

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

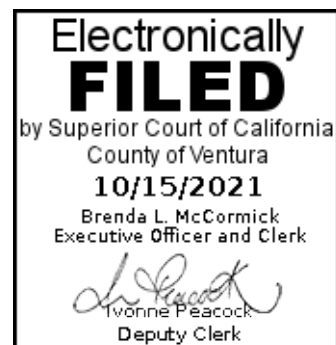
REAL TIME STAFFING SERVICES, LLC., a California limited liability company; EMPLOYBRIDGE, LLC, a California limited liability company; and DOES 1 through 50, Inclusive;

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

RICARDO RODRIGUEZ, an individual, in his representative capacity on behalf of the State of California and fellow Aggrieved Employees

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)



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):

Ventura Superior Court, Hall of Justice
800 South Victoria Avenue
Ventura, CA 93009

CASE NUMBER: 56-2021-00559039-CU-OE-VTA
(Número del Caso):

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 (State Bar #277924) Telephone: (619)255-9047 Facsimile: (858) 404-9203

Zakay Law Group APLC - 5440 Morehouse Dr., Ste 3600, San Diego, CA 92121

DATE: 10/15/2021
(Fecha)

Brenda L. McCormick

Clerk, by
(Secretario)

Ivonne Peacock

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)

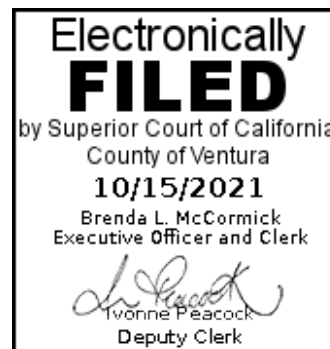
☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

[SEAL]





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Attorneys for Plaintiff RICARDO RODRIGUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF VENTURA

RICARDO RODRIGUEZ, an individual, in his
representative capacity on behalf of the State of
California and fellow Aggrieved Employees,

Plaintiff,

v.

REAL TIME STAFFING SERVICES, LLC., a
California limited liability company;
EMPLOYBRIDGE, LLC, a California limited
liability company; and DOES 1 through 50,
Inclusive;

Defendants.

Case No. 56-2021-00559039-CU-OE-VTA

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. VIOLATIONS OF THE PRIVATE
ATTORNEY GENERAL ACT AT
LABOR CODE SECTIONS 2698 *ET*
SEQ.

DEMAND FOR JURY TRIAL

1 Plaintiff RICARDO RODRIGUEZ (“PLAINTIFF”), an individual, in his representative
2 capacity on behalf of the State of California and fellow current and former Aggrieved Employees,
3 defined *supra*, alleges on information and belief, except for his own acts and knowledge, which are
4 based on personal knowledge, the following:

5 **INTRODUCTION**

6 1. PLAINTIFF brings this representative action pursuant to the Private Attorneys General
7 Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) on behalf of other current and former
8 aggrieved employees of DEFENDANT for engaging in a pattern and practice of wage and hour
9 violations under the California Labor Code.

10 2. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT decreased
11 their employment-related costs by systematically violating California wage and hour laws.

12 3. DEFENDANT’s systematic pattern of wage and hour and IWC Wage Order violations
13 toward PLAINTIFF and other aggrieved employees in California include, *inter alia*:

- 14 a. Failure to provide compliant rest periods;
- 15 b. Failure to allow employees to take duty-free, off-the-premises rest periods;
- 16 c. Failure to pay all minimum and regular wages;
- 17 d. Failure to maintain true and accurate records;
- 18 e. Failure to provide accurate itemized wage statements;
- 19 f. Failure to reimburse employees for required business expenses; and
- 20 g. Failure to timely pay wages due during, and upon termination of employment.

21 4. PLAINTIFF brings this representative action against DEFENDANT on behalf of himself
22 and all other aggrieved employees of DEFENDANT in California seeking all civil penalties and unpaid
23 wages permitted pursuant to California Labor Code § 2699, *et seq.*

24 5. PLAINTIFF reserves the right to name additional representatives throughout the State of
25 California.

26 ///

27 ///

THE PARTIES

6. Defendant REAL TIME STAFFING SERVICES, LLC d.b.a. Select Staffing, (“Defendant Real Time”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

7. Defendant EMPLOYBRIDGE, LLC (“Defendant Employbridge”) is a California limited liability company and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

8. Defendant Real Time and Defendant Employbridge were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.” Defendant Real Time and Defendant Employbridge own and operate various staffing agencies throughout the United States and staff many companies in California.

9. PLAINTIFF was employed by DEFENDANT in California as a non-exempt employee entitled to minimum wages, and rest periods from December 2019 to March 2021. PLAINTIFF was at all times relevant mentioned herein classified by DEFENDANT as a non-exempt employee paid on an hourly basis and entitled to minimum wage and to compliant rest breaks.

