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**SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

KARLA GODINEZ, as an individual and on
behalf of others similarly situated,

Plaintiff,

vs.

MERRITT HOSPITALITY, LLC. and DOES
1-50, inclusive,

Defendant.

Case No.: 30-2020-01127848-CU-OE-CXC

Assigned for all purposes to: Judge Peter Wilson
Dept: CX102

CLASS ACTION CLAIMS

COMPLAINT FOR:

- 1. CLAIM FOR FAILURE TO PAY OVERTIME WAGES (CAL. LAB. CODE SECTION 1194; IWC WAGE ORDER 5, SECTION 3);**
- 2. CLAIM FOR FAILURE TO PROVIDE MEAL BREAKS (IWC WAGE ORDERS 5, SECTION 11)**
- 3. CLAIM FOR FAILURE TO PROVIDE REST PERIODS (IWC WAGE ORDERS 5, SECTION 12)**
- 4. CLAIM FOR FAILURE TO PAY TIMELY WAGES UPON TERMINATION (LAB. CODE § 203)**
- 5. CLAIM FOR FAILURE TO PROVIDE AND MAINTAIN ACCURATE ITEMIZED WAGE STATEMENTS AND MAINTAIN RECORDS (LAB. CODE § 226(a))**
- 6. CLAIM FOR FAILURE TO PAY FOR NECESSARY EXPENSES**

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**7. UNLAWFUL BUSINESS
PRACTICES UNDER (BUS. AND
PROF. CODE, § 17200, ET SEQ.)**

[JURY DEMAND]

1 Plaintiff Karla Godinez (“Plaintiff” or “Ms. Godinez”) makes the following allegations
2 against Defendant Merritt Hospitality, LLC (referred to throughout herein as “Defendant”):

3 **INTRODUCTION**

4 1. Plaintiff brings this class action on behalf of all non-exempt employees (collectively
5 referred to herein as “Class Members”) employed by Defendant that worked at Merritt
6 Hospitality, LLC and, DOES 1-50 in California from the date four years prior to the filing of
7 this Complaint through the date of trial in this action.

8 2. Defendant violated California law by preventing Class Members and Subclass
9 Members from paying the correct regular wage rate for overtime, taking their entitled rest
10 breaks, meal breaks, wages upon termination, and waiting time penalties upon termination.

11 3. In this action, Plaintiff, on behalf of herself and all Class Members and Subclass
12 Members, seek unpaid overtime wages, premium wages for missed meal breaks, rest breaks,
13 wages, and wages upon termination. Statutory penalties, restitution, declaratory and injunctive
14 relief, attorneys’ fees and costs, prejudgment interest and other relief under California
15 Industrial Welfare Commission (I.W.C.) Wage Order 5-2001, 8 Cal. Code of Reg. section
16 11050 (“Wage Order 5-2001”), California Labor Code (Labor Code”) sections 203, 226(a) 1-
17 2, 5, 9, 226.3, 226.7, 510, 512, 515, 558, 1774, 1198, 2802, 2699.5, California Code of Civil
18 Procedure section 1021.5, California Business and Professions Code sections 17200 et seq.
19 (“UCL”), and California common law.

20 4. The “Class Period” is designated as the time from four years prior to the filing of this
21 Complaint through the trial of this action based upon the allegation that the violations of the
22 Labor Code and UCL, as described more fully below, have been ongoing since at least four
23 years prior to the date of the instant Complaint in this action and are continuing.

24 5. During the Class Period, Defendants had a consistent policy and/or practice of; (1)
25 failing to pay Class Members and Subclass Members the correct overtime wage rate for all
26 hours worked; (2) failing to provide Class Members and Subclass Members with adequate off-
27 duty meal periods at least one half hour every five hours worked; (3) failing to provide Class
28 Members and Subclass Members with adequate on-duty rest periods of ten minutes every four

1 hours worked or a majority fraction thereof; (4) willfully failing to pay compensation owed
2 (including meal and rest period compensation) in a prompt and timely manner to Plaintiff and
3 other Class Members and Subclass Members whose employment with Defendants terminated;
4 (5) willfully withholding wages owed to employees; and (6) knowingly and intentionally
5 failing to furnish timely itemized statements accurately showing the total hours worked by or
6 hourly rate paid to Plaintiff, Class Members and Subclass Members.

7 6. During the Class Period, Defendants failed to reimburse Class Members and Subclass
8 Members for being required to use their cell phones for work purposes without being
9 compensated as required by Labor Code section 2802.

