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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

LONNIE WONG, an individual, on behalf of
herself, and on behalf of all persons similarly
situated,

Plaintiff,

vs.

RO HEALTH, LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,

Defendants.

Case No. 24CV452239

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

1. UNFAIR COMPETITION IN VIOLATION
OF CAL. BUS. & PROF. CODE §§ 17200;
2. FAILURE TO PAY MINIMUM WAGES IN
VIOLATION OF CAL. LAB. CODE §§ 1194,
1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN
VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED
MEAL PERIODS IN VIOLATION OF CAL.
LAB. CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST
PERIODS IN VIOLATION OF CAL. LAB.
CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN VIOLATION
OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES
FOR REQUIRED EXPENSES IN VIOLATION
OF CAL. LAB. CODE § 2802;
8. FAILURE TO 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 §§ 201-203,
233, 246;
10. DISCRIMINATION AND RETALIATION
VIOLATION OF FEHA;
11. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY; AND
12. CIVIL PENALTIES PURSUANT TO
LABOR CODE § 2699 FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 203, 204, 210, 218,
221, 226(A), 226.7, 227.3, 246, 510, 512,
558(A)(1)(2), 1194, 1197, 1197.1, 1198, 2100,
2802, CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 11040,
SUBDIVISION 5(A)-(B), CALIFORNIA CODE
OF REGULATIONS, TITLE 8, SECTION 1
1070(14) (FAILURE TO PROVIDE SEATING),
AND THE APPLICABLE WAGE ORDER(S).

DEMAND FOR A JURY TRIAL

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

THE PARTIES

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

2. DEFENDANT provides health services in California.

3. PLAINTIFF was employed by DEFENDANT in California from April of 2024 to September 6, 2024. PLAINTIFF was at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of herself and 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 on November 20, 2020 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).

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

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

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

THE CONDUCT

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

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

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

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

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

12 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA
13 CLASS Members were also required from time to time to work in excess of four (4) hours without
14 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
15 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time
16 to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six
17 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10)
18 minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
19 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
20 Additionally, the applicable California Wage Order requires employers to provide employees with off-
21 duty rest periods, which the California Supreme Court defined as time during which an employee is
22 relieved from all work related duties and free from employer control. In so doing, the Court held that
23 the requirement under California law that employers authorize and permit all employees to take rest
24 period means that employers must relieve employees of all duties and relinquish control over how
25 employees spend their time which includes control over the locations where employees may take their
26 rest period. Employers cannot impose controls that prohibit an employee from taking a brief walk - five
27 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
28 CALIFORNIA CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's

1 rule which states PLAINTIFF and other CALIFORNIA CLASS Members cannot leave the work
2 premises during their rest period.

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

17 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other
18 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
19 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that
20 every employer shall furnish each of his or her employees with an accurate itemized wage statement in
21 writing showing, among other things, gross wages earned and all applicable hourly rates in effect during
22 the pay period and the corresponding amount of time worked at each hourly rate. PLAINTIFF and
23 CALIFORNIA CLASS Members were paid on an hourly basis. As such, the wage statements should
24 reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable
25 pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage
26 statements DEFENDANT provided to PLAINTIFF and other CALIFORNIA CLASS Members failed
27 to identify such information. More specifically, the wage statements failed to identify the accurate total
28 hours worked each pay period. When the hours shown on the wage statements were added up, they did

1 not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2).
2 Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF
3 an itemized wage statement that lists all the requirements under California Labor Code 226. As a result,
4 DEFENDANT from time to time provided PLAINTIFF and the other members of the CALIFORNIA
5 CLASS with wage statements which violated Cal. Lab. Code § 226.

6 15. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA
7 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code
8 Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-discretionary
9 remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay
10 to PLAINTIFF and other CALIFORNIA CLASS Members at their base rates of pay.

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

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

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

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

1 CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all aspects of the deductions from
2 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, and thereby
3 failed to pay these employees all wages due at each applicable pay period and upon termination.
4 PLAINTIFF 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 20. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
7 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses incurred
8 by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging
9 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are
10 required to indemnify employees for all expenses incurred in the course and scope of their employment.
11 Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
12 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
13 or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless
14 the employee, at the time of obeying the directions, believed them to be unlawful."