10. PLAINTIFF brings this action in his representative capacity on behalf of the State of California and on behalf of all of Defendant Real Time’s and/or Defendant Employbridge’s current and former non-exempt employees employed in California who suffered one or more Labor Code violations enumerated in Labor Code §§ 2698 *et seq.* (hereinafter “AGGRIEVED EMPLOYEES”) and who worked for DEFENDANT between August 6, 2020 and the present (“PAGA PERIOD”).

11. PLAINTIFF is an “AGGRIEVED EMPLOYEE” within the meaning of Labor Code § 2699(c) because he was employed by DEFENDANT and suffered one or more of the alleged Labor Code violations committed by DEFENDANT.

12. PLAINTIFF and all other AGRIEVED EMPLOYEES are, and at all relevant times were, employees of DEFENDANT, within the meanings set forth in the California Labor Code and the applicable Industrial Welfare Commission Wage Order.

15. DEFENDANT was PLAINTIFF's employer or persons acting on behalf of PLAINTIFF's employer either individually or as an officer, agent, or employee of another person, 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.

16. The Private Attorney General Act (“PAGA”), permits an aggrieved employee to enforce any provision of the California Labor Code that provides for a civil penalty. (*Lab. Code* § 2699(a).)

17. Section 558 of the California Labor Code provides that “any employer *or other person* acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commissions shall be subject to a civil penalty...” (*Lab. Code* § 558(a).);

18. Section 1197.1 of the Labor Code provides that “[a]ny employer *or other person* acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty...” (*Lab. Code* § 1197.1(a).)

1 19. Interpreting Sections 558 and 1197.1 of the Labor Code, California courts have held that
2 a corporate employer's owners, officers and directors, are subject to civil penalties for the employer's
3 failure to pay appropriate wages to its employees, and, since liability under either 558 or 1197.1 does
4 not depend on a finding of an alter ego, no alter ego allegations or findings are necessary. *Atempa v.*
5 *Pedrazzani*, (2018) 27 Cal.App.5th 809; see generally *Ochoa-Hernandez v. Cjaders Food, Inc.* (2009
6 WL 1404694); *Thurman v. Bayshore Management, Inc.* (2017) 203 Cal.App.4th 1112, 1145-1146.

7 20. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT, and each
8 of them, are subject to civil penalties for their failure to pay PLAINTIFF and the aggrieved employees
9 the appropriate wages as complained of herein and proximately caused the complaints, injuries, and
10 damages alleged herein.

11 21. At all relevant times, each Defendant, whether named or fictitious, was the agent,
12 employee or other person acting on behalf of each other Defendant, and, in participating in the acts
13 alleged in this Complaint, acted within the scope of such agency or employment and ratified the acts
14 of the other.

15 22. Each Defendant, whether named or fictitious, exercised control over PLAINTIFF's
16 wages, working hours, and/or working conditions.

17 23. Each Defendant, whether named or fictitious, acted in all respects pertinent to this action
18 as the agent of the other DEFENDANT, carried out a joint scheme, business plan or policy, and the
19 acts of each Defendant are legally attributable to the other DEFENDANT.

20 **JURISDICTION AND VENUE**

21 24. This Court has jurisdiction over this Action pursuant to California Code of Civil
22 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This Court
23 has jurisdiction over PLAINTIFF's claims for civil penalties under the Private Attorney General
24 Act of 2004, California Labor Code §2698, *et seq.*

25 25. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
26 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT, resides in this County,
27 and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in
28

1 this County and/or conducts substantial business in this County, and (ii) committed the wrongful
2 conduct herein alleged in this County against PLAINTIFF and the AGGRIEVED EMPLOYEES.

3 **THE CONDUCT**

4 26. Pursuant to the Industrial Welfare Commission (“IWC”) Wage Orders and the applicable
5 sections of the California Labor Code, DEFENDANTS as a matter of company policy, practice and
6 procedure, intentionally, knowingly and systematically failed to provide legally complaint meal and
7 rest period, failed to accurately compensate PLAINTIFF and other AGGRIEVED EMPLOYEES for
8 missed meal and rest periods, failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all
9 time worked, and failed to issue to PLAINTIFF and AGGRIEVED EMPLOYEES with accurate
10 itemized wage statements showing, among other things, all applicable hourly rates in effect during the
11 pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS’
12 uniform policies and practices are intended to purposefully avoid the accurate and full payment for all
13 time worked as required by California law which allows DEFENDANTS to illegally profit and gain an
14 unfair advantage over competitors who comply with the law. To the extent equitable tolling operates
15 to toll claims by the AGGRIEVED EMPLOYEES against DEFENDANTS, the PAGA PERIOD should
16 be adjusted accordingly.