10 7. During the Class Period, Defendants failed to provide Class Members and Subclass
11 Members with the correct overtime rate for all hours worked as required by Labor Code
12 sections 510 and 1194, Wage Order No. 5-2001.

13 8. During the Class Period, Defendants failed to provide Class Members and Subclass
14 Members with an uninterrupted off-duty thirty (30) minute meal break for each five hours a
15 day worked as required by Labor Code sections section 226.7, Wage Order No. 5-2001.

16 9. During the Class Period, Defendants have failed to provide Class Members and
17 Subclass Members with an uninterrupted paid ten (10) minute rest break for each four (4)
18 hours or major fraction thereof worked per day as required by Labor Code section 226.7, Wage
19 Order No. 5-2001.

20 10. During the Class Period, Defendants have willfully withheld wages from current and
21 former Class Members and Subclass Members during their employment, in violation of Labor
22 Code sections 201-203.

23 11. Accordingly, Defendants violated UCL, with the violations of the California wage and
24 hour laws described above.

25 **GENERAL ALLEGATIONS**

26 **Parties and Venue.**

27 11. Plaintiff is, and at all relevant times was, a citizen and resident of the city of Costa Mesa,
28 in the County of Orange in the State of California.

12. Plaintiff is informed and believes and on that basis alleges that at all relevant times Defendant Merritt Hospitality, LLC (hereinafter referred to as “MH”) is a California corporation doing business in the State of California with a principal place of business located at 101 Merritt 7 Corporate Park, Norwalk Connecticut, 06851.

13. In light of the facts that the wrongful acts of this defendant occurred and the causes against them arose in Orange County, State of California, jurisdiction and venue is proper in Orange County Superior Court.

Doe Allegations.

14. Plaintiff does not presently know the true names and capacities of defendant named as Doe 1 through Doe 50, inclusive. Plaintiff will amend this complaint, setting forth the true names and capacities of these fictitious defendants, when they are ascertained. Plaintiff is informed and believes and on that basis alleges that each of the fictitious defendants have participated in the acts alleged in this complaint to have been done by the named defendants.

Vicarious Liability.

15. Unless otherwise indicated, each defendant herein sued is the agent, co-conspirator, joint venturer, partner, and/or employee of every other defendant and, as alleged, has been acting within the course and scope of said agency, conspiracy, joint venture, partnership, and/or employment, with the knowledge and/or consent of co-defendants, and each of them. Plaintiff is informed and believes and thereon alleges that each defendant has authorized and/or ratified the wrongful activities of each of the remaining defendants.

COMMON ALLEGATIONS TO ALL CAUSES OF ACTION

16. Plaintiff worked for MH as a nonexempt employee associated with housekeeping tasks associated with cleaning rooms for customers at MH.

17. During Plaintiff’s employment at MH, Plaintiff would be required to clean as many rooms as possible during her work shifts.

Defendants Failed to Pay Appropriate Regular Rate To Plaintiff, Class Members and Subclass Members

16. Plaintiff, Class Members and Subclass Members were regularly entitled to “incentive”

1 as a performance based bonus that are non-discretionary. Defendants scheduled and required
2 Plaintiff, Class Members and Subclass Members to work above 8 hours and 40 hours per
3 workweek without receiving the correct straight time or overtime compensation for such
4 overtime hours worked in violation of California Labor Code sections 510 and 1194 and the
5 applicable California Industrial Welfare Commission wage order(s).

6
7 **Defendant Failed to Reimburse for Business Expenses**

8 17. Plaintiff, Class Members and Subclass Members were regularly required to use their
9 personal cell phones for work purposes and not reimbursed for this expense incurred in order to
10 perform their job duties in violation of California Labor Code section 2802. and the applicable
11 California Industrial Welfare Commission wage order(s).

12
13 **Defendant Did Not Provide Meal and Rest Breaks**

14 18. Typically, Plaintiff would work above 8 hour work shifts at Defendant. During these
15 work shifts, Plaintiff would be required to do many tasks such as cleaning hotel rooms, washing
16 bed sheets, cleaning floors and perform all necessary job duties fast enough so that the room can
17 be clean for the hotel guests at MH. During these shifts it would be very busy where she would
18 not be able or permitted to take his entitled uninterrupted 10-minute rest breaks each four hours
19 or a 30-minute uninterrupted meal break at a reasonably practicable time during his shift when
20 she worked more than a six, ten and twelve hour shift. Defendants would not compensate
21 Plaintiff for any of her missed meal breaks or rest periods throughout her employment. The
22 wages for the missed meal breaks and rest periods that should have been paid her premium
23 wages.

