

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

HCL AMERICA SOLUTIONS INC., a California corporation; HCL AMERICA INC., a California corporation; HCL TECHNOLOGIES LIMITED, a Corporation; and DOES 1-50, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

DANIEL KENNEDY, an individual, on behalf of himself and on behalf of all persons similarly situated,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Francisco Superior Court - Civil Center Courthouse
400 McAllister Street
San Francisco, CA 94102

CASE NUMBER:
(Número del Caso):

CGC-22-603642

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Shani O. Zakay, Esq. SBN:277924 Tel: (619) 255-9047 Fax: (858) 404-9203
Zakay Law Group, APLC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE:

(Fecha) **12/28/2022**

Clerk, by _____

(Secretaria)

JEFFREY FLORES

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

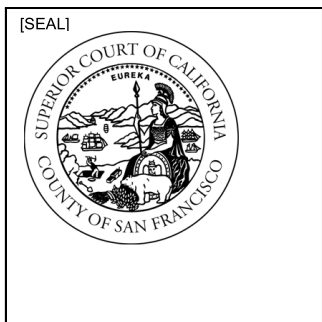
☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):



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Attorneys for Plaintiff DANIEL KENNEDY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

DANIEL KENNEDY, an individual, on behalf
of himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

HCL AMERICA SOLUTIONS INC., a
California corporation; HCL AMERICA INC.,
a California corporation; HCL
TECHNOLOGIES LIMITED, a 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 PROVIDE WAGES WHEN

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

12/22/2022
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

CGC-22-603642

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

DEMAND FOR A JURY TRIAL

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

THE PARTIES

1. Defendant HCL AMERICA SOLUTIONS, INC. (“Defendant HCL America Solutions”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

2. Defendant HCL AMERICA INC. (“Defendant HCL America”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

3. Defendant HCL TECHNOLOGIES LIMITED (“Defendant HCL Technologies”) is a corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

4. Defendant HCL America Solutions, Defendant HCL America and Defendant HCL Technologies were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively and are the therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.”

5. Defendant HCL America Solutions, Defendant HCL America and Defendant HCL Technologies own, operate, and/or manage a global technology company that provides

1 information technology products and consulting services throughout the state of California,
2 including the county of San Francisco, where PLAINTIFF worked.

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

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

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

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

1 10. PLAINTIFF was employed by DEFENDANTS in California from February of
2 2021 to October of 2021, and at all times was classified by DEFENDANT as a non-exempt
3 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
4 payment of minimum and overtime wages due for all time worked.

5 11. PLAINTIFF brings this Class Action on behalf of himself and a California class,
6 defined as all persons who are or previously were employed by Defendant HCL America
7 Solutions and/or Defendant HCL America and/or Defendant HCL Technologies in California and
8 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period
9 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
10 by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the
11 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

23 13. DEFENDANT's uniform policies and practices alleged herein were unlawful,
24 unfair, and deceptive business practices whereby DEFENDANT retained and continues to retain
25 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

26 14. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
27 injunction enjoining such conduct by DEFENDANT in the future, relief for the named
28 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically

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

3 **JURISDICTION AND VENUE**

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

8 16. Venue is proper in this Court pursuant to California Code of Civil Procedure,
9 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
10 the CALIFORNIA CLASS across California, including in this County, and committed the
11 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

12 **THE CONDUCT**

13 17. In violation of the applicable sections of the California Labor Code and the
14 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
15 matter of company policy, practice and procedure, intentionally, knowingly and systematically
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
19 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF
20 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,
21 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal and rest
22 premiums at the regular rate, and failed to reimburse PLAINTIFF and other CALIFORNIA
23 CLASS Members for business expenses, failed to issue to PLAINTIFF and other CALIFORNIA
24 CLASS Members with accurate itemized wage statements showing, among other things, all
25 applicable hourly rates in effect during the pay periods and the corresponding amount of time
26 worked at each hourly rate. DEFENDANT's uniform policies and practices are intended to
27 purposefully avoid the accurate and full payment for all time worked as required by California
28 law which allows DEFENDANT to illegally profit and gain an unfair advantage over competitors

1 who comply with the law. To the extent equitable tolling operates to toll claims by the
2 CALIFORNIA CLASS against DEFENDANT, the CLASS PERIOD should be adjusted
3 accordingly.

4 **A. Meal Period Violations**

5 18. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
6 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
7 meaning the time during which an employee is subject to the control of an employer, including
8 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
9 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work
10 without paying them for all the time they were under DEFENDANT's control. Specifically, as a
11 result of PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing,
12 DEFENDANT required PLAINTIFF to work during what was supposed to be PLAINTIFF's off-
13 duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial
14 lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited
15 minimum wage and overtime wages by regularly working without their time being accurately
16 recorded and without compensation at the applicable minimum wage and overtime rates.
17 DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA
18 CLASS Members for all time worked is evidenced by DEFENDANT's business records.

19 19. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
20 requirements and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
21 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-
22 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
23 other CALIFORNIA CLASS Members were required from time to time to perform work as
24 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
25 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
26 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which
27 these employees were required by DEFENDANT to work ten (10) hours of work from time to
28 time. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS

Members does not qualify for limited and narrowly construed “on-duty” meal period exception. When they were provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on duty and on call. Further, PLAINTIFF and the CALIFORNIA CLASS Members were from time to time required to maintain cordless communication devices on them during meal periods in order to send and receive work-related communications. PLAINTIFF and other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANT’s strict corporate policy and practice.

