

July 15, 2024

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

**PREMIER AUTOMOTIVE IMPORTS OF CA, LLC**  
**PREMIER AUTOMOTIVE OF BUENA PARK, LLC**  
**PREMIER AUTOMOTIVE OF MV, LLC**  
**PREMIER AUTOMOTIVE OF SEASIDE, LLC**  
**PREMIER AUTOMOTIVE C OF CARLSBAD, LLC**  
**PREMIER AUTOMOTIVE BCG OF CARLSBAD, LLC**  
**PREMIER AUTOMOTIVE K OF CARLSBAD, LLC**  
**PREMIER AUTOMOTIVE CJDR OF BUENA PARK, LLC**  
**PREMIER AUTOMOTIVE HCDJ OF CALIFORNIA, LLC**  
**PREMIER AUTOMOTIVE OF NEWARK, LLC**  
**PREMIER AUTOMOTIVE OF PLACENTIA, LLC**  
**PREMIER AUTOMOTIVE OF STEVENS CREEK, LLC**  
**PREMIER NISSAN OF SAN JOSE, LLC**  
**PREMIER AUTOMOTIVE OF CA, LLC**  
**PREMIER SUBARU OF FREMONT, LLC**  
**PREMIER AUTOMOTIVE OF WEST COVINA, LLC**

c/o CSC Lawyers Incorporating Service  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

***Via Certified U.S. Mail with Return Receipt No. 9589 0710 5270 1756 9911 99***

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

Dear Sir/Madam:

Our offices represent Plaintiff KELLY TRAN (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendants PREMIER AUTOMOTIVE IMPORTS OF CA, LLC (“Defendant Premier Automotive”), PREMIER AUTOMOTIVE OF BUENA PARK, LLC, dba PREMIER CHEVROLET OF BUENA PARK (“Defendant Buena Park”), PREMIER AUTOMOTIVE OF MV, LLC, dba PREMIER AUTOMOTIVE OF MORENO VALLEY (“Defendant Moreno Valley”), PREMIER AUTOMOTIVE OF SEASIDE, LLC, dba PREMIER HYUNDAI OF SEASIDE, and PREMIER CHEVROLET OF SEASIDE (“Defendant Seaside”), PREMIER AUTOMOTIVE C OF CARLSBAD, LLC, dba PREMIER CHEVROLET OF CARLSBAD (“Defendant Carlsbad Chevy”), PREMIER AUTOMOTIVE BCG OF CARLSBAD, LLC, dba PREMIER CADILLAC BUICK GMC OF CARLSBAD (“Defendant BCG”),

PREMIER AUTOMOTIVE K OF CARLSBAD, LLC, dba PREMIER KIA OF CARLSBAD (“Defendant Premier Kia of Carlsbad”), PREMIER AUTOMOTIVE CJDR OF BUENA PARK, LLC, dba PREMIER CHRYSLER DODGE JEEP RAM OF BUENA PARK (“Defendant Premier CJDR”), PREMIER AUTOMOTIVE HCDJ OF CALIFORNIA, LLC (“Defendant Premier HCDJ”), PREMIER AUTOMOTIVE OF NEWARK, LLC (“Defendant Newark”), PREMIER AUTOMOTIVE OF PLACENTIA, LLC (“Defendant Placentia”), PREMIER AUTOMOTIVE OF STEVENS CREEK, LLC (“Defendant Stevens Creek”), PREMIER NISSAN OF SAN JOSE, LLC (“Defendant San Jose”), PREMIER AUTOMOTIVE OF CA, LLC, dba TOYOTA OF POWAY (“Defendant Poway”), PREMIER SUBARU OF FREMONT, LLC (“Defendant Fremont”), and PREMIER AUTOMOTIVE OF WEST COVINA, LLC (“Defendant West Covina”) (hereinafter collectively “Defendants”). Plaintiff was employed by Defendants from May of 2024 to June of 2024 as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks, among other things. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, failed to pay employees at the correct regular rate of pay, when applicable, failed to reimburse employees for necessary business expenditures and for all of their meal and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages and failed to provide Plaintiff and other aggrieved employees with compliant meal and rest breaks.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendants failed to provide accurate wage statements to her and other aggrieved employees, which among other violations of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.5.