24
25 **Defendants Provided Inaccurate Wage Statements**

26 19. Furthermore, throughout Plaintiff's employment, her paystubs did not accurately reflect
27 her applicable total hours worked, net wages earned, gross wages earned and actual applicable
28 wage rate all in violation of California Labor Code Section 226(a), specifically sections 1-2, 4-5

1 and 8-9. Due to the fact that Defendant excluded the hours' worth of work that should have been
2 reflected on her paystubs for the correct gross wages, net wages, applicable hourly rate with
3 corresponding number of hours worked. Therefore, the paystubs did not accurately reflect the net
4 wages earned, gross wages earned, accurately depict deductions that should have been taken out
5 and actual applicable wage rate corresponding with the total hours worked as well as the name
6 and address of the legal entity that employed Plaintiff.

7 20. Plaintiff is informed and on that basis believes that all other similarly situated employees
8 of Defendant were under the same circumstances and conditions of employment as her.
9 Specifically all other similarly situated employees were not provided with accurate itemized
10 wages statements and received paystubs that did not reflect their applicable total hours worked,
11 gross wages earned, net wages earned, as well as the name and address of the legal entity that
12 employed Plaintiff and actual applicable wage rates including the correct overtime rates
13 corresponding with the total hours worked by virtue of excluding hourly rate and hours worth of
14 work on their paystubs. Furthermore, nor were they provided with any legally required
15 uninterrupted meal breaks and rest periods.

16
17 **Defendants Failed to Pay Wages Upon Termination to Class Members**

18 21. During Plaintiff's employment, Defendant had a policy where it did not pay correct
19 overtime rates incorporating bonuses that should have been included in the overtime
20 calculations. These monies were supposed to be paid out to Plaintiff and the other employees at
21 the time the wages were earned or upon termination.

22
23 **CLASS ACTION ALLEGATIONS**

24 22. This action is maintainable as a representative action pursuant to California Code of Civil
25 Procedure section 382 as to violations of Wage Order 5-2001 and UCL for meal and rest break
26 violations, interest for owed wages, owed wages, failure to pay overtime wages, waiting time
27 penalties, failure to furnish timely, itemized wage statements, and attorneys' fees and costs.
28 Plaintiff is a representative of other Class Members and is acting on behalf of their interests. The

1 similarly situated employees are known to Defendants and are readily identifiable and locatable
2 through Defendant's own employment records. The Class that Plaintiff seeks to represent is
3 defined as follows:

4 All nonexempt Class Members in California who worked for MH at any time
5 from four years prior to the date of filing of this action through the date of trial.

6
7 The Subclass 1 that Plaintiff seeks to represent is defined as follows:

8 All individuals in California who worked for Defendants as nonexempt
9 employees at any time from three years of the date of the filing of this Complaint
10 through the date of trial.

11 The Subclass 2 that Plaintiff seeks to represent is defined as follows:

12 All individuals in California who worked for Defendants as nonexempt
13 employees at any time from one year of the date of the filing of this Complaint
14 through the date of trial.

15 23. The individuals included within the alleged Class is over one hundred (100) and is so
16 numerous that joinder of each of them would be impracticable, and the disposition of their claims
17 in a class action, rather than in numerous individual actions, will benefits the parties, the Court,
18 and the interests of justice. The Subclass 1 and Subclass 2, shall be collectively referred to herein
19 as "Subclass".

20 24. Among the proposed Class there is a well defined community of interest in the questions
21 of law and/or fact involved, affecting the Class Members, These common questions include, but
22 are not limited to:

- 23 a. Whether Defendant's failure to provide meal periods to Class Members violates
24 Labor Code sections 226.7, 512 and Wage Order 5-2001;
- 25 b. Whether Defendant's failure to provide rest periods to Class Members violates
26 Labor Code section 226.7 and Wage Order 5-2001;
- 27 c. Whether Defendant's failure to provide formerly employed Class Members with
28 all wages due upon separation violates Labor Code sections 201-203;

- d. Whether Defendant's failure to keep accurate payroll records of daily hours worked violates Labor Code section 1174;
- e. Whether Defendant's failure to provide Class Members with itemized statements of wages and hours worked violates Labor Code section 226;
- f. Whether Defendant's various violations of the Labor Code serve as predicate violations of the UCL.