B. Rest Period Violations

20. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS members were also required from time to time to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and DEFENDANT’s inadequate staffing. Further, for the same reasons these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on duty and/or on call. Further, PLAINTIFF and the CALIFORNIA CLASS Members were from time to time required to maintain cordless communication devices on them during rest periods in order to send and receive work-related communications. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANT’s inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their proper rest periods by DEFENDANT and DEFENDANT’s managers.

C. Unreimbursed Business Expenses

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

12 22. In the course of their employment, DEFENDANT required PLAINTIFF and other
13 CALIFORNIA CLASS Members to use their personal cellular phones and home internet, as well
14 as pay out of pocket costs for other work-related tools as a result of and in furtherance of their job
15 duties as employees for DEFENDANT. But for the use of their own personal cellular phones,
16 home internet and purchase of other work-related tools, PLAINTIFF and the CALIFORNIA
17 CLASS Members could not complete their essential job duties. However, DEFENDANT
18 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for their
19 use of their personal cellular phones, home internet and purchase of other work-related tools. As
20 a result, in the course of their employment with DEFENDANT, the PLAINTIFF and other
21 CALIFORNIA CLASS Members incurred unreimbursed business expenses, but were not limited
22 to, costs related to the use of their personal cellular phones, home internet and purchase of other
23 work-related tools, all on behalf of and for the benefit of DEFENDANT.

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

25 23. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
26 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
27 CLASS for all hours worked.
28

1 24. During the CLASS PERIOD, from time-to-time DEFENDANT required
2 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
3 work, including but not limited to, communicating with co-workers and managers about work-
4 related tasks during non-working hours, continuing to work from home after shifts ended, and
5 submitting to pre-shift Covid-19 health screenings, which included temperature checks. This
6 resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while
7 off-the-clock.

8 25. DEFENDANT directed and directly benefited from the uncompensated off-the-
9 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

10 26. DEFENDANT controlled the work schedules, duties, protocols, applications,
11 assignments, and employment conditions of PLAINTIFF and the other members of the
12 CALIFORNIA CLASS.

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

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

19 29. DEFENDANT's policies and practices deprived PLAINTIFF and the other
20 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
21 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
22 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
23 hours per day, DEFENDANT's policies and practices also deprived them of overtime pay.

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

26 31. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
27 forfeited wages due them for all hours worked at DEFENDANT's direction, control and benefit
28 for the time spent working while off-the-clock. DEFENDANT's uniform policy and practice to

1 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked
2 in accordance with applicable law is evidenced by DEFENDANT's business records.

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

5 32. From time-to-time during the CLASS PERIOD, DEFENDANT failed and
6 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
7 members for their overtime and double time hours worked, meal and rest period premiums, and
8 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members
9 forfeited wages due them for working overtime without compensation at the correct overtime and
10 double time rates, meal and rest period premiums, and redeemed sick pay rates. DEFENDANT's
11 uniform policy and practice to not pay the CALIFORNIA CLASS members the correct rate for
12 all overtime and double time worked, meal and rest period premiums, and sick pay in accordance
13 with applicable law is evidenced by DEFENDANT's business records.

14 33. State law provides that employees must be paid overtime at one-and-one-half times
15 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS members were
16 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
17 employee's performance.

18 34. The second component of PLAINTIFF's and other CALIFORNIA CLASS
19 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
20 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
21 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
22 basis with bonus compensation when the employees met the various performance goals set by
23 DEFENDANTS.

24 35. However, from-time-to-time, when calculating the regular rate of pay, in those pay
25 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
26 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
27 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
28 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked

1 rather than just all non-overtime hours worked. Management and supervisors described the
2 incentive/bonus program to potential and new employees as part of the compensation package.
3 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
4 CLASS members must be included in the “regular rate of pay.” The failure to do so has resulted
5 in a systematic underpayment of overtime and double time compensation, meal and rest period
6 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by
7 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
8 for non-employees shall be calculated in the same manner as the regular rate of pay for the
9 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
10 actually works overtime in that workweek. DEFENDANTS’ conduct, as articulated herein, by
11 failing to include the incentive compensation as part of the “regular rate of pay” for purposes of
12 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
13 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

14 36. In violation of the applicable sections of the California Labor Code and the
15 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
16 matter of company policy, practice, and procedure, intentionally and knowingly failed to
17 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate
18 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.
19 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment
20 of the correct overtime and double time compensation, meal and rest period premiums, and sick
21 pay as required by California law which allowed DEFENDANT to illegally profit and gain an
22 unfair advantage over competitors who complied with the law. To the extent equitable tolling
23 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the
24 CLASS PERIOD should be adjusted accordingly.

25 **F. Unlawful Deductions**

26 37. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
27 and CALIFORNIA CLASS Members’ pay without explanations and without authorization to do
28

1 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
2 DEFENDANTS violated Labor Code § 221.

