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1004

July 15, 2024

CA3325

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Sharp Healthcare
Certified Mail #9589071052701151772782
RICK GROSSMAN
8695 SPECTRUM CENTER BLVD
SAN DIEGO, CA 92123

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 Sharp Healthcare in California, including any employees staffed with Sharp Healthcare by a third party, and classified as non-exempt employees during the time period of July 15, 2023 until a date as determined by the Court. Our offices represent Plaintiff Martha Samson (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Sharp Healthcare (“Defendant”). Plaintiff was employed by Defendant in California from May 2012 to April 9, 2024. Plaintiff was all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest

periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 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 Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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

Respectfully,

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

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

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

10 MARTHA SAMSON, an individual, on behalf of
11 herself and on behalf of all persons similarly
situated,

12
13 Plaintiff,

14 vs.

15 SHARP HEALTHCARE, a California Corporation;
16 and DOES 1 through 50, inclusive,

17
18 Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB. CODE §§ 201-204, 233, 246;
10. DISCRIMINATION AND RETALIATION VIOLATION OF FEHA; and,
11. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY.

DEMAND FOR A JURY TRIAL

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

4
5 **THE PARTIES**

6 1. Sharp Healthcare (“DEFENDANT”) is a California corporation that at all relevant
7 times mentioned herein conducted and continues to conduct substantial business in California.

8 2. DEFENDANT provides healthcare services in California.

9 3. PLAINTIFF was employed by DEFENDANT in California from May of 2012
10 to April 9, 2024. PLAINTIFF was at all times classified by DEFENDANT as a non-exempt
11 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
12 payment of minimum and overtime wages due for all time worked.

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

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

1 CLASS who have been economically injured by DEFENDANT's past and current unlawful
2 conduct, and all other appropriate legal and equitable relief.

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

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

20 21 **THE CONDUCT**

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

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

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

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

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

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

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

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

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

1 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
2 1197, and 1197.1.

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

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

27 in [I]n addition to, and entirely independent and apart from, any other penalty provided
28 this article, every person who fails to pay the wages of each employee as provided in
Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial

1 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
2 each subsequent violation, or any willful or intentional violation, two hundred dollars
3 (\$200) for each failure to pay each employee, plus 25 percent of the amount
4 unlawfully withheld.

5 16. DEFENDANT from time to time failed to pay PLAINTIFF and members of
6 the CALIFORNIA LABOR SUB-CLASS Members within eleven (11) days of the close of
7 the payroll period in accordance with Cal. Lab. Code § 204(a), including but not limited to
8 for the “Hourly” regular wage payments.

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

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

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

25 20. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
26 and other members of the CALIFORNIA CLASS their correct wages and accordingly owe
27 waiting time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is
28 informed and believes and based thereon alleges that such failure to pay sick pay at regular
rate was willful, such that PLAINTIFF and members of the CALIFORNIA CLASS whose

1 employment has separated are entitled to waiting time penalties pursuant to Cal. Lab. Code
2 Sections 201-203.

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

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

23 23. In the course of their employment PLAINTIFF and other CALIFORNIA
24 CLASS Members as a business expense, were required by DEFENDANT to use their own
25 personal cellular phones as a result of and in furtherance of their job duties as employees for
26 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost
27 associated with the use of their personal cellular phones for DEFENDANT's benefit.
28 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by

1 DEFENDANT to use their personal cellular phones. As a result, in the course of their
2 employment with DEFENDANT, PLAINTIFF and other members of the CALIFORNIA
3 CLASS incurred unreimbursed business expenses which included, but were not limited to,
4 costs related to the use of their personal cellular phones all on behalf of and for the benefit of
5 DEFENDANT.

6 24. In violation of the applicable sections of the California Labor Code and the
7 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
8 DEFENDANT as a matter of company policy, practice and procedure, intentionally,
9 knowingly and systematically failed to provide PLAINTIFF and the other Aggrieved
10 Employees suitable seating when the nature of these employees' work reasonably permitted
11 sitting.

12 25. DEFENDANT knew or should have known that PLAINTIFF and other
13 Aggrieved Employees were entitled to suitable seating and/or were entitled to sit when it did
14 not interfere with the performance of their duties, and that DEFENDANT did not provide
15 suitable seating and/or did not allow them to sit when it did not interfere with the
16 performance of their duties.

