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October 16, 2024
CA3374

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Shared Imaging, LLC
Certified Mail #9589071052701502087541
Business Filings Incorporated
AMANDA GARCIA
330 N BRAND BLVD, Suite 700
GLENDALE, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2100 *et seq.*, 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 Shared Imaging, LLC in California, including any employees staffed with Shared Imaging, LLC by a third party, and classified as non-exempt employees during the time period of October 16, 2023 until a date as determined by the Court. Our offices represent Plaintiff Dalila Rivera (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Shared Imaging, LLC (“Defendant”). Plaintiff was employed by Defendant in California from October 2019 to June 7, 2024. Plaintiff was 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 Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

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

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF LOS ANGELES**

DALILA RIVERA, an individual, on behalf of herself and on behalf of all persons similarly situated,

Plaintiff,

vs.

SHARED IMAGING, LLC, a limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
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 PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
10. DISCRIMINATION AND RETALIATION VIOLATION OF FEHA; and,
11. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY.

DEMAND FOR A JURY TRIAL

Dalila Rivera (“PLAINTIFF”), an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following.

THE PARTIES

1. Shared Imaging, LLC (“DEFENDANT”) is a limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial business in California.

1 2. DEFENDANT provides comprehensive diagnostic medical imaging in California.

2 3. PLAINTIFF was employed by DEFENDANT in California from October 2019
3 to June 7, 2024. PLAINTIFF was at all times classified by DEFENDANT as a non-exempt
4 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
5 payment of minimum and overtime wages due for all time worked.

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

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

24 6. The true names and capacities, whether individual, corporate, subsidiary,
25 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
26 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
27 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
28 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when

1 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
2 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
3 50, inclusive, are responsible in some manner for one or more of the events and happenings
4 that proximately caused the injuries and damages hereinafter alleged.

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

13 14 **THE CONDUCT**

15 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
16 was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time
17 worked, meaning the time during which an employee is subject to the control of an
18 employer, including all the time the employee is suffered or permitted to work.
19 DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without
20 paying them for all the time they are under DEFENDANT's control. Among other things,
21 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
22 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
23 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
24 break. DEFENDANT, as a matter of established company policy and procedure, administers
25 a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and
26 CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the
27 course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less
28 than they would have been paid had they been paid for actual recorded time rather than

1 “rounded” time. Additionally, DEFENDANT engages in the practice of requiring
2 PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clock in that
3 DEFENDANT, as a condition of employment, required these employees to submit to
4 mandatory temperature checks and symptom questionnaires for COVID-19 screening prior
5 to clocking into DEFENDANT’s timekeeping system for the workday. As a result,
6 PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage, overtime
7 wage compensation, and off-duty meal breaks by working without their time being correctly
8 recorded and without compensation at the applicable rates. DEFENDANT’s policy and
9 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time
10 worked, is evidenced by DEFENDANT’s business records.

11 9. State and federal law provides that employees must be paid overtime and meal
12 and rest break premiums at one-and-one-half times their “regular rate of pay.” PLAINTIFF
13 and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive
14 pay that is tied to specific elements of an employee’s performance.

15 10. The second component of PLAINTIFF’s and other CALIFORNIA CLASS
16 Members’ compensation is DEFENDANT’s non-discretionary incentive program that paid
17 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
18 performance for DEFENDANT. The non-discretionary incentive program provided all
19 employees paid on an hourly basis with incentive compensation when the employees met the
20 various performance goals set by DEFENDANT. However, when calculating the regular
21 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
22 other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
23 compensation as part of the employees’ “regular rate of pay” for purposes of calculating
24 overtime pay and meal and rest break premium pay. Management and supervisors described
25 the incentive program to potential and new employees as part of the compensation package.
26 As a matter of law, the incentive compensation received by PLAINTIFF and other
27 CALIFORNIA CLASS Members must be included in the “regular rate of pay.” The failure
28

1 to do so has resulted in a underpayment of overtime compensation and meal and rest break
2 premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

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

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

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

9 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to
10 accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the
11 actual amount of time these employees worked. Pursuant to the Industrial Welfare
12 Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and other
13 CALIFORNIA CLASS Members for all time worked, meaning the time during which an
14 employee was subject to the control of an employer, including all the time the employee was
15 permitted or suffered to permit this work. DEFENDANT required these employees to work
16 off the clock without paying them for all the time they were under DEFENDANT's control.
17 As such, DEFENDANT knew or should have known that PLAINTIFF and the other
18 members of the CALIFORNIA CLASS were under compensated for all time worked. As a
19 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time worked by
20 working without their time being accurately recorded and without compensation at the
21 applicable minimum wage and overtime wage rates. To the extent that the time worked off
22 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
23 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
24 1197, and 1197.1.