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

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

9 **H. Wage Statement Violations**

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

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

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

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

5 **I. Unlawful Rounding Violations**

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

18 44. Further, the mutability of DEFENDANT'S timekeeping system and unlawful
19 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time
20 being inaccurately recorded. As a result, from time to time, DEFENDANT'S unlawful rounding
21 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
22 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
23 duty meal break. Additionally, DEFENDANT'S unlawful rounding policy and practice caused
24 PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by DEFENDANT
25 for more than ten (10) hours during a shift without receiving a second off-duty meal break.

26 **J. Timekeeping Manipulation**

27 45. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
28 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of

1 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
2 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
3 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
4 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
5 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
6 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
7 rest breaks.

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

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

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

24 **K. Failure to Provide Personnel Files**

25 49. On January 17, 2022, PLAINTIFF caused a written request via certified mail to be
26 delivered to DEFENDANTS for PLAINTIFF'S personnel and employment records, including
27 but not limited to: (1) payroll records; (2) employment contracts; (3) itemized pay stubs; and (4)
28 PLAINTIFF'S complete employment file.

1 50. DEFENDANTS failed to provide and/or make available to PLAINTIFF his
2 personnel records, payroll records, employment contract, and entire employment file within thirty
3 (30) days of his request stated above. In fact, as of the date of filing of this complaint,
4 DEFENDANTS have still failed to pay PLAINTIFF the statutory penalty in the amount of \$750.
5 DEFENDANTS violated Cal. Lab. Code Section 1198.5 by failing to respond and provide
6 PLAINTIFF with his employment file. Section 1198.5 states that employees (and former
7 employees) have the right to inspect personnel records maintained by the employer “related to
8 the employee’s performance or to any grievance concerning the employee.” Employers must
9 allow inspection or copying within thirty (30) days of the request. PLAINTIFF is now entitled to
10 and requests injunctive relief to obtain compliance with Cal. Lab. Code Section 1198.5, a statutory
11 penalty, and an award of attorneys’ fees and costs for bringing this action

12 51. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
13 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
14 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
15 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
16 provide PLAINTIFF with a second off-duty meal period each workday in which he was required
17 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
18 with a rest break, they required PLAINTIFF to remain on premises, on-duty and on-call for the
19 rest break. DEFENDANTS policy caused PLAINTIFF to remain on premises, on-call and on-
20 duty during what was supposed to be his off-duty meal periods. Further, PLAINTIFF was required
21 to maintain cordless communication devices on them during meal and rest periods in order to
22 send and receive work-related communications. PLAINTIFF therefore forfeited meal and rest
23 breaks without additional compensation and in accordance with DEFENDANT strict corporate
24 policy and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that
25 failed to comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse
26 PLAINTIFF for required business expenses related to the use of his personal cellular phones,
27 home internet, and payment for work-related tools, on behalf of and in furtherance of his
28 employment with DEFENDANT. Further, failed to provide and/or make available to PLAINTIFF
his personnel records, payroll records, employment contracts, and entire employment file within
(30) days of all his request on January 17, 2022. To date, DEFENDANT have not fully paid

1 PLAINTIFF the minimum, overtime and double time compensation still owed to him, or any
2 penalty wages owed to him under Cal. Lab. Code § 203. The amount in controversy for
3 PLAINTIFF individually does not exceed the sum or value of \$75,000.

4 **L. CLASS ACTION ALLEGATIONS**

5 58. PLAINTIFF brings this Class Action on behalf of himself and a California class,
6 defined as all persons who are or previously were employed by Defendant HCL America
7 Solutions and/or Defendant HCL America and/or Defendant HCL Technologies in California and
8 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
9 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
10 by the Court (the “CLASS PERIOD”).

11 59. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
12 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
13 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
14 illegal meal and rest period policies, failed to reimburse for business expenses, failed compensate
15 for off-the-clock work, failure to maintain required records, and interest, statutory and civil
16 penalties, attorney’s fees, costs, and expenses.

17 60. The members of the class are so numerous that joinder of all class members is
18 impractical.

19 61. Common questions of law and fact regarding DEFENDANT’s conduct, including
20 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
21 accurately calculate the regular rate of pay for overtime compensation, failure to accurately
22 calculate the regular rate of compensation for missed meal and rest period premiums, failing to
23 provide legally compliant meal and rest periods, failed to reimburse for business expenses, and
24 failure to ensure they are paid at least minimum wage and overtime, exist as to all members of the
25 class and predominate over any questions affecting solely any individual members of the class.
26 Among the questions of law and fact common to the class are:

- 27 a. Whether DEFENDANT maintained legally compliant meal period policies and
28 practices;

- 1 b. Whether DEFENDANT maintained legally compliant rest period policies and
2 practices;
- 3 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
4 Members accurate premium payments for missed meal and rest periods;
- 5 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
6 Members accurate overtime wages;
- 7 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
8 Members at least minimum wage for all hours worked;
- 9 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
10 CLASS Members for required business expenses;
- 11 g. Whether DEFENDANT issued legally compliant wage statements;
- 12 h. Whether DEFENDANT committed an act of unfair competition by systematically
13 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
14 CLASS for all time worked;
- 15 i. Whether DEFENDANT committed an act of unfair competition by systematically
16 failing to record all meal and rest breaks missed by PLAINTIFF and other
17 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
18 of this work, required employees to perform this work and permits or suffers to
19 permit this work;
- 20 j. Whether DEFENDANT committed an act of unfair competition in violation of the
21 UCL, by failing to provide the PLAINTIFF and the other members of the
22 CALIFORNIA CLASS with the legally required meal and rest periods.
- 23 62. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
24 a result of DEFENDANT's conduct and actions alleged herein.
- 25 63. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has
26 the same interests as the other members of the class.
- 27 64. PLAINTIFF will fairly and adequately represent and protect the interests of the
28 CALIFORNIA CLASS Members.