25. Common questions of law and/or fact predominate over questions that affect only individual Class Members.

26. Plaintiff's claims are typical of those belonging to the members of the Class they seek to represent, and Plaintiff can adequately represent the Class he seeks to represent.

FIRST CAUSE OF ACTION

(Claim for Failure to Provide Overtime Wages – Lab. Code 510 and 1194, Wage Order 5 Section 3 by Plaintiff and Class and Subclass Against All Defendants and DOES 1-50)

27. Plaintiff hereby incorporate all of the allegations set forth in each of the paragraphs above and below by reference as though set forth in full in this cause of action.

28. Plaintiff bring this claim on behalf of themselves, the Class Members and Subclass Members.

29. Defendants were required to compensate Plaintiff for all hours worked pursuant to California Labor Code sections 510 and 1194 and Industrial Welfare Commission Wage Order 5-2001 Section 3. Defendants failed to do so. Plaintiff Class Members and Subclass Members are entitled to overtime wages and civil penalties as a consequence of this failure.

30. Defendants were required to pay the Plaintiff, Class Members and Subclass Members for all of the overtime wages they are entitled to pursuant to California Labor Code sections 510 and 1194 and Industrial Welfare Commission Wage Order 5-2001 Section 3. It failed to do so. Plaintiff, Class Members and Subclass Members are entitled to civil penalties and owed wages as a consequence of this failure.

31. As a direct result of Defendants violations alleged herein, Plaintiff, Class Members and Subclass Members have suffered and continues to suffer substantial losses related to the use and enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees

1 in seeking to compel Defendants to fully perform its obligation under state law, all to their
2 respective damage in amounts according to proof at trial and within the jurisdictional limitations
3 of this Court.

4 32. As a result of the violations alleged herein, Plaintiff seek all civil penalties and wages
5 available pursuant to the Labor Code, Wage Order 5, and an award of reasonable attorney's fees
6 and costs. The exact amount of the applicable penalties is an amount to be shown according to
7 proof at trial.

8 **SECOND CAUSE OF ACTION**

9 **(Claim for Failure to Provide Meal Breaks – Lab. Code 226.7, 512 and Wage Order 5, Section 11 by Plaintiff and Class and Subclass Against All Defendants and DOES 1-50)**

10 33. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
11 above and below by reference as though set forth in full in this cause of action.

12 34. Plaintiff brings this claim on behalf of herself, and the Class Members and Subclass.

13 35. Defendant were required to authorize and permit Plaintiff and Class and Subclass
14 Members to take uninterrupted meal breaks pursuant to Industrial Welfare Commission Wage
15 Order 5-2001 Section 11(A). Defendants failed to do so by not allowing such uninterrupted meal
16 breaks. Plaintiff and Class Members are entitled to premium wages and civil penalties as a
17 consequence of this failure.

18 36. Defendants were required to pay the Plaintiff and Class and Subclass Members
19 employees one (1) hour of pay at their regular rate of compensation for each workday that the
20 legally compliant meal breaks are not provided, pursuant to Industrial Welfare Commission
21 Wage Order 5-2001 Section 11(B). It failed to do so. Plaintiff and Class and Subclass Members
22 are entitled to civil penalties and owed wages as a consequence of this failure.

23 37. As a direct result of Defendant violations alleged herein, Plaintiff and Class and Subclass
24 Members have suffered and continues to suffer substantial losses related to the use and
25 enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees
26 in seeking to compel Defendant to fully perform its obligation under state law, all to their
27 respective damage in amounts according to proof at trial and within the jurisdictional limitations
28 of this Court.

38. As a result of the violations alleged herein, Plaintiff seeks all civil penalties and wages available pursuant to the Labor Code and Wage Order 5, and an award of reasonable attorney's fees and costs. The exact amount of the applicable penalties is an amount to be shown according to proof at trial.

THIRD CAUSE OF ACTION

(Claim for Failure to Provide Rest Periods – Lab. Code 226.7 and Wage Order 5, Section 12 by Plaintiff and Class and Subclass Against All Defendants and DOES 1-50)

39. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs above and below by reference as though set forth in full in this cause of action.

40. Plaintiff brings this claim on behalf of herself and the Class and Subclass Members.

41. Defendants were required to authorize and permit employees to take uninterrupted rest periods pursuant to Industrial Welfare Commission Wage Order 5-2001 Section 12(A). It failed to do so by not allowing such uninterrupted rest periods. Plaintiff and Class and Subclass Members are entitled to owed wages and civil penalties as a consequence of this failure.