17 **A. Overtime Regular Rate Violation**

18 27. From time-to-time during the PAGA PERIOD, DEFENDANTS failed and continues to
19 fail to accurately calculate and pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for their
20 overtime hours worked. As a result, PLAINTIFF and the other AGGRIEVED EMPLOYEES forfeited
21 wages due them for working overtime without compensation at the correct overtime rates.
22 DEFENDANTS’ uniform policy and practice to not pay the AGGRIEVED EMPLOYEES the correct
23 overtime rate for all overtime worked in accordance with applicable law is evidenced by
24 DEFENDANTS’ business records.

25 28. State law provides that employees must be paid overtime at one-and-one-half times their
26 “regular rate of pay.” PLAINTIFF and other AGGRIEVED EMPLOYEES were compensated at an
27 hourly rate plus incentive pay that was tied to specific elements of an employee’s performance.
28

1 29. The second component of PLAINTIFF'S and other AGGRIEVED EMPLOYEES'
2 compensation was DEFENDANTS' non-discretionary incentive program that paid PLAINTIFF and
3 other AGGRIEVED EMPLOYEES incentive wages based on their performance for DEFENDANTS.
4 The non-discretionary bonus program provided all employees paid on an hourly basis with bonus and/or
5 commission compensation when the employees met the various performance goals set by
6 DEFENDANTS.

7 30. However, from-time-to-time, when calculating the regular rate of pay, in those pay periods
8 where PLAINTIFF and other AGGRIEVED EMPLOYEES worked overtime and earned this non-
9 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
10 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked rather
11 than just all non-overtime hours worked. Management and supervisors described the incentive/bonus
12 program to potential and new employees as part of the compensation package. As a matter of law, the
13 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must be
14 included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment
15 of overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by DEFENDANTS.

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

25 **B. Meal Period Violations**

26 32. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
27 required to pay PLAINTIFF and AGGRIEVED EMPLOYEES for all their time worked, meaning the
28 time during which an employee is subject to the control of an employer, including all the time the

1 employee is suffered or permitted to work. From time-to-time during the PAGA PERIOD,
2 DEFENDANTS required PLAINTIFF and AGGRIEVED EMPLOYEES to work without paying them
3 for all the time they were under DEFENDANTS' control. Specifically, as a result of PLAINTIFF's
4 demanding work requirements, DEFENDANTS required PLAINTIFF to work while clocked out
5 during what was supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to
6 time interrupted by work assignments while clocked out for what should have been PLAINTIFF's off-
7 duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial lunch.
8 As a result, the PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited minimum wage and
9 overtime wages by regularly working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy
11 and practice not to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all time worked is
12 evidenced by DEFENDANTS' business records.

13 33. From time-to-time during the PAGA PERIOD, as a result of their rigorous work
14 schedules, being required to carry, remain responsive and to respond to work calls on company issued
15 cordless communication devices throughout their shifts and DEFENDANTS' inadequate staffing
16 practices, PLAINTIFF and other AGGRIEVED EMPLOYEES were from time to time unable to take
17 thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods.
18 PLAINTIFF and other AGGRIEVED EMPLOYEES were required from time to time to perform work
19 as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal
20 break. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and AGGRIEVED
21 EMPLOYEES with a second off-duty meal period for some workdays in which these employees were
22 required by DEFENDANTS to work ten (10) hours of work from time to time. The nature of the work
23 performed by the PLAINTIFF and the AGGRIEVED EMPLOYEES does not qualify for limited and
24 narrowly construed "on-duty" meal period exception. PLAINTIFF and the members of the
25 AGGRIEVED EMPLOYEES therefore forfeited meal breaks without additional compensation and in
26 accordance with DEFENDANT's strict corporate policy and practice. DEFENDANT failed to maintain
27 adequate staffing levels while increasing production levels for each employee at the busy work sites
28 for which they provided services.

1 **C. Rest Period Violations**

2 34. From time-to-time during the PAGA PERIOD, PLAINTIFF and other AGGRIEVED
3 EMPLOYEES were also required from time to time to work in excess of four (4) hours without being
4 provided ten (10) minute rest periods as a result of their rigorous work schedule, being required to
5 carry, remain responsive and to respond to work calls on company issued cordless communication
6 devices throughout their shifts, and DEFENDANTS' inadequate staffing. Further, for the same reasons
7 these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked
8 of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10)
9 minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
10 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or
11 more from time to time. PLAINTIFF and other AGGRIEVED EMPLOYEES were also not provided
12 with one-hour wages in lieu thereof. As a result of their rigorous work schedules and DEFENDANTS'
13 inadequate staffing, PLAINTIFF and other AGGRIEVED EMPLOYEES were from time to time
14 denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

15 **D. Unreimbursed Business Expenses**

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

25 36. From time-to-time during the PAGA PERIOD, PLAINTIFF and the AGGRIEVED
26 EMPLOYEES were required by DEFENDANTS to use their own personal cellular phones as a result
27 of and in furtherance of their job duties as employees for DEFENDANTS. But for the use of their
28 personal cell phones, PLAINTIFF and the AGGRIEVED EMPLOYEES could not complete their

1 essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify PLAINTIFF or
2 the AGGRIEVED EMPLOYEES for the cost associated with the use of their personal cellular phones
3 for DEFENDANTS' benefit. As a result, in the course of their employment with DEFENDANTS,
4 PLAINTIFF and the AGGRIEVED EMPLOYEES incurred unreimbursed business expenses which
5 included, but were not limited to, costs related to the use of their personal cellular phones, all on behalf
6 of and for the benefit of DEFENDANTS.