25 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
26 other members of the CALIFORNIA CLASS with complete and accurate wage statements
27 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
28 Code § 226 provides that every employer shall furnish each of his or her employees with an

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

17 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
18 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
19 the wages are paid not more than seven (7) calendar days following the close of the payroll
20 period. Cal. Lab. Code § 210 provides:

21 in [I]n addition to, and entirely independent and apart from, any other penalty provided
22 this article, every person who fails to pay the wages of each employee as provided in
23 Sections. . . 204. . . shall be subject to a civil penalty as follows: (1) For any initial
24 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
each subsequent violation, or any willful or intentional violation, two hundred dollars
(\$200) for each failure to pay each employee, plus 25 percent of the amount
unlawfully withheld.

25 16. DEFENDANT from time to time failed to pay PLAINTIFF and members of
26 the CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the
27 payroll period in accordance with Cal. Lab. Code § 204(d), including but not limited to for
28 the “Hourly” regular wage payments.

1 17. DEFENDANT underpaid sick pay wages to PLAINTIFF and other
2 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in
3 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt
4 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate
5 of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS
6 Members at their base rates of pay.

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

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

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

24 21. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
25 to collect or receive from an employee any part of wages theretofore paid by said employer
26 to said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and
27 other CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from
28 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members,

1 failed to disclose all aspects of the deductions from compensation payable to PLAINTIFF
2 and CALIFORNIA LABOR SUB-CLASS Members, and thereby failed to pay these
3 employees all wages due at each applicable pay period and upon termination. PLAINTIFF
4 and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
5 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

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

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

27 24. In violation of the applicable sections of the California Labor Code and the
28 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,

1 DEFENDANT as a matter of company policy, practice and procedure, intentionally,
2 knowingly and systematically failed to provide PLAINTIFF and the other Aggrieved
3 Employees suitable seating when the nature of these employees' work reasonably permitted
4 sitting.

5 25. DEFENDANT knew or should have known that PLAINTIFF and other
6 Aggrieved Employees were entitled to suitable seating and/or were entitled to sit when it did
7 not interfere with the performance of their duties, and that DEFENDANT did not provide
8 suitable seating and/or did not allow them to sit when it did not interfere with the
9 performance of their duties.

10 26. By reason of this conduct applicable to PLAINTIFF and all Aggrieved
11 Employees, DEFENDANT violated California Labor Code Section 1198 and California
12 Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Wage Order
13 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties on
14 behalf of PLAINTIFF and other Aggrieved Employees as provided herein. Providing
15 suitable seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional
16 disregard of the obligation to meet this burden, DEFENDANT violated the California Labor
17 Code and regulations promulgated thereunder as herein alleged.

18 27. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
19 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage
20 Order and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due
21 to PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-
22 duty meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for
23 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the
24 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties
25 for the legally required off-duty meal periods. As a result, DEFENDANT's failure to
26 provide PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's
27 business records. The amount in controversy for PLAINTIFF individually does not exceed
28 the sum or value of \$75,000.

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JURISDICTION AND VENUE

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

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

THE CALIFORNIA CLASS

30. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by DEFENDANT in California, including any employees staffed with DEFENDANT by a third party, and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

17 34. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
18 CLASS Members is impracticable.

19 35. DEFENDANT violated the rights of the CALIFORNIA CLASS under
20 California law by:

- 21 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
22 Prof. Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly
23 and/or deceptively having in place company policies, practices and
24 procedures that failed to record and pay PLAINTIFF and the other
25 members of the CALIFORNIA CLASS for all time worked, including
26 minimum wages owed and overtime wages owed for work performed
27 by these employees; and,
28