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

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

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

7 **JURISDICTION AND VENUE**

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

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

17 **THE CALIFORNIA CLASS**

18 25. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
19 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as a Class Action,
20 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who
21 are or previously were employed by DEFENDANT in California, including any employees staffed with
22 DEFENDANT by a third party, and classified as non-exempt employees (the "CALIFORNIA CLASS")
23 at any time during the period beginning on November 20, 2020 and ending on the date as determined
24 by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate
25 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

26 26. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
27 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.
28

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

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

15 29. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA CLASS
16 Members is impracticable.

17 30. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
18 by:

- 19 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
20 §§ 17200, (the "UCL"), by unlawfully, unfairly and/or deceptively having in
21 place company policies, practices and procedures that failed to record and pay
22 PLAINTIFF and the other members of the CALIFORNIA CLASS for all time
23 worked, including minimum wages owed and overtime wages owed for work
24 performed by these employees; and,
25 (b) Committing an act of unfair competition in violation of the UCL, by failing to
26 provide the PLAINTIFF and the other members of the CALIFORNIA CLASS
27 with the legally required meal and rest periods.
28

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

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

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

- 1 (a) Without class certification and determination of declaratory, injunctive, statutory
2 and other legal questions within the class format, prosecution of separate actions
3 by individual members of the CALIFORNIA CLASS will create the risk of:
- 4 1) Inconsistent or varying adjudications with respect to individual members
5 of the CALIFORNIA CLASS which would establish incompatible
6 standards of conduct for the parties opposing the CALIFORNIA
7 CLASS; and/or,
- 8 2) Adjudication with respect to individual members of the CALIFORNIA
9 CLASS which would as a practical matter be dispositive of interests of
10 the other members not party to the adjudication or substantially impair
11 or impede their ability to protect their interests.
- 12 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on
13 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
14 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
15 DEFENDANT failed to pay all wages due to members of the CALIFORNIA
16 CLASS as required by law;
- 17 1) With respect to the First Cause of Action, the final relief on behalf of the
18 CALIFORNIA CLASS sought does not relate exclusively to restitution
19 because through this claim PLAINTIFF seek declaratory relief holding
20 that the DEFENDANT's policy and practices constitute unfair
21 competition, along with declaratory relief, injunctive relief, and
22 incidental equitable relief as may be necessary to prevent and remedy the
23 conduct declared to constitute unfair competition;
- 24 (c) Common questions of law and fact exist as to the members of the
25 CALIFORNIA CLASS, with respect to the practices and violations of California
26 law as listed above, and predominate over any question affecting only individual
27 CALIFORNIA CLASS Members, and a Class Action is superior to other
28

1 available methods for the fair and efficient adjudication of the controversy,
2 including consideration of:

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

1 obviate the need for unduly and unnecessary duplicative litigation that
2 is likely to result in the absence of certification of this action pursuant
3 to Cal. Code of Civ. Proc. § 382.

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

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

- (g) DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA CLASS as a whole;
- (h) The members of the CALIFORNIA CLASS are readily ascertainable from the business records of DEFENDANT; and,
- (i) Class treatment provides manageable judicial treatment calculated to bring a efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

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

THE CALIFORNIA LABOR SUB-CLASS

35. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth causes Action on behalf of a California sub-class, defined as all members of the CALIFORNIA CLASS 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 LABOR SUB-CLASS") at any time during the period beginning on November 20, 2021 and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

36. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to correctly calculate compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though

1 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted
2 or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS
3 Members wages to which these employees are entitled in order to unfairly cheat the competition and
4 unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
5 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be
6 adjusted accordingly.