1 65. PLAINTIFF retained able class counsel with extensive experience in class action
2 litigation.

3 66. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
4 interests of the other CALIFORNIA CLASS Members.

5 67. There is a strong community of interest among PLAINTIFF and the members of
6 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
7 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
8 sustained.

9 68. The questions of law and fact common to the CALIFORNIA CLASS Members
10 predominate over any questions affecting only individual members, including legal and factual
11 issues relating to liability and damages.

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

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

1 Class treatment provides manageable judicial treatment calculated to bring an efficient
2 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct
3 of DEFENDANT.

4 **FIRST CAUSE OF ACTION**

5 **Unlawful Business Practices**

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

7 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

11 71. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
12 Code § 17021.

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

17 Any person who engages, has engaged, or proposes to engage in unfair competition
18 may be enjoined in any court of competent jurisdiction. The court may make such
19 orders or judgments, including the appointment of a receiver, as may be necessary
20 to prevent the use or employment by any person of any practice which constitutes
21 unfair competition, as defined in this chapter, or as may be necessary to restore to
22 any person in interest any money or property, real or personal, which may have
23 been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code §
24 17203).

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

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

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

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

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

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

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

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

81. 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.*

82. 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.

83. 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.

84. 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)

85. 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.

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

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

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

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

90. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA CLASS without regard to the correct amount of time they worked. As set forth herein, DEFENDANT'S uniform policy and practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members of the CALIFORNIA CLASS.

91. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

92. In committing these violations of the California Labor Code, DEFENDANT inaccurately calculated the amount of time worked and consequently underpaid the actual time

1 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
2 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
3 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
4 laws and regulations.

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

8 94. During the CLASS PERIOD, PLAINTIFF and the other members of the
9 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
10 failure to pay all earned wages.

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

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

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

1 rights, and otherwise causing them injury in order to increase company profits at the expense of
2 these employees.

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

14 **THIRD CAUSE OF ACTION**

15 **Failure To Pay Overtime Compensation**

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

17 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

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

26 101. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
27 public policy, an employer must timely pay its employees for all hours worked.
28

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

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

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

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

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

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

1 108. 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 the
3 PLAINTIFF and the other members of the CALIFORNIA CLASS. Further, PLAINTIFF and the
4 other members of the CALIFORNIA CLASS were not subject to a valid collective bargaining
5 agreement that would preclude the causes of action contained herein this Complaint. Rather,
6 PLAINTIFF brings 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.

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

12 110. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of
13 the 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, and 1198, even
15 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,
16 and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay as
17 evidenced by DEFENDANT's business records and witnessed by employees.

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

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

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

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

20 **FOURTH CAUSE OF ACTION**

21 **Failure To Provide Required Meal Periods**

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

23 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

27 116. During the CLASS PERIOD, DEFENDANT failed to provide all the legally
28 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as

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

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

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

21 **FIFTH CAUSE OF ACTION**

22 **Failure To Provide Required Rest Periods**

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

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

25 119. 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.

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

15 121. 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 rest 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 rest
19 period was not provided.

20 122. 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.

23 **SIXTH CAUSE OF ACTION**

24 **Failure To Pay Wages When Due**

25 **(Cal. Lab. Code §§ 203)**

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

1 123. 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.

4 124. Cal. Lab. Code § 200 provides that:

5 As used in this article:

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

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

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

16 If an employee not having a written contract for a definite period quits his or her
17 employment, his or her wages shall become due and payable not later than 72 hours
18 thereafter, unless the employee has given 72 hours previous notice of his or her intention
19 to quit, in which case the employee is entitled to his or her wages at the time of quitting.
20 Notwithstanding any other provision of law, an employee who quits without providing a
21 72-hour notice shall be entitled to receive payment by mail if he or she so requests and
22 designates a mailing address. The date of the mailing shall constitute the date of payment
23 for purposes of the requirement to provide payment within 72 hours of the notice of
24 quitting.

25 127. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS
26 Members' employment contract.

27 128. Cal. Lab. Code § 203 provides:

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

 129. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
terminated, and DEFENDANT has not tendered payment of wages to these employees who were
underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as
required by law.

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

SEVENTH CAUSE OF ACTION

Failure To Reimburse Employees For Required Expenses

(Cal. Lab. Code §§ 2802)

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

131. 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.

132. 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

133. From time-to-time during the CLASS PERIOD, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their personal vehicles, cellular phones, laptops, home internet, and payment of employment-related training costs all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by DEFENDANT to use their personal vehicles, cellular phones, laptops, home internet, and pay for employment-related training costs to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using their personal vehicles, cellular phones, laptops, home internet, and payment of employment-

1 related training costs for DEFENDANT within the course and scope of their employment for
2 DEFENDANT. These expenses were necessary to complete their principal job duties.
3 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of their expectation.
4 Although these expenses were necessary expenses incurred by PLAINTIFF and the members of
5 the CALIFORNIA CLASS, DEFENDANT failed to indemnify and reimburse PLAINTIFF and
6 the members of the CALIFORNIA CLASS for these expenses as an employer is required to do
7 under the laws and regulations of California.