7 **E. Wage Statement Violations**

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

16 38. From time to time during the PAGA PERIOD, DEFENDANTS furnished PLAINTIFF
17 and other AGGRIEVED EMPLOYEES wage statements that did not include, (1) gross wages earned,
18 (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all
19 deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid,
20 (7) the name of the employee and only the last four digits of the employee's social security number or
21 an employee identification number other than a social security number, (8) the name and address of the
22 legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and
23 the corresponding number of hours worked at each hourly rate by the employee. As a result,
24 DEFENDANTS, from time to time, failed to provide PLAINTIFF and the AGGRIEVED
25 EMPLOYEES with wage statements that comply with Cal. Lab. Code § 226.

26 39. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
27 AGGRIEVED EMPLOYEES with wage statements that violate Cal. Lab. Code § 226. Further,
28

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

3 **FIRST CAUSE OF ACTION**

4 **For Civil Penalties Pursuant to Private Attorneys General Act ("PAGA")**

5 **[Cal. Lab. Code §§ 2698, et seq.]**

6 **(By PLAINTIFF and AGGRIEVED EMPLOYEES and Against All DEFENDANTS)**

7 40. PLAINTIFF and the AGGRIEVED EMPLOYEES reallege and incorporate by this
8 reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

18 42. PLAINTIFF brings this Representative Action on behalf of the State of California with
19 respect to himself and all other current and former AGGRIEVED EMPLOYEES employed by
20 Defendant Real Time and/or Defendant Employbridge during the PAGA PERIOD.

21 43. At all relevant times, for the reasons described herein, and others, PLAINTIFF and the
22 AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANT within the meaning of
23 Labor Code Section 2699(c).

24 44. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
25 PLAINTIFF, on behalf of himself and other current or former employees, to bring a civil action to
26 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

27 45. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
28 Section 2699.3. By certified letter, return receipt requested, dated August 6, 2021, PLAINTIFF gave

1 written notice to the Labor and Workforce Development Agency (“LWDA”) and to DEENDANT of
2 the specific provisions of the Labor Code alleged to have been violated, including the facts and theories
3 to support the alleged violations. See Exhibit #1, attached hereto and incorporated by this reference
4 herein.

5 46. As of the date of this complaint, more than sixty-five (65) days after serving the LWDA
6 with notice of DEFENDANT’S violations, the LWDA has not provided any notice by certified mail of
7 its intent to investigate the DEFENDANT’S alleged violations as mandated by Labor Code Section
8 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may
9 commence and is authorized to pursue this cause of action.

10 47. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the AGGRIEVED
11 EMPLOYEES are entitled to civil penalties for DEFENDANTS’ violations of Labor Code Section 201,
12 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5,
13 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804 in the following amounts:

14 a. For violation of Labor Code Sections 201, 202, 203, and 204, one
15 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period
16 for the initial violation and two hundred dollars (\$200) for AGGIEVED
17 EMPLOYEE per pay period for each subsequent violation [penalty per
18 Labor Code Section 2699(f)(2)];

19 b. For violations of Labor Code Section 226(a), a civil penalty in the
20 amount of two hundred fifty dollars (\$250) for each AGGRIEVED
21 EMPLOYEE for any initial violation and one thousand dollars for each
22 subsequent violation [penalty per Labor Code Section 226.3];

23 c. For violations of Labor Code Sections 204, a civil penalty in the
24 amount of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE
25 for any initial violation and two hundred dollars (\$200) for AGGIEVED
26 EMPLOYEE for each subsequent violation [penalty per Labor Code
27 Section 210];

28 d. For violations of Labor Code Sections 226.7, 510 and 512, a civil

penalty in the amount of fifty dollars (\$50) for each underpaid AGGRIEVED EMPLOYEE for the initial violation and hundred dollars (\$100) for each underpaid AGGRIEVED EMPLOYEE for each subsequent violation [penalty per Labor Code Section 558];

e. For violations of Labor Code Section 2269(a), a civil penalty in the amount of two hundred fifty dollars (\$250) per AGGRIEVED EMPLOYEE per violation in an initial citation and one thousand dollars (\$1,000) per AGGRIEVED EMPLOYEE for each subsequent violation [penalty per Labor Code Section 226.3];

f. For violations of Labor Code Sections 1194, 1197, 1198 and 1199, a civil penalty in the amount of one hundred dollars (\$100) per AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars fifty (\$250) per AGGRIEVED EMPLOYEE per pay period for each subsequent violation [penalty per Labor Code Section].

