Code section 1102.5 was in effect and was binding on
25 DEFENDANT. This statute prohibits DEFENDANT from retaliating against any employee, including
26 PLAINTIFF, for raising complaints of illegality and/or belief that the employee may disclose illegality.
27
28

1 123. In November of 2024, Plaintiff Wheeler returned from her protected pregnancy leave
2 and informed DEFENDANT that she would no longer be able to work 5 shifts per week. Throughout
3 2024, and continuing through out the rest of Plaintiff Wheeler’s employment, Plaintiff Wheeler
4 engaged in protected activity by complaining to DEFENDANT about the hostile work environment and
5 retaliation for taking protecting leave from her direct manager. As a direct consequence of Plaintiff
6 Wheeler taking protected pregnancy leave and PLAINTIFFS’ complaints to DEFENDANT about what
7 she perceived to be illegal activity at her workplace, DEFENDANT retaliated against Plaintiff Wheeler
8 by removing Plaintiff Wheeler from the schedule completely which resulted in lost wages. Plaintiff
9 Wheeler raised complaints of illegality while she worked for DEFENDANT and was believed to be
10 willing to raise complaints, and DEFENDANT retaliated against Plaintiff Wheeler by taking adverse
11 employment actions.

12 124. As a proximate result of DEFENDANT’S willful, knowing, and intentional violation(s)
13 of Labor Code section 1102.5, Plaintiff Wheeler has suffered and continues to suffer humiliation,
14 emotional distress, and mental and physical pain and anguish, all to Plaintiff Wheeler’s damage in a
15 sum according to proof.

16 125. As a result of DEFENDANT’S adverse employment actions against Plaintiff Wheeler,
17 Plaintiff Wheeler has suffered general and special damages in sums according to proof.

18 126. DEFENDANT’S misconduct was committed intentionally, in a malicious, oppressive
19 manner, and fraudulent manner entitling Plaintiff Wheeler to punitive damages against defendants.

20
21 **TWELFTH CAUSE OF ACTION**

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

25 **[Violation of FEHA Government Section 12900, *et. seq.*]**

26 **(By Plaintiff Wheeler Against All Defendants)**

27 127. Plaintiff Wheeler realleges and incorporates by reference, as though fully set forth
28 herein, the prior paragraphs of this Complaint.

1 128. In November of 2024, Plaintiff Wheeler returned from her protected pregnancy leave
2 and informed DEFENDANT that she would no longer be able to work 5 shifts per week. Throughout
3 2024, and continuing through out the rest of Plaintiff Wheeler’s employment, Plaintiff Wheeler
4 engaged in protected activity by complaining to DEFENDANT about the hostile work environment and
5 retaliation for taking protecting leave from her direct manager. As a direct consequence of Plaintiff
6 Wheeler taking protected pregnancy leave and Plaintiff Wheeler’s complaints to DEFENDANT about
7 what she perceived to be illegal activity at her workplace, DEFENDANT retaliated against Plaintiff
8 Wheeler by removing Plaintiff Wheeler from the schedule completely which resulted in lost wages.
9 Plaintiff Wheeler raised complaints of illegality while she worked for DEFENDANT and was believed
10 to be willing to raise complaints, and DEFENDANT retaliated against Plaintiff Wheeler by taking
11 adverse employment actions. Prior to filing this action Plaintiff Wheeler exhausted her administrative
12 remedies by filing a timely administrative complaint with the Department of Fair Employment and
13 Housing (“DFEH”) and received a DFEH Right to Sue letter on January 3, 2025.

14 129. DEFENDANT’s conduct, as alleged, violated FEHA, Government Code Section 12900,
15 and DEFENDANT committed unlawful employment practices, including the following bases for
16 liability:

17 a. Taking adverse employment actions against Plaintiff Wheeler, including
18 discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or otherwise
19 discriminating against Plaintiff Wheeler, in whole or in part on the basis of Plaintiff Wheeler taking
20 pregnancy leave and/or medical condition in violation of Government Code Section 12940(a);

21 b. Harassing Plaintiff Wheeler and/or creating a hostile work environment, in
22 whole or in part on the basis of Plaintiff Wheeler taking protected pregnancy leave and/or medical
23 condition;

24 c. Failing to take all reasonable steps to prevent discrimination and harassment
25 based on Plaintiff Wheeler taking protected pregnancy leave and/or medical condition in violation of
26 Government Code section 12940(k);
27
28

1 d. Retaliating against Plaintiff Wheeler for seeking to exercise rights guaranteed
2 under FEHA, participating in protected activities, and/or opposing DEFENDANT's failure to provide
3 such rights, in violation of Government Code Section 12940(h).

4 130. As a proximate result of DEFENDANT's willful, knowing, and intentional
5 discrimination against Plaintiff Wheeler, Plaintiff Wheeler has sustained and continues to sustain
6 substantial losses of earnings and other employment benefits.

7 131. As a proximate result of DEFENDANT's willful, knowing, and intentional
8 discrimination against PLAINTIFF, Plaintiff Wheeler has suffered and continues to suffer humiliation,
9 emotional distress, and physical and mental pain and anguish, all to Plaintiff Wheeler's damage in a
10 sum according to proof.

11 132. Plaintiff Wheeler has incurred and continues to incur legal expenses and attorneys' fees.
12 Pursuant to Government Code Section 12965(b), Plaintiff Wheeler is entitled to recover reasonable
13 attorneys' fees and costs (including expert costs) in an amount according to proof.