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

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

- 6 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
7 that the joinder of all such persons is impracticable and the disposition
8 of their claims as a class will benefit the parties and the Court;
- 9 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
10 issues that are raised in this Complaint are common to the
11 CALIFORNIA CLASS will apply to every member of the
12 CALIFORNIA CLASS;
- 13 (c) The claims of the representative PLAINTIFF are typical of the claims
14 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all
15 the other members of the CALIFORNIA CLASS, was classified as a
16 non-exempt employee paid on an hourly basis who was subjected to the
17 DEFENDANT's deceptive practice and policy which failed to provide
18 the legally required meal and rest periods to the CALIFORNIA CLASS
19 and thereby underpaid compensation to PLAINTIFF and
20 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
21 result of DEFENDANT's employment practices. PLAINTIFF and the
22 members of the CALIFORNIA CLASS were and are similarly or
23 identically harmed by the same unlawful, deceptive and unfair
24 misconduct engaged in by DEFENDANT; and,
- 25 (d) The representative PLAINTIFF will fairly and adequately represent and
26 protect the interest of the CALIFORNIA CLASS, and has retained
27 counsel who are competent and experienced in Class Action litigation.
28 There are no material conflicts between the claims of the representative

1 PLAINTIFF and the members of the CALIFORNIA CLASS that would
2 make class certification inappropriate. Counsel for the CALIFORNIA
3 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
4 Members.

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

7 (a) Without class certification and determination of declaratory, injunctive,
8 statutory and other legal questions within the class format, prosecution
9 of separate actions by individual members of the CALIFORNIA
10 CLASS will create the risk of:

11 1) Inconsistent or varying adjudications with respect to individual
12 members of the CALIFORNIA CLASS which would establish
13 incompatible standards of conduct for the parties opposing the
14 CALIFORNIA CLASS; and/or,

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

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

25 1) With respect to the First Cause of Action, the final relief on
26 behalf of the CALIFORNIA CLASS sought does not relate
27 exclusively to restitution because through this claim
28 PLAINTIFF seeks declaratory relief holding that the

1 DEFENDANT's policy and practices constitute unfair
2 competition, along with declaratory relief, injunctive relief, and
3 incidental equitable relief as may be necessary to prevent and
4 remedy the conduct declared to constitute unfair competition;

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

- 11 1) The interests of the members of the CALIFORNIA CLASS in
12 individually controlling the prosecution or defense of separate
13 actions in that the substantial expense of individual actions will
14 be avoided to recover the relatively small amount of economic
15 losses sustained by the individual CALIFORNIA CLASS
16 Members when compared to the substantial expense and burden
17 of individual prosecution of this litigation;
- 18 2) Class certification will obviate the need for unduly duplicative
19 litigation that would create the risk of:
 - 20 A. Inconsistent or varying adjudications with respect to
21 individual members of the CALIFORNIA CLASS, which
22 would establish incompatible standards of conduct for the
23 DEFENDANT; and/or,
 - 24 B. Adjudications with respect to individual members of the
25 CALIFORNIA CLASS would as a practical matter be
26 dispositive of the interests of the other members not
27 parties to the adjudication or substantially impair or
28 impede their ability to protect their interests;

- 1 3) In the context of wage litigation because a substantial number of
2 individual CALIFORNIA CLASS Members will avoid asserting
3 their legal rights out of fear of retaliation by DEFENDANT,
4 which may adversely affect an individual's job with
5 DEFENDANT or with a subsequent employer, the Class Action
6 is the only means to assert their claims through a representative;
7 and,
8 4) A class action is superior to other available methods for the fair
9 and efficient adjudication of this litigation because class
10 treatment will obviate the need for unduly and unnecessary
11 duplicative litigation that is likely to result in the absence of
12 certification of this action pursuant to Cal. Code of Civ. Proc. §
13 382.

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

- 16 (a) The questions of law and fact common to the CALIFORNIA CLASS
17 predominate over any question affecting only individual CALIFORNIA
18 CLASS Members because the DEFENDANT's employment practices
19 are applied with respect to the CALIFORNIA CLASS;
20 (b) A Class Action is superior to any other available method for the fair
21 and efficient adjudication of the claims of the members of the
22 CALIFORNIA CLASS because in the context of employment litigation
23 a substantial number of individual CALIFORNIA CLASS Members
24 will avoid asserting their rights individually out of fear of retaliation or
25 adverse impact on their employment;
26 (c) The members of the CALIFORNIA CLASS are so numerous that it is
27 impractical to bring all members of the CALIFORNIA CLASS before
28 the Court;