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

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

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

- 16 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
17 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for
18 missed meal and rest breaks in violation of the California Labor Code and
19 California regulations and the applicable California Wage Order;
 - 20 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
21 members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized
22 wage statements;
 - 23 (c) Whether DEFENDANT has engaged in unfair competition by the above-listed
24 conduct;
 - 25 (d) The proper measure of damages and penalties owed to the members of the
26 CALIFORNIA LABOR SUB-CLASS; and,
 - 27 (e) Whether DEFENDANT's conduct was willful.
- 28

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

- 3 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF and
4 the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
5 overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code
6 § 1194;
- 7 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1, by failing to accurately pay
8 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the
9 correct minimum wage pay for which DEFENDANT is liable pursuant to Cal.
10 Lab. Code §§ 1194 and 1197;
- 11 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
12 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
13 statement in writing showing the corresponding correct amount of wages earned
14 by the employee;
- 15 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
16 and the other members of the CALIFORNIA LABOR SUB-CLASS with all
17 legally required off-duty, uninterrupted thirty (30) minute meal breaks and the
18 legally required off-duty rest breaks;
- 19 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
20 employee is discharged or quits from employment, the employer must pay the
21 employee all wages due without abatement, by failing to tender full payment
22 and/or restitution of wages owed or in the manner required by California law to
23 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
24 their employment; and,
- 25 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
26 CALIFORNIA LABOR SUB-CLASS members with necessary expenses
27 incurred in the discharge of their job duties.
28

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

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

7 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
8 are raised in this Complaint are common to the CALIFORNIA LABOR SUB-
9 CLASS and will apply to every member of the CALIFORNIA LABOR SUB-
10 CLASS;

11 (c) The claims of the representative PLAINTIFF are typical of the claims of each
12 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the
13 other members of the CALIFORNIA LABOR SUB-CLASS, were non-exempt
14 employees paid on an hourly basis who were subjected to the DEFENDANT's
15 practice and policy which failed to pay the correct amount of wages due to the
16 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury
17 as a result of DEFENDANT's employment practices. PLAINTIFF and the
18 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
19 identically harmed by the same unlawful, deceptive, and unfair misconduct
20 engaged in by DEFENDANT; and,

21 (d) The representative PLAINTIFF will fairly and adequately represent and protect
22 the interest of the CALIFORNIA LABOR SUB-CLASS, and have retained
23 counsel who are competent and experienced in Class Action litigation. There
24 are no material conflicts between the claims of the representative PLAINTIFF
25 and the members of the CALIFORNIA LABOR SUB-CLASS that would make
26 class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-
27 CLASS will vigorously assert the claims of all CALIFORNIA LABOR SUB-
28 CLASS Members.

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

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

7 1) Inconsistent or varying adjudications with respect to individual members
8 of the CALIFORNIA LABOR SUB-CLASS which would establish
9 incompatible standards of conduct for the parties opposing the
10 CALIFORNIA LABOR SUB-CLASS; or,

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

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

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

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

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

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

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

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

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

23 4) A class action is superior to other available methods for the fair and
24 efficient adjudication of this litigation because class treatment will
25 obviate the need for unduly and unnecessary duplicative litigation that
26 is likely to result in the absence of certification of this action pursuant
27 to Cal. Code of Civ. Proc. § 382.
28

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

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

10
11 **FIRST CAUSE OF ACTION**

12 **For Unlawful Business Practices**

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

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

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

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

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

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

Cal. Bus. & Prof. Code § 17203.

26 47. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in
27 a business practice which violates California law, including but not limited to, the applicable Industrial
28 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections

1 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act and
2 federal regulations promulgated thereunder, for which this Court should issue declaratory and other
3 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
4 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **SECOND CAUSE OF ACTION**

7 **For Failure To Pay Minimum Wages**

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

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

10 **and Against All Defendants)**

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

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

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

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

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

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

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

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

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

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

24 69. DEFENDANT knew or should have known that PLAINTIFF and the other
25 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked.
26 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
27 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
28

1 perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the CALIFORNIA
2 LABOR SUB-CLASS the correct minimum wages for their time worked.