8 134. PLAINTIFF therefore demands reimbursement on behalf of the members of the
9 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and
10 on behalf of DEFENDANT, or his/her obedience to the directions of DEFENDANT, with interest
11 at the statutory rate and costs under Cal. Lab. Code § 2802.

12 **EIGHTH CAUSE OF ACTION**

13 **Failure To Provide Accurate Itemized Statements**

14 **(Cal. Lab. Code § 226)**

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

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

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

- 21 a. Gross wages earned,
- 22 b. total hours worked by the employee, except for any employee whose
23 compensation is solely based on a salary and who is exempt from payment
24 of overtime under subdivision (a) of Section 515 or any applicable order
25 of the Industrial Welfare Commission,
- 26 c. the number of piece-rate units earned and any applicable piece rate if the
27 employee is paid on a piece-rate basis,
- 28 d. all deductions, provided that all deductions made on written orders of the
employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except
that by January 1, 2008, only the last four digits of his or her social

- 1 security number of an employee identification number other than social
2 security number may be shown on the itemized statement,
3 h. the name and address of the legal entity that is the employer, and
4 i. all applicable hourly rates in effect during the pay period and the
5 corresponding number of hours worked at each hourly rate by the
6 employee.

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

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

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

NINTH CAUSE OF ACTION
VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT
(Cal. Lab. Code §§2698 et seq.)
(Alleged by PLAINTIFF against all Defendants)

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

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

142. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to himself and all employees who worked for Defendant in California during the time period of October 18, 2021 until the present (the "AGGRIEVED EMPLOYEES").

143. On October 18, 2022, PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency (the "Agency") and the employer of the specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA

1 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
2 EMPLOYEES as herein defined.

3 144. The policies, acts and practices heretofore described were and are an unlawful
4 business act or practice because DEFENDANTS (a) failed to pay AGGRIEVED EMPLOYEES
5 minimum wages and overtime wages, (b) failed to provide AGGRIEVED EMPLOYEES legally
6 required meal and rest breaks, (c) failed to pay AGGRIEVED EMPLOYEES at the correct
7 regular rate of pay, (d) failed to pay AGGRIEVED EMPLOYEES for all time worked, and (e)
8 failed to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor
9 Code §2699.5, including but not limited to Labor Code §§ 01, 201.3, 202, 203, 204,
10 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194,
11 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and the applicable Industrial Wage
12 Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFF
13 hereby seeks recovery of civil penalties as prescribed by the Labor Code Private Attorney
14 General Act of 2004 as the representative of the State of California for the illegal conduct
15 perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

16
17 **PRAYER FOR RELIEF**

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

20 1. On behalf of the CALIFORNIA CLASS:

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

for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation and separately owed rest periods, due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

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

4. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

DATED: December 22, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: December 22, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

EXHIBIT 1

October 18, 2022

Via Online Filing to LWDA and Certified Mail to Defendants

Labor and Workforce Development Agency

Online Filing

HCL AMERICA SOLUTIONS INC.

HCL AMERICA INC.

HCL TECHNOLOGIES LIMITED

c/o CSC – Lawyers Incorporating Service

2710 Gateway Oaks Dr., Suite 150N

Sacramento, CA 95833

Sent via Certified Mail and Return Receipt No. 7022 2410 0001 4932 6632

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 DANIEL KENNEDY (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendants HCL AMERICA SOLUTIONS, INC. (“Defendant HCL America Solutions”), HCL AMERICA INC. (“Defendant HCL America”) and HCL TECHNOLOGIES LIMITED (“Defendant HCL Technologies”) (collectively, “Defendants”). Plaintiff was employed by Defendants in California from February of 2021 to October 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. Defendants, 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, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages. Additionally, Defendants failed to timely respond and provide Plaintiff with his employment file, in violation of Cal. Lab. Code § 1198.5.

As a consequence, Plaintiff contends that Defendants failed to fully compensate her 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 Defendants’ 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, 1198.5, 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 HCL America Solutions and/or Defendant HCL America and/or Defendant HCL Technologies 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 Defendants, 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, Defendants are 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 Defendants 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 black 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 DANIEL KENNEDY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

DANIEL KENNEDY, an individual, on behalf
of himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

HCL AMERICA SOLUTIONS INC., a
California corporation; HCL AMERICA INC.,
a California corporation; HCL
TECHNOLOGIES LIMITED, a 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 PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 7) FAILURE TO REIMBURSE EMPLOYEES

FOR REQUIRED EXPENSES IN
VIOLATION OF CALIFORNIA LABOR
CODE §2802;
8) FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN
VIOLATION OF CAL. LAB. CODE § 226.

DEMAND FOR A JURY TRIAL

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

THE PARTIES

1. Defendant HCL AMERICA SOLUTIONS, INC. (“Defendant HCL America Solutions”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

2. Defendant HCL AMERICA INC. (“Defendant HCL America”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

3. Defendant HCL TECHNOLOGIES LIMITED (“Defendant HCL Technologies”) is a corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California.