- 1 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
2 be able to obtain effective and economic legal redress unless the action
3 is maintained as a Class Action;
- 4 (e) There is a community of interest in obtaining appropriate legal and
5 equitable relief for the acts of unfair competition, statutory violations
6 and other improprieties, and in obtaining adequate compensation for the
7 damages and injuries which DEFENDANT's actions have inflicted
8 upon the CALIFORNIA CLASS;
- 9 (f) There is a community of interest in ensuring that the combined assets of
10 DEFENDANT are sufficient to adequately compensate the members of
11 the CALIFORNIA CLASS for the injuries sustained;
- 12 (g) DEFENDANT has acted or refused to act on grounds generally
13 applicable to the CALIFORNIA CLASS, thereby making final class-
14 wide relief appropriate with respect to the CALIFORNIA CLASS as a
15 whole;
- 16 (h) The members of the CALIFORNIA CLASS are readily ascertainable
17 from the business records of DEFENDANT; and,
- 18 (i) Class treatment provides manageable judicial treatment calculated to
19 bring a efficient and rapid conclusion to all litigation of all wage and
20 hour related claims arising out of the conduct of DEFENDANT as to
21 the members of the CALIFORNIA CLASS.

22 39. DEFENDANT maintains records from which the Court can ascertain and
23 identify by job title each of DEFENDANT's employees who have been intentionally
24 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
25 PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of
26 similarly situated employees when they have been identified.

27
28 **THE CALIFORNIA LABOR SUB-CLASS**

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

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

23 42. DEFENDANT maintains records from which the Court can ascertain and
24 identify by name and job title, each of DEFENDANT’s employees who have been
25 intentionally subjected to DEFENDANT’s company policy, practices and procedures as
26 herein alleged. PLAINTIFF will seek leave to amend the complaint to include any
27 additional job titles of similarly situated employees when they have been identified.
28

1 43. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
2 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

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

18 45. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
19 CLASS under California law by:

- 20 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
21 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
22 CLASS all wages due for overtime worked, for which DEFENDANT is
23 liable pursuant to Cal. Lab. Code § 1194;
- 24 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
25 accurately pay PLAINTIFF and the members of the CALIFORNIA
26 LABOR SUB-CLASS the correct minimum wage pay for which
27 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 28

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

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

- 21 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS
22 are so numerous that the joinder of all CALIFORNIA LABOR SUB-
23 CLASS Members is impracticable and the disposition of their claims as
24 a class will benefit the parties and the Court;
- 25 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
26 issues that are raised in this Complaint are common to the
27 CALIFORNIA LABOR SUB-CLASS and will apply to every member
28 of the CALIFORNIA LABOR SUB-CLASS;

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

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

- 23 (a) Without class certification and determination of declaratory, injunctive,
24 statutory and other legal questions within the class format, prosecution
25 of separate actions by individual members of the CALIFORNIA
26 LABOR SUB-CLASS will create the risk of:
- 27 1) Inconsistent or varying adjudications with respect to individual
28 members of the CALIFORNIA LABOR SUB-CLASS which

would establish incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or,

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

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

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

- 1) The interests of the members of the CALIFORNIA 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

1 to the substantial expense and burden of individual prosecution
2 of this litigation;

3 2) Class certification will obviate the need for unduly duplicative
4 litigation that would create the risk of:

5 A. Inconsistent or varying adjudications with respect to
6 individual members of the CALIFORNIA LABOR SUB-
7 CLASS, which would establish incompatible standards of
8 conduct for the DEFENDANT; and/or,

9 B. Adjudications with respect to individual members of the
10 CALIFORNIA LABOR SUB-CLASS would as a
11 practical matter be dispositive of the interests of the other
12 members not parties to the adjudication or substantially
13 impair or impede their ability to protect their interests;

14 3) In the context of wage litigation because a substantial number of
15 individual CALIFORNIA LABOR SUB-CLASS Members will
16 avoid asserting their legal rights out of fear of retaliation by
17 DEFENDANT, which may adversely affect an individual's job
18 with DEFENDANT or with a subsequent employer, the Class
19 Action is the only means to assert their claims through a
20 representative; and,

21 4) A class action is superior to other available methods for the fair
22 and efficient adjudication of this litigation because class
23 treatment will obviate the need for unduly and unnecessary
24 duplicative litigation that is likely to result in the absence of
25 certification of this action pursuant to Cal. Code of Civ. Proc. §
26 382.

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

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

- 1 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
2 ascertainable from the business records of DEFENDANT. The
3 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
4 CLASS Members who worked for DEFENDANT in California at any
5 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
6 (i) Class treatment provides manageable judicial treatment calculated to
7 bring a efficient and rapid conclusion to all litigation of all wage and
8 hour related claims arising out of the conduct of DEFENDANT as to
9 the members of the CALIFORNIA LABOR SUB-CLASS.