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

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

21
22 **THIRD CAUSE OF ACTION**

23 **For Failure To Pay Overtime Compensation**

24 **[Cal. Lab. Code § 510]**

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

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

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

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

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

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

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

23 78. In committing these violations of the California Labor Code, DEFENDANT inaccurately
24 recorded overtime worked and consequently underpaid the overtime worked by PLAINTIFF and other
25 CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an illegal attempt to avoid
26 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
27 Industrial Welfare Commission requirements and other applicable laws and regulations. As a direct
28 result of DEFENDANT's unlawful wage practices as alleged herein, the PLAINTIFF and the other

1 members of the CALIFORNIA LABOR SUB-CLASS did not receive full compensation for overtime
2 worked.

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

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

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

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

25 83. DEFENDANT knew or should have known that PLAINTIFF and the other members of
26 the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.
27 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
28 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT

1 perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the CALIFORNIA
2 LABOR SUB-CLASS for overtime worked.

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

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

22 **FOURTH CAUSE OF ACTION**

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

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

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

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

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

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

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

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1 **FIFTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

8 91. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from time
9 to time required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
10 Further, these employees from time to time were denied their first rest periods of at least ten (10)
11 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at
12 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
13 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
14 time to time. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
15 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF
16 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest
17 periods by DEFENDANT and DEFENDANT's managers.

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

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

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1 **SIXTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 226]**

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

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

8 95. Cal. Labor Code § 226 provides that an employer must furnish employees with
9 an “accurate itemized” statement in writing showing:

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

26 96. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other
27 members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements
28 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
226 provides that every employer shall furnish each of his or her employees with an accurate itemized
wage statement in writing showing, among other things, gross wages earned and all applicable hourly
rates in effect during the pay period and the corresponding amount of time worked at each hourly rate.
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 such information. More specifically,
the wage statements failed to identify the accurate total hours worked each pay period. When the hours

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

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

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19 **SEVENTH CAUSE OF ACTION**

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

21 **[Cal. Lab. Code § 2802]**

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

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

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

27 An employer shall indemnify his or her employee for all necessary expenditures or
28 losses incurred by the employee in direct consequence of the discharge of his or her
duties, or of his or her obedience to the directions of the employer, even though

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

3 100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing
4 to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
5 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.
6 DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members
7 for expenses which included, but were not limited to, costs related to using their personal cellular
8 phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other
9 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal
10 cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy
11 and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members
12 for expenses resulting from using their personal cellular phones and home offices for DEFENDANT
13 within the course and scope of their employment for DEFENDANT. These expenses were necessary
14 to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert
15 any waiver of this expectation. Although these expenses were necessary expenses incurred by
16 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to
17 indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these
18 expenses as an employer is required to do under the laws and regulations of California.

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

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1 **EIGHTH CAUSE OF ACTION**

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

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

4 **(By PLAINTIFF, and the CALIFORNIA LABOR SUB-CLASS**

5 **and Against All Defendants)**

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

9 1. Cal. Lab. Code § 200 provides, in relevant part, that:

10 As used in this article:

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

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

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

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

16 If an employee not having a written contract for a definite period quits his or her
employment, his or her wages shall become due and payable not later than 72 hours
17 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
18 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
19 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.

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

22 106. Cal. Lab. Code § 203 provides, in relevant part, that:

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

26 107. The employment of PLAINTIFF, and many CALIFORNIA LABOR SUB-CLASS
27 Members has terminated and DEFENDANT has not tendered payment of all wages owed as required
28 by law. Additionally, at all times during the term of PLAINTIFF's employment with DEFENDANT,

