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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

KIMBERLEE KELLER, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

CATHOLIC CHARITIES OF THE DIOCESE
OF SANTA ROSA, a California nonprofit
corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: 23CV00371

**FIRST AMENDED 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, *et seq*;
- 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;

- 1 6) FAILURE TO PROVIDE WAGES WHEN
2 DUE IN VIOLATION OF CAL. LAB.
3 CODE §§ 201, 202 AND 203;
4 7) FAILURE TO PROVIDE ACCURATE
5 ITEMIZED STATEMENTS IN
6 VIOLATION OF CAL. LAB. CODE § 226;
7 8) FAILURE TO REIMBURSE EMPLOYEES
8 FOR REQUIRED EXPENSES IN
9 VIOLATION OF CAL. LAB. CODE § 2802;
10 9) VIOLATION OF THE PRIVATE
11 ATTORNEYS GENERAL ACT LABOR
12 CODE §§ 2698 ET SEQ.

13 **DEMAND FOR A JURY TRIAL**

14 PLAINTIFF KIMBERLEE KELLER (“PLAINTIFF”), an individual, on behalf of herself
15 and all other similarly situated current and former employees, allege on information and belief,
16 except for her own acts and knowledge which are based on personal knowledge, the following:

17 **PRELIMINARY ALLEGATIONS**

18 1. Defendant CATHOLIC CHARITIES OF THE DIOCESE OF SANTA ROSA
19 (“DEFENDANT” and/or “DEFENDANTS”) is a California nonprofit corporation that at all
20 relevant times mentioned herein conducted and continues to conduct substantial and regular
21 business throughout California.

22 2. DEFENDANT operates charities throughout the state of California, including in
23 the county of Sonoma, where PLAINTIFF worked.

24 3. PLAINTIFF was employed by DEFENDANTS in California from March of 2022
25 to January of 2023 as a non-exempt employee, paid on an hourly basis and entitled to the legally
26 required meal and rest periods and payment of minimum and overtime wages due for all time
27 worked.

28 4. PLAINTIFF brings this Class Action on behalf of herself and a California class,
defined as all persons who are or previously were employed by DEFENDANT in California and
classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
beginning four (4) years prior to the filing of the original Complaint and ending on the date as

determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

1 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
2 Defendants' agents, servants and/or employees.

3 8. DEFENDANTS were PLAINTIFF'S employers or persons acting on behalf of the
4 PLAINTIFF'S employer, within the meaning of California Labor Code § 558, who violated or
5 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
6 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
7 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
8 at all relevant times.

9 9. DEFENDANTS were PLAINTIFF'S employers or persons acting on behalf of
10 PLAINTIFF'S employer either individually or as an officer, agent, or employee of another person,
11 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
12 employee a wage less than the minimum fixed by California state law, and as such, are subject to
13 civil penalties for each underpaid employee.

14 10. DEFENDANT's uniform policies and practices alleged herein were unlawful,
15 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
16 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

17 11. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
18 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and
19 other members of the CALIFORNIA CLASS who has been economically injured by
20 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
21 relief.

22 **JURISDICTION AND VENUE**

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

27 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,
28 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs

1 the CALIFORNIA CLASS across California, including in this County, and committed the
2 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

3 **THE CONDUCT**

4 14. In violation of the applicable sections of the California Labor Code and the
5 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a
6 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
7 failed to provide legally compliant meal and rest periods, failed to accurately compensate
8 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
9 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
10 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS
11 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA
12 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other
13 members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse
14 PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue
15 to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
16 statements showing, among other things, all applicable hourly rates in effect during the pay
17 periods and the corresponding amount of time worked at each hourly rate. DEFENDANT’s
18 uniform policies and practices are intended to purposefully avoid the accurate and full payment
19 for all time worked as required by California law which allows DEFENDANT to illegally profit
20 and gain an unfair advantage over competitors who comply with the law. To the extent equitable
21 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS
22 PERIOD should be adjusted accordingly.

23 **A. Meal Period Violations**

24 15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
25 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
26 meaning the time during which an employee is subject to the control of an employer, including
27 all the time the employee is suffered or permitted to work. From time to time during the CLASS
28 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work

1 without paying them for all the time they were under DEFENDANT's control. Specifically,
2 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be
3 PLAINTIFF'S off-duty meal break. Indeed, there were many days where PLAINTIFF did not
4 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS
5 Members forfeited minimum wage and overtime compensation by regularly working without their
6 time being accurately recorded and without compensation at the applicable minimum wage and
7 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other
8 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business
9 records.

10 16. From time to time during the CLASS PERIOD, as a result of their rigorous work
11 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
12 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
13 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
14 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for
15 more than five (5) hours during some shifts without receiving a meal break. Further,
16 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second
17 off-duty meal period for some workdays in which these employees are required by DEFENDANT
18 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other
19 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-
20 duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other
21 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.
22 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
23 legally required meal breaks is evidenced by DEFENDANT's business records. PLAINTIFF and
24 other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
25 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

26 **B. Rest Period Violations**

27 17. From time to time during the CLASS PERIOD, PLAINTIFF and other
28 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without

1 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
2 DEFENDANT's inadequate staffing. Further, for the same reasons, these employees were denied
3 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
4 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
5 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
6 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
7 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
8 CLASS Members were, from time to time, required to remain on duty and/or on call. PLAINTIFF
9 and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*
10 thereof. As a result of their rigorous work schedules and DEFENDANT's inadequate staffing,
11 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their
12 proper rest periods by DEFENDANT and DEFENDANT's managers.

13 **C. Wage Statement Violations**

14 18. California Labor Code Section 226 required an employer to furnish its employees
15 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
16 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
17 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
18 name of the employee and only the last four digits of the employee's social security number or an
19 employee identification number other than a social security number, (8) the name and address of
20 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
21 period and the corresponding number of hours worked at each hourly rate by the employee.

22 19. From time to time during the CLASS PERIOD, when PLAINTIFF and other
23 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
24 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
25 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and
26 accurate wage statements which failed to show, among other things, all deductions, the total hours
27 worked and all applicable hourly rates in effect during the pay period, and the corresponding
28

1 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
2 meal and rest periods.

3 20. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
4 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
5 Cal. Lab. Code § 226.

6 21. As a result, DEFENDANT issued PLAINTIFF and other members of the
7 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
8 DEFENDANT's violations are knowing and intentional, were not isolated due to an unintentional
9 payroll error due to clerical or inadvertent mistake.

10 **D. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

11 22. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
12 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
13 for all hours worked.

14 23. During the CLASS PERIOD, from time-to-time DEFENDANT required
15 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
16 work, including but not limited to, time spent assisting clients, processing referrals and case
17 documentation, receiving and responding to work-related communications. This resulted in
18 PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while off-the-
19 clock.

20 24. DEFENDANT directed and directly benefited from the undercompensated off-the-
21 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

22 25. DEFENDANT controlled the work schedules, duties, and protocols, applications,
23 assignments, and employment conditions of PLAINTIFF and the other members of the
24 CALIFORNIA CLASS.