**Plaintiff seeks to represent a group of aggrieved employees defined as all persons defined as all persons who are or previously were employed by Defendants Premier Automotive, Buena Park, Moreno Valley, Seaside, Carlsbad Chevy, BCG, Premier of Carlsbad, CJDR, HCDJ, Newark, Placentia, Stevens Creek, San Jose, Poway, Fremont, and/or West Covina in California and classified as non-exempt, exempt, piece-rate based, and/or commission based employees during the relevant claim period.**

A true and correct copy of the proposed Complaint by Plaintiff against Defendants, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendants, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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

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

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendants as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Very truly yours,  
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'JC Lapuyade', with a stylized flourish extending to the right.

Jean-Claude Lapuyade, Esq.

**JCL LAW FIRM, APC**

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Attorneys for PLAINTIFF

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ALAMEDA**

KELLY TRAN, an individual, on behalf of  
herself, and on behalf of all persons similarly  
situated,

Plaintiff,

v.

PREMIER AUTOMOTIVE IMPORTS OF CA,  
LLC, dba PREMIER NISSAN OF  
FREEMONT, a California limited liability  
company; PREMIER AUTOMOTIVE OF  
BUENA PARK, LLC, dba PREMIER  
CHEVROLET OF BUENA PARK, a California  
limited liability company; PREMIER  
AUTOMOTIVE OF MV, LLC, dba PREMIER  
AUTOMOTIVE OF MORENO VALLEY, a  
California limited liability company; PREMIER  
AUTOMOTIVE OF SEASIDE, LLC, dba  
PREMIER HYUNDAI OF SEASIDE and  
PREMIER CHEVROLET OF SEASIDE, a  
California limited liability company;  
PREMIER AUTOMOTIVE C OF  
CARLSBAD, LLC, dba PREMIER

Case No:

**CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION  
OF CAL. BUS. & PROF. CODE §17200 *et*  
*seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN  
VIOLATION OF CAL. LAB. CODE §§  
1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES  
IN VIOLATION OF CAL. LAB. CODE §§  
510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED  
MEAL PERIODS IN VIOLATION OF  
CAL. LAB. CODE §§ 226.7 & 512 AND  
THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED  
REST PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;

CHEVROLET OF CARLSBAD, a California limited liability company; PREMIER AUTOMOTIVE BCG OF CARLSBAD, LLC, dba PREMIER CADILLAC BUICK GMC OF CARLSBAD, a California limited liability company; PREMIER AUTOMOTIVE K OF CARLSBAD, LLC, dba PREMIER KIA OF CARLSBAD, a California limited liability company; PREMIER AUTOMOTIVE CJDR OF BUENA PARK, LLC, dba PREMIER CHRYSLER DODGE JEEP RAM OF BUENA PARK, a California limited liability company; PREMIER AUTOMOTIVE HCDJ OF CALIFORNIA, LLC, a California limited liability company; PREMIER AUTOMOTIVE OF NEWARK, a California limited liability company; PREMIER AUTOMOTIVE OF PLACENTIA, LLC, a California limited liability company; PREMIER AUTOMOTIVE OF STEVENS CREEK, LLC, a California limited liability company; PREMIER NISSAN OF SAN JOSE, LLC, a California limited liability company; PREMIER AUTOMOTIVE OF CA, LLC, dba TOYOTA OF POWAY, a California limited liability company; PREMIER SUBARU OF FREMONT, LLC, a California limited liability company; PREMIER AUTOMOTIVE OF WEST COVINA, LLC, a California limited liability company; and DOES 1-50, Inclusive,

Defendants.

- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802.

#### **DEMAND FOR A JURY TRIAL**

PLAINTIFF KELLY TRAN (“PLAINTIFF”), an individual, on behalf of herself and all other similarly situated current and former employees, alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

#### **PRELIMINARY ALLEGATIONS**

1. Defendant PREMIER AUTOMOTIVE IMPORTS OF CA, LLC (“Defendant Premier Automotive”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

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2. Defendant PREMIER AUTOMOTIVE OF BUENA PARK, LLC, dba PREMIER CHEVROLET OF BUENA PARK (“Defendant Buena Park”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant PREMIER AUTOMOTIVE OF MV, LLC, dba PREMIER AUTOMOTIVE OF MORENO VALLEY (“Defendant Moreno Valley”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

4. Defendant PREMIER AUTOMOTIVE OF SEASIDE, LLC, dba PREMIER HYUNDAI OF SEASIDE, and PREMIER CHEVROLET OF SEASIDE (“Defendant Seaside”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

5. Defendant PREMIER AUTOMOTIVE C OF CARLSBAD, LLC, dba PREMIER CHEVROLET OF CARLSBAD (“Defendant Carlsbad Chevy”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

6. Defendant PREMIER AUTOMOTIVE BCG OF CARLSBAD, LLC, dba PREMIER CADILLAC BUICK GMC OF CARLSBAD (“Defendant BCG”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

7. Defendant PREMIER AUTOMOTIVE K OF CARLSBAD, LLC, dba PREMIER KIA OF CARLSBAD (“Defendant Premier Kia of Carlsbad”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

8. Defendant PREMIER AUTOMOTIVE CJDR OF BUENA PARK, LLC, dba PREMIER CHRYSLER DODGE JEEP RAM OF BUENA PARK (“Defendant Premier CJDR”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

1           9. Defendant PREMIER AUTOMOTIVE HCDJ OF CALIFORNIA, LLC  
2 (“Defendant Premier HCDJ”) is a California limited liability company corporation that at all  
3 relevant times mentioned herein conducted and continues to conduct substantial and regular  
4 business throughout California.

5           10. Defendant PREMIER AUTOMOTIVE OF NEWARK, LLC (“Defendant  
6 Newark”) is a California limited liability company that at all relevant times mentioned herein  
7 conducted and continues to conduct substantial and regular business throughout California.

8           11. Defendant PREMIER AUTOMOTIVE OF PLACENTIA, LLC (“Defendant  
9 Placentia”) is a California limited liability company that at all relevant times mentioned herein  
10 conducted and continues to conduct substantial and regular business throughout California.

11           12. Defendant PREMIER AUTOMOTIVE OF STEVENS CREEK, LLC (“Defendant  
12 Stevens Creek”) is a California limited liability company that at all relevant times mentioned  
13 herein conducted and continues to conduct substantial and regular business throughout California.

14           13. Defendant PREMIER NISSAN OF SAN JOSE, LLC (“Defendant San Jose”) is a  
15 California limited liability company that at all relevant times mentioned herein conducted and  
16 continues to conduct substantial and regular business throughout California.

17           14. Defendant PREMIER AUTOMOTIVE OF CA, LLC, dba TOYOTA OF POWAY  
18 (“Defendant Poway”) is a California limited liability company that at all relevant times mentioned  
19 herein conducted and continues to conduct substantial and regular business throughout California.

20           15. Defendant PREMIER SUBARU OF FREMONT, LLC (“Defendant Fremont”) is  
21 a California limited liability company that at all relevant times mentioned herein conducted and  
22 continues to conduct substantial and regular business throughout California.

23           16. Defendant PREMIER AUTOMOTIVE OF WEST COVINA, LLC (“Defendant  
24 West Covina”) is a California limited liability company that at all relevant times mentioned herein  
25 conducted and continues to conduct substantial and regular business throughout California.

26           17. Defendant Premier Automotive, Buena Park, Moreno Valley, Seaside, Carlsbad  
27 Chevy, BCG, Premier of Carlsbad, CJDR, HCDJ, Newark, Placentia, Stevens Creek, San Jose,  
28 Poway, Fremont, and West Covina were the joint employers of PLAINTIFF as evidenced by the

documents issued to PLAINTIFF and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

18. DEFENDANTS operates car dealerships in California, including in the county of Alameda, where PLAINTIFF worked.

19. PLAINTIFF was employed by DEFENDANTS in California from May 2024 to June 2024 as a non-exempt employee, paid on an hourly basis, non-discretionary bonuses, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

20. PLAINTIFF brings this Class Action on behalf of herself and a California class, defined as all persons who are or previously were employed by Defendants Premier Automotive, Buena Park, Moreno Valley, Seaside, Carlsbad Chevy, BCG, Premier of Carlsbad, CJDR, HCDJ, Newark, Placentia, Stevens Creek, San Jose, Poway, Fremont, and West Covina in California and classified as non-exempt, exempt, piece-rate based, and/or commission-based employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

1 DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable  
2 relief.

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

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

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

26 25. DEFENDANTS were PLAINTIFF's employers or persons acting on behalf of  
27 PLAINTIFF's employer either individually or as an officer, agent, or employee of another person,  
28 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any

1 employee a wage less than the minimum fixed by California state law, and as such, are subject to  
2 civil penalties for each underpaid employee.

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

6 27. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction  
7 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and  
8 other members of the CALIFORNIA CLASS who has been economically injured by  
9 DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable  
10 relief.

### 11 **JURISDICTION AND VENUE**

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

16 29. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
17 Sections 395 and 395.5, because DEFENDANTS operate in locations across California, employ  
18 the CALIFORNIA CLASS across California, including in this County, and committed the  
19 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

### 20 **THE CONDUCT**

21 30. In violation of the applicable sections of the California Labor Code and the  
22 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a  
23 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
24 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
25 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
26 periods, failed to pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all  
27 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF  
28 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,

1 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal and rest  
2 premiums at the regular rate of pay, failed to pay PLAINTIFF and other CALIFORNIA CLASS  
3 Members redeemed sick pay at the regular rate of pay, failed to reimburse PLAINTIFF and other  
4 CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and  
5 the members of the CALIFORNIA CLASS with accurate itemized wage statements showing,  
6 among other things, all applicable hourly rates in effect during the pay periods and the  
7 corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and  
8 practices are intended to purposefully avoid the accurate and full payment for all time worked as  
9 required by California law which allows DEFENDANTS to illegally profit and gain an unfair  
10 advantage over competitors who comply with the law. To the extent equitable tolling operates to  
11 toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should  
12 be adjusted accordingly.

13 **A. Meal Period Violations**

14 31. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS  
15 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
16 meaning the time during which an employee is subject to the control of an employer, including  
17 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
18 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
19 without paying them for all the time they were under DEFENDANTS' control. Specifically,  
20 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to  
21 be PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
22 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
23 Members forfeited minimum wage and overtime compensation by regularly working without their  
24 time being accurately recorded and without compensation at the applicable minimum wage and  
25 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
26 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
27 records.

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32. From time to time during the CLASS PERIOD, as a result of their rigorous work schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA CLASS Members are 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 are required to perform work as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which these employees are required by DEFENDANTS to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call. Further, DEFENDANTS from time to time required PLAINTIFF and other CALIFORNIA CLASS Members to maintain cordless communication devices in order to receive and respond to work-related communications during what was supposed to be their off-duty meal breaks. DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by DEFENDANTS' business records. As a result of their rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

**B. Rest Period Violations**

33. From time to time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and DEFENDANTS' inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some

1 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and  
2 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from  
3 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA  
4 CLASS Members were, from time to time, required to on duty and/or on call. Further,  
5 DEFENDANTS from time to time required PLAINTIFF and other CALIFORNIA CLASS  
6 Members to maintain cordless communication devices in order to receive and respond to work-  
7 related communications during what was supposed to be their off-duty rest breaks. PLAINTIFF  
8 and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*  
9 thereof. As a result of their rigorous work schedules and DEFENDANTS' inadequate staffing,  
10 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their  
11 proper rest periods by DEFENDANT and DEFENDANTS' managers.