42. Defendant was required to pay the employees one (1) hour of pay at their regular rate of compensation for each workday that the legally compliant rest period is not provided, pursuant to Industrial Welfare Commission Wage Order 5-2001 Section 12(B). Defendant failed to do so by not allowing such interrupted rest periods. Plaintiff is entitled to civil penalties as a consequence of this failure.

43. As a direct result of Defendant's violations alleged herein, Plaintiff and Class and Subclass Members have suffered and continues to suffer substantial losses related to the use and enjoyment of such wages, including lost interest on such monies and expenses and attorney's fees in seeking to compel Defendant's to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court. The exact amount of the applicable penalties is an amount to be shown according to proof at trial.

44. As a result of the violations alleged herein, Plaintiff and Class and Subclass Members seek all civil penalties and owed wages available pursuant to the Labor Code and Wage Orders 5, and an award of reasonable attorney's fees and costs.

1 **FOURTH CAUSE OF ACTION**

2 **(Claim For Failure to Pay Wages Upon Termination in Violation of Labor Code § 203 by**
3 **Plaintiff on Behalf of Herself and Class and Subclass Against All Defendants and DOES 1-**
4 **50)**

5 45. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
6 above and below by reference as though set forth in full in this cause of action.

7 46. Pursuant to Labor Code section 203, an employer may not willfully fail to pay any wages
8 owed to an employee who is either discharged or quits.

9 47. Plaintiff brings this claim on behalf of herself and the Class and Subclass Members.

10 48. Defendant failed to pay Class Members who are no longer employed by Defendant
11 compensation due upon termination as required by California Labor Code section 201 and 202.
12 As a result, Defendant's are liable to former employee Class and Subclass Members waiting time
13 penalties provided under California Labor Code section 203, plus reasonable attorney's fees and
14 costs of suit. At the time of Plaintiff's termination, Plaintiff was owed wages for Defendant's
15 failure to compensate her for overtime time and hours worked in violation of Labor Code section
16 203.

17 49. Plaintiff, on behalf of itself and Class and Subclass Members, also request relief as
18 described below.

19 50. The exact amount of the applicable damages is an amount to be shown according to proof
20 at trial.

21 **FIFTH CAUSE OF ACTION**

22 **(Provide Accurate Wage Statements in Violation of Labor Code § 226(a) by Plaintiff, Class**
23 **and Subclass Against All Defendants and DOES 1-50)**

24 51. Plaintiff hereby incorporate all of the allegations set forth in each of the paragraphs above
25 and below by reference as though set forth in full in this cause of action.

26 52. Plaintiff bring this claim on behalf of themselves, and the Class Members and Subclass
27 Members.

28 53. Labor Code section 226(a) requires An employer, semimonthly or at the time of each
payment of wages, shall furnish to his or her employee, either as a detachable part of the check,
draft, or voucher paying the employee's wages, or separately if wages are paid by personal check

1 or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total
2 hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-
3 rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4)
4 all deductions, provided that all deductions made on written orders of the employee may be
5 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
6 which the employee is paid, (7) the name of the employee and only the last four digits of his or
7 her social security number or an employee identification number other than a social security
8 number, (8) the name and address of the legal entity that is the employer and, if the employer is a
9 farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the
10 legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect
11 during the pay period and the corresponding number of hours worked at each hourly rate by the
12 employee and, beginning July 1, 2013, if the employer is a temporary services employer as
13 defined in Section 201.3, the rate of pay and the total hours worked for each temporary services
14 assignment. The applicable Wage Order provides: "Every employer shall semimonthly or at the
15 time of each payment of wages furnish each employee, either as a detachable part of the check,
16 draft, or voucher paying the employee's wages, or separately, an itemized statement in writing
17 showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid;
18 (3) the name of the employee or the employee's social security number; and (4) the name of the
19 employer, provided all deductions made on written orders of the employee may be aggregated
20 and shown as one item."

21 54. Defendants knowingly and intentionally failed to provide Plaintiff, Class and Subclass
22 Members and Subclass Members with timely and accurate wage and hour statements showing
23 gross wages earned, total hours worked, all deductions made, net wages earned, the name and
24 address of the legal entity employing them, all applicable hourly rates in effect during each pay
25 period, and the corresponding number of hours worked at each hourly rate by them and Class
26 Members and Subclass Members.