1 PLAINTIFF, and CALIFORNIA LABOR SUB-CLASS Members earned and accrued vested vacation
2 and holiday time on the date of their termination pursuant to DEFENDANT's uniform vacation policies
3 and applicable California law. The amount of vacation pay PLAINTIFF, and the other CALIFORNIA
4 LABOR SUB-CLASS Members earned and accumulated is evidenced by DEFENDANT's business
5 records. Additionally, DEFENDANT also underpaid accrued vested vacation wages to PLAINTIFF,
6 and other CALIFORNIA LABOR SUB-CLASS MEMBERS by failing to pay such wages at the regular
7 rate of pay and more specifically the final rate of pay that included all non-discretionary incentive
8 compensation. Rather than pay vacation wages at the regular rate of pay, DEFENDANT underpaid
9 vacation wages to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members at their base
10 rates of pay, instead of including all of PLAINTIFF's, and CALIFORNIA LABOR SUB-CLASS
11 Members' non-discretionary incentive compensation into the vacation wage payment calculations.
12 DEFENDANT failed to specify in DEFENDANT's written vacation policy the rate at which
13 PLAINTIFF, and other CALIFORNIA LABOR CLASS Members would be paid vacation upon leaving
14 employment with DEFENDANT. As a result of DEFENDANT's unlawful practice, policy and
15 procedure to deny paying PLAINTIFF, and the other members of the CALIFORNIA LABOR
16 SUB-CLASS all of their vested vacation and holiday time, DEFENDANT failed to pay PLAINTIFF,
17 and the members of the CALIFORNIA LABOR SUB-CLASS all vested vacation time as wages due
18 upon employment termination, in violation of the California Labor Code, Sections 201, 202, 203 and
19 227.3. Similarly, DEFENDANT underpaid waiting time penalties to PLAINTIFF, and other
20 CALIFORNIA LABOR SUB-CLASS Members at their base rates of pay, instead of including all of
21 PLAINTIFF's, and the CALIFORNIA LABOR SUB-CLASS Members' non-discretionary
22 compensation into the waiting time penalty calculations. This failure by DEFENDANT is believed to
23 be the result of DEFENDANT's unlawful, unfair and deceptive refusal to provide compensation for
24 earned, accrued and vested vacation and holiday time, as well as the corresponding waiting time
25 penalties that were paid. DEFENDANT perpetrated this unlawful, unfair and deceptive practice to the
26 detriment of PLAINTIFF, and the members of the CALIFORNIA LABOR SUB-CLASS.
27 DEFENDANT's uniform practice and policy of failing to pay the LABOR SUB-CLASS Members for
28

1 all vested vacation and holiday time accumulated at employment termination violated and continues
2 to violate Section 227.3 of the California Labor Code.

3 108. Therefore, as provided by Cal Lab. Code § 203, on behalf of PLAINTIFF and members
4 of the CALIFORNIA LABOR SUB-CLASS whose employment has terminated and who have not been
5 fully paid their wages due to them, PLAINTIFF demands thirty days of pay as penalty for not paying
6 all wages due at time of termination for all employees who terminated employment during the
7 CALIFORNIA LABOR SUB-CLASS PERIOD and demand an accounting and payment of all wages
8 due, plus interest and statutory costs as allowed by law.

9
10 **NINTH CAUSE OF ACTION**

11 **For Failure to Pay Sick Pay Wages**

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

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

14 **and Against All Defendants)**

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

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

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

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

26 113. As alleged herein and as a matter of policy and practice, DEFENDANT
27 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other members of
28 the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result,

1 DEFENDANT violates Cal. Lab. Code §§ 201-203, 233, and 246, among other Labor Code provisions.
2 PLAINTIFF are informed and believe that DEFENDANT was advised by skilled lawyers and knew,
3 or should have known, of the mandates of the Labor Code as it relates to PLAINTIFF's allegations,
4 especially since the California Supreme Court has explained that "[c]ourts have recognized that 'wages'
5 also include those benefits to which an employee is entitled as a part of his or her compensation,
6 including money, room, board, clothing, vacation pay, *and sick pay.*" *Murphy v. Kenneth Cole Prods.,*
7 *Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT willfully fails to timely
8 pay PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS all sick pay wages
9 due, DEFENDANT is subject to applicable penalties.

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

14 15 TENTH CAUSE OF ACTION

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

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

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

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

23 116. Starting in June and August of 2024, PLAINTIFF experienced serious health conditions
24 and was hospitalized twice. PLAINTIFF was approved for FMLA leave during this time and was
25 approved by her doctors to go back to work on August 23, 2024. Subsequent to requesting the protected
26 leave, DEFENDANT retaliated against PLAINTIFF and terminated her employment on September 6,
27 2024. PLAINTIFF was retaliated and discriminated against due to taking the protected leave for her
28 serious health condition. As a result of PLAINTIFF's good faith complaints and requesting protected