48. For all provisions of the Labor Code for which civil penalty is not specifically provided, Labor Code § 2699(f) imposes upon Defendant a penalty of one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay period for the initial violation and two hundred dollars (\$200) for each AGGRIEVED EMPLOYEE per pay period for each subsequent violation. PLAINTIFF and the AGGRIEVED EMPLOYEES are entitled to an award of reasonable attorney’s fees and costs in connection with their claims for civil penalties pursuant to Labor Code Section 2699(g)(1).

49. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.”], Emphasis added, reh'g denied (June 13, 2018).)

///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT as follows:

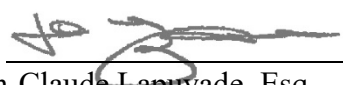
3 (a) For reasonable attorney's fees and costs of suit to the extent permitted by law, including
4 pursuant to Labor Code § 2699, *et seq.*;

5 (b) For civil penalties to the extent permitted by law pursuant to the Labor Code under the
6 Private Attorneys General Act; and

7 (c) For such other relief as the Court deems just and proper.

8 Dated: October 15, 2021

Respectfully Submitted,
JCL LAW FIRM, APC

9
10 By: 
11 Jean-Claude Lapuyade, Esq.
12 Attorneys for PLAINTIFF

13 **DEMAND FOR JURY TRIAL**

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

15
16 Dated: October 15, 2021

Respectfully Submitted,
JCL LAW FIRM, APC

17
18 By: 
19 Jean-Claude Lapuyade, Esq.
20 Attorneys for PLAINTIFF
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EXHIBIT 1



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August 6, 2021

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

EMPLOYBRIDGE, LLC c/o Corporate Creations Network Inc. 4640 Admiralty Way, 5 th Floor Marina del Rey, CA 90292 <i>Via Certified Mail with Return Receipt</i> <i>No. 7021 0350 0000 8465 2663</i>	THE PROCTOR & GAMBLE MANUFACTURING COMPANY c/o CT Corporation System 330 N. Brand Blvd Glendale, CA 91203 <i>Via Certified Mail with Return Receipt</i> <i>No.7021 0350 0000 8465 2670</i>
REAL TIME STAFFING SERVICES, LLC c/o Corporate Creations Network Inc. 4640 Admiralty Way, 5 th Floor Marina del Rey, CA 90292 <i>Via Certified Mail with Return Receipt</i> <i>No. 7021 0350 0000 8465 2687</i>	

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

Dear Sir/Madam:

This office represents RICARDO RODRIGUEZ ("Plaintiff") and other aggrieved employees in a proposed class and representative action against EMPLOYBRIDGE, LLC ("Defendant "Employbridge"), REAL TIME STAFFING SERVICES, LLC. ("Defendant Real Time"), and THE PROCTER & GAMBLE MANUFACTURING CO. ("Defendant Procter & Gamble") (collectively, "Defendants"). This office intends to file the enclosed Class Action Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendants in California from December 2019 to March 2021. Plaintiff was paid on an hourly basis and entitled to legally required meal and rest periods. At all times during their employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods.

As a consequence, Plaintiff contends that Defendants failed to fully compensate him, and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendants' conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant Employbridge and/or Defendant Real Time and/or Defendant Procter & Gamble during the relevant claim period.

A true and correct copy of the proposed Complaint for the class action 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. 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. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide 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 and Class Members.

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



Jean-Claude Lapuyade, Esq.

Enclosure (1)

JEAN-CLAUDE LAPUYADE (SBN 248676)
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TEL: (619) 255-9047 FAX: (619) 404-9203
ATTORNEYS FOR PLAINTIFF

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

RICARDO RODRIGUEZ, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

EMPLOYBRIDGE, LLC, a California limited
liability company, REAL TIME STAFFING
SERVICES, LLC., a California limited liability
company, THE PROCTER & GAMBLE
MANUFACTURING COMPANY, an Ohio
corporation; and DOES 1 through 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 OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203

DEMAND FOR JURY TRIAL

1 Plaintiff RICARDO RODRIGUEZ ("PLAINTIFF") an individual, on behalf of himself and all
2 other similarly situated current and former employees alleges on information and belief, except for his
3 own acts and knowledge which are based on personal knowledge, the following:
4

5 **THE PARTIES**

6 1. Defendant EMPLOYBRIDGE, LLC, ("Defendant Employbridge") is a California limited
7 liability company and at all relevant times mentioned herein conducted and continues to conduct
8 substantial and regular business throughout California.

9 2. Defendant REAL TIME STAFFING SERVICES, LLC, ("Defendant Real Time") is a
10 California limited liability company and at all relevant times mentioned herein conducted and
11 continues to conduct substantial and regular business throughout California.