17 26. By reason of this conduct applicable to PLAINTIFF and all Aggrieved
18 Employees, DEFENDANT violated California Labor Code Section 1198 and California
19 Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Wage Order
20 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties on
21 behalf of PLAINTIFF and other Aggrieved Employees as provided herein. Providing
22 suitable seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional
23 disregard of the obligation to meet this burden, DEFENDANT violated the California Labor
24 Code and regulations promulgated thereunder as herein alleged.

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

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

7 **JURISDICTION AND VENUE**

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

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

18 **THE CALIFORNIA CLASS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14
15 **FIRST CAUSE OF ACTION**

16 **For Unlawful Business Practices**

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

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

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

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

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

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

9 Cal. Bus. & Prof. Code § 17203.

10 52. By the conduct alleged herein, DEFENDANT has engaged and continues to
11 engage in a business practice which violates California law, including but not limited to, the
12 applicable Industrial Wage Order(s), the California Code of Regulations and the California
13 Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1,
14 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated
15 thereunder, for which this Court should issue declaratory and other equitable relief pursuant
16 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
17 held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

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

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

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

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

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

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

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

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28 **SECOND CAUSE OF ACTION**

For Failure To Pay Minimum Wages
[Cal. Lab. Code §§ 1194, 1197 and 1197.1]
(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
and Against All Defendants)

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

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

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

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

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

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

70. DEFENDANT's unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and practice that denies accurate compensation to PLAINTIFF and

1 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
2 wage pay.

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

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

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

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

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

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

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

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

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

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

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

20 86. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
21 from the overtime requirements of the law. None of these exemptions are applicable to the
22 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
23 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not
24 subject to a valid collective bargaining agreement that would preclude the causes of action
25 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of
26 herself and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
27 of non-negotiable, non-waiveable rights provided by the State of California.
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1 87. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
2 the other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for
3 overtime worked that they are entitled to, constituting a failure to pay all earned wages.

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

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

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

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

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

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

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17 **FOURTH CAUSE OF ACTION**

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

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

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

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

25 94. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
26 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
27 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
28 and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA

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

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

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

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

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

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

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

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

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

14 104. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.
15 Code § 226, causing injury and damages to PLAINTIFF and the other members of the
16 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
17 expended calculating the correct wages for all missed meal and rest breaks and the amount
18 of employment taxes which were not properly paid to state and federal tax authorities.
19 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of
20 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty
21 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred
22 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §
23 226, in an amount according to proof at the time of trial (but in no event more than four
24 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the
25 CALIFORNIA LABOR SUB-CLASS herein).

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SEVENTH CAUSE OF ACTION

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For Failure to Reimburse Employees for Required Expenses

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[Cal. Lab. Code § 2802]

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

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Defendants)

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

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

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

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107. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their personal cellular phones and home offices in order to perform work related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones and home offices for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties.

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

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

10 **EIGHTH CAUSE OF ACTION**

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

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

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
17 paragraphs of this Complaint.

18 110. Cal. Lab. Code § 200 provides, in relevant part, that:
19 As used in this article:

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

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

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

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

27 If an employee not having a written contract for a definite period quits his
28 or her employment, his or her wages shall become due and payable not

1 later than 72 hours thereafter, unless the employee has given 72 hours
2 previous notice of his or her intention to quit, in which case the employee
3 is entitled to his or her wages at the time of quitting. Notwithstanding any
4 other provision of law, an employee who quits without providing a 72-
5 hour notice shall be entitled to receive payment by mail if he or she so
6 requests and designates a mailing address. The date of the mailing shall
7 constitute the date of payment for purposes of the requirement to provide
8 payment within 72 hours of the notice of quitting.

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

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

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

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

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

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

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3 **NINTH CAUSE OF ACTION**

4 **For Failure to Pay Sick Pay Wages**

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

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

7 **and Against All Defendants)**

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

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

24 119. As a matter of policy and practice, DEFENDANT pays sick pay wages to
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the
26 incorrect rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-
27 SUB-CLASS regularly use accrued sick leave in the workweeks in which they also earn
28 non-hourly remuneration. As a matter of policy and practice, DEFENDANT pays sick pay

1 wages to PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS
2 at the base hourly pay, as opposed to the regular rate of pay, which would consider all non-
3 hourly remuneration in addition to base hourly wages, or the rate resulting from dividing the
4 employee's total wages, not including overtime premium pay, by the employee's total hours
5 worked in the full pay periods of the prior 90 days of employment. As a result,
6 DEFENDANT underpaid sick pay wages to PLAINTIFF and the other members of the
7 CALIFORNIA LABOR-SUB-CLASS.