10
11 **FIRST CAUSE OF ACTION**

12 **For Unlawful Business Practices**

13 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

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

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

18 50. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
19 Code § 17021.

20 51. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
21 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
22 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
23 competition as follows:

24 Any person who engages, has engaged, or proposes to engage in unfair
25 competition may be enjoined in any court of competent jurisdiction. The court
26 may make such orders or judgments, including the appointment of a receiver,
27 as may be necessary to prevent the use or employment by any person of any
28 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.

1 Cal. Bus. & Prof. Code § 17203.

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

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

16 54. By the conduct alleged herein, DEFENDANT's practices were deceptive and
17 fraudulent in that DEFENDANT's policy and practice failed to provide the legally
18 mandated meal and rest periods, the required amount of compensation for missed meal and
19 rest periods and overtime and minimum wages owed, failed to timely pay wages, and failed
20 to reimburse all necessary business expenses incurred, and failed to provide Fair Labor
21 Standards Act overtime wages due for overtime worked as a result of failing to include non-
22 discretionary incentive compensation into their regular rates of pay for purposes of
23 computing the proper overtime pay due to a business practice that cannot be justified,
24 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
25 in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue
26 injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
27 restitution of wages wrongfully withheld.

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

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

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

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

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

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

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

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

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

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23
24 **SECOND CAUSE OF ACTION**

25 **For Failure To Pay Minimum Wages**

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

27 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

28 **and Against All Defendants)**

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

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

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

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

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

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

22 70. DEFENDANT's unlawful wage and hour practices manifested, without
23 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
24 implementing a policy and practice that denies accurate compensation to PLAINTIFF and
25 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
26 wage pay.

27 71. In committing these violations of the California Labor Code, DEFENDANT
28 inaccurately calculated the correct time worked and consequently underpaid the actual time

1 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
2 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and
3 other benefits in violation of the California Labor Code, the Industrial Welfare Commission
4 requirements and other applicable laws and regulations.

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

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

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

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

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

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

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THIRD CAUSE OF ACTION

For Failure To Pay Overtime Compensation

[Cal. Lab. Code § 510]

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

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

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

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

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

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

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

84. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of

1 implementing a policy and practice that failed to accurately record overtime worked by
2 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate
3 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
4 CLASS for overtime worked, including, the overtime work performed in excess of eight (8)
5 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
6 workweek.

7 85. In committing these violations of the California Labor Code, DEFENDANT
8 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
9 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT
10 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
11 violation of the California Labor Code, the Industrial Welfare Commission requirements and
12 other applicable laws and regulations. As a direct result of DEFENDANT's unlawful wage
13 practices as alleged herein, the PLAINTIFF and the other members of the CALIFORNIA
14 LABOR SUB-CLASS did not receive full compensation for overtime worked.

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

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

26 88. DEFENDANT failed to accurately pay the PLAINTIFF and the other
27 members of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they
28 worked which was in excess of the maximum hours permissible by law as required by Cal.

1 Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF and the other members of the
2 CALIFORNIA LABOR SUB-CLASS were required to work, and did in fact work, overtime
3 as to which DEFENDANT failed to accurately record and pay as evidenced by
4 DEFENDANT's business records and witnessed by employees.

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

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

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

26 92. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
27 CLASS therefore request recovery of all overtime wages, according to proof, interest,
28 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT,

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

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11 **FOURTH CAUSE OF ACTION**

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

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

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

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

19 94. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
20 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
21 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
22 and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA
23 LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of
24 all of their duties for the legally required off-duty meal periods. As a result of their rigorous
25 work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
26 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
27 Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
28 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)

1 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
2 DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
3 second off-duty meal period in some workdays in which these employees were required by
4 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFF
5 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
6 breaks without additional compensation and in accordance with DEFENDANT's strict
7 corporate policy and practice.

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

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

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23 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

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

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

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

SIXTH CAUSE OF ACTION

For Failure to Provide Accurate Itemized Statements

[Cal. Lab. Code § 226]

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

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

4 102. Cal. Labor Code § 226 provides that an employer must furnish employees
5 with
6 an “accurate itemized” statement in writing showing:

- 7 (1) gross wages earned,
8 (2) total hours worked by the employee, except for any employee whose
9 compensation is solely based on a salary and who is exempt from payment of
10 overtime under subdivision (a) of Section 515 or any applicable order of the
11 Industrial Welfare Commission,
12 (3) the number of piecerate units earned and any applicable piece rate if the employee
13 is paid on a piece-rate basis,
14 (4) all deductions, provided that all deductions made on written orders of the
15 employee may be aggregated and shown as one item,
16 (5) net wages earned,
17 (6) the inclusive dates of the period for which the employee is paid,
18 (7) the name of the employee and his or her social security number, except that by
19 January 1, 2008, only the last four digits of his or her social security number or an
20 employee identification number other than a social security number may be shown on
21 the itemized statement,
22 (8) the name and address of the legal entity that is the employer, and
23 (9) all applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate by the employee.