27 55. Plaintiff, Class and Subclass suffered injury as a result of Defendants knowing and
28 intentional failure to provide them with accurate the wage and hour statements required by law,

1 which injury shall exceed the jurisdictional minimums of the superior court but no less than
2 \$4,000.

3 **SIXTH CAUSE OF ACTION**

4 **(Claim For Failure to Reimburse Plaintiff for All Necessary Expenses Per Lab. Code §**
5 **2802 on Behalf of Plaintiff, Class Member and Subclass Members Against All Defendants**
6 **and DOES 1-50)**

7 18. Plaintiff hereby incorporates all of the allegations set for in each of the paragraphs above
8 and below by reference as though set forth in full in this cause of action.

9 19. Plaintiff brings this claim on behalf of herself and the Class Members and Subclass
10 Members.

11 20. Plaintiff, Class Members and Subclass Members were employees of Defendants, and was
12 not reimbursed for expenses arising in the course and scope of their employment such as the
13 usage of their personal cell phones. Employer required Plaintiff Class Members and Subclass
14 Members to use text messaging and phone services through their personal cell phones and did
15 not reimburse Plaintiff, Class Members and Subclass Members for any of the necessary expenses
16 related to this personal cell phone as required for completion of their employment duties for
17 Defendants.

18 21. At all times herein mentioned Employer was subject to Labor Code § 2802 which states
19 that “an employer shall indemnify his or her employees for all necessary expenditures or losses
20 incurred by the employee indirect consequence of the discharge of his duties, or of his obedience
21 to the directions of the employer.”

22 22. As a proximate result of Employer’s policies in violation of Labor Code § 2802, Plaintiff
23 was damages in sums, which will be shown according to proof to be in excess of the
24 jurisdictional minimum of this Court.

25 23. Plaintiff is entitled to expenses, attorney’s fees. Interest, and costs of suit pursuant to
26 Labor Code § 2802(c) for bringing this action.

27 24. Pursuant to Labor Code § 2802(b), in any action brought for the reimbursement of
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1 necessary expenditures under this section shall carry interest at the same rate as judgment in civil
2 actions. Interest shall accrue from the date on which the employee incurred the necessary
3 expenditure. Plaintiff is entitled to said interest.

4 25. Plaintiff is entitled to reimbursement for expenses including, but not limited to,
5 reimbursement for the use of his personal cell phone expenses when completing duties as
6 required by Employer, attorney's fees, interest, and costs of suit pursuant to Labor code § 2802
7 for bringing this action.

8 **SEVENTH CAUSE OF ACTION**

9 **(For Unlawful Business Practices-Bus. & Prof. Code § 17200 et seq.)**
10 **By Plaintiff and Class and Subclass Against All Defendants and DOES 1-50)**

11 56. Plaintiff hereby incorporates all of the allegations set forth in each of the paragraphs
12 above and below by reference as though set forth in full in this cause of action.

13 57. Business & Professions Code section 17200 states "As used in this chapter, unfair
14 competition shall mean and include any unlawful, unfair or fraudulent business act or practice
15 and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
16 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions
17 Code."

18 58. Through Defendants conduct during the applicable statutory period including, but not
19 limited to, the conduct alleged herein, including that alleged on information and belief, the
20 defendant has engaged in business practices in California by practicing, employing, and utilizing,
21 the employment practices outlined in the preceding paragraphs all in violation of California law
22 and the applicable Industrial Welfare Commission Wage Order. Defendants use of such practices
23 constitutes an unfair business practice, unfair competition, and provides as unfair advantage over
24 Defendants competitors doing business in the State of California that comply with their
25 obligations to properly provide employment conditions in compliance with the law and pay
26 employees for all earned wages and compensation as required by law.

27 59. Defendants violations of the California Civil Code, Labor Code and the applicable Wage
28 Order and their scheme to lower payroll costs as alleged herein constitute unlawful business
practices because these actions were done in a systematic manner over a period of time to the

1 detriment of Plaintiff. The acts complained of herein occurred within the last four (4) years
2 preceding the filing of this complaint and include, but are not limited to, failure to (i) include the
3 gross wages earned, total hours worked, net wages earned and applicable hourly rates into the
4 employee paystubs to allow them to ascertain the hourly rate in which they could expect or
5 should have been paid; (ii) provide proper rest breaks and meal breaks; (iii) maintain accurate
6 records and provide and maintain accurate itemized wage statements reflecting the amount of
7 hours worked and applicable hourly rates; (iv) pay wages upon termination (v) withholding
8 wages properly due to employees and (vi) pay correct overtime rates. Plaintiff is informed and
9 believes and on that basis alleges that, at all times herein mentioned, Defendants engaged in the
10 above-mentioned acts of unlawful, deceptive, and unfair business practices prohibited by
11 California Business and Professions Code sections 17200 et seq., including those set forth in the
12 preceding paragraph, thereby depriving Plaintiff of the minimum working condition standards
13 and conditions due, including those under Labor Code and Wage Order.