4. Defendant HCL America Solutions, Defendant HCL America and Defendant HCL Technologies were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively and are the therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.”

5. Defendant HCL America Solutions, Defendant HCL America and Defendant HCL Technologies own, operate, and/or manage a global technology company that provides information technology products and consulting services throughout the state of California, including the county of San Francisco, where PLAINTIFF worked.

6. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of DEFENDANT DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious

1 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
2 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
3 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief
4 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
5 inclusive, are responsible in some manner for one or more of the events and happenings that
6 proximately caused the injuries and damages hereinafter alleged.

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

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

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

26 10. PLAINTIFF was employed by DEFENDANTS in California from February of
27 2021 to October of 2021, and at all times was classified by DEFENDANT as a non-exempt
28 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.

1 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
2 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

3 16. Venue is proper in this Court pursuant to California Code of Civil Procedure,
4 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
5 the CALIFORNIA CLASS across California, including in this County, and committed the
6 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

7 **THE CONDUCT**

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

27 **A. Meal Period Violations**

28

1 18. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
2 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
3 meaning the time during which an employee is subject to the control of an employer, including
4 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
5 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work
6 without paying them for all the time they were under DEFENDANT's control. Specifically, as a
7 result of PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing,
8 DEFENDANT required PLAINTIFF to work during what was supposed to be PLAINTIFF's off-
9 duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial
10 lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited
11 minimum wage and overtime wages by regularly working without their time being accurately
12 recorded and without compensation at the applicable minimum wage and overtime rates.
13 DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA
14 CLASS Members for all time worked is evidenced by DEFENDANT's business records.

15 19. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
16 requirements and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
17 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-
18 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
19 other CALIFORNIA CLASS Members were required from time to time to perform work as
20 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
21 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
22 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which
23 these employees were required by DEFENDANT to work ten (10) hours of work from time to
24 time. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS
25 Members does not qualify for limited and narrowly construed "on-duty" meal period exception.
26 When they were provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS
27 Members were, from time to time, required to remain on premises, on duty and on call. Further,
28 PLAINTIFF and the CALIFORNIA CLASS Members were from time to time required to

maintain cordless communication devices on them during meal periods in order to send and receive work-related communications. PLAINTIFF and other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANT's strict corporate policy and practice.

B. Rest Period Violations

20. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS members were also required from time to time to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and DEFENDANT's inadequate staffing. Further, for the same reasons these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time, required to remain on premises, on duty and/or on call. Further, PLAINTIFF and the CALIFORNIA CLASS Members were from time to time required to maintain cordless communication devices on them during rest periods in order to send and receive work-related communications. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANT's inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

C. Unreimbursed Business Expenses

21. DEFENDANT as a matter of corporate policy, practice, and procedure, intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF and the CALIFORNIA CLASS for required business expenses incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are required to

1 indemnify employees for all expenses incurred in the course and scope of their employment. Cal.
2 Lab. Code § 2802 expressly states that "an employer shall indemnify his or her employee for all
3 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
4 of his or her duties, or of his or her obedience to the directions of the employer, even though
5 unlawful, unless the employee, at the time of obeying the directions, believed them to be
6 unlawful."

7 22. In the course of their employment, DEFENDANT required PLAINTIFF and other
8 CALIFORNIA CLASS Members to use their personal cellular phones and home internet, as well
9 as pay out of pocket costs for other work-related tools as a result of and in furtherance of their job
10 duties as employees for DEFENDANT. But for the use of their own personal cellular phones,
11 home internet and purchase of other work-related tools, PLAINTIFF and the CALIFORNIA
12 CLASS Members could not complete their essential job duties. However, DEFENDANT
13 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for their
14 use of their personal cellular phones, home internet and purchase of other work-related tools. As
15 a result, in the course of their employment with DEFENDANT, the PLAINTIFF and other
16 CALIFORNIA CLASS Members incurred unreimbursed business expenses, but were not limited
17 to, costs related to the use of their personal cellular phones, home internet and purchase of other
18 work-related tools, all on behalf of and for the benefit of DEFENDANT.

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

20 23. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
21 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
22 CLASS for all hours worked.

23 24. During the CLASS PERIOD, from time-to-time DEFENDANT required
24 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
25 work, including but not limited to, communicating with co-workers and managers about work-
26 related tasks during non-working hours, continuing to work from home after shifts ended, and
27 submitting to pre-shift Covid-19 health screenings, which included temperature checks. This
28

1 resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while
2 off-the-clock.

3 25. DEFENDANT directed and directly benefited from the uncompensated off-the-
4 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

5 26. DEFENDANT controlled the work schedules, duties, protocols, applications,
6 assignments, and employment conditions of PLAINTIFF and the other members of the
7 CALIFORNIA CLASS.

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

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

14 29. DEFENDANT's policies and practices deprived PLAINTIFF and the other
15 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
16 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
17 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
18 hours per day, DEFENDANT's policies and practices also deprived them of overtime pay.