25 103. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
26 other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate
27 wage statements which failed to show, among other things, the correct gross and net wages
28 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. PLAINTIFF 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
PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members failed to identify

1 such information. More specifically, the wage statements failed to identify the accurate total
2 hours worked each pay period. When the hours shown on the wage statements were added
3 up, they did not equal the actual total hours worked during the pay period in violation of
4 Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
5 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the
6 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time
7 to time provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
8 CLASS with wage statements which violated Cal. Lab. Code § 226.

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

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26 **SEVENTH CAUSE OF ACTION**

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

28 **[Cal. Lab. Code § 2802]**

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

105. PLAINTIFF 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.

106. 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.

107. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF 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 PLAINTIFF 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, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones and home offices for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do under the laws and regulations of California.

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

5
6 **EIGHTH CAUSE OF ACTION**

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

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

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

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

14 110. Cal. Lab. Code § 200 provides, in relevant part, that:

15 As used in this article:

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

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

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

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

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

1 113. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR
2 SUB-CLASS Members' employment contract.

3 114. Cal. Lab. Code § 203 provides, in relevant part, that:

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

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

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

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

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27 **NINTH CAUSE OF ACTION**

28 **For Failure to Pay Sick Pay Wages**

1 [Cal. Lab. Code §§ 201-204, 210, 233, 246]

2 (By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
3 and Against All Defendants)

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

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

20 118. As a matter of policy and practice, DEFENDANT pays sick pay wages to
21 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the
22 incorrect rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-
23 SUB-CLASS regularly use accrued sick leave in the workweeks in which they also earn
24 non-hourly remuneration. As a matter of policy and practice, DEFENDANT pays sick pay
25 wages to PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS
26 at the base hourly pay, as opposed to the regular rate of pay, which would consider all non-
27 hourly remuneration in addition to base hourly wages, or the rate resulting from dividing the
28 employee's total wages, not including overtime premium pay, by the employee's total hours

1 worked in the full pay periods of the prior 90 days of employment. As a result,
2 DEFENDANT underpaid sick pay wages to PLAINTIFF and the other members of the
3 CALIFORNIA LABOR-SUB-CLASS.

4 119. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
5 during each calendar month and are to be paid no later than the payday for the next regular
6 payroll period. Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically
7 requires that, upon use of accrued sick leave, vested sick pay wages are due and to be paid
8 no later than the payday for the next regular payroll period after accrued sick leave is used
9 as paid sick time. Similarly, Cal. Lab. Code § 201 provides that if an employer discharges
10 an employee, wages earned and unpaid at the time of discharge are due and payable
11 immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive all
12 unpaid wages no later than 72 hours after an employee quits his or her employment, unless
13 the employee has given 72-hour notice of his or her intention to quit, in which case the
14 employee is entitled to his or her wages at the time of quitting. The Labor Code penalizes
15 untimely payments. For example, Cal. Lab. Code § 203 provides that if an employer
16 willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-202, then the
17 wages of the employee shall continue as a penalty from the due date, and at the same rate
18 until paid, but the wages shall not continue for more than thirty (30) days. Likewise, Cal.
19 Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204 and untimely
20 payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218, employees may
21 sue to recover applicable penalties.

22 120. As alleged herein and as a matter of policy and practice, DEFENDANT
23 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other
24 members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay
25 wages. As a result, DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246,
26 among other Labor Code provisions. PLAINTIFF is informed and believes that
27 DEFENDANT was advised by skilled lawyers and knew, or should have known, of the
28 mandates of the Labor Code as it relates to PLAINTIFF's allegations, especially since the

1 California Supreme Court has explained that “[c]ourts have recognized that ‘wages’ also
2 include those benefits to which an employee is entitled as a part of his or her compensation,
3 including money, room, board, clothing, vacation pay, *and sick pay.*” *Murphy v. Kenneth*
4 *Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT
5 willfully fails to timely pay PLAINTIFF and the other members of the CALIFORNIA
6 LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable
7 penalties.