1 leave for her serious health issue, DEFENDANT fabricated performance and conduct issues about
2 PLAINTIFF, denied PLAINTIFF employment opportunities, privileges, and wages under the Labor
3 Code, and PLAINTIFF was plagued with ongoing work pressures, obligations, and mistreatment by her
4 supervisors as a result of PLAINTIFF's willingness to raise formal complaints described herein. As
5 a result of the good faith complaints and taking protected leave under the FMLA and in direct retaliation
6 for those complaints, DEFENDANT wrongfully terminated PLAINTIFF's employment on or around
7 September 6, 2024. Prior to filing this action PLAINTIFF exhausted his administrative remedies by
8 filing a timely administrative complaint with the Department of Fair Employment and Housing
9 ("DFEH") and received a DFEH Right to Sue letter on November 19, 2024.

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

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

17 b. Harassing PLAINTIFF and/or creating a hostile work environment, in whole or
18 in part on the basis of PLAINTIFF's medical condition and/or requesting protected leave;

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

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

25 118. As a proximate result of DEFENDANT's willful, knowing, and intentional
26 discrimination against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial
27 losses of earnings and other employment benefits.
28

119. 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.

120. 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.

121. 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)

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

123. Starting in June and August of 2024, PLAINTIFF experienced serious health conditions and was hospitalized twice. PLAINTIFF was approved for FMLA leave during this time and was approved by her doctors to go back to work on August 23, 2024. Subsequent to requesting the protected leave, DEFENDANT retaliated against PLAINTIFF and terminated her employment on September 6, 2024. PLAINTIFF was retaliated and discriminated against due to taking the protected leave for her serious health condition. As a result of PLAINTIFF's good faith complaints and requesting protected leave for her serious health issue, DEFENDANT fabricated performance and conduct issues about PLAINTIFF, denied PLAINTIFF employment opportunities, privileges, and wages under the Labor Code, and PLAINTIFF was plagued with ongoing work pressures, obligations, and mistreatment by her supervisors as a result of PLAINTIFF's willingness to raise formal complaints described herein. As a result of the good faith complaints and taking protected leave under the FMLA and in direct retaliation for those complaints, DEFENDANT wrongfully terminated PLAINTIFF's employment on or around September 6, 2024. PLAINTIFF's wrongful termination was for a pretextual reason(s) to disguise DEFENDANT's unlawful employment practices directed at PLAINTIFF.

124. Within the State of California there exists a substantial and fundamental public policy, set forth in the California Government Code §12900 *et seq.*, which forbids harassment and retaliation for reporting sexual harassment and/or requesting protected leave. Unlawful harassment includes the

1 right to be free from unwanted, offensive harassment, and the right to protest such conduct without fear
2 of retaliation or further harm. This public policy of the state is one that benefits the public at large and
3 guarantees the rights of an employee to perform their work free from medical condition and/or
4 requesting protected leave/FMLA harassment/discrimination/retaliation.

5 125. The motivating reason(s) for PLAINTIFF's termination were retaliation for reporting
6 medical condition and/or requesting protected leave under the FMLA and PLAINTIFF's protests and/or
7 resistance thereof. PLAINTIFF's discharge from PLAINTIFF's position of employment was in
8 violation of the public policies of the State of California.

9 126. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial losses in
10 earnings and employment benefits and emotional distress in an amount to be determined according to
11 proof at trial.

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

16 **TWELFTH CAUSE OF ACTION**

17 **For Violation of the Private Attorneys General Act**

18 **[Cal. Lab. Code §§ 2698]**

19 **(By PLAINTIFF and Against All Defendants)**

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

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

130. PLAINTIFF, and such persons that may be added from time to time who satisfy the
requirements and exhaust the administrative procedures under the Private Attorney General Act, brings
this Representative Action on behalf of the State of California with respect to herself and all individuals

1 who are or previously were employed by DEFENDANT in California, including any employees staffed
2 with DEFENDANT by a third party, and classified as non-exempt employees ("AGGRIEVED
3 EMPLOYEES") during the time period of November 20, 2023 until a date as determined by the Court
4 (the "PAGA PERIOD").