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

21 31. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
22 forfeited wages due them for all hours worked at DEFENDANT's direction, control and benefit
23 for the time spent working while off-the-clock. DEFENDANT's uniform policy and practice to
24 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked
25 in accordance with applicable law is evidenced by DEFENDANT's business records.

26 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**
27 **Redeemed Sick Pay**
28

1 32. From time-to-time during the CLASS PERIOD, DEFENDANT failed and
2 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
3 members for their overtime and double time hours worked, meal and rest period premiums, and
4 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members
5 forfeited wages due them for working overtime without compensation at the correct overtime and
6 double time rates, meal and rest period premiums, and redeemed sick pay rates. DEFENDANT's
7 uniform policy and practice to not pay the CALIFORNIA CLASS members the correct rate for
8 all overtime and double time worked, meal and rest period premiums, and sick pay in accordance
9 with applicable law is evidenced by DEFENDANT's business records.

10 33. State law provides that employees must be paid overtime at one-and-one-half times
11 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS members were
12 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
13 employee's performance.

14 34. The second component of PLAINTIFF's and other CALIFORNIA CLASS
15 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
16 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
17 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
18 basis with bonus compensation when the employees met the various performance goals set by
19 DEFENDANTS.

20 35. However, from-time-to-time, when calculating the regular rate of pay, in those pay
21 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
22 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
23 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
24 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
25 rather than just all non-overtime hours worked. Management and supervisors described the
26 incentive/bonus program to potential and new employees as part of the compensation package.
27 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
28 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted

1 in a systematic underpayment of overtime and double time compensation, meal and rest period
2 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by
3 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
4 for non-employees shall be calculated in the same manner as the regular rate of pay for the
5 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
6 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by
7 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
8 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
9 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

21 **F. Unlawful Deductions**

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

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

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

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

4 **H. Wage Statement Violations**

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

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

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

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

28 **I. Unlawful Rounding Violations**

1 43. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
2 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
3 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
4 overtime hours. Specifically, DEFENDANT had in place an unlawful rounding policy and
5 practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being
6 undercompensated for all their time worked. As a result, DEFENDANT was able to and did in
7 fact unlawfully, and unilaterally round the time recorded in DEFENDANT'S timekeeping system
8 for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these
9 employees for all their time worked, including the applicable overtime compensation for overtime
10 worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from time to time,
11 forfeited compensation for their time worked by working without their time being accurately
12 recorded and without compensation at the applicable overtime rates.

13 44. Further, the mutability of DEFENDANT'S timekeeping system and unlawful
14 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time
15 being inaccurately recorded. As a result, from time to time, DEFENDANT'S unlawful rounding
16 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
17 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
18 duty meal break. Additionally, DEFENDANT'S unlawful rounding policy and practice caused
19 PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by DEFENDANT
20 for more than ten (10) hours during a shift without receiving a second off-duty meal break.

21 **J. Timekeeping Manipulation**

22 45. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
23 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
24 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
25 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
26 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
27 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
28 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours

1 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
2 rest breaks.

3 46. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
4 time-to-time, forfeited time worked by working without their time being accurately recorded and
5 without compensation at the applicable pay rates.

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

13 48. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
14 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
15 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and
16 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
17 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business
18 records.

19 **K. Failure to Provide Personnel Files**

20 49. On January 17, 2022, PLAINTIFF caused a written request via certified mail to be
21 delivered to DEFENDANTS for PLAINTIFF'S personnel and employment records, including
22 but not limited to: (1) payroll records; (2) employment contracts; (3) itemized pay stubs; and (4)
23 PLAINTIFF'S complete employment file.

24 50. DEFENDANTS failed to provide and/or make available to PLAINTIFF his
25 personnel records, payroll records, employment contract, and entire employment file within thirty
26 (30) days of his request stated above. In fact, as of the date of filing of this complaint,
27 DEFENDANTS have still failed to pay PLAINTIFF the statutory penalty in the amount of \$750.
28 DEFENDANTS violated Cal. Lab. Code Section 1198.5 by failing to respond and provide
PLAINTIFF with his employment file. Section 1198.5 states that employees (and former

employees) have the right to inspect personnel records maintained by the employer “related to the employee’s performance or to any grievance concerning the employee.” Employers must allow inspection or copying within thirty (30) days of the request. PLAINTIFF is now entitled to and requests injunctive relief to obtain compliance with Cal. Lab. Code Section 1198.5, a statutory penalty, and an award of attorneys’ fees and costs for bringing this action

51. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods. PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFF with a second off-duty meal period each workday in which he was required by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF with a rest break, they required PLAINTIFF to remain on premises, on-duty and on-call for the rest break. DEFENDANTS policy caused PLAINTIFF to remain on premises, on-call and on-duty during what was supposed to be his off-duty meal periods. Further, PLAINTIFF was required to maintain cordless communication devices on them during meal and rest periods in order to send and receive work-related communications. PLAINTIFF therefore forfeited meal and rest breaks without additional compensation and in accordance with DEFENDANT strict corporate policy and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF for required business expenses related to the use of his personal cellular phones, home internet, and payment for work-related tools, on behalf of and in furtherance of his employment with DEFENDANT. Further, failed to provide and/or make available to PLAINTIFF his personnel records, payroll records, employment contracts, and entire employment file within (30) days of all his request on January 17, 2022. To date, DEFENDANT have not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to him, or any penalty wages owed to him under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

L. CLASS ACTION ALLEGATIONS

58. 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 HCL America

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

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

11 60. The members of the class are so numerous that joinder of all class members is
12 impractical.