14 60. As a result of Defendant's unfair competition as alleged herein, Plaintiff has suffered
15 injury in fact and lost money or property. Plaintiff has been deprived of the rights to accurate and
16 itemized wage statements, wages and benefits due including those as alleged herein.

17 61. Pursuant to California Business & Professions Code section 17203, Plaintiff is entitled to
18 seek restitution of all wages and other monies owed on behalf of themselves and Aggrieved
19 Employees belonging to them, including interest thereon, which Defendants wrongfully withheld
20 from them and retained for itself by means of its unlawful and unfair business practices.

21 62. Plaintiff is entitled to an injunction and other declaratory and equitable relief against such
22 practices to prevent future damage for which there is no adequate remedy at law, and to avoid a
23 multiplicity of lawsuits.

24 63. Plaintiff is informed and believes, and on that basis alleges, that the illegal conduct
25 alleged herein is continuing and there is no indication that Defendants will not continue such
26 activity into the future. Plaintiff alleges that if Defendant's are not enjoined from the conduct set
27 forth in this Complaint, they will continue to fail to pay the wage and compensation required to
28 be paid and will fail to comply with other requirements of the Labor Code and Wage Order.

64. As a direct and proximate result of Defendant's conduct, Defendant has received and will continue to receive monies that rightfully belong to members of the general public who have been adversely affected by Defendant's conduct, as well as to Plaintiff by virtue of any unpaid wages and other monies or penalties associated therewith.

65. Plaintiff is entitled and seeks any and all available remedies including but not limited to restitution and recovery of reasonable attorney's fees and costs pursuant to California Code of Civil Procedure section 1021.5, Business and Professions Code section 17200 et seq., the substantial benefit doctrine, and/or the common fund doctrine.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays individually and on behalf of the proposed Class, prays for judgment against Defendants as follows:

- A. Certification of Plaintiff's claims as a class action pursuant to Cal. Code of Civ. Pro. Section 382, on behalf of the proposed class;
- B. Class notice to all Class Members in California who worked for Defendants from four years prior to the filing of the original Complaint through the trial of this action;
- C. Plaintiff be appointed as the representative of the Class and Subclass;
- D. Counsel for Plaintiff be appointed as counsel for the Class and Subclass;
- E. The Court declare Defendant's policies and/or practices of failing to provide meal periods violates California Labor Code section 226.7, and 512 and Wage Order 5-2001 Section 11(A) by failing to provide the Class and Subclass Members and Aggrieved Employees with meal periods of at least one-half hour in which they were relieved of all duties for every five hours of work;
- F. The Court declare Defendant's policies and/or practices of failing to provide rest periods violates California Labor Code section 226.7 and Wage Order 5-2001 Section 12(A) by failing to provide the Class and Subclass Members and Aggrieved Employees with rest periods of at least ten minutes in which they were relieved of all duties for every four hours of work or major fraction thereof;

1 G. The Court declare Defendant's policies and/or practices of failing to furnish accurate
2 wage statement violates Labor Code section 226;

3 H. The Court declare Defendant's policies and/or practices of failing to keep accurate
4 payroll records of daily hours worked for Plaintiff and Class Members violates Labor
5 Code section 1174 and 1174.5;

6 I. The Court declare Defendants policies and/or practices of failing to pay all wages
7 upon termination to Class Members, Subclass Members and Aggrieved employees
8 violates Labor Code sections 510 and 1194; and

9 J. The Court declare that, as to former employee Class and Subclass Members,
10 Defendant has violated California Labor Code section 201-203 for willful failure to
11 pay compensation at the time of termination of employment, resulting in unpaid
12 waiting time penalties.

13
14 **First Cause of Action:**

15 1. For an award of damages to Plaintiff and the Class Members and Subclass Members
16 pursuant to Labor Code sections 510 and 1194.

17 2. The exact amount of the applicable damages is an amount to be shown according to proof at
18 trial and within the jurisdictional limits of the Court.