5 131. On November 20, 2024, PLAINTIFF gave written notice by electronic mail to the Labor
6 and Workforce Development Agency (the "Agency") and by certified mail to the employer of the
7 specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
8 Exhibit #1, attached hereto and incorporated by this reference herein (PAGA Notice only without draft
9 complaint). The statutory waiting period for PLAINTIFF to add these allegations to the Complaint has
10 expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative
11 civil action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect
12 to all AGGRIEVED EMPLOYEES as herein defined.

13 132. The policies, acts and practices heretofore described were and are an unlawful business
14 act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the AGGRIEVED
15 EMPLOYEES accurate itemized wage statements, (b) failed to properly record and provide legally
16 required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay overtime wages and
17 sick pay wages, (e) failed to reimburse employees for required expenses, (f) failed to provide wages
18 when due, and (g) failed to provide suitable seating, all in violation of the applicable Labor Code
19 sections listed in Labor Code §§ 201, 202, 203, 204, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512,
20 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2100, 2802, California Code of Regulations, Title 8, Section
21 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to
22 Provide Seating), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result
23 of such conduct. PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the Labor
24 Code Private Attorney General Act of 2004 as the representative of the State of California for the illegal
25 conduct perpetrated on PLAINTIFF and the AGGRIEVED EMPLOYEES.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
28 severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

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

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

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

- 8 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth,
9 and Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-
10 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
11 B) Compensatory damages, according to proof at trial, including compensatory
12 damages for minimum and overtime compensation due PLAINTIFF and the
13 other members of the CALIFORNIA LABOR SUB-CLASS, during the
14 applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon
15 at the statutory rate;
16 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
17 in which a violation occurs and one hundred dollars (\$100) per each member of
18 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
19 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000),
20 and an award of costs for violation of Cal. Lab. Code § 226;
21 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512
22 and the applicable IWC Wage Order;
23 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
24 1197;
25 F) The amount of the expenses PLAINTIFF and each member of the
26 CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties,
27 plus interest, and costs of suit.; and,
28 G) The wages of all terminated employees in the CALIFORNIA LABOR
SUB-CLASS as a penalty from the due date thereof at the same rate until paid
or until an action therefore is commenced, in accordance with Cal. Lab. Code
§ 203.

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

- 1 A) For all special damages which were sustained as a result of DEFENDANT's
2 conduct, including, but not limited to, back pay, front pay, lost compensation
3 and job benefits that PLAINTIFF would have received but for the retaliatory
4 practices of DEFENDANT; and,
5 B) For all exemplary damages, according to proof, which were sustained as a result
6 of DEFENDANT's conduct.
- 7 4. On behalf of the State of California and with respect to all AGGRIEVED
8 EMPLOYEES:
9 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
10 General Act of 2004; and,
11 B) An award of attorneys' fees and cost of suit, as allowable under the law,
12 including, but not limited to, pursuant to Labor Code §2699.
- 13 5. On all claims:
14 A) An award of interest, including prejudgment interest at the legal rate;
15 B) Such other and further relief as the Court deems just and equitable; and,
16 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
17 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,
18 and/or §2802.

19 Dated: April 8, 2025

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

20 By: /s/ Nicholas J. De Blouw

Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiff

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DEMAND FOR A JURY TRIAL

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

Dated: April 8, 2025 BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: /s/ Nicholas James De Blouw

Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiff

EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS EXT:

1004

November 20, 2024

CA3458

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

RO Health, LLC
Certified Mail #9589071052701502088050
1505 Corporation
INCORP SERVICES, INC.
Steven Pickett
5716 CORSA AVE SUITE 110,
WESTLAKE VILLAGE, CA 91362

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 11070(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 RO Health, LLC in California, including any employees staffed with RO Health, LLC a third party, and classified as non-exempt employees during the time period of November 20, 2023 until a date as determined by the Court. Our offices represent Plaintiff Lonnie Wong (“Plaintiff”) and other Aggrieved Employees in a lawsuit against RO Health, LLC (“Defendant”). Plaintiff was employed by Defendant in California from April of 2024 to September 6, 2024. Plaintiff was at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit.

8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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.