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

62. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANT's conduct and actions alleged herein.

63. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same interests as the other members of the class.

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

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

66. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests of the other CALIFORNIA CLASS Members.

67. 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 68. 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 69. 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 Class treatment provides manageable judicial treatment calculated to bring an efficient
22 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct
23 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 70. 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 71. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
5 Code § 17021.

6 72. 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
11 may be enjoined in any court of competent jurisdiction. The court may make such
12 orders or judgments, including the appointment of a receiver, as may be necessary
13 to prevent the use or employment by any person of any practice which constitutes
14 unfair competition, as defined in this chapter, or as may be necessary to restore to
any person in interest any money or property, real or personal, which may have
been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code §
17203).

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

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

27 75. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
28 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally

1 mandated meal and rest periods and the required amount of compensation for missed meal and
2 rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
3 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
4 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
5 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

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

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

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

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

81. 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.*

82. 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.

83. 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.

84. 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)

85. 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 86. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
2 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
3 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
4 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

5 87. 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 88. 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 lesser wage than
9 the minimum so fixed is unlawful.

10 89. 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 90. 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 worked. 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 91. 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 denied accurate compensation to PLAINTIFF
20 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

21 92. In committing these violations of the California Labor Code, DEFENDANT
22 inaccurately calculated the amount of 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.

27
28

1 93. 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 94. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
6 failure to pay all earned wages.

7 95. 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 96. DEFENDANT knew or should have known that PLAINTIFF and the other
13 members of the CALIFORNIA CLASS are 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 corporate 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 97. 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 98. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore
28 request 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 §§ 510, 1194 and 1198)**

13 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

14 99. 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.

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

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

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

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

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

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

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

21 107. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
22 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
23 compensation for overtime worked.

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

1 PLAINTIFF brings this Action on behalf of himself, and the CALIFORNIA CLASS based on
2 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
3 California.

4 109. During the CLASS PERIOD, PLAINTIFF and the other members of the
5 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
6 constituting a failure to pay all earned wages.

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

13 111. 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 all
15 overtime worked by these employees, 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.

18 112. DEFENDANT knew or should have known that PLAINTIFF and the other
19 members of the CALIFORNIA CLASS were under compensated for all overtime 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 for overtime worked.

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

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

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

19 115. 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.

22 116. 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.

8 117. 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.

13 118. 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)**

20 119. 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.

23 120. 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 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.

9 121. 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.

14 122. 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 Pay Wages When Due**

19 **(Cal. Lab. Code §§ 203)**

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

21 123. 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.

24 124. Cal. Lab. Code § 200 provides that:

25 As used in this article:

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

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

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

7 126. Cal. Lab. Code § 202 provides, in relevant part, that:

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

17 127. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS
18 Members' employment contract.

19 128. Cal. Lab. Code § 203 provides:

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

25 129. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
26 terminated, and DEFENDANT has not tendered payment of wages to these employees who were
27 underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as
28 required by law.

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

6 **SEVENTH CAUSE OF ACTION**

7 **Failure To Reimburse Employees For Required Expenses**

(Cal. Lab. Code §§ 2802)

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

131. 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.

132. 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

133. From time-to-time during the CLASS PERIOD, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their personal vehicles, cellular phones, laptops, home internet, and payment of employment-related training costs all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by DEFENDANT to use their personal vehicles, cellular phones, laptops, home internet, and pay for employment-related training costs to execute their essential job duties on behalf of DEFENDANT. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using their personal vehicles, cellular phones, laptops, home internet, and payment of employment-related training costs 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 their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA CLASS, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and regulations of California.

134. PLAINTIFF therefore demands reimbursement on behalf of the members of the CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf of DEFENDANT, or his/her obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

EIGHTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

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

52. 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.

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

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

54. When DEFENDANT did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA

1 CLASS Members with complete and accurate wage statements which failed to show, among other
2 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked
3 and all applicable hourly rates in effect during the pay period and the corresponding amount of
4 time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal
5 and rest periods.

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

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

20 **PRAYER FOR RELIEF**

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

23 1. On behalf of the CALIFORNIA CLASS:

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

unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and

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

2. On behalf of the CALIFORNIA CLASS:

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

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

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

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

3. On all claims:

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

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

c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

DATED: October 18, 2022

ZAKAY LAW GROUP, APLC

By: 

Shani O. Zakay

Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: October 18, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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:

HCL America Solutions Inc.
HCL America Inc.
HCL Technologies Limited
c/o CSC Lawyers Incorporated
2710 Gateway Center Drive, Ste 150N
Sacramento, CA 95833



9590 9402 7624 2122 8187 48

2. Article Number (Transfer from service label)

7022 2410 0001 4932 6632

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Recipient's Name

SHAMEEL MOHAMMED

Date of Delivery

A/V/O CSC

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

OCT 24 2002

Service 10/18/02 Kennedy 002-325

3. Service Type

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| ☐ Adult Signature | ☐ Priority Mail Express® |
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1 Mail Restricted Delivery (500)