19 3. An award to Class and Subclass Representative Plaintiff, and the Class Members and
20 Subclass Members of reasonable attorneys' fees and costs, pursuant to California Civil
21 Procedure Code section 1021.5, California Labor Code sections 510 and 1194 and/or other
22 applicable law.

23
24 **Second Cause of Action:**

25 4. For an award of damages to Plaintiff and the Class Members pursuant to Labor
26 Code section 226.7 (c).

27 5. The exact amount of the applicable damages is an amount to be shown according to proof at
28 trial and within the jurisdictional limits of the Court.

1 6. An award to Class Representative Plaintiff, and the Class Members of reasonable
2 attorneys' fees and costs, pursuant to California Civil Procedure Code section 1021.5, California
3 226, 226.7 and/or other applicable law.

4
5 **Third Cause of Action:**

6 7. For an award of damages to Plaintiff and the Class Members pursuant to Labor
7 Code section 226.7 (c).

8 8. The exact amount of the applicable damages is an amount to be shown according to proof at
9 trial and within the jurisdictional limits of the Court.

10 9. An award to Class Representative Plaintiff, and the Class Members of reasonable
11 attorneys' fees and costs, pursuant to California Civil Procedure Code section 1021.5, California
12 226, 226.7 and/or other applicable law.

13
14 **Fourth Cause of Action:**

15 10. For an award for the Plaintiff and Class Members for owed wages and penalties,
16 plus interest pursuant to Labor Code section 203.

17 11. The exact amount of the applicable damages is an amount to be shown according to proof at
18 trial and within the jurisdictional limits of the Court.

19 12. For attorney's fees and costs to the extent permitted by Labor Code section 218.5 and

20 13. California Code of Civil Procedure 1021.5.

21
22 **Five Cause of Action:**

23 14. For an award for the Plaintiff, Class Members and Subclass Members for penalties pursuant
24 to Labor Code section 226.

25 15. For penalties to recover the greater of actual damages of fifty dollars (\$50) for the
26 initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for
27 each subsequent violation pursuant to Labor Code section 226(e). The exact amount of the
28

1 applicable damages is an amount to be shown according to proof at trial and within the
2 jurisdictional limits of the Court.

3 16. For costs and reasonable attorney's fees pursuant to Labor Code section 226(e).
4

5 **Sixth Cause of Action:**

6 17. For general and special damages arising out of the violations of the Labor Code, including,
7 but not limited to Labor Code section 2802, such amount to be subject to proof at the time of
8 trial;

9 18. For attorney's fees Plaintiff, Class Members, Subclass Members have incurred to enforce his
10 rights pursuant to California Code of Civil Procedures sections 1021.5 and 226(g), and Labor
11 Code section 1194, subdivision (a) and other statutory bases for attorney's fees;

12 19. For prejudgment interest at the legal rate;

13 20. For costs of suit herein; and

14 21. For such other relief as the Court deems just and proper.
15

16 **Seventh Cause of Action:**

17 22. For a temporary restraining order, a preliminary injunction, and a permanent injunction
18 enjoining Defendant and its agents, servants and employees, and all persons acting under, in
19 concert with, or for Defendant from engaging in the unlawful, unfair, and fraudulent acts and
20 business practices described in Paragraphs 56 through 65 above;

21 23. For restitution, lost wages and penalties therewith;

22 24. For pre-judgment and post-judgment interest to the extent permitted by law;

23 25. For an award of attorneys' fees and costs incurred in the investigation, filing and prosecution
24 of this action pursuant to Code of Civil Procedure section 1021.5, Business and Professions Code
25 sections 17200, et seq., Labor Code section 1194 and any other applicable provision of law; and

26 26. For such other relief as the Court deems just and proper.
27

28 **As to All Causes of Action:**

1 27. For reasonable attorneys' fees and costs incurred

2 28. Interest accrued to date under the California Labor Code, including under Sections 226.7;

3 29. For such other and further relief as this Court may deem just and proper.

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5
6 Dated: January 29, 2020

Jackson Law, APC

7
8
9 By: Armond M. Jackson
10 Armond M. Jackson
11 Attorneys for Plaintiff Karla Godinez

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff Karla Godinez demands a jury trial in the above captioned matter.
14

15 Dated: January 29, 2020

Jackson Law, APC

16
17
18 By: Armond M. Jackson
19 Armond M. Jackson
20 Attorneys for Plaintiff Karla Godinez
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