25 26. DEFENDANT was able to track the amount of time PLAINTIFF and the other
26 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to
27 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
28 wages earned and owed for all the work they performed.

1 27. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
2 exempt employees, subject to the requirements of the California Labor Code.

3 28. DEFENDANT's policies and practices deprived PLAINTIFF and the other
4 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed
5 for the off-the-clock work activities. Because PLAINTIFF and the other members of the
6 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than
7 eight (8) hours per day, DEFENDANT's policies and practices also deprived them of overtime
8 pay.

9 29. DEFENDANT knew or should have known that PLAINTIFF and the other
10 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

11 30. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
12 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and
13 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and
14 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
15 hours worked in accordance with applicable law is evidenced by DEFENDANT's business
16 records.

17 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
18 **and Redeemed Sick Pay**

19 31. From time to time during the CLASS PERIOD, DEFENDANT failed and
20 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
21 Members for their overtime and double time hours worked, meal and rest period premiums, and
22 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members
23 forfeited wages due to them for working overtime without compensation at the correct overtime
24 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
25 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at
26 the correct rate for all overtime and double time worked, meal and rest period premiums, and
27 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT's business
28 records.

1 32. State law provides that employees must be paid overtime at one-and-one-half times
2 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were
3 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
4 employee’s performance.

5 33. The second component of PLAINTIFF’S and other CALIFORNIA CLASS
6 Members’ compensation was DEFENDANTS’ non-discretionary incentive program that paid
7 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
8 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
9 paid on an hourly basis with bonus compensation when the employees met the various
10 performance goals set by DEFENDANTS.

11 34. However, from time to time, when calculating the regular rate of pay in those pay
12 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double
13 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
14 discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus
15 compensation as part of the employee’s “regular rate of pay” and/or calculated all hours worked
16 rather than just all non-overtime hours worked. Management and supervisors described the
17 incentive/bonus program to potential and new employees as part of the compensation package.
18 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
19 CLASS Members must be included in the “regular rate of pay.” The failure to do so has resulted
20 in a systematic underpayment of overtime and double time compensation, meal and rest period
21 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS
22 Members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that
23 paid sick time for non-exempt employees shall be calculated in the same manner as the regular
24 rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or
25 not the employee actually works overtime in that workweek. DEFENDANTS’ conduct, as
26 articulated herein, by failing to include the incentive compensation as part of the “regular rate of
27 pay” for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the
28 underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

1 35. In violation of the applicable sections of the California Labor Code and the
2 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
3 matter of company policy, practice, and procedure, intentionally and knowingly failed to
4 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
5 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
6 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
7 of the correct overtime and double time compensation, meal and rest period premiums, and sick
8 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
9 unfair advantage over competitors who complied with the law. To the extent equitable tolling
10 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the
11 CLASS PERIOD should be adjusted accordingly.

12 **F. Unreimbursed Business Expenses**

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

24 37. In the course of their employment, DEFENDANT required PLAINTIFF and other
25 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell
26 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other
27 CALIFORNIA CLASS Members were required to use their own cell phones, office supplies,
28 printers, home internet, and vehicle in order to perform work related tasks. Additionally,

1 PLAINTIFF was never reimbursed for food she purchased for DEFENDANT's clients. However,
2 DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
3 Members for the personal expenses incurred for the use of their personal cell phones, office
4 supplies, printers, home internet, and vehicle, as well as not reimbursing PLAINTIFF and other
5 CALIFORNIA CLASS Members for food they purchased for clients. As a result, in the course of
6 their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS
7 Members incurred unreimbursed business expenses that included, but were not limited to, costs
8 related to the use of their personal cell phones, office supplies, printers, home internet, vehicle
9 and purchase, all on behalf of and for the benefit of DEFENDANT.

10 **G. Unlawful Rounding Practices**

11 38. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in
12 place an immutable timekeeping system to accurately record and pay PLAINTIFFS and other
13 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
14 overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding policy and
15 practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being
16 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did
17 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping
18 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid paying
19 these employees for all their time worked, including the applicable overtime compensation for
20 overtime worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members, from
21 time to time, forfeited compensation for their time worked by working without their time being
22 accurately recorded and without compensation at the applicable overtime rates.

23 39. Further, the mutability of DEFENDANTS' timekeeping system and unlawful
24 rounding policy and practice resulted in PLAINTIFFS and CALIFORNIA CLASS Members'
25 time being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful
26 rounding policy and practice caused PLAINTIFFS and CALIFORNIA CLASS Members to
27 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without
28 receiving an off-duty meal break.

1 **H. Timekeeping Manipulation**

2 40. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
3 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
4 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
5 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
6 and rest breaks.

7 41. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
8 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
9 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
10 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
11 rest break.

12 42. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
13 time-to-time, forfeited time worked by working without their time being accurately recorded and
14 without compensation at the applicable pay rates.

15 43. The mutability of the timekeeping system also allowed DEFENDANTS to alter
16 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
17 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
18 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
19 were not at all times provided an off-duty meal break. This practice is a direct result of
20 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
21 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

22 44. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
23 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
24 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and
25 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
26 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
27 records.

28 ///

1 **I. Violations for Untimely Payment of Wages**

2 45. Pursuant to California Labor Code section 204, PLAINTIFF and the
3 CALIFORNIA CLASS members were entitled to timely payment of wages during their
4 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not
5 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
6 meal period premium wages, and rest period premium wages within permissible time period.

7 46. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the
8 wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant to
9 Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall become
10 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
11 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
12 wages at the time of quitting.” PLAINTIFF and the CALIFORNIA CLASS Members were, from
13 time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or
14 at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

15 47. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely
16 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose
17 employment ended during the CLASS PERIOD.

18 **J. Reporting Time Violations**

19 48. Further, DEFENDANTS from time to time required PLAINTIFF and other
20 CALIFORNIA CLASS Members to report to work, but were furnished less than half their
21 scheduled shift’s worth of work and were not paid reporting time pay as required by Cal. Code
22 Regs., tit. 8 § 11040, subdivision(A). Specifically, Subdivision 5(A) states, “(A) Each workday
23 an employee is required to report for work and does report, but is not put to work or is furnished
24 less than half said employee's usual or scheduled day's work, the employee shall be paid for half
25 the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four
26 (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.”
27 In addition, when DEFENDANTS required PLAINTIFF and other CALIFORNIA CLASS
28 Members to engage in additional work, this sometimes resulted in a second reporting for work in

1 a single workday. In such a circumstance of a second reporting for work in a single workday,
2 DEFENDANT failed to pay these employees reporting time pay as required by Cal. Code Regs.,
3 tit. 8 § 11040. Subdivision 5(B) states: “If an employee is required to report for work a second
4 time in any one workday and is furnished less than two (2) hours of work on the second reporting,
5 said employee shall be paid for two (2) hours at the employee’s regular rate of pay, which shall
6 be not less than the minimum wage.” Cal. Code Regs., tit. 8 § 11040, subd. 5(B).

7 **K. Sick Pay Violations**

8 49. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after
9 July 1, 2015, works in California for the same employer for 30 or more days within a year from
10 the commencement of employment is entitled to paid sick days as specified in this section.”
11 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From
12 time to time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF
13 and other members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

14 50. California Labor Code Section 246(i) requires an employer to furnish its
15 employees with written wage statements setting forth the amount of paid sick leave available.
16 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF
17 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount
18 of paid sick leave available.

19 **L. Unlawful Deductions**

20 51. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
21 and CALIFORNIA CLASS Members’ pay without explanations and without authorization to do
22 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
23 DEFENDANTS violated Labor Code § 221.

24 52. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
25 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
26 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
27 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
28 provide PLAINTIFF with a second off-duty meal period each workday in which she was required

1 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
2 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
3 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was
4 supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
5 without additional compensation and in accordance with DEFENDANT'S strict corporate policy
6 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
7 comply with Cal. Lab. Code § 226. Further, DEFENDANT failed to reimburse PLAINTIFF for
8 required business expenses related to the use of her personal cell phone, office supplies, printer,
9 home internet, and vehicle, in violation of Cal. Lab. Code § 2802. To date, DEFENDANT has
10 not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to
11 her or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy for
12 PLAINTIFF individually does not exceed the sum or value of \$75,000.

13 **CLASS ACTION ALLEGATIONS**

14 53. PLAINTIFF bring this Class Action on behalf of herself, and a California class
15 defined as all persons who are or previously were employed by DEFENDANT and classified as
16 non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning
17 four (4) years prior to the filing of the original Complaint and ending on the date as determined
18 by the Court (the "CLASS PERIOD").

19 54. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
20 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
21 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
22 illegal meal and rest period policies, failed compensate for off-the-clock work, failure to provide
23 accurate itemized wage statements, failed to reimburse for business expenses, failure to maintain
24 required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

25 55. The members of the class are so numerous that joinder of all class members is
26 impractical.

27 56. Common questions of law and fact regarding DEFENDANT's conduct, including
28 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately

1 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
2 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
3 compliant meal and rest periods, failure to provide accurate itemized wage statements accurate,
4 failed to reimburse for business expenses, and failure to ensure they are paid at least minimum
5 wage and overtime, exist as to all members of the class and predominate over any questions
6 affecting solely any individual members of the class. Among the questions of law and fact
7 common to the class are:

- 8 a. Whether DEFENDANT maintained legally compliant meal period policies and
9 practices;
- 10 b. Whether DEFENDANT maintained legally compliant rest period policies and
11 practices;
- 12 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
13 Members accurate premium payments for missed meal and rest periods;
- 14 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
15 Members accurate overtime wages;
- 16 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
17 Members at least minimum wage for all hours worked;
- 18 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
19 CLASS Members for required business expenses;
- 20 g. Whether DEFENDANT issued legally compliant wage statements;
- 21 h. Whether DEFENDANT committed an act of unfair competition by systematically
22 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
23 CLASS for all time worked;
- 24 i. Whether DEFENDANT committed an act of unfair competition by systematically
25 failing to record all meal and rest breaks missed by PLAINTIFF and other
26 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
27 of this work, required employees to perform this work and permits or suffers to
28 permit this work;

1 j. Whether DEFENDANT committed an act of unfair competition in violation of the
2 UCL, by failing to provide the PLAINTIFF and the other members of the
3 CALIFORNIA CLASS with the legally required meal and rest periods.

4 57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
5 a result of DEFENDANT's conduct and actions alleged herein.

6 58. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
7 PLAINTIFF have the same interests as the other members of the class.

8 59. PLAINTIFF will fairly and adequately represent and protect the interests of the
9 CALIFORNIA CLASS Members.

10 60. PLAINTIFF retained able class counsel with extensive experience in class action
11 litigation.

12 61. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
13 interest of the other CALIFORNIA CLASS Members.

14 62. There is a strong community of interest among PLAINTIFF and the members of
15 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
16 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
17 sustained.

18 63. The questions of law and fact common to the CALIFORNIA CLASS Members
19 predominate over any questions affecting only individual members, including legal and factual
20 issues relating to liability and damages.

21 64. A class action is superior to other available methods for the fair and efficient
22 adjudication of this controversy because joinder of all class members is impractical. Moreover,
23 since the damages suffered by individual members of the class may be relatively small, the
24 expense and burden of individual litigation makes it practically impossible for the members of the
25 class individually to redress the wrongs done to them. Without class certification and
26 determination of declaratory, injunctive, statutory, and other legal questions within the class
27 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
28 create the risk of:

1 69. By the conduct alleged herein, DEFENDANT has engaged and continues to
2 engage in a business practice which violates California law, including but not limited to, the
3 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
4 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
5 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant
6 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
7 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

13 71. By the conduct alleged herein, DEFENDANT's practices were deceptive and
14 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
15 mandated meal and rest periods and the required amount of compensation for missed meal and
16 rest periods, and failed to pay minimum and overtime wages owed, due to a systematic business
17 practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
18 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
19 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
20 including restitution of wages wrongfully withheld.

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

25 73. By the conduct alleged herein, DEFENDANT's practices were also unfair and
26 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
27 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
28 required by Cal. Lab. Code §§ 226.7 and 512.

1 74. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
3 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
4 each workday in which a second off-duty meal period was not timely provided for each ten (10)
5 hours of work.

6 75. PLAINTIFF further demands on behalf of herself and on behalf of each
7 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
8 not timely provided as required by law.

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

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

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

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

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

SECOND CAUSE OF ACTION

Failure To Pay Minimum Wages

(Cal. Lab. Code §§ 1194, 1197 and 1197.1)

Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)

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

82. PLAINTIFF and the other members of the CALIFORNIA 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.

83. 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.

84. 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.

85. 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.

86. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA CLASS without regard to the correct amount of time they work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and

1 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
2 CALIFORNIA CLASS.

3 87. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
5 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
6 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

13 89. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
14 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
15 minimum wage compensation for their time worked for DEFENDANT.

16 90. During the CLASS PERIOD, PLAINTIFF and the other members of the
17 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
18 failure to pay all earned wages.

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

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

1 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
2 for their time worked.

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

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

22 **THIRD CAUSE OF ACTION**

23 **Failure To Pay Overtime Compensation**

24 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

25 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

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

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

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

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

15 100. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
16 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
17 they worked, including overtime work.

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

25 102. In committing these violations of the California Labor Code, DEFENDANT
26 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
27 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
28 attempt to avoid the payment of all earned wages, and other benefits in violation of the California

1 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
2 regulations.

3 103. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
4 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
5 overtime compensation for their time worked for DEFENDANT.

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

14 105. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
16 a failure to pay all earned wages.

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

24 107. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
25 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true
26 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA
27 CLASS have suffered and will continue to suffer an economic injury in amounts which are
28 presently unknown to them, and which will be ascertained according to proof at trial.

1 108. DEFENDANT knew or should have known that PLAINTIFF and the other
2 members of the CALIFORNIA CLASS were undercompensated for their time worked.
3 DEFENDANT systematically elected, either through intentional malfeasance or gross
4 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
5 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF
6 and the other members of the CALIFORNIA CLASS the correct overtime wages for their
7 overtime worked.

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

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

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

FIFTH CAUSE OF ACTION

Failure To Provide Required Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

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

116. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest periods is evidenced by DEFENDANT's business records.

117. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not provided a rest period, in accordance with the applicable Wage Order, one

1 additional hour of compensation at each employee's regular rate of pay for each workday that rest
2 period was not provided.

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Pay Wages When Due**

8 **(Cal. Lab. Code § 203)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 119. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
12 Complaint.

13 120. Cal. Lab. Code § 200 provides that:

14 As used in this article:

- 15 (d) "Wages" includes all amounts for labor performed by employees of every
16 description, whether the amount is fixed or ascertained by the standard of time,
17 task, piece, Commission basis, or other method of calculation.
18 (e) "Labor" includes labor, work, or service whether rendered or performed under
19 contract, subcontract, partnership, station plan, or other agreement if the to be
20 paid for is performed personally by the person demanding payment.

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

24 122. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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123. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS Members' employment contract.

124. Cal. Lab. Code § 203 provides:

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

125. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees who missed meal and rest breaks, as required by law.

126. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

SEVENTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

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

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

a. Gross wages earned,

b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

129. When DEFENDANT did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further, DEFENDANT from time to time failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with wage statements that provided the correct name and address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

130. In addition to the foregoing, DEFENDANT failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of California Labor Code Section 226.

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

EIGHTH CAUSE OF ACTION

Failure To Reimburse Employees for Required Expenses

(Cal. Lab. Code §§ 2802)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

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

133. 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.

134. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA 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 CLASS members for expenses which included, but were not limited to, the use of their personal cell phones, office supplies, printer, home internet, and vehicle all on behalf of and for the benefit of

1 DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were
2 required by DEFENDANT to use their personal cell phones, office supplies, printer, home
3 internet, and vehicle to execute their essential job duties on behalf of DEFENDANT, as well as
4 buy food for clients. DEFENDANT's uniform policy, practice and procedure was to not
5 reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from the
6 use of their personal items for DEFENDANT within the course and scope of their employment
7 for DEFENDANT. These expenses were necessary to complete their principal job duties.
8 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.
9 Although these expenses were necessary expenses incurred by PLAINTIFF and the
10 CALIFORNIA CLASS members, DEFENDANT failed to indemnify and reimburse
11 PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is
12 required to do under the laws and regulations of California.

13 135. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
14 by her and the CALIFORNIA CLASS members in the discharge of their job duties for
15 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
16 statutory rate and costs under Cal. Lab. Code § 2802.

17 **NINTH CAUSE OF ACTION**

18 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

19 **(Cal. Lab. Code §§2698 et seq.)**

20 **(Alleged by PLAINTIFF against all Defendants)**

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

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

1 PAGA, the California Legislature specified that "it was ... in the public interest to allow
2 aggrieved employees, acting as private attorneys general to recover civil penalties for Labor
3 Code violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to
4 arbitration.

5 138. PLAINTIFF, and such persons that may be added from time to time who satisfy
6 the requirements and exhaust the administrative procedures under the Private Attorney General
7 Act, bring this individual and Representative Action on behalf of the State of California with
8 respect to herself and all non-exempt employees who worked for DEFENDANT in California
9 during the time period of September 11, 2022 until the present (the "AGGRIEVED
10 EMPLOYEES").

11 139. On September 11, 2023, PLAINTIFF gave written notice by certified mail to the
12 Labor and Workforce Development Agency (the "Agency") and the employer of the specific
13 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
14 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
15 period for PLAINTIFF to add these allegations to the Complaint has expired. As a result,
16 pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under
17 PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all
18 AGGRIEVED EMPLOYEES as herein defined.

19 140. The policies, acts and practices heretofore described were and are an unlawful
20 business act or practice because DEFENDANTS (a) failed to pay PLAINTIFF and
21 AGGRIEVED EMPLOYEES minimum wages and overtime wages, (b) failed to provide
22 PLAINTIFF and AGGRIEVED EMPLOYEES legally required meal and rest breaks, (c) failed
23 to pay PLAINTIFF and AGGRIEVED EMPLOYEES at the correct regular rate of pay, (d) failed
24 to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all time worked, and (e) failed to
25 timely pay wages, all in violation of the applicable Labor Code sections listed in Labor Code
26 §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6,
27 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14,
28 1198, 1199, 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to

1 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
2 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
3 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
4 the other AGGRIEVED EMPLOYEES.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and
7 severally, as follows:

8 1. On behalf of the CALIFORNIA CLASS:

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

19 2. On behalf of the CALIFORNIA CLASS:

- 20 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
21 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
22 to Cal. Code of Civ. Proc. § 382;
23 b. Compensatory damages, according to proof at trial, including compensatory
24 damages for overtime compensation due to PLAINTIFF and the other members of
25 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
26 thereon at the statutory rate;
27 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
28 the applicable IWC Wage Order;

- 1 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
2 which a violation occurs and one hundred dollars (\$100) per each member of the
3 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
4 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for
5 violation of Cal. Lab. Code § 226
- 6 e. The wages of all terminated employees from the CALIFORNIA CLASS as a
7 penalty from the due date thereof at the same rate until paid or until an action
8 therefore is commenced, in accordance with Cal. Lab. Code § 203.
- 9 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
10 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

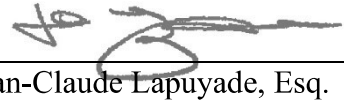
11 3. On behalf of the State of California and with respect to all AGGRIEVED
12 EMPLOYEES: Recovery of civil penalties as prescribed by the Labor Code Private Attorneys
13 General Act of 2004.

14 4. On all claims:

- 15 a. An award of interest, including prejudgment interest at the legal rate;
16 b. Such other and further relief as the Court deems just and equitable; and
17 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
18 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

19
20 DATED: January 17, 2024

JCL LAW FIRM, APC

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22 By: 

Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFF

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DEMAND FOR A JURY TRIAL

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

DATED: January 17, 2024

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFF

EXHIBIT 1

September 11, 2023

Via Online Filing to LWDA and Certified Mail to Defendant
Labor and Workforce Development Agency
Online Filing

CATHOLIC CHARITIES OF THE DIOCESE OF SANTA ROSA

c/o David Galvin
640 Third St., 2nd Floor
Santa Rosa, CA 95404

Via Certified U.S. Mail with Return Receipt No. 9589 0710 5270 0842 0055 12

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff KIMBERLEE KELLER ("Plaintiff"), and other aggrieved employees in a proposed lawsuit against Defendant CATHOLIC CHARITIES OF THE DIOCESE OF SANTA ROSA ("Defendant"). Plaintiff was employed by Defendant from March of 2022 to January of 2023, as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to her and other aggrieved employees, which among other violations of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt employees who worked for Defendant in California during the relevant claim period.

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) 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.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues her investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *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 California 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.

Very truly yours,
JCL LAW FIRM, APC

A handwritten signature in dark ink, appearing to read 'Jean-Claude Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.

JCL LAW FIRM, APC

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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

KIMBERLEE KELLER, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

CATHOLIC CHARITIES OF THE DIOCESE
OF SANTA ROSA, a California nonprofit
corporation; and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 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;

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- 7) FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN
VIOLATION OF CAL. LAB. CODE § 226;
8) FAILURE TO REIMBURSE EMPLOYEES
FOR REQUIRED EXPENSES IN
VIOLATION OF CAL. LAB. CODE § 2802.

DEMAND FOR A JURY TRIAL

8 PLAINTIFF KIMBERLEE KELLER (“PLAINTIFF”), an individual, on behalf of herself
9 and all other similarly situated current and former employees, allege on information and belief,
10 except for her own acts and knowledge which are based on personal knowledge, the following:

11 **PRELIMINARY ALLEGATIONS**

12 1. Defendant CATHOLIC CHARITIES OF THE DIOCESE OF SANTA ROSA
13 (“DEFENDANT” and/or “DEFENDANTS”) is a California nonprofit corporation that at all
14 relevant times mentioned herein conducted and continues to conduct substantial and regular
15 business throughout California.

16 2. DEFENDANT operates charities throughout the state of California, including in
17 the county of Sonoma, where PLAINTIFF worked.

18 3. PLAINTIFF was employed by DEFENDANTS in California from March of 2022
19 to January of 2023 as a non-exempt employee, paid on an hourly basis and entitled to the legally
20 required meal and rest periods and payment of minimum and overtime wages due for all time
21 worked.

22 4. PLAINTIFF brings this Class Action on behalf of herself and a California class,
23 defined as all persons who are or previously were employed by DEFENDANT in California and
24 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
25 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
26 by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the
27 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

28 ///

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

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

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

1 8. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of the
2 PLAINTIFF’S employer, within the meaning of California Labor Code § 558, who violated or
3 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision
4 regulating hours and days of work in any order of the Industrial Welfare Commission and, as
5 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,
6 at all relevant times.

7 9. DEFENDANTS were PLAINTIFF’S employers or persons acting on behalf of
8 PLAINTIFF’S employer either individually or as an officer, agent, or employee of another person,
9 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any
10 employee a wage less than the minimum fixed by California state law, and as such, are subject to
11 civil penalties for each underpaid employee.

12 10. DEFENDANT’S uniform policies and practices alleged herein were unlawful,
13 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
14 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

15 11. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
16 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and
17 other members of the CALIFORNIA CLASS who has been economically injured by
18 DEFENDANT’S past and current unlawful conduct, and all other appropriate legal and equitable
19 relief.

20 **JURISDICTION AND VENUE**

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

25 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,
26 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
27 the CALIFORNIA CLASS across California, including in this County, and committed the
28 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

THE CONDUCT

14. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANT’s uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows DEFENDANT to illegally profit and gain an unfair advantage over competitors who comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

A. Meal Period Violations

15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time to time during the CLASS PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they were under DEFENDANT’s control. Specifically, DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be

1 PLAINTIFF'S off-duty meal break. Indeed, there were many days where PLAINTIFF did not
2 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS
3 Members forfeited minimum wage and overtime compensation by regularly working without their
4 time being accurately recorded and without compensation at the applicable minimum wage and
5 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other
6 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business
7 records.

8 16. From time to time during the CLASS PERIOD, as a result of their rigorous work
9 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
10 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
11 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
12 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for
13 more than five (5) hours during some shifts without receiving a meal break. Further,
14 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second
15 off-duty meal period for some workdays in which these employees are required by DEFENDANT
16 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other
17 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-
18 duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other
19 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.
20 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
21 legally required meal breaks is evidenced by DEFENDANT's business records. PLAINTIFF and
22 other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
23 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

24 **B. Rest Period Violations**

25 17. From time to time during the CLASS PERIOD, PLAINTIFF and other
26 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
27 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
28 DEFENDANT's inadequate staffing. Further, for the same reasons, these employees were denied

1 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
2 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
3 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
4 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
5 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
6 CLASS Members were, from time to time, required to remain on duty and/or on call. PLAINTIFF
7 and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*
8 thereof. As a result of their rigorous work schedules and DEFENDANT's inadequate staffing,
9 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their
10 proper rest periods by DEFENDANT and DEFENDANT's managers.

11 **C. Wage Statement Violations**

12 18. California Labor Code Section 226 required an employer to furnish its employees
13 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
14 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
15 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
16 name of the employee and only the last four digits of the employee's social security number or an
17 employee identification number other than a social security number, (8) the name and address of
18 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
19 period and the corresponding number of hours worked at each hourly rate by the employee.

20 19. From time to time during the CLASS PERIOD, when PLAINTIFF and other
21 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
22 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
23 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and
24 accurate wage statements which failed to show, among other things, all deductions, the total hours
25 worked and all applicable hourly rates in effect during the pay period, and the corresponding
26 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
27 meal and rest periods.

28 20. In addition to the foregoing, DEFENDANT, from time to time, failed to provide

1 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
2 Cal. Lab. Code § 226.

3 21. As a result, DEFENDANT issued PLAINTIFF and other members of the
4 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
5 DEFENDANT's violations are knowing and intentional, were not isolated due to an unintentional
6 payroll error due to clerical or inadvertent mistake.

7 **D. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

8 22. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
9 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
10 for all hours worked.

11 23. During the CLASS PERIOD, from time-to-time DEFENDANT required
12 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
13 work, including but not limited to, time spent assisting clients, processing referrals and case
14 documentation, receiving and responding to work-related communications. This resulted in
15 PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while off-the-
16 clock.

17 24. DEFENDANT directed and directly benefited from the undercompensated off-the-
18 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

19 25. DEFENDANT controlled the work schedules, duties, and protocols, applications,
20 assignments, and employment conditions of PLAINTIFF and the other members of the
21 CALIFORNIA CLASS.

22 26. DEFENDANT was able to track the amount of time PLAINTIFF and the other
23 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to
24 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
25 wages earned and owed for all the work they performed.

26 27. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
27 exempt employees, subject to the requirements of the California Labor Code.

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1 28. DEFENDANT's policies and practices deprived PLAINTIFF and the other
2 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed
3 for the off-the-clock work activities. Because PLAINTIFF and the other members of the
4 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than
5 eight (8) hours per day, DEFENDANT's policies and practices also deprived them of overtime
6 pay.

7 29. DEFENDANT knew or should have known that PLAINTIFF and the other
8 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

9 30. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
10 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and
11 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and
12 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
13 hours worked in accordance with applicable law is evidenced by DEFENDANT's business
14 records.

15 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
16 **and Redeemed Sick Pay**

17 31. From time to time during the CLASS PERIOD, DEFENDANT failed and
18 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
19 Members for their overtime and double time hours worked, meal and rest period premiums, and
20 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members
21 forfeited wages due to them for working overtime without compensation at the correct overtime
22 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
23 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at
24 the correct rate for all overtime and double time worked, meal and rest period premiums, and
25 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT's business
26 records.

27 32. State law provides that employees must be paid overtime at one-and-one-half times
28 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were

1 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
2 employee's performance.