12 3. Defendant THE PROCTER & GAMBLE MANUFACTURING COMPANY,
13 ("Defendant Procter & Gamble") is an Ohio Corporation and at all relevant times mentioned herein
14 conducted and continues to conduct substantial and regular business throughout California.

15 4. Defendant Employbridge, Defendant Real Time, and Defendant Procter & Gamble were
16 the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the
17 PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for
18 the conduct alleged herein and collectively referred to herein as "DEFENDANTS" and/or
19 "DEFENDANT." Defendant Employbridge and Defendant Real Time own and operate various
20 staffing agencies throughout the United States and staff many companies in California, including at
21 Defendant Procter & Gamble.

22 5. The true names and capacities, whether individual, corporate, subsidiary, partnership,
23 associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to
24 PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc.
25 Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and
26 capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and
27 believes, and based upon that information and belief allege, that the Defendants named in this
28 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively "DEFENDANTS"), are

1 responsible in some manner for one or more of the events and happenings that proximately caused the
2 injuries and damages hereinafter alleged.

3 6. The agents, servants and/or employees of the DEFENDANTS and each of them acting on
4 behalf of the DEFENDANT acted within the course and scope of his, her or its authority as the agent,
5 servant and/or employee of the DEFENDANT, and personally participated in the conduct alleged
6 herein on behalf of the DEFENDANT with respect to the conduct alleged herein. Consequently, the
7 acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS are
8 jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a
9 proximate result of the conduct of the DEFENDANTS' agents, servants and/or employees.

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

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

20 9. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on an
21 hourly basis and entitled to certain non-discretionary incentive awards, bonuses, overtime pay and
22 legally compliant meal and rest periods from December 2019 to March 2021.

23 10. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined
24 as all individuals who are or previously were employed by Defendant Employbridge and/or Defendant
25 Real Time and/or Defendant Procter & Gamble in California and classified as non-exempt employees
26 (the "CALIFORNIA CLASS") at any time during the period beginning four years from the date of the
27 filing of this Complaint and ending on a date determined by the Court (the "CLASS PERIOD"). The
28

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

11. PLAINTIFF brings this Class Action on behalf of himself and on behalf of the CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally complaint meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to provide accurate itemized wage statements in violation of California Labor Code Sections 226 and 226.3.

12. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

13. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS's past and current unlawful conduct, and all other appropriate legal and equitable relief.

JURISDICTION AND VENUE

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

15. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, resides in this County, and DEFENDANTS (i) currently maintains and at all relevant times, maintained offices and facilities

in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

THE CONDUCT

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

A. Overtime Regular Rate Violation

17. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS members for their overtime hours worked. As a result, PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages due them for working overtime without compensation at the correct overtime rates. DEFENDANTS' uniform policy and practice to not pay the CALIFORNIA CLASS members the correct overtime rate for all overtime worked in accordance with applicable law is evidenced by DEFENDANTS' business records.

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

1 19. The second component of PLAINTIFF'S and other CALIFORNIA CLASS members'
2 compensation was DEFENDANTS' non-discretionary incentive program that paid PLAINTIFF and
3 other CLASS MEMBERS incentive wages based on their performance for DEFENDANTS. The non-
4 discretionary bonus program provided all employees paid on an hourly basis with bonus and/or
5 commission compensation when the employees met the various performance goals set by
6 DEFENDANTS.

7 20. However, from-time-to-time, when calculating the regular rate of pay, in those pay periods
8 where PLAINTIFF and other CALIFORNIA CLASS members worked overtime and earned this non-
9 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
10 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked rather
11 than just all non-overtime hours worked. Management and supervisors described the incentive/bonus
12 program to potential and new employees as part of the compensation package. As a matter of law, the
13 incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS members must be
14 included in the "regular rate of pay." The failure to do so has resulted in a systematic underpayment
15 of overtime compensation to PLAINTIFF and other CALIFORNIA CLASS members by
16 DEFENDANTS.

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

26 **B. Meal Period Violations**

27 22. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
28 required to pay PLAINTIFF and CALIFORNIA CLASS members for all their time worked, meaning

the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS members to work without paying them for all the time they were under DEFENDANTS' control. Specifically, as a result of PLAINTIFF's demanding work requirements, DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS members forfeited minimum wage and overtime wages by regularly working without their time being accurately recorded and without compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS members for all time worked is evidenced by DEFENDANTS' business records.

23. From time-to-time during the CLASS PERIOD, as a result of their rigorous work schedules, being required to carry, remain responsive and to respond to work calls on company issued cordless communication devices throughout their shifts and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA CLASS members were from time to time unable to take thirty (30) minute off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS members were required from time to time to perform work as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal period for some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed "on-duty" meal period exception. PLAINTIFF and the members of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANT's strict corporate policy and practice.