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

26 121. 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
28 members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay

1 wages. As a result, DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246,
2 among other Labor Code provisions. PLAINTIFF is informed and believes that
3 DEFENDANT was advised by skilled lawyers and knew, or should have known, of the
4 mandates of the Labor Code as it relates to PLAINTIFF's allegations, especially since the
5 California Supreme Court has explained that "[c]ourts have recognized that 'wages' also
6 include those benefits to which an employee is entitled as a part of his or her compensation,
7 including money, room, board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth*
8 *Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT
9 willfully fails to timely pay PLAINTIFF and the other members of the CALIFORNIA
10 LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable
11 penalties.

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

16
17 **TENTH CAUSE OF ACTION**

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

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

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

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

25 124. Throughout 2023 and continuing in January, February and March of 2024,
26 PLAINTIFF reported to DEFENDANT's Human Resources representative and her Manager
27 that PLAINTIFF's child had severe mental illness and was suicidal. PLAINTIFF was forced
28 to take protected leave during this time from time to time to care for her mentally ill child.

1 PLAINTIFF felt she was being harassed and discriminated against due to her taking this
2 protected leave and voiced these concerns to DEFENDANT's managers. Additionally,
3 during this time, PLAINTIFF also reported to DEFENDANT's Human Resources
4 representative, and her Manager, that she believed DEFENDANT was violating the
5 California Labor Code as it pertained to her earned wages as she was not being paid
6 correctly. As a result of PLAINTIFF's good faith complaints and her taking protected leave
7 to care for her mentally ill child who was suicidal, DEFENDANT denied PLAINTIFF
8 employment opportunities, privileges, and wages under the Labor Code, issued improper
9 subpar performance development reviews regarding PLAINTIFF, and PLAINTIFF was
10 plagued with ongoing work pressures, obligations, and mistreatment by her supervisors as a
11 result of PLAINTIFF's willingness to raise formal complaints described herein.
12 Furthermore, the continuous stress and discrimination at work caused PLAINTIFF to feel
13 afraid of going into work each day. As a result of the good faith complaints PLAINTIFF
14 made to DEFENDANT regarding the discriminatory practices stated above, and in direct
15 retaliation for those complaints, DEFENDANT wrongfully terminated PLAINTIFF's
16 employment on April 9, 2024. Prior to filing this action PLAINTIFF exhausted her
17 administrative remedies by filing a timely administrative complaint with the Department of
18 Fair Employment and Housing ("DFEH") and received a DFEH Right to Sue letter on July
19 15, 2024.

20 125. DEFENDANT's conduct, as alleged, violated FEHA, Government Code
21 Section 12900, *et seq.*, and DEFENDANT committed unlawful employment practices,
22 including the following bases for liability:

23 a. Taking adverse employment actions against PLAINTIFF, including
24 discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or
25 otherwise discriminating against PLAINTIFF, in whole or in part on the basis of
26 PLAINTIFF's taking protected leave and/or raising good faith complaints in violation of
27 Government Code Section 12940(a);
28

1 b. Harassing PLAINTIFF and/or creating a hostile work environment, in
2 whole or in part on the basis of PLAINTIFF's taking protected leave and/or raising good
3 faith complaints;

4 c. Failing to take all reasonable steps to prevent discrimination and
5 harassment based on taking protected leave and/or raising good faith complaints in violation
6 of Government Code section 12940(k);

7 d. Retaliating against PLAINTIFF for seeking to exercise rights
8 guaranteed under FEHA, participating in protected activities, and/or opposing
9 DEFENDANT's failure to provide such rights, in violation of Government Code Section
10 12940(h).