14 133. DEFENDANT's misconduct was committed intentionally, in a malicious, oppressive
15 manner, and fraudulent manner entitling Plaintiff Wheeler to punitive damages against DEFENDANT.
16

17 **THIRTEENTH CAUSE OF ACTION**
18 **For Violation of the Private Attorneys General Act**
19 **[Cal. Lab. Code §§ 2698, et seq.]**

20 134. PLAINTIFFS reallege and incorporates by this reference, as though fully set forth
21 herein, the prior paragraphs of this Complaint.

22 135. PAGA is a mechanism by which the State of California itself can enforce state
23 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
24 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
25 fundamentally a law enforcement action designed to protect the public and not to benefit private
26 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a
27 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In
28 enacting PAGA, the California Legislature specified that "it was ... in the public interest to

1 allow aggrieved employees, acting as private attorneys general to recover civil penalties for
2 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be
3 subject to arbitration.

4 136. Plaintiff Wheeler, and such persons that may be added from time to time who
5 satisfy the requirements and exhaust the administrative procedures under the Private Attorney
6 General Act, brings this Representative Action on behalf of the State of California with respect
7 to herself and all individuals who are or previously were employed by DEFENDANT in
8 California, including any employees staffed with DEFENDANT by a third party, and classified
9 as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of January
10 6, 2024 until a date as determined by the Court (the "PAGA PERIOD").

11 137. On January 6, 2025, Plaintiff Wheeler gave written notice by electronic mail to
12 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
13 employer of the specific provisions of this code alleged to have been violated as required by
14 Labor Code § 2699.3. *See Exhibit #1*, attached hereto and incorporated by this reference herein
15 (*PAGA Notice only without draft complaint*). The statutory waiting period for Plaintiff Wheeler
16 to add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3,
17 Plaintiff Wheeler may now commence a representative civil action under PAGA pursuant to
18 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
19 EMPLOYEES as herein defined.

20 138. The policies, acts and practices heretofore described were and are an unlawful
21 business act or practice because DEFENDANT (a) failed to provide Plaintiff Wheeler and the
22 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
23 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed
24 to pay overtime wages and sick pay wages, (e) failed to reimburse employees for required
25 expenses, (f) failed to provide wages when due, and (g) failed to provide suitable seating, all
26 in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204,
27 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198,
28 2100, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B),

1 California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and
2 the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
3 conduct.¹ Plaintiff Wheeler hereby seeks recovery of only civil penalties as prescribed by the
4 Labor Code Private Attorney General Act of 2004 as the representative of the State of
5 California for the illegal conduct perpetrated on Plaintiff Wheeler and the AGGRIEVED
6 EMPLOYEES.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, PLAINTIFFS prays for judgment against each Defendant, jointly and severally,
10 as follows:

11 1. On behalf of the CALIFORNIA CLASS:

- 12 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
13 as a class action pursuant to Cal. Code of Civ. Proc. § 382;
14 B) An order temporarily, preliminarily and permanently enjoining and restraining
15 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
16 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
17 from compensation due to PLAINTIFFS and the other members of the CALIFORNIA
18 CLASS; and,
19 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
20 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and
21 to the other members of the CALIFORNIA CLASS.

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

- 23 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth
24 and Tenth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a
25 class action pursuant to Cal. Code of Civ. Proc. § 382;

26
27

¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

- 1 B) Compensatory damages, according to proof at trial, including compensatory damages
2 for minimum and overtime compensation due PLAINTIFFS and the other members of
3 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR
4 SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 5 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
6 a violation occurs and one hundred dollars (\$100) per each member of the
7 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not
8 exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs
9 for violation of Cal. Lab. Code § 226;
- 10 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
11 applicable IWC Wage Order;
- 12 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;
- 13 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
14 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs
15 of suit.; and,
- 16 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as
17 a penalty from the due date thereof at the same rate until paid or until an action therefore
18 is commenced, in accordance with Cal. Lab. Code § 203.
- 19 3. On behalf of Plaintiff Wheeler for the Eleventh and Twelfth causes of action:
- 20 A) Compensatory damages, according to proof at trial, but in excess of \$25,000.
- 21 B) Special and General damages according to proof;
- 22 C) Statutory damages, penalties and attorney's fees;
- 23 D) For punitive damages in an amount necessary to make an example of and to punish
24 DEFENDANT and deter DEFENDANT from engaging in future similar conduct;
- 25 E) For loss of earnings (both past and future); and,
- 26 F) For interest at the legal rate in an amount according to proof.
- 27 4. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:
- 28

A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004

5. On all claims:

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

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

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

Dated: April 13, 2026

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw

Norman B. Blumenthal

Nicholas J. De Blouw

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: April 13, 2026 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw
Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT #1

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

January 6, 2025

CA3624

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Siskiyou Hospital, Inc.
Certified Mail #9589071052702306889492
JONATHON ANDRUS
444 BRUCE STREET
YREKA, CA 96097

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 Siskiyou Hospital, Inc. in California, including any employees staffed with Siskiyou Hospital, Inc. by a third party, and classified as non-exempt employees during the time period of January 6, 2024 until a date as determined by the Court. Our offices represent Plaintiff Melinda Wheeler (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Siskiyou Hospital, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California since 2014. Plaintiff is 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.