1 DEFENDANT failed to maintain adequate staffing levels while increasing production levels for each
2 employee at the busy work sites for which they provided services.

3 **C. Rest Period Violations**

4 24. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
5 CLASS members were also required from time to time to work in excess of four (4) hours without
6 being provided ten (10) minute rest periods as a result of their rigorous work schedule, being required
7 to carry, remain responsive and to respond to work calls on company issued cordless communication
8 devices throughout their shifts, and DEFENDANTS' inadequate staffing. Further, for the same reasons
9 these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked
10 of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10)
11 minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
12 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or
13 more from time to time. PLAINTIFF and other CALIFORNIA CLASS members were also not
14 provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and
15 DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS members were
16 from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

17 **D. Unreimbursed Business Expenses**

18 25. DEFENDANTS as a matter of corporate policy, practice and procedure, intentionally,
19 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the members of the
20 CALIFORNIA CLASS or required business expenses they incurred in direct consequence of
21 discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802,
22 employers are required to indemnify employees for all expenses incurred in the course and scope of
23 their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her
24 employee for all necessary expenditures or losses incurred by the employee in direct consequence of
25 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
26 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
27 unlawful."
28

26. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones as a result of and in furtherance of their job duties as employees for DEFENDANTS. But for the use of their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not limited to, costs related to the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANTS.

E. Wage Statement Violations

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

28. From time to time during the CLASS PERIOD, DEFENDANTS furnished PLAINTIFF and other CALIFORNIA CLASS members wage statements that did not include, (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of the employee's social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. As a result,

DEFENDANTS, from time to time, failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code § 226.

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

CLASS ACTION ALLEGATIONS

30. PLAINTIFF brings the First through Eighth Causes of Action as a class action pursuant to California Code of Civil Procedure § 382 on behalf of all of defined as all individuals who are or previously were employed by Defendant Employbridge and/or Defendant Real Time and/or Defendant Procter & Gamble in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four years from the date of the filing of this Complaint and ending on a date determined by the Court ("CLASS PERIOD").

31. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal and rest period policies, failure to separately compensate rest periods, failure to separately compensate for all non-productive time, failure to provide accurate itemized wage statements, failure to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

32. The members of the class are so numerous that joinder of all class members is impractical.

33. Common questions of law and fact regarding DEFENDANTS' conduct, including but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate the regular rate of pay for overtime compensation, failure to accurately calculate the regular rate of compensation for missed meal and rest period premiums, failing to provide legally compliant meal and rest periods, failure to provide accurate itemized wage statements accurate, and failure ensure they are paid at least minimum wage and overtime, exist as to all members of the class and predominate over any questions affecting solely any individual members of the class. Among the questions of law and fact common to the class are:

- a. Whether DEFENDANTS maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANTS maintained legally compliant rest period policies and practices;
- c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members accurate premium payments for missed meal and rest periods;
- d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members accurate overtime wages.
- e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members at least minimum wage for all hours worked.
- f. Whether DEFENDANTS issued legally compliant wage statements;
- g. Whether DEFENDANTS 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;
- h. Whether DEFENDANTS 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 DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- i. Whether DEFENDANTS 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; and,

34. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANTS' conduct and actions alleged herein.

35. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same

interests as the other members of the class.

36. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS members.

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

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

39. 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 DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

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

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

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

b. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of the interests of the other members not party to the adjudication or substantially impair or impeded their ability to protect their interests.

42. Class treatment provides manageable judicial treatment calculated to bring an efficient

and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANTS.

FIRST CAUSE OF ACTION

For Unlawful Business Practices

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

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

43. 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.

44. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code § 17021.

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes 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.

46. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the “UCL”), by engaging and continuing to engage in business practices which violates California law, including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,

1 1197, 1197.1, 1198 & 2802, for which this Court should issue declaratory and other equitable relief
2 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
3 held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

20 50. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and
21 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,
22 provide the legally mandated meal and rest periods, the required accurate amount of compensation for
23 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage
24 statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal.
25 Labor Code.

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

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

2 52. PLAINTIFF further demands on behalf of himself and on behalf of each CALIFORNIA
3 CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not
4 timely provided as required by law.

5 53. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the
6 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
7 calculated overtime and missed meal and rest periods premiums.

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

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

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

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

28 58. 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 DEFENDANTS. 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 DEFENDANTS is restrained from continuing to engage in these unlawful and unfair business practices.

SECOND CAUSE OF ACTION

For Failure to Pay Overtime Compensation

[Cal. Lab. Code §§ 510, *et seq.*]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

59. 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.

60. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”) bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

61. 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.

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

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

64. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members

1 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they
2 worked or were not accurately compensated for all overtime hours worked.

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

10 66. In committing these violations of the California Labor Code, DEFENDANTS inaccurately
11 calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid
12 the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS.
13 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits
14 in violation of the California Labor Code, the Industrial Welfare Commission requirements and other
15 applicable laws and regulations.