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

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

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

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

25
26 **ELEVENTH CAUSE OF ACTION**

27 **For Wrongful Termination in Violation of Public Policy**

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

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

3 131. Throughout 2023 and continuing in January, February and March of 2024,
4 PLAINTIFF reported to DEFENDANT's Human Resources representative and her Manager
5 that PLAINTIFF's child had severe mental illness and was suicidal. PLAINTIFF was forced
6 to take protected leave during this time from time to time to care for her mentally ill child.
7 PLAINTIFF felt she was being harassed and discriminated against due to her taking this
8 protected leave and voiced these concerns to DEFENDANT's managers. Additionally,
9 during this time, PLAINTIFF also reported to DEFENDANT's Human Resources
10 representative, and her Manager, that she believed DEFENDANT was violating the
11 California Labor Code as it pertained to her earned wages as she was not being paid
12 correctly. As a result of PLAINTIFF's good faith complaints and her taking protected leave
13 to care for her mentally ill child who was suicidal, DEFENDANT denied PLAINTIFF
14 employment opportunities, privileges, and wages under the Labor Code, issued improper
15 subpar performance development reviews regarding PLAINTIFF, and PLAINTIFF was
16 plagued with ongoing work pressures, obligations, and mistreatment by her supervisors as a
17 result of PLAINTIFF's willingness to raise formal complaints described herein.
18 Furthermore, the continuous stress and discrimination at work caused PLAINTIFF to feel
19 afraid of going into work each day. As a result of the good faith complaints PLAINTIFF
20 made to DEFENDANT regarding the discriminatory practices stated above, and in direct
21 retaliation for those complaints, DEFENDANT wrongfully terminated PLAINTIFF's
22 employment on April 9, 2024. PLAINTIFF's wrongful termination was for a pretextual
23 reason(s) to disguise DEFENDANT's unlawful employment practices directed at
24 PLAINTIFF.

25 132. Within the State of California there exists a substantial and fundamental public
26 policy, set forth in the California Government Code §12900 et seq., which forbids
27 FMLA/protected leave discrimination and/or medical condition harassment/discrimination,
28

1 retaliation, and wrongful termination. Unlawful harassment includes the right to be free
2 from unwanted harassment, and the right to protest such conduct without fear of retaliation
3 or further harm. This public policy of the state is one that benefits the public at large and
4 guarantees the rights of an employee to perform their work free from age and/or medical
5 condition harassment/discrimination/retaliation. DEFENDANT terminated PLAINTIFF's
6 employment in violation of various fundamental public policies underlying both state and
7 federal laws. Specifically, PLAINTIFF's employment was terminated in part because of her
8 protected status (i.e., protected leave and/or good faith complaints). These actions were in
9 violation of fundamental public policy. These actions were also in violation of FEHA, the
10 California Constitution, and California Labor Code Section 1102.5.

11 133. The motivating reason(s) for PLAINTIFF's termination was because she
12 reported violations of the California Labor Code as it pertained to her wages and also
13 protected leave harassment/discrimination and PLAINTIFF's protests and/or resistance
14 thereof. PLAINTIFF's discharge from PLAINTIFF's position of employment was in
15 violation of the public policies of the State of California.

16 134. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial
17 losses in earnings and employment benefits and emotional distress in an amount to be
18 determined according to proof at trial.

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

23
24 **PRAYER FOR RELIEF**

25 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly
26 and severally, as follows:

- 27 1. On behalf of the CALIFORNIA CLASS:
28

- 1 A) That the Court certify the First Cause of Action asserted by the
2 CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ.
3 Proc. § 382;
4
5 B) An order temporarily, preliminarily and permanently enjoining and
6 restraining DEFENDANT from engaging in similar unlawful conduct as
7 set forth herein;
8
9 C) An order requiring DEFENDANT to pay all wages and all sums
10 unlawfully withheld from compensation due to PLAINTIFF and the other
11 members of the CALIFORNIA CLASS; and,
12
13 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a
14 fluid fund for restitution of the sums incidental to DEFENDANT's
15 violations due to PLAINTIFF and to the other members of the
16 CALIFORNIA CLASS.

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

- 18 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh,
19 Eighth and Ninth Causes of Action asserted by the CALIFORNIA
20 LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ.
21 Proc. § 382;
22
23 B) Compensatory damages, according to proof at trial, including
24 compensatory damages for minimum and overtime compensation due
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
26 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS
27 PERIOD plus interest thereon at the statutory rate;
28
C) The greater of all actual damages or fifty dollars (\$50) for the initial pay
period in which a violation occurs and one hundred dollars (\$100) per
each member of the CALIFORNIA LABOR SUB-CLASS for each
violation in a subsequent pay period, not exceeding an aggregate penalty

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

3 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7,
4 512 and the applicable IWC Wage Order;

5 E) For liquidated damages pursuant to California Labor Code Sections
6 1194.2 and 1197;

7 F) The amount of the expenses PLAINTIFF and each member of the
8 CALIFORNIA LABOR SUBCLASS incurred in the course of their job
9 duties, plus interest, and costs of suit.; and,

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

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

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

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

21 4. On all claims:

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

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

24 C) An award of penalties, attorneys' fees and cost of suit, as allowable under
25 the law, including, but not limited to, pursuant to Labor Code §221, §226,
26 §1194, and/or §2802.
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Dated: July 15, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
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: July 15, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiff