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SUPERIOR COURT OF THE STATE OF CALIFORNIA**IN AND FOR THE COUNTY OF LOS ANGELES**

EDRALIN LEGASPI, an individual, on behalf
 of himself, and on behalf of all persons similarly
 situated,

Plaintiffs,

v.

AAA T.L.C. HEALTH CARE, INC., a
 California Corporation; and DOES 1-50,
 Inclusive,

Defendants.

Case No: **23STCV03126**

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;

- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 9) UNLAWFUL DEDUCTIONS IN VIOLATION OF CAL. LAB. CODE § 221;
- 10) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ.

DEMAND FOR A JURY TRIAL

PLAINTIFF EDRALIN LEGASPI (“PLAINTIFF”), an individual, on behalf of himself and all other similarly situated current and former employees, allege on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

PRELIMINARY ALLEGATIONS

1. Defendant AAA T.L.C. HEALTH CARE, INC. (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT provides home health care services, including but not limited to, long term, transitional, memory and specialty care to patients in the state of California, including in Los Angeles County where PLAINTIFF worked.

3. PLAINTIFF has been employed by DEFENDANT in California since November of 2021 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself 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 this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the

1 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

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. Unreimbursed Business Expenses**

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

25 19. In the course of their employment, DEFENDANT required PLAINTIFF and other
26 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell
27 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other
28 CALIFORNIA CLASS Members were required to use their personal cell phones in order to

1 perform work related tasks. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF
2 and other CALIFORNIA CLASS Members for the use of their personal cell phones. As a result,
3 in the course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA
4 CLASS Members incurred unreimbursed business expenses that included, but were not limited
5 to, costs related to the use of their personal cell phones, all on behalf of and for the benefit of
6 DEFENDANT.

7 **D. Wage Statement Violations**

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

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

24 22. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
25 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
26 Cal. Lab. Code § 226.

27 23. As a result, DEFENDANT issued PLAINTIFF and other members of the
28 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,

1 DEFENDANT's violations are knowing and intentional, were not isolated due to an unintentional
2 payroll error due to clerical or inadvertent mistake.

3 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

4 24. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
5 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
6 for all hours worked.

7 25. During the CLASS PERIOD, from time-to-time DEFENDANT required
8 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
9 work, including but not limited to arriving ten (10) minutes prior to the start of their shifts in order
10 to be briefed for the day and working post-shift while waiting for another employee to relieve
11 them of their duties for the day. This resulted in PLAINTIFF and other members of the
12 CALIFORNIA CLASS to have to work while off-the-clock.

13 26. DEFENDANT directed and directly benefited from the undercompensated off-the-
14 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

15 27. DEFENDANT controlled the work schedules, duties, and protocols, applications,
16 assignments, and employment conditions of PLAINTIFF and the other members of the
17 CALIFORNIA CLASS.

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

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

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

1 pay.

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

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

10 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
11 **and Redeemed Sick Pay**

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

22 34. State law provides that employees must be paid overtime at one-and-one-half times
23 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
24 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
25 employee's performance.

26 35. The second component of PLAINTIFF's and other CALIFORNIA CLASS
27 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
28 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for

1 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
2 basis with bonus compensation when the employees met the various performance goals set by
3 DEFENDANTS.

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

22 37. In violation of the applicable sections of the California Labor Code and the
23 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
24 matter of company policy, practice, and procedure, intentionally and knowingly failed to
25 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
26 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
27 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
28 of the correct overtime and double time compensation, meal and rest period premiums, and sick

1 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
2 unfair advantage over competitors who complied with the law. To the extent equitable tolling
3 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the
4 CLASS PERIOD should be adjusted accordingly.

5 **G. Violations for Untimely Payment of Wages**

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

11 **H. Unlawful Deductions**

12 39. DEFENDANTS, from time-to-time unlawfully deducted wages, including for
13 reimbursements for required business expenses, from PLAINTIFF and CALIFORNIA CLASS
14 Members' pay without explanations and without authorization to do so or notice to PLAINTIFF
15 and the CALIFORNIA CLASS Members. As a result, DEFENDANTS violated Labor Code §
16 221.

17 **I. Unlawful Rounding Violations**

18 40. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
19 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
20 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
21 overtime hours. Specifically, DEFENDANT had in place an unlawful rounding policy and
22 practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being
23 undercompensated for all of their time worked. As a result, DEFENDANT was able to and did in
24 fact unlawfully, and unilaterally round the time recorded in DEFENDANT'S timekeeping system
25 for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these
26 employees for all their time worked, including the applicable overtime compensation for overtime
27 worked. As a result, PLAINTIFF, and other CALIFORNIA CLASS Members, from time to time,
28 forfeited compensation for their time worked by working without their time being accurately

1 recorded and without compensation at the applicable overtime rates.

2 41. Further, the mutability of DEFENDANT’S timekeeping system and unlawful
3 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members’ time
4 being inaccurately recorded. As a result, from time to time, DEFENDANT’S unlawful rounding
5 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
6 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
7 duty meal break. Additionally, DEFENDANT’S unlawful rounding policy and practice caused
8 PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by DEFENDANT
9 for more than ten (10) hours during a shift without receiving a second off-duty meal break.

10 **J. Timekeeping Manipulation**

11 42. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
12 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
13 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
14 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
15 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
16 alter the time recorded in DEFENDANTS’ timekeeping system for PLAINTIFF and other
17 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
18 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
19 rest break.

20 43. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
21 time-to-time, forfeited time worked by working without their time being accurately recorded and
22 without compensation at the applicable pay rates.

23 44. The mutability of the timekeeping system also allowed DEFENDANTS to alter
24 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS’
25 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
26 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
27 were not at all times provided an off-duty meal break. This practice is a direct result of
28

1 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.
3 As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited wages
4 due them for all hours worked at DEFENDANTS' direction, control and benefit for the time the
5 timekeeping system was inoperable. DEFENDANTS' uniform policy and practice to not pay
6 PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked in
7 accordance with applicable law is evidenced by DEFENDANTS' business records.

8 45. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
9 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
10 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
11 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
12 provide PLAINTIFF with a second off-duty meal period each workday in which he was required
13 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
14 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
15 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was
16 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
17 without additional compensation and in accordance with DEFENDANT'S strict corporate policy
18 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
19 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF
20 for required business expenses related to the personal expenses incurred for the use of his personal
21 cell phone, on behalf of and in furtherance of his employment with DEFENDANT. To date,
22 DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double time
23 compensation still owed to him or any penalty wages owed to him under Cal. Lab. Code § 203.
24 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of
25 \$75,000.

26 **CLASS ACTION ALLEGATIONS**

27 46. PLAINTIFF bring this Class Action on behalf of himself, and a California class
28 defined as all persons who are or previously were employed by DEFENDANT in California and

1 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
2 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
3 by the Court (the “CLASS PERIOD”).

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

10 48. The members of the class are so numerous that joinder of all class members is
11 impractical.

12 49. Common questions of law and fact regarding DEFENDANT’s conduct, including
13 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
14 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
15 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
16 compliant meal and rest periods, failed to reimburse for business expenses, failure to provide
17 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum
18 wage and overtime, exist as to all members of the class and predominate over any questions
19 affecting solely any individual members of the class. Among the questions of law and fact
20 common to the class are:

- 21 a. Whether DEFENDANT maintained legally compliant meal period policies and
22 practices;
- 23 b. Whether DEFENDANT maintained legally compliant rest period policies and
24 practices;
- 25 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
26 Members accurate premium payments for missed meal and rest periods;
- 27 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
28 Members accurate overtime wages;

- e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

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

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

52. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

53. PLAINTIFF retained able class counsel with extensive experience in class action litigation.

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

55. There is a strong community of interest among PLAINTIFF and the members of the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are

1 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
2 sustained.

3 56. The questions of law and fact common to the CALIFORNIA CLASS Members
4 predominate over any questions affecting only individual members, including legal and factual
5 issues relating to liability and damages.

6 57. A class action is superior to other available methods for the fair and efficient
7 adjudication of this controversy because joinder of all class members is impractical. Moreover,
8 since the damages suffered by individual members of the class may be relatively small, the
9 expense and burden of individual litigation makes it practically impossible for the members of the
10 class individually to redress the wrongs done to them. Without class certification and
11 determination of declaratory, injunctive, statutory, and other legal questions within the class
12 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
13 create the risk of:

- 14 a. Inconsistent or varying adjudications with respect to individual members of the
15 CALIFORNIA CLASS which would establish incompatible standards of conduct
16 for the parties opposing the CALIFORNIA CLASS; and/or,
17 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
18 which would as a practical matter be dispositive of the interests of the other
19 members not party to the adjudication or substantially impair or impeded their
20 ability to protect their interests.

21 58. Class treatment provides manageable judicial treatment calculated to bring an
22 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
23 the conduct of DEFENDANT.

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1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

3 **(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)**

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

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

8 60. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
9 Code § 17021.

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

14 Any person who engages, has engaged, or proposes to engage in unfair competition may
15 be enjoined in any court of competent jurisdiction. The court may make such orders or
16 judgments, including the appointment of a receiver, as may be necessary to prevent the
17 use or employment by any person of any practice which constitutes unfair competition, as
18 defined in this chapter, or as may be necessary to restore to any person in interest any
19 money or property, real or personal, which may have been acquired by means of such
20 unfair competition. (Cal. Bus. & Prof. Code § 17203).

21 62. By the conduct alleged herein, DEFENDANT has engaged and continues to
22 engage in a business practice which violates California law, including but not limited to, the
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
24 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
25 1198, and 2802, for which this Court should issue declaratory and other equitable relief pursuant
26 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
27 to constitute unfair competition, including restitution of wages wrongfully withheld.

28 63. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

12 65. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
13 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
14 other members of the CALIFORNIA CLASS to be underpaid during their employment with
15 DEFENDANT.

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

20 67. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
21 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
22 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
23 each workday in which a second off-duty meal period was not timely provided for each ten (10)
24 hours of work.

25 68. PLAINTIFF further demands on behalf of himself and on behalf of each
26 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
27 not timely provided as required by law.
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1 69. By and through the unlawful and unfair business practices described herein,
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
3 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
4 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
5 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
6 to unfairly compete against competitors who comply with the law.

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

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

17 72. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
18 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
19 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
20 engaging in any unlawful and unfair business practices in the future.

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

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

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

10 83. During the CLASS PERIOD, PLAINTIFF and the other members of the
11 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
12 failure to pay all earned wages.

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

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

25 86. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act
28 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the

1 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
2 consequences to them, and with the despicable intent of depriving them of their property and legal
3 rights, and otherwise causing them injury in order to increase company profits at the expense of
4 these employees.

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

16 **THIRD CAUSE OF ACTION**

17 **Failure To Pay Overtime Compensation**

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

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

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

23 89. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
24 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
25 Welfare Commission requirements for DEFENDANT's failure to pay these employees for all
26 overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or
27 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.
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1 90. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
2 policy, an employer must timely pay its employees for all hours worked.

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

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

10 93. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
11 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
12 they worked, including overtime work.

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

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

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

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

9 98. During the CLASS PERIOD, PLAINTIFF and the other members of the
10 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
11 a failure to pay all earned wages.

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

19 100. 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 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA
22 CLASS have suffered and will continue to suffer an economic injury in amounts which are
23 presently unknown to them, and which will be ascertained according to proof at trial.

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

1 and the other members of the CALIFORNIA CLASS the correct overtime wages for their
2 overtime worked.

3 102. 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 of 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.

11 103. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS
12 request recovery of overtime 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 overtime compensation is
15 determined to be owed to the CALIFORNIA CLASS Members who have terminated their
16 employment, DEFENDANT'S conduct also violates Labor Code §§ 201 and/or 202, and therefore
17 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
18 penalties are sought herein. DEFENDANT's conduct as alleged herein was willful, intentional,
19 and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are
20 entitled to seek and recover statutory costs.

21 **FOURTH CAUSE OF ACTION**

22 **Failure To Provide Required Meal Periods**

23 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

20 107. As a proximate result of the aforementioned violations, PLAINTIFF and
21 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
22 and seek all wages earned and due, interest, penalties, expenses and costs of suit.
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1 **FIFTH CAUSE OF ACTION**

2 **Failure To Provide Required Rest Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

111. 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.

SIXTH CAUSE OF ACTION

Failure To Reimburse Employees for Required Expenses

(Cal. Lab. Code §§ 2802)

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

112. 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.

113. 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.

114. 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, personal expenses incurred for the use of their personal cell phones all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell phones to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from the use of their personal cell phones for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,

1 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
2 members for these expenses as an employer is required to do under the laws and regulations of
3 California.

4 115. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
5 by him and the CALIFORNIA CLASS members in the discharge of their job duties for
6 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory
7 rate and costs under Cal. Lab. Code § 2802.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure To Provide Accurate Itemized Statements**

10 **(Cal. Lab. Code § 226)**

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

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

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

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

8 118. When DEFENDANT did not accurately record PLAINTIFF'S and other
9 CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed
10 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal.
11 Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA
12 CLASS Members with complete and accurate wage statements which failed to show, among other
13 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked
14 and all applicable hourly rates in effect during the pay period and the corresponding amount of
15 time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal
16 and rest periods.

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

20 120. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
21 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
22 CLASS. These damages include, but are not limited to, costs expended calculating the correct
23 wages for all missed meal and rest breaks and the amount of employment taxes which were not
24 properly paid to state and federal tax authorities. These damages are difficult to estimate.
25 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
26 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation
27 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
28 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no

1 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
2 of the CALIFORNIA CLASS herein).

3 **EIGHTH CAUSE OF ACTION**

4 **Failure To Pay Wages When Due**

5 **(Cal. Lab. Code § 203)**

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

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

10 122. Cal. Lab. Code § 200 provides that:

11 As used in this article:

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

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

21 124. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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

126. 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

1 the same rate until paid or until an action therefor is commenced; but the wages shall not
2 continue for more than 30 days.

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

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

11 **NINTH CAUSE OF ACTION**

12 **Unlawful Deductions from PLAINTIFF and CLASS MEMBERS Paychecks**

13 **[Cal. Labor Code §§ 221 and 223]**

14 **(By PLAINTIFF and the CLASS MEMBERS Against all DEFENDANTS)**

15 129. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the
16 allegations in the preceding paragraphs.

17 130. During the CLASS PERIOD, DEFENDANT regularly and consistently
18 maintained corporate policies and procedures designed to reduce labor costs by reducing or
19 minimizing the amount of compensation paid to its employees, especially overtime compensation.

20 131. DEFENDANT made deductions from PLAINTIFF and the other CLASS
21 MEMBERS' paychecks including but limited to amounts for reimbursements for required
22 business expenses paid to PLAINTIFF and the other CLASS MEMBERS.

23 132. Labor Code § 221 provides it is unlawful for any employer to collect or receive
24 from an employee any part of wages theretofore paid by employer to employee.

25 133. Labor Code § 223 provides that where any statute or contract requires an employer
26 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
27 purporting to pay the wage designated by statute or by contract. Labor Code section 225 further
28 provides that the violation of any provision of Labor Code §§ 221 and 223 is a misdemeanor.

134. As a result of the conduct alleged above, DEFENDANTS unlawfully collected or

1 received from PLAINTIFFS and the other CLASS MEMBERS' part of the wages paid to their
2 employees.

3 135. Wherefore, PLAINTIFFS and the other CLASS MEMBERS demand the return of
4 all wages unlawfully deducted from the paychecks, including interest thereon, penalties,
5 reasonable attorneys' fees, and costs of suit pursuant to Labor Code §§ 225.5 and 1194.

6 **TENTH CAUSE OF ACTION**

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

8 **(Cal. Lab. Code §§2698 et seq.)**

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

10 136. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
11 herein, the prior paragraphs of this Complaint.

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

21 138. PLAINTIFF, and such persons that may be added from time to time who satisfy
22 the requirements and exhaust the administrative procedures under the Private Attorney General
23 Act, bring this Representative Action on behalf of the State of California with respect to herself
24 and all employees who worked for Defendant in California during the time period of December,
25 2021 until the present (the "AGGRIEVED EMPLOYEES").

26 139. On December 9, 2022, PLAINTIFF gave written notice by certified mail to the
27 Labor and Workforce Development Agency (the "Agency") and the employer of the specific
28 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See

1 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
2 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant
3 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA
4 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
5 EMPLOYEES as herein defined.

6 140. The policies, acts and practices heretofore described were and are an unlawful
7 business act or practice because DEFENDANTS (a) failed to pay AGGRIEVED EMPLOYEES
8 minimum wages and overtime wages, (b) failed to provide AGGRIEVED EMPLOYEES legally
9 required meal and rest breaks, (c) failed to pay AGGRIEVED EMPLOYEES at the correct
10 regular rate of pay, (d) failed to pay AGGRIEVED EMPLOYEES for all time worked, and (e)
11 failed to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor
12 Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5,
13 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
14 1197.14, 1198, 1199, 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives
15 rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
16 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
17 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
18 the other AGGRIEVED EMPLOYEES.

19 **PRAYER FOR RELIEF**

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

22 1. On behalf of the CALIFORNIA CLASS:

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

1 of the CALIFORNIA CLASS; and

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

5 2. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

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

25 3. On behalf of the State of California and with respect to all AGGRIEVED
26 EMPLOYEES: Recovery of civil penalties as prescribe by the Labor Code Private
27 Attorneys General Act of 2004;

28 //

1 4. On all claims:

- 2 a. An award of interest, including prejudgment interest at the legal rate;
- 3 b. Such other and further relief as the Court deems just and equitable; and
- 4 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
- 5 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.
- 6

7 DATED: February 14, 2023

ZAKAY LAW GROUP, APLC

8 By: 

9 Shani O. Zakay

10 Attorney for PLAINTIFF

11 **DEMAND FOR A JURY TRIAL**

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

13

14 DATED: February 14, 2023

ZAKAY LAW GROUP, APLC

15 By: 

16 Shani O. Zakay

17 Attorney for PLAINTIFF

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25

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EXHIBIT 1

December 9, 2022

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

AAA T.L.C. HEALTH CARE, INC.

c/o Jody Sherman

16133 Ventura Boulevard

Suite 900

Encino, CA 91436

Sent via Certified Mail and Return Receipt No. 7022 2410 0000 2184 0126

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, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and 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 EDRALIN LEGASPI (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendant AAA T.L.C. HEALTH CARE, INC. (“Defendant”). Plaintiff has been employed by Defendant in California since November of 2021 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 and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for 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, Plaintiff contends that Defendant failed to fully compensate him and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

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 is attached hereto. The Complaint (i)

identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) 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 his 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 Act 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.

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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

EDRALIN LEGASPI, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

AAA T.L.C. HEALTH CARE, INC., a
California 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;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
 - 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
 - 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
 - 9) UNLAWFUL DEDUCTIONS IN VIOLATION OF CAL. LAB. CODE § 221.

DEMAND FOR A JURY TRIAL

PLAINTIFF EDRALIN LEGASPI (“PLAINTIFF”), an individual, on behalf of himself and all other similarly situated current and former employees, allege on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following:

PRELIMINARY ALLEGATIONS

1. Defendant AAA T.L.C. HEALTH CARE, INC. (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT provides home health care services, including but not limited to, long term, transitional, memory and specialty care to patients in the state of California, including in Los Angeles County where PLAINTIFF worked.

3. PLAINTIFF has been employed by DEFENDANT in California since November of 2021 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself 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 this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the

1 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

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. Unreimbursed Business Expenses**

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

25 19. In the course of their employment, DEFENDANT required PLAINTIFF and other
26 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell
27 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other
28 CALIFORNIA CLASS Members were required to use their personal cell phones in order to

1 perform work related tasks. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF
2 and other CALIFORNIA CLASS Members for the use of their personal cell phones. As a result,
3 in the course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA
4 CLASS Members incurred unreimbursed business expenses that included, but were not limited
5 to, costs related to the use of their personal cell phones, all on behalf of and for the benefit of
6 DEFENDANT.

7 **D. Wage Statement Violations**

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

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

24 22. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
25 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
26 Cal. Lab. Code § 226.

27 23. As a result, DEFENDANT issued PLAINTIFF and other members of the
28 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,

1 DEFENDANT's violations are knowing and intentional, were not isolated due to an unintentional
2 payroll error due to clerical or inadvertent mistake.

3 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

4 24. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
5 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
6 for all hours worked.

7 25. During the CLASS PERIOD, from time-to-time DEFENDANT required
8 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
9 work, including but not limited to arriving ten (10) minutes prior to the start of their shifts in order
10 to be briefed for the day and working post-shift while waiting for another employee to relieve
11 them of their duties for the day. This resulted in PLAINTIFF and other members of the
12 CALIFORNIA CLASS to have to work while off-the-clock.

13 26. DEFENDANT directed and directly benefited from the undercompensated off-the-
14 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

15 27. DEFENDANT controlled the work schedules, duties, and protocols, applications,
16 assignments, and employment conditions of PLAINTIFF and the other members of the
17 CALIFORNIA CLASS.

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

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

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

1 pay.

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

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

10 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
11 **and Redeemed Sick Pay**

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

22 34. State law provides that employees must be paid overtime at one-and-one-half times
23 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
24 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
25 employee's performance.

26 35. The second component of PLAINTIFF's and other CALIFORNIA CLASS
27 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
28 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for

1 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
2 basis with bonus compensation when the employees met the various performance goals set by
3 DEFENDANTS.

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

22 37. In violation of the applicable sections of the California Labor Code and the
23 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
24 matter of company policy, practice, and procedure, intentionally and knowingly failed to
25 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
26 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
27 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
28 of the correct overtime and double time compensation, meal and rest period premiums, and sick

1 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
2 unfair advantage over competitors who complied with the law. To the extent equitable tolling
3 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the
4 CLASS PERIOD should be adjusted accordingly.

5 **G. Violations for Untimely Payment of Wages**

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

11 **H. Unlawful Deductions**

12 39. DEFENDANTS, from time-to-time unlawfully deducted wages, including for
13 reimbursements for required business expenses, from PLAINTIFF and CALIFORNIA CLASS
14 Members' pay without explanations and without authorization to do so or notice to PLAINTIFF
15 and the CALIFORNIA CLASS Members. As a result, DEFENDANTS violated Labor Code §
16 221.

17 **I. Unlawful Rounding Violations**

18 40. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
19 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
20 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
21 overtime hours. Specifically, DEFENDANT had in place an unlawful rounding policy and
22 practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being
23 undercompensated for all of their time worked. As a result, DEFENDANT was able to and did in
24 fact unlawfully, and unilaterally round the time recorded in DEFENDANT'S timekeeping system
25 for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these
26 employees for all their time worked, including the applicable overtime compensation for overtime
27 worked. As a result, PLAINTIFF, and other CALIFORNIA CLASS Members, from time to time,
28 forfeited compensation for their time worked by working without their time being accurately

1 recorded and without compensation at the applicable overtime rates.

2 41. Further, the mutability of DEFENDANT’S timekeeping system and unlawful
3 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members’ time
4 being inaccurately recorded. As a result, from time to time, DEFENDANT’S unlawful rounding
5 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
6 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
7 duty meal break. Additionally, DEFENDANT’S unlawful rounding policy and practice caused
8 PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by DEFENDANT
9 for more than ten (10) hours during a shift without receiving a second off-duty meal break.

10 **J. Timekeeping Manipulation**

11 42. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
12 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
13 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
14 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
15 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
16 alter the time recorded in DEFENDANTS’ timekeeping system for PLAINTIFF and other
17 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
18 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
19 rest break.

20 43. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
21 time-to-time, forfeited time worked by working without their time being accurately recorded and
22 without compensation at the applicable pay rates.

23 44. The mutability of the timekeeping system also allowed DEFENDANTS to alter
24 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS’
25 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
26 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
27 were not at all times provided an off-duty meal break. This practice is a direct result of
28

1 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.
3 As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited wages
4 due them for all hours worked at DEFENDANTS' direction, control and benefit for the time the
5 timekeeping system was inoperable. DEFENDANTS' uniform policy and practice to not pay
6 PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked in
7 accordance with applicable law is evidenced by DEFENDANTS' business records.

8 45. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
9 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
10 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
11 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
12 provide PLAINTIFF with a second off-duty meal period each workday in which he was required
13 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
14 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
15 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was
16 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
17 without additional compensation and in accordance with DEFENDANT'S strict corporate policy
18 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
19 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF
20 for required business expenses related to the personal expenses incurred for the use of his personal
21 cell phone, on behalf of and in furtherance of his employment with DEFENDANT. To date,
22 DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double time
23 compensation still owed to him or any penalty wages owed to him under Cal. Lab. Code § 203.
24 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of
25 \$75,000.

26 **CLASS ACTION ALLEGATIONS**

27 46. PLAINTIFF bring this Class Action on behalf of himself, and a California class
28 defined as all persons who are or previously were employed by DEFENDANT in California and

1 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
2 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
3 by the Court (the “CLASS PERIOD”).

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

10 48. The members of the class are so numerous that joinder of all class members is
11 impractical.

12 49. Common questions of law and fact regarding DEFENDANT’s conduct, including
13 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
14 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
15 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
16 compliant meal and rest periods, failed to reimburse for business expenses, failure to provide
17 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum
18 wage and overtime, exist as to all members of the class and predominate over any questions
19 affecting solely any individual members of the class. Among the questions of law and fact
20 common to the class are:

- 21 a. Whether DEFENDANT maintained legally compliant meal period policies and
22 practices;
- 23 b. Whether DEFENDANT maintained legally compliant rest period policies and
24 practices;
- 25 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
26 Members accurate premium payments for missed meal and rest periods;
- 27 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
28 Members accurate overtime wages;

- e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

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

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

52. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

53. PLAINTIFF retained able class counsel with extensive experience in class action litigation.

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

55. There is a strong community of interest among PLAINTIFF and the members of the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are

1 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
2 sustained.

3 56. The questions of law and fact common to the CALIFORNIA CLASS Members
4 predominate over any questions affecting only individual members, including legal and factual
5 issues relating to liability and damages.

6 57. A class action is superior to other available methods for the fair and efficient
7 adjudication of this controversy because joinder of all class members is impractical. Moreover,
8 since the damages suffered by individual members of the class may be relatively small, the
9 expense and burden of individual litigation makes it practically impossible for the members of the
10 class individually to redress the wrongs done to them. Without class certification and
11 determination of declaratory, injunctive, statutory, and other legal questions within the class
12 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
13 create the risk of:

- 14 a. Inconsistent or varying adjudications with respect to individual members of the
15 CALIFORNIA CLASS which would establish incompatible standards of conduct
16 for the parties opposing the CALIFORNIA CLASS; and/or,
17 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
18 which would as a practical matter be dispositive of the interests of the other
19 members not party to the adjudication or substantially impair or impeded their
20 ability to protect their interests.

21 58. Class treatment provides manageable judicial treatment calculated to bring an
22 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
23 the conduct of DEFENDANT.

24 **FIRST CAUSE OF ACTION**

25 **Unlawful Business Practices**

26 **(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)**

27 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**
28

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

4 60. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
5 Code § 17021.

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

10 Any person who engages, has engaged, or proposes to engage in unfair competition may
11 be enjoined in any court of competent jurisdiction. The court may make such orders or
12 judgments, including the appointment of a receiver, as may be necessary to prevent the
13 use or employment by any person of any practice which constitutes unfair competition, as
14 defined in this chapter, or as may be necessary to restore to any person in interest any
15 money or property, real or personal, which may have been acquired by means of such
16 unfair competition. (Cal. Bus. & Prof. Code § 17203).

17 62. By the conduct alleged herein, DEFENDANT has engaged and continues to
18 engage in a business practice which violates California law, including but not limited to, the
19 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
20 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
21 1198, and 2802, for which this Court should issue declaratory and other equitable relief pursuant
22 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
23 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

 64. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally
mandated meal and rest periods and the required amount of compensation for missed meal and

1 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all
2 necessary business expenses incurred, due to a systematic business practice that cannot be
3 justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission
4 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should
5 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
6 restitution of wages wrongfully withheld.

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

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

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

20 68. PLAINTIFF further demands on behalf of himself and on behalf of each
21 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
22 not timely provided as required by law.

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

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

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

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

73. 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

74. 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.

1 75. 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 accurately calculate and pay
4 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

12 79. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
13 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
14 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and
15 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
16 CALIFORNIA CLASS.

17 80. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
18 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
19 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
20 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

21 81. In committing these violations of the California Labor Code, DEFENDANT
22 inaccurately calculated the correct time worked and consequently underpaid the actual time
23 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
24 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
25 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
26 laws and regulations.

1 82. 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 minimum wage compensation for their time worked for DEFENDANT.

4 83. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
6 failure to pay all earned wages.

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

12 85. DEFENDANT knew or should have known that PLAINTIFF and the other
13 members of the CALIFORNIA CLASS were under-compensated for their time worked.
14 DEFENDANT systematically elected, either through intentional malfeasance or gross
15 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
16 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
17 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
18 for their time worked.

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

27 87. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
28 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the

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

10 **THIRD CAUSE OF ACTION**

11 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

1 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
2 than those fixed by the Industrial Welfare Commission is unlawful.

3 93. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
4 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
5 they worked, including overtime work.

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

13 95. In committing these violations of the California Labor Code, DEFENDANT
14 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
15 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
16 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
17 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
18 regulations.

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

22 97. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
23 from the overtime requirements of the law. None of these exemptions are applicable to
24 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
25 other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
26 agreement that would preclude the causes of action contained herein this Complaint. Rather,
27 PLAINTIFF bring this Action on behalf of himself, and the CALIFORNIA CLASS, based on
28

1 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
2 California.

3 98. During the CLASS PERIOD, PLAINTIFF and the other members of the
4 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
5 a failure to pay all earned wages.

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

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

18 101. DEFENDANT knew or should have known that PLAINTIFF and the other
19 members of the CALIFORNIA CLASS were undercompensated for their time worked.
20 DEFENDANT systematically elected, either through intentional malfeasance or gross
21 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and
22 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF
23 and the other members of the CALIFORNIA CLASS the correct overtime wages for their
24 overtime worked.

25 102. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act
28 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the

1 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
2 consequences to them, and with the despicable intent of depriving them of their property and legal
3 rights, and otherwise causing them injury in order to increase company profits at the expense of
4 these employees.

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

15 **FOURTH CAUSE OF ACTION**

16 **Failure To Provide Required Meal Periods**

17 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

22 105. During the CLASS PERIOD, DEFENDANT failed to provide all the legally
23 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as
24 required by the applicable Wage Order and Labor Code. The nature of the work performed by
25 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being
26 relieved of all of their duties for the legally required off-duty meal periods. As a result of their
27 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not
28 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's

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

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

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

16 **FIFTH CAUSE OF ACTION**

17 **Failure To Provide Required Rest Periods**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

1 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
2 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other
3 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
4 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate
5 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the
6 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide
7 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest
8 periods is evidenced by DEFENDANT's business records.

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

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

17 **SIXTH CAUSE OF ACTION**

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

19 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

114. 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, personal expenses incurred for the use of their personal cell phones all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell phones to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from the use of their personal cell phones for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is required to do under the laws and regulations of California.

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

SEVENTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

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

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

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

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

24 118. When DEFENDANT did not accurately record PLAINTIFF’S and other
25 CALIFORNIA CLASS Members’ missed meal and rest breaks, or were paid inaccurate missed
26 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal.
27 Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA
28 CLASS Members with complete and accurate wage statements which failed to show, among other

1 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked
2 and all applicable hourly rates in effect during the pay period and the corresponding amount of
3 time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal
4 and rest periods.

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

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

19 **EIGHTH CAUSE OF ACTION**

20 **Failure To Pay Wages When Due**

21 **(Cal. Lab. Code § 203)**

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

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

26 122. Cal. Lab. Code § 200 provides that:

27 As used in this article:
28

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

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

10 124. Cal. Lab. Code § 202 provides, in relevant part, that:

11 If an employee not having a written contract for a definite period quits his or her
12 employment, his or her wages shall become due and payable not later than 72 hours
13 thereafter, unless the employee has given 72 hours previous notice of his or her intention
14 to quit, in which case the employee is entitled to his or her wages at the time of quitting.
15 Notwithstanding any other provision of law, an employee who quits without providing a
16 72-hour notice shall be entitled to receive payment by mail if he or she so requests and
17 designates a mailing address. The date of the mailing shall constitute the date of payment
18 for purposes of the requirement to provide payment within 72 hours of the notice of
19 quitting.

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

22 126. Cal. Lab. Code § 203 provides:

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

28 127. 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.

128. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself 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.

NINTH CAUSE OF ACTION

1 **Unlawful Deductions from PLAINTIFF and CLASS MEMBERS Paychecks**

2 **[Cal. Labor Code §§ 221 and 223]**

3 **(By PLAINTIFF and the CLASS MEMBERS Against all DEFENDANTS)**

4 129. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the
5 allegations in the preceding paragraphs.

6 130. During the CLASS PERIOD, DEFENDANT regularly and consistently
7 maintained corporate policies and procedures designed to reduce labor costs by reducing or
8 minimizing the amount of compensation paid to its employees, especially overtime compensation.

9 131. DEFENDANT made deductions from PLAINTIFF and the other CLASS
10 MEMBERS' paychecks including but limited to amounts for reimbursements for required
11 business expenses paid to PLAINTIFF and the other CLASS MEMBERS.

12 132. Labor Code § 221 provides it is unlawful for any employer to collect or receive
13 from an employee any part of wages theretofore paid by employer to employee.

14 133. Labor Code § 223 provides that where any statute or contract requires an employer
15 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
16 purporting to pay the wage designated by statute or by contract. Labor Code section 225 further
17 provides that the violation of any provision of Labor Code §§ 221 and 223 is a misdemeanor.

18 134. As a result of the conduct alleged above, DEFENDANTS unlawfully collected or
19 received from PLAINTIFFS and the other CLASS MEMBERS' part of the wages paid to their
20 employees.

21 135. Wherefore, PLAINTIFFS and the other CLASS MEMBERS demand the return of
22 all wages unlawfully deducted from the paychecks, including interest thereon, penalties,
23 reasonable attorneys' fees, and costs of suit pursuant to Labor Code §§ 225.5 and 1194.

24 **PRAYER FOR RELIEF**

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

27 1. On behalf of the CALIFORNIA CLASS:

28 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA

1 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

2 b. An order temporarily, preliminarily and permanently enjoining and restraining
3 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

4 c. An order requiring DEFENDANT to pay all overtime wages and all sums
5 unlawfully withheld from compensation due to PLAINTIFF and the other members
6 of the CALIFORNIA CLASS; and

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

10 2. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

28 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA

1 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

2 3. On all claims:

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

7

8 DATED: December 9, 2022

ZAKAY LAW GROUP, APLC

9 By: 

10 Shani O. Zakay

11 Attorney for PLAINTIFF

12 **DEMAND FOR A JURY TRIAL**

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

14

15 DATED: December 9, 2022

ZAKAY LAW GROUP, APLC

16 By: 

17 Shani O. Zakay

18 Attorney for PLAINTIFF

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

AAA T.L.C Health Care, Inc.
c/o Jody Sherman
16133 Ventura Blvd, Ste 900
Encino, CA 91436



9590 9402 7738 2152 1898 10

2. Article Number (Transfer from service label)

7022 2410 0000 2184 0126

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