3 33. The second component of PLAINTIFF'S and other CALIFORNIA CLASS
4 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
5 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
6 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
7 paid on an hourly basis with bonus compensation when the employees met the various
8 performance goals set by DEFENDANTS.

9 34. However, from time to time, when calculating the regular rate of pay in those pay
10 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double
11 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
12 discretionary bonuses, DEFENDANTS failed to accurately include the non-discretionary bonus
13 compensation as part of the employee's "regular rate of pay" and/or calculated all hours worked
14 rather than just all non-overtime hours worked. Management and supervisors described the
15 incentive/bonus program to potential and new employees as part of the compensation package.
16 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
17 CLASS Members must be included in the "regular rate of pay." The failure to do so has resulted
18 in a systematic underpayment of overtime and double time compensation, meal and rest period
19 premium payments, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS
20 Members by DEFENDANTS. Specifically, California Labor Code Section 246 mandates that
21 paid sick time for non-exempt employees shall be calculated in the same manner as the regular
22 rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or
23 not the employee actually works overtime in that workweek. DEFENDANTS' conduct, as
24 articulated herein, by failing to include the incentive compensation as part of the "regular rate of
25 pay" for purposes of sick pay compensation was in violation of Cal. Lab. Code § 246 the
26 underpayment of which is recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

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

1 matter of company policy, practice, and procedure, intentionally and knowingly failed to
2 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
3 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
4 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
5 of the correct overtime and double time compensation, meal and rest period premiums, and sick
6 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
7 unfair advantage over competitors who complied with the law. To the extent equitable tolling
8 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the
9 CLASS PERIOD should be adjusted accordingly.

10 **F. Unreimbursed Business Expenses**

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

22 37. In the course of their employment, DEFENDANT required PLAINTIFF and other
23 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell
24 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other
25 CALIFORNIA CLASS Members were required to use their own cell phones, office supplies,
26 printers, home internet, and vehicle in order to perform work related tasks. Additionally,
27 PLAINTIFF was never reimbursed for food she purchased for DEFENDANT's clients. However,
28 DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS

1 Members for the personal expenses incurred for the use of their personal cell phones, office
2 supplies, printers, home internet, and vehicle, as well as not reimbursing PLAINTIFF and other
3 CALIFORNIA CLASS Members for food they purchased for clients. As a result, in the course of
4 their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS
5 Members incurred unreimbursed business expenses that included, but were not limited to, costs
6 related to the use of their personal cell phones, office supplies, printers, home internet, vehicle
7 and purchase, all on behalf of and for the benefit of DEFENDANT.

8 **G. Unlawful Rounding Practices**

9 38. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in
10 place an immutable timekeeping system to accurately record and pay PLAINTIFFS and other
11 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
12 overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding policy and
13 practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being
14 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did
15 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping
16 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid paying
17 these employees for all their time worked, including the applicable overtime compensation for
18 overtime worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members, from
19 time to time, forfeited compensation for their time worked by working without their time being
20 accurately recorded and without compensation at the applicable overtime rates.

21 39. Further, the mutability of DEFENDANTS' timekeeping system and unlawful
22 rounding policy and practice resulted in PLAINTIFFS and CALIFORNIA CLASS Members'
23 time being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful
24 rounding policy and practice caused PLAINTIFFS and CALIFORNIA CLASS Members to
25 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without
26 receiving an off-duty meal break.

27 **H. Timekeeping Manipulation**

28 40. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an

1 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
2 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
3 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
4 and rest breaks.

5 41. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
6 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
7 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
8 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
9 rest break.

10 42. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
11 time-to-time, forfeited time worked by working without their time being accurately recorded and
12 without compensation at the applicable pay rates.

13 43. The mutability of the timekeeping system also allowed DEFENDANTS to alter
14 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
15 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
16 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
17 were not at all times provided an off-duty meal break. This practice is a direct result of
18 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
19 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

20 44. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
21 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
22 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and
23 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
24 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
25 records.

26 **I. Violations for Untimely Payment of Wages**

27 45. Pursuant to California Labor Code section 204, PLAINTIFF and the
28 CALIFORNIA CLASS members were entitled to timely payment of wages during their

1 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not
2 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
3 meal period premium wages, and rest period premium wages within permissible time period.

4 46. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the
5 wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant to
6 Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall become
7 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
8 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
9 wages at the time of quitting.” PLAINTIFF and the CALIFORNIA CLASS Members were, from
10 time to time, not timely provided the wages earned and unpaid at the time of their discharge and/or
11 at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

12 47. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely
13 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose
14 employment ended during the CLASS PERIOD.

15 **J. Reporting Time Violations**

16 48. Further, DEFENDANTS from time to time required PLAINTIFF and other
17 CALIFORNIA CLASS Members to report to work, but were furnished less than half their
18 scheduled shift’s worth of work and were not paid reporting time pay as required by Cal. Code
19 Regs., tit. 8 § 11040, subdivision(A). Specifically, Subdivision 5(A) states, “(A) Each workday
20 an employee is required to report for work and does report, but is not put to work or is furnished
21 less than half said employee's usual or scheduled day's work, the employee shall be paid for half
22 the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four
23 (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.”
24 In addition, when DEFENDANTS required PLAINTIFF and other CALIFORNIA CLASS
25 Members to engage in additional work, this sometimes resulted in a second reporting for work in
26 a single workday. In such a circumstance of a second reporting for work in a single workday,
27 DEFENDANT failed to pay these employees reporting time pay as required by Cal. Code Regs.,
28 tit. 8 § 11040. Subdivision 5(B) states: “If an employee is required to report for work a second

1 time in any one workday and is furnished less than two (2) hours of work on the second reporting,
2 said employee shall be paid for two (2) hours at the employee's regular rate of pay, which shall
3 be not less than the minimum wage." Cal. Code Regs., tit. 8 § 11040, subd. 5(B).

4 **K. Sick Pay Violations**

5 49. Cal. Labor Code Section 246 (a)(1) mandates that "An employee who, on or after
6 July 1, 2015, works in California for the same employer for 30 or more days within a year from
7 the commencement of employment is entitled to paid sick days as specified in this section."
8 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From
9 time to time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF
10 and other members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

11 50. California Labor Code Section 246(i) requires an employer to furnish its
12 employees with written wage statements setting forth the amount of paid sick leave available.
13 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF
14 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount
15 of paid sick leave available.

16 **L. Unlawful Deductions**

17 51. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
18 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do
19 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
20 DEFENDANTS violated Labor Code § 221.

21 52. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
22 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
23 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
24 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
25 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
26 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
27 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
28 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was

1 supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
2 without additional compensation and in accordance with DEFENDANT’S strict corporate policy
3 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
4 comply with Cal. Lab. Code § 226. Further, DEFENDANT failed to reimburse PLAINTIFF for
5 required business expenses related to the use of her personal cell phone, office supplies, printer,
6 home internet, and vehicle, in violation of Cal. Lab. Code § 2802. To date, DEFENDANT has
7 not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to
8 her or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy for
9 PLAINTIFF individually does not exceed the sum or value of \$75,000.

10 **CLASS ACTION ALLEGATIONS**

11 53. PLAINTIFF bring this Class Action on behalf of herself, and a California class
12 defined as all persons who are or previously were employed by DEFENDANT and classified as
13 non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning
14 four (4) years prior to the filing of this Complaint and ending on the date as determined by the
15 Court (the “CLASS PERIOD”).

16 54. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
17 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
18 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
19 illegal meal and rest period policies, failed compensate for off-the-clock work, failure to provide
20 accurate itemized wage statements, failed to reimburse for business expenses, failure to maintain
21 required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

22 55. The members of the class are so numerous that joinder of all class members is
23 impractical.

24 56. Common questions of law and fact regarding DEFENDANT’s conduct, including
25 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
26 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
27 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
28 compliant meal and rest periods, failure to provide accurate itemized wage statements accurate,

1 failed to reimburse for business expenses, and failure to ensure they are paid at least minimum
2 wage and overtime, exist as to all members of the class and predominate over any questions
3 affecting solely any individual members of the class. Among the questions of law and fact
4 common to the class are:

- 5 a. Whether DEFENDANT maintained legally compliant meal period policies and
6 practices;
- 7 b. Whether DEFENDANT maintained legally compliant rest period policies and
8 practices;
- 9 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
10 Members accurate premium payments for missed meal and rest periods;
- 11 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
12 Members accurate overtime wages;
- 13 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
14 Members at least minimum wage for all hours worked;
- 15 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
16 CLASS Members for required business expenses;
- 17 g. Whether DEFENDANT issued legally compliant wage statements;
- 18 h. Whether DEFENDANT committed an act of unfair competition by systematically
19 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
20 CLASS for all time worked;
- 21 i. Whether DEFENDANT committed an act of unfair competition by systematically
22 failing to record all meal and rest breaks missed by PLAINTIFF and other
23 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
24 of this work, required employees to perform this work and permits or suffers to
25 permit this work;
- 26 j. Whether DEFENDANT committed an act of unfair competition in violation of the
27 UCL, by failing to provide the PLAINTIFF and the other members of the
28 CALIFORNIA CLASS with the legally required meal and rest periods.

1 57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
2 a result of DEFENDANT's conduct and actions alleged herein.

3 58. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
4 PLAINTIFF have the same interests as the other members of the class.

5 59. PLAINTIFF will fairly and adequately represent and protect the interests of the
6 CALIFORNIA CLASS Members.

7 60. PLAINTIFF retained able class counsel with extensive experience in class action
8 litigation.

9 61. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
10 interest of the other CALIFORNIA CLASS Members.

11 62. There is a strong community of interest among PLAINTIFF and the members of
12 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
13 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
14 sustained.

15 63. The questions of law and fact common to the CALIFORNIA CLASS Members
16 predominate over any questions affecting only individual members, including legal and factual
17 issues relating to liability and damages.

18 64. A class action is superior to other available methods for the fair and efficient
19 adjudication of this controversy because joinder of all class members is impractical. Moreover,
20 since the damages suffered by individual members of the class may be relatively small, the
21 expense and burden of individual litigation makes it practically impossible for the members of the
22 class individually to redress the wrongs done to them. Without class certification and
23 determination of declaratory, injunctive, statutory, and other legal questions within the class
24 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
25 create the risk of:

- 26 a. Inconsistent or varying adjudications with respect to individual members of the
27 CALIFORNIA CLASS which would establish incompatible standards of conduct
28 for the parties opposing the CALIFORNIA CLASS; and/or,

1 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant
2 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
3 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

9 71. By the conduct alleged herein, DEFENDANT's practices were deceptive and
10 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
11 mandated meal and rest periods and the required amount of compensation for missed meal and
12 rest periods, and failed to pay minimum and overtime wages owed, due to a systematic business
13 practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare
14 Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
15 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203,
16 including restitution of wages wrongfully withheld.

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

21 73. By the conduct alleged herein, DEFENDANT's practices were also unfair and
22 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
23 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
24 required by Cal. Lab. Code §§ 226.7 and 512.

25 74. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
26 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
27 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
28

1 each workday in which a second off-duty meal period was not timely provided for each ten (10)
2 hours of work.

3 75. PLAINTIFF further demands on behalf of herself and on behalf of each
4 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
5 not timely provided as required by law.

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

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

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

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

26 80. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
27 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
28 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a

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

5 **SECOND CAUSE OF ACTION**

6 **Failure To Pay Minimum Wages**

7 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

8 **Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

9 81. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
10 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
11 Complaint.

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

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

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

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

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

28 ///

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

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

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

14 90. During the CLASS PERIOD, PLAINTIFF and the other members of the
15 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
16 failure to pay all earned wages.

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

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

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

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

20 **THIRD CAUSE OF ACTION**

21 **Failure To Pay Overtime Compensation**

22 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

23 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

27 96. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
28 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial

1 Welfare Commission requirements for DEFENDANT's failure to pay these employees for all
2 overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or
3 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

13 100. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
14 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
15 they worked, including overtime work.

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

23 102. In committing these violations of the California Labor Code, DEFENDANT
24 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
25 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
26 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
27 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
28 regulations.

1 103. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
2 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
3 overtime compensation for their time worked for DEFENDANT.

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

12 105. During the CLASS PERIOD, PLAINTIFF and the other members of the
13 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
14 a failure to pay all earned wages.

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

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

27 108. DEFENDANT knew or should have known that PLAINTIFF and the other
28 members of the CALIFORNIA CLASS were undercompensated for their time worked.

1 DEFENDANT systematically elected, either through intentional malfeasance or gross
2 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
3 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF
4 and the other members of the CALIFORNIA CLASS the correct overtime wages for their
5 overtime worked.

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

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

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

FIFTH CAUSE OF ACTION

Failure To Provide Required Rest Periods

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

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

116. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest periods is evidenced by DEFENDANT's business records.

117. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not provided a rest period, in accordance with the applicable Wage Order, one

1 additional hour of compensation at each employee's regular rate of pay for each workday that rest
2 period was not provided.

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Pay Wages When Due**

8 **(Cal. Lab. Code § 203)**

9 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

10 119. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
11 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
12 Complaint.

13 120. Cal. Lab. Code § 200 provides that:

14 As used in this article:

- 15 (d) "Wages" includes all amounts for labor performed by employees of every
16 description, whether the amount is fixed or ascertained by the standard of time,
17 task, piece, Commission basis, or other method of calculation.
18 (e) "Labor" includes labor, work, or service whether rendered or performed under
19 contract, subcontract, partnership, station plan, or other agreement if the to be
20 paid for is performed personally by the person demanding payment.

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

24 122. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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123. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS Members' employment contract.

124. Cal. Lab. Code § 203 provides:

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

125. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees who missed meal and rest breaks, as required by law.

126. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CLASS PERIOD and demand an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

SEVENTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

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

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

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of

overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

129. When DEFENDANT did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further, DEFENDANT from time to time failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with wage statements that provided the correct name and address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

130. In addition to the foregoing, DEFENDANT failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the

1 requirements of California Labor Code Section 226.

2 131. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
3 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
4 CLASS. These damages include, but are not limited to, costs expended calculating the correct
5 wages for all missed meal and rest breaks and the amount of employment taxes which were not
6 properly paid to state and federal tax authorities. These damages are difficult to estimate.
7 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
8 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation
9 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
10 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
11 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
12 of the CALIFORNIA CLASS herein).

13 **EIGHTH CAUSE OF ACTION**

14 **Failure To Reimburse Employees for Required Expenses**

15 **(Cal. Lab. Code §§ 2802)**

16 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

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

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

26 134. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
27 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
28 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS
members for expenses which included, but were not limited to, the use of their personal cell

1 phones, office supplies, printer, home internet, and vehicle all on behalf of and for the benefit of
2 DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were
3 required by DEFENDANT to use their personal cell phones, office supplies, printer, home
4 internet, and vehicle to execute their essential job duties on behalf of DEFENDANT, as well as
5 buy food for clients. DEFENDANT's uniform policy, practice and procedure was to not
6 reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from the
7 use of their personal items for DEFENDANT within the course and scope of their employment
8 for DEFENDANT. These expenses were necessary to complete their principal job duties.
9 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.
10 Although these expenses were necessary expenses incurred by PLAINTIFF and the
11 CALIFORNIA CLASS members, DEFENDANT failed to indemnify and reimburse
12 PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is
13 required to do under the laws and regulations of California.

14 135. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
15 by her and the CALIFORNIA CLASS members in the discharge of their job duties for
16 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
17 statutory rate and costs under Cal. Lab. Code § 2802.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and
20 severally, as follows:

21 1. On behalf of the CALIFORNIA CLASS:

- 22 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
23 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
24 b. An order temporarily, preliminarily and permanently enjoining and restraining
25 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
26 c. An order requiring DEFENDANT to pay all overtime wages and all sums
27 unlawfully withheld from compensation due to PLAINTIFF and the other members
28 of the CALIFORNIA CLASS; and

1 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
2 for restitution of the sums incidental to DEFENDANT's violations due to
3 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

4 2. On behalf of the CALIFORNIA CLASS:

5 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
6 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
7 to Cal. Code of Civ. Proc. § 382;

8 b. Compensatory damages, according to proof at trial, including compensatory
9 damages for overtime compensation due to PLAINTIFF and the other members of
10 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
11 thereon at the statutory rate;

12 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
13 the applicable IWC Wage Order;

14 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
15 which a violation occurs and one hundred dollars (\$100) per each member of the
16 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
17 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for
18 violation of Cal. Lab. Code § 226

19 e. The wages of all terminated employees from the CALIFORNIA CLASS as a
20 penalty from the due date thereof at the same rate until paid or until an action
21 therefore is commenced, in accordance with Cal. Lab. Code § 203.

22 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
23 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

24 3. On all claims:

25 a. An award of interest, including prejudgment interest at the legal rate;

26 b. Such other and further relief as the Court deems just and equitable; and
27

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1 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
2 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.
3

4 DATED: September 11, 2023

JCL LAW FIRM, APC

6 By: 

Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFF

8
9 **DEMAND FOR A JURY TRIAL**

10 PLAINTIFF demands a jury trial on issues triable to a jury.
11

12 DATED: September 11, 2023

JCL LAW FIRM, APC

14 By: 

Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFF

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
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prazma@jcl-lawfirm.com

Attorney for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

KIMBERLEE KELLER, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

CATHOLIC CHARITIES OF THE DIOCESE
OF SANTA ROSA, a California nonprofit
corporation; and DOES 1-50, Inclusive,

Defendant.

Case No: 23CV00371

PROOF OF SERVICE

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DECLARATION OF SERVICE

I, Jennifer Heming, declare:

I am over the age of eighteen years and not a party to the case. I am employed in the County of San Diego, State of California, where the mailing occurred; and my business address is 5440 Morehouse Drive, Suite 3600, San Diego, California 92121.

On January 17, 2024, I served the following documents as described below:

- 1. CONFORMED ORDER FOR LEAVE TO FILE FIRST AMENDED COMPLAINT**
- 2. FIRST AMENDED CLASS ACTION COMPLAINT**

☒ **BY MAIL** - I deposited such envelope in the mail at San Diego, California. The envelope was mailed with sufficient postage thereon. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with sufficient postage thereon at San Diego, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing affidavit. Served to the following parties via U.S. Postal Service.

☐ **BY PERSONAL SERVICE** - I caused such envelope to be delivered by a process server employed by .

☐ **VIA FACSIMILE** - I faxed said document, to the office(s) of the addresses shown on the attached Service List and the transmission was reported as complete and without error.

☒ **BY ELECTRONIC TRANSMISSION** - I transmitted a PDF version of this document by way of email to the email addresses identified on the attached service list.

☐ **BY OVERNIGHT DELIVERY** - I deposited such envelope for collection and delivery by FedEx with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing packages for overnight delivery by FedEx. They are deposited with a facility regularly maintained by FedEx for receipt on the same day in the ordinary course of business.

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1 ☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California
2 that the above is true and correct.

3 ☐ **(FEDERAL)** I declare that I am employed in the office of a member of the bar of
4 this Court at whose direction the service was made.

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6 I declare under penalty of perjury under the laws of the State of California that the above
7 is true and correct. Executed on January 17, 2024, at San Diego, California.

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By: Jennifer Heming
Jennifer Heming

SERVICE LIST

Kimberlee Keller v. Catholic Charities of the Diocese of Santa Rosa
Sonoma Superior Court Case No. 23CV00371

Jean-Claude Lapuyade, Esq. Sydney Castillo Johnson, Esq. Perssia Razma, Esq. JCL Law Firm, APC 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 T: 619-599-8292 F: 619-599-8291 jlapuyade@jcl-lawfirm.com scastillo@jcl-lawfirm.com prazma@jcl-lawfirm.com Handling Paralegals: Tesla Stone tstone@jcl-lawfirm.com Jennifer Heming jheming@jcl-lawfirm.com Co-Counsel for PLAINTIFF	Shani O. Zakay, Esq. Zakay Law Group, APLC 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 T: 619-892-7095 F: 858-404-9203 shani@zakaylaw.com Co-Counsel for PLAINTIFF
Daniel J. Galvin III, Esq. Tad S. Shapiro, Esq. Adrienne M. Moran, Esq. Reed J. Moran, Esq. Shapiro, Galvin, Shapiro, & Moran P.O. Box 5589 Santa Rosa, CA 95402-5589 T: 707-544-5858 F: 707-544-6702 ade@shapirogalvinlaw.com Counsel for DEFENDANTS	Laura Reathaford, Esq. Lathrop GPM LLP 2049 Century Park E, Ste 3500S Los Angeles, CA 90067-1714 T: 310-789-4600 F: 310-789-4601 laura.reathaford@lathropgpm.com Other Service: Kris Trecartin kris.trecartin@lathropgpm.com Counsel for DEFENDANT