8 121. Such a pattern, practice, and uniform administration of corporate policy is
9 unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-
10 SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties,
11 attorney’s fees, and costs of suit.

12 TENTH CAUSE OF ACTION

13 **[Discrimination and Retaliation For the Exercise of Rights Guaranteed Under the**
14 **FEHA, Participating in Protected Activities, and/or Opposing DEFENDANT’s Failure**
15 **to Provide Such Rights]**

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

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

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

20 123. On or around January 29, 2024, PLAINTIFF learned she was pregnant and
21 notified DEFENDANT of her pregnancy. On or around February 1, 2024, PLAINTIFF
22 received a doctor’s note stating she could not be exposed to radiation at her job and could
23 only perform light work duty. Her doctor wanted PLAINTIFF to take the necessary
24 precautions to help ensure a miscarriage does not happen again. PLAINTIFF sent this note
25 to DEFENDANT’s Human Resources Generalist Emma Birriel on February 2, 2024. On or
26 around February 5, 2024, PLAINTIFF was placed on FMLA leave. PLAINTIFF’s FMLA
27 leave was set to end on or around June 7, 2024. However, on or around May 30, 2024, while
28 PLAINTIFF was still pregnant, she informed DEFENDANT’s Human Resources that

1 PLAINTIFF still needed the same accommodations mentioned in the doctor's note issued
2 February 1, 2024. DEFENDANT told PLAINTIFF that they could not accommodate
3 PLAINTIFF's needs. Once her FMLA leave ended on or around June 7, 2024,
4 DEFENDANT wrongfully terminated PLAINTIFF's employment because they did not care
5 to accommodate PLAINTIFF. Prior to filing this action PLAINTIFF exhausted her
6 administrative remedies by filing a timely administrative complaint with the Department of
7 Fair Employment and Housing ("DFEH") and received a DFEH Right to Sue letter on
8 September 2, 2024.

9 124. DEFENDANT's conduct, as alleged, violated FEHA, Government Code
10 Section 12900, *et seq.*, and DEFENDANT committed unlawful employment practices,
11 including the following bases for liability:

12 a. Taking adverse employment actions against PLAINTIFF, including
13 discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or
14 otherwise discriminating against PLAINTIFF, in whole or in part on the basis of
15 PLAINTIFF's taking protected leave and/or pregnancy discrimination in violation of
16 Government Code Section 12940(a);

17 b. Harassing PLAINTIFF and/or creating a hostile work environment, in
18 whole or in part on the basis of PLAINTIFF's taking protected leave and/or pregnancy
19 discrimination;

20 c. Failing to take all reasonable steps to prevent discrimination and
21 harassment based on taking protected leave and/or pregnancy in violation of Government
22 Code section 12940(k);

23 d. Retaliating against PLAINTIFF for seeking to exercise rights
24 guaranteed under FEHA, participating in protected activities, and/or opposing
25 DEFENDANT's failure to provide such rights, in violation of Government Code Section
26 12940(h).

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

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

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

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

ELEVENTH CAUSE OF ACTION

For Wrongful Termination in Violation of Public Policy

(By PLAINTIFF Against All Defendants)

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

130. On or around January 29, 2024, PLAINTIFF learned she was pregnant and notified DEFENDANT of her pregnancy. On or around February 1, 2024, PLAINTIFF received a doctor's note stating she could not be exposed to radiation at her job and could only perform light work duty. Her doctor wanted PLAINTIFF to take the necessary precautions to help ensure a miscarriage does not happen again. PLAINTIFF sent this note to DEFENDANT's Human Resources Generalist Emma Birriel on February 2, 2024. On or around February 5, 2024, PLAINTIFF was placed on FMLA leave. PLAINTIFF's FMLA leave was set to end on or around June 7, 2024. However, on or around May 30, 2024, while

1 PLAINTIFF was still pregnant, she informed DEFENDANT's Human Resources that
2 PLAINTIFF still needed the same accommodations mentioned in the doctor's note issued
3 February 1, 2024. DEFENDANT told PLAINTIFF that they could not accommodate
4 PLAINTIFF's needs. Once her FMLA leave ended on or around June 7, 2024,
5 DEFENDANT wrongfully terminated PLAINTIFF's employment because they did not care
6 to accommodate PLAINTIFF. PLAINTIFF's wrongful termination was for a pretextual
7 reason(s) to disguise DEFENDANT's unlawful employment practices directed at
8 PLAINTIFF.