16 67. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
17 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for
18 all overtime worked.

19 68. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the
20 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other
21 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the
22 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude
23 the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on
24 behalf of himself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-
25 negotiable, non-waivable rights provided by the State of California.

26 69. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the
27 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure
28 to pay all earned wages.

1 70. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
2 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum
3 hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF
4 and the other members of the CALIFORNIA CLASS were required to work, and did in fact work,
5 overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime
6 rate as evidenced by DEFENDANTS' business records and witnessed by employees.

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

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

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

25 74. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
26 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as
27 well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
28 California Labor Code and/or other applicable statutes. To the extent overtime compensation is

determined to be owed to the CALIFORNIA CLASS members who have terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and recover statutory costs.

THIRD CAUSE OF ACTION

For Failure to Pay Minimum Wages

[Cal. Lab. Code §§ 1194, 1197 and 1197.1]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

75. 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.

76. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the LABOR CLASS PERIOD.

77. 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.

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

79. 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.

80. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without

1 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to
2 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members
3 of the CALIFORNIA CLASS.

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

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

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

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

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

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

members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

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

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

FOURTH CAUSE OF ACTION

For Failure to Provide Required Meal Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

89. 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.

90. During the LABOR CLASS PERIOD, from time to time, DEFENDANTS failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS members as required by the applicable Wage Order and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA CLASS members did not prevent these employees from

being relieved of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were from time to time not fully relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from time to time. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal period in some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

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

92. Specifically, PLAINTIFF and CLASS MEMBERS were required to carry a radio communication device during their shifts and throughout meal and rest periods. PLAINTIFF was often required to work during meal breaks and was often interrupted by tasks through the radio communication device. PLAINTIFF never received proper additional compensation for the interrupted meal breaks.

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

FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

94. 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.

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

(By PLAINTIFF Against All Defendants)

CLASS ACTION COMPLAINT

102. 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 DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

CLASS ACTION COMPLAINT

(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

103. 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.

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

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
3. The number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
4. All deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
5. Net wages earned;
6. The inclusive dates of the period for which the employee is paid,
7. 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 or an employee identification number other than a social security number may be shown on the itemized statement,
8. The name and address of the legal entity that is the employer, and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

105. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3) gross wages earned and (7) all applicable hourly rates in effect during the pay period and the

1 corresponding number of hours worked at each hourly rate by the employee in violation of California
2 Labor Code Section 226.

3 106. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §
4 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA
5 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for
6 the overtime worked and the amount of employment taxes which were not properly paid to state and
7 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other
8 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
9 for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
10 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and
11 penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time
12 of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective
13 member of the CALIFORNIA CLASS herein.

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES WHEN DUE**

16 **(Cal Lab. Code §§201, 202, 203)**

17 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

18 107. 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 Complaint.

20 108. Cal. Lab. Code § 200 provides that:

21 As used in this article:(a) "Wages" includes all amounts for labor performed by
22 employees of every description, whether the amount is fixed or ascertained by the
23 standard of time, task, piece, Commission basis, or other method of calculation. (b)
24 "Labor" includes labor, work, or service whether rendered or performed under
25 contract, subcontract, partnership, station plan, or other agreement if the labor to be
26 paid for is performed personally by the person demanding payment.

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

1 110. Cal. Lab. Code § 202 provides, in relevant part, that:

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

11 111. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members'
12 employment contract.

13 112. Cal. Lab. Code § 203 provides:

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

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

22 114. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members
23 of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty days of pay as
24 penalty for not paying all wages due at time of termination for all employees who terminated
25 employment during the LABOR CLASS PERIOD, and demands an accounting and payment of all
26 wages due, plus interest and statutory costs as allowed by law.

27 **PRAYER FOR RELIEF**

1 WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and
2 severally, as follows:

3 1. On behalf of the CALIFORNIA CLASS:

4 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as
5 a class action pursuant to Cal. Code of Civ. Proc. § 382;

6 B) An order temporarily, preliminarily and permanently enjoining and restraining
7 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

8 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld
9 from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,

10 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for
11 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to the other
12 members of the CALIFORNIA CLASS.

13 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes
14 of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. §
15 382;

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

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

25 3. Meal and rest period compensation pursuant to California Labor Code Section
26 226.7, 512 and the applicable IWC Wage Order;

27 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
28 1197; and,

2. 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 cost of suit, as allowable under the law,

including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

Dated: October 15, 2021

Respectfully Submitted,
JCL LAW FIRM, A.P.C.

By: 
Jean-Claude Lapuyade
Attorneys for PLAINTIFF

DEMAND FOR JURY TRIAL

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

Dated: October 15, 2021

Respectfully Submitted,
JCL LAW FIRM, A.P.C.

By: 
Jean-Claude Lapuyade
Attorneys for PLAINTIFF