9 131. Within the State of California there exists a substantial and fundamental public
10 policy, set forth in the California Government Code §12900 *et seq.*, which forbids
11 FMLA/protected leave discrimination and/or medical condition harassment/discrimination,
12 retaliation, and wrongful termination. Unlawful harassment includes the right to be free
13 from unwanted harassment, and the right to protest such conduct without fear of retaliation
14 or further harm. This public policy of the state is one that benefits the public at large and
15 guarantees the rights of an employee to perform their work free from age and/or medical
16 condition harassment/discrimination/retaliation. DEFENDANT terminated PLAINTIFF's
17 employment in violation of various fundamental public policies underlying both state and
18 federal laws. Specifically, PLAINTIFF's employment was terminated in part because of her
19 protected status (i.e., protected leave and/or pregnancy discrimination). These actions were
20 in violation of fundamental public policy. These actions were also in violation of FEHA, the
21 California Constitution, and California Labor Code Section 1102.5.

22 132. The motivating reason(s) for PLAINTIFF's termination was because she took
23 protected leave for her pregnancy and PLAINTIFF's protests and/or resistance thereof.
24 PLAINTIFF's discharge from PLAINTIFF's position of employment was in violation of the
25 public policies of the State of California.

26 133. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial
27 losses in earnings and employment benefits and emotional distress in an amount to be
28

1 determined according to proof at trial.

2 134. In doing the acts herein alleged, DEFENDANT acted with malice and
3 oppression, and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is
4 entitled to exemplary and punitive damages from DEFENDANT in an amount to be
5 determined to punish DEFENDANT and to deter such wrongful conduct in the future.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
8 severally, as follows:

9 1. On behalf of the CALIFORNIA CLASS:

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

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

- 24 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh,
25 Eighth and Ninth Causes of Action asserted by the CALIFORNIA
26 LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ.
27 Proc. § 382;
- 28

- 1 B) Compensatory damages, according to proof at trial, including
2 compensatory damages for minimum and overtime compensation due
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
4 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS
5 PERIOD plus interest thereon at the statutory rate;
- 6 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay
7 period in which a violation occurs and one hundred dollars (\$100) per
8 each member of the CALIFORNIA LABOR SUB-CLASS for each
9 violation in a subsequent pay period, not exceeding an aggregate penalty
10 of four thousand dollars (\$4,000), and an award of costs for violation of
11 Cal. Lab. Code § 226;
- 12 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7,
13 512 and the applicable IWC Wage Order;
- 14 E) For liquidated damages pursuant to California Labor Code Sections
15 1194.2 and 1197;
- 16 F) The amount of the expenses PLAINTIFF and each member of the
17 CALIFORNIA LABOR SUBCLASS incurred in the course of their job
18 duties, plus interest, and costs of suit.; and,
- 19 G) The wages of all terminated employees in the CALIFORNIA LABOR
20 SUB-CLASS as a penalty from the due date thereof at the same rate until
21 paid or until an action therefore is commenced, in accordance with Cal.
22 Lab. Code § 203.

23 3. On behalf of the Tenth and Eleventh Causes of Action:

- 24 A) For all special damages which were sustained as a result of
25 DEFENDANT's conduct, including, but not limited to, back pay, front
26 pay, lost compensation and job benefits that PLAINTIFF would have
27 received but for the retaliatory practices of DEFENDANT; and,
28

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

3 4. On all claims:

- 4 A) An award of interest, including prejudgment interest at the legal rate;
5 B) Such other and further relief as the Court deems just and equitable; and,
6 C) An award of penalties, attorneys' fees and cost of suit, as allowable under
7 the law, including, but not limited to, pursuant to Labor Code §221, §226,
8 §1194, and/or §2802.

9 Dated: October 3, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

10
11 By: _____

12 Norman B. Blumenthal
13 Nicholas J. De Blouw

14 **CENTURION TRIAL ATTORNEYS, APC**
15 Ryan Stygar (State Bar #332764)
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17 San Diego, CA 92108
18 *Attorneys for Plaintiff*
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1 **DEMAND FOR A JURY TRIAL**

2

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

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5

6

7 Dated: October 3, 2024

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
LLP

8

9 By: _____

10 Norman B. Blumenthal
Nicholas J. De Blouw

11 **CENTURION TRIAL ATTORNEYS, APC**
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