12 **C. Unreimbursed Business Expenses**

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

24 35. In the course of their employment, DEFENDANTS required PLAINTIFF and  
25 other CALIFORNIA CLASS Members to incur personal expenses for the use of their personal  
26 cell phones and computers as a result of and in furtherance of their job duties. Specifically,  
27 PLAINTIFF and other CALIFORNIA CLASS Members were required to use their personal cell  
28 phones and computers in order to perform work related tasks. However, DEFENDANTS

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

6 **D. Wage Statement Violations**

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

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

23 38. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide  
24 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
25 Cal. Lab. Code § 226(a)(1)-(9).

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

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

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

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

7 41. During the CLASS PERIOD, from time-to-time DEFENDANTS required  
8 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
9 work, including but not limited to, performing security sweeps of DEFENDANTS' property. This  
10 resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while  
11 off-the-clock.

12 42. DEFENDANTS directed and directly benefited from the undercompensated off-  
13 the-clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

14 43. DEFENDANTS controlled the work schedules, duties, and protocols, applications,  
15 assignments, and employment conditions of PLAINTIFF and the other members of the  
16 CALIFORNIA CLASS.

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

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

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

1           47. DEFENDANTS knew or should have known that PLAINTIFF and the other  
2 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law. As a  
3 result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited wages due to  
4 them for all hours worked at DEFENDANTS' direction, control, and benefit for the time spent  
5 working while off-the-clock, including but not limited to, performing security sweeps of  
6 DEFENDANTS' property. DEFENDANTS' uniform policy and practice to not pay PLAINTIFF  
7 and the members of the CALIFORNIA CLASS wages for all hours worked in accordance with  
8 applicable law is evidenced by DEFENDANTS' business records.

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

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

15           49. DEFENDANTS' non-discretionary commission and bonus program provided the  
16 CALIFORNIA CLASS, including PLAINTIFF, with commissions and/or bonus compensation  
17 when the employees met the various performance goals set by DEFENDANT. However, when  
18 calculating the regular rate of pay, in those pay periods where PLAINTIFF and the CALIFORNIA  
19 CLASS worked overtime and earned non-discretionary bonus and/or commission wages,  
20 DEFENDANT failed to accurately include the non-discretionary bonus compensation and/or  
21 commission wages as part of the employees' "regular rate of pay."

22           50. Management and supervisors described the bonus and commissions programs and  
23 commission compensation program to potential and new employees as part of the compensation  
24 package for new and used car salespersons including PLAINTIFF and the CALIFORNIA  
25 CLASS. As a matter of law, the incentive and commission compensation received by  
26 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly  
27 calculated into the "regular rate of pay" for purposes of overtime and double time compensation,  
28 meal and rest period premium payments, and sick pay. DEFENDANT's failure to do so has

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

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

21 **G. Commission and Piece-Rate Violations**

22         52. From time-to-time during the CALIFORNIA CLASS PERIOD, PLAINTIFF and  
23 the CALIFORNIA CLASS were paid in part on a commission and/or piece-rate basis. In those  
24 instances where PLAINTIFF and the CALIFORNIA CLASS were paid in part on a commission  
25 and/or piece-rate basis, PLAINTIFF and the CALIFORNIA CLASS were entitled to be separately  
26 compensated for all non-productive time at an hourly rate that is no less than the applicable  
27 minimum wage. Notwithstanding, in those instances where PLAINTIFF and the CALIFORNIA  
28 CLASS were paid in part on a commission and/or piece-rate basis, DEFENDANT failed to

1 separately compensate PLAINTIFF and the CALIFORNIA CLASS for all non-productive time,  
2 including but not limited to, paid rest periods, at an hourly rate that is no less than the applicable  
3 minimum wage. As a result, PLAINTIFF and the CALIFORNIA CLASS forfeited minimum  
4 wages and overtime wages by DEFENDANT’S failure to separately compensate their non-  
5 productive time at an hourly rate that is no less than the applicable minimum wage.

6 53. Further, from time-to-time during the CLASS PERIOD, DEFENDANTS  
7 improperly misclassified PLAINTIFF and the CALIFORNIA CLASS members who were paid  
8 on a draw versus commission basis as exempt from overtime compensation. During the CLASS  
9 PERIOD, DEFENDANTS included advanced draws in order to meet the salary-basis test for the  
10 overtime exemption. However, DEFENDANTS cannot rely on advanced draws in order to meet  
11 the salary-basis test for such an exemption. (See *Semprini v. Wedbush* (2020) 57 Cal.App.5th 252-  
12 254.) As a result, PLAINTIFF and the CALIFORNIA CLASS members who were paid on a draw  
13 versus commission basis forfeited overtime wages by DEFENDANTS’ failure to accurately  
14 classify them as non-exempt from overtime compensation.

#### 15 **H. Unlawful Deductions**

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

#### 20 **I. Timekeeping Manipulation**

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

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

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

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

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

#### 19 **J. Unlawful Rounding Practices**

20 59. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
21 place an immutable timekeeping system to accurately record and pay PLAINTIFFS and other  
22 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
23 including overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding  
24 policy and practice that resulted in PLAINTIFFS and CALIFORNIA CLASS Members being  
25 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did  
26 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping  
27 system for PLAINTIFFS and the members of the CALIFORNIA CLASS in order to avoid paying  
28 these employees for all their time worked, including the applicable overtime compensation for

overtime worked. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members, from time to time, forfeited compensation for their time worked by working without their time being accurately recorded and without compensation at the applicable overtime rates.

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

**K. Violations for Untimely Payment of Wages**

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

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

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

///

1     **L. Sick Pay Violations**

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

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

14           66.     Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
15    off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.  
16    PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
17    hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
18    provide PLAINTIFF with a second off-duty meal period each workday in which she was required  
19    by DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided  
20    PLAINTIFF with a rest break, they required PLAINTIFF to remain on-duty and on-call for the  
21    rest break. DEFENDANTS policy caused PLAINTIFF to remain on-call and on-duty during  
22    what was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and  
23    rest breaks without additional compensation and in accordance with DEFENDANTS’ strict  
24    corporate policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with  
25    paystubs that failed to comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed  
26    to reimburse PLAINTIFF for required business expenses related to the personal expenses  
27    incurred for the use of her personal cell phone and for the purchase of work uniforms, on behalf  
28    of and in furtherance of her employment with DEFENDANTS. To date, DEFENDANTS have  
not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to

her or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

### **CLASS ACTION ALLEGATIONS**

67. PLAINTIFF brings this Class Action on behalf of herself, and a California class defined as all persons who are or previously were employed by Defendants Premier Automotive, Buena Park, Moreno Valley, Seaside, Carlsbad Chevy, BCG, Premier of Carlsbad, CJDR, HCDJ, Newark, Placentia, Stevens Creek, San Jose, Poway, Fremont, and West Covina in California and classified as non-exempt, exempt, piece-rate based, and/or commission-based employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”).

68. 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, failed to reimburse for business expenses, failed compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure to maintain required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

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

70. Common questions of law and fact regarding DEFENDANTS’ conduct, including but not limited to, 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 reimburse for business expenses, failure to provide accurate itemized wage statements accurate, and failure to 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 failed to compensate PLAINTIFF and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANTS issued legally compliant wage statements;
- h. 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;
- i. 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 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. 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.

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

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

1           73. PLAINTIFF will fairly and adequately represent and protect the interests of the  
2 CALIFORNIA CLASS Members.

3           74. PLAINTIFF retained able class counsel with extensive experience in class action  
4 litigation.

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

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

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

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

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

79. 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

## Unlawful Business Practices

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

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

80. 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.

81. DEFENDANTS are “persons” as that term is defined under Cal. Bus. And Prof. Code § 17021.

82. 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).

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

/ / /

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

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

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

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

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

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

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

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

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

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

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

1 and economic harm unless DEFENDANTS are restrained from continuing to engage in these  
2 unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

4 **Failure To Pay Minimum Wages**

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

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

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

10 95. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
11 for DEFENDANTS' willful and intentional violations of the California Labor Code and the  
12 Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately calculate  
13 and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

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

26 100. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
27 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
28

1 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
2 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

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

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

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

27 106. In performing the acts and practices herein alleged in violation of California labor  
28 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked

1 and provide them with the requisite compensation, DEFENDANTS acted and continues to act  
2 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
3 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the  
4 consequences to them, and with the despicable intent of depriving them of their property and legal  
5 rights, and otherwise causing them injury in order to increase company profits at the expense of  
6 these employees.

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

### 18 **THIRD CAUSE OF ACTION**

#### 19 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FIFTH CAUSE OF ACTION**

**Failure To Provide Required Rest Periods**

**(Cal. Lab. Code §§ 226.7 & 512)**

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

128. 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.

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

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

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

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

## **SIXTH CAUSE OF ACTION**

### **Failure To Provide Accurate Itemized Statements**

**(Cal. Lab. Code § 226)**

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

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

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

- a. Gross wages earned,
- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an

employee identification number other than social security number may be shown on the itemized statement,

h. the name and address of the legal entity that is the employer, and

i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

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

135. In addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of California Labor Code Section 226(a)(1)-(9).

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

1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code § 203)**

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

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

8 138. Cal. Lab. Code § 200 provides that:

9 As used in this article:

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

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

19 140. Cal. Lab. Code § 202 provides, in relevant part, that:

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

29 141. There was no definite term in PLAINTIFFS' or any CALIFORNIA CLASS  
30 Members' employment contract.

31 142. Cal. Lab. Code § 203 provides:

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

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

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

### EIGHTH CAUSE OF ACTION

## Failure To Reimburse Employees for Required Expenses

**(Cal. Lab. Code §§ 2802)**

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

145. 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.

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

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

147. From time to time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members for expenses which included, but were not limited to, the use of their personal cell phones and computers, all on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANTS to use their personal cell phones and computers to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse

1 PLAINTIFF and the CALIFORNIA CLASS members for expenses resulting from the use of  
2 their personal cell phones and computers within the course and scope of their employment for  
3 DEFENDANTS. These expenses were necessary to complete their principal job duties.  
4 DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of this  
5 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the  
6 CALIFORNIA CLASS members, DEFENDANTS failed to indemnify and reimburse  
7 PLAINTIFF and the CALIFORNIA CLASS members for these expenses as an employer is  
8 required to do under the laws and regulations of California.

9 148. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred  
10 by her and the CALIFORNIA CLASS members in the discharge of their job duties for  
11 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the  
12 statutory rate and costs under Cal. Lab. Code § 2802.

13 **PRAYER FOR RELIEF**

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

16 1. On behalf of the CALIFORNIA CLASS:

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

27 2. On behalf of the CALIFORNIA CLASS:

- 28 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth

1 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant  
2 to Cal. Code of Civ. Proc. § 382;

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

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

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

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

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

19 3. On all claims:

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

21 b. Such other and further relief as the Court deems just and equitable; and  
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1 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,  
2 including, but not limited to, pursuant to Labor Code § 218.5, § 226, § 246 and/or  
3 § 1194.

4 DATED: July 15, 2024

**JCL LAW FIRM, APC**

5 By: 

6 Jean-Claude Lapuyade, Esq.  
7 Attorney for PLAINTIFF  
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**DEMAND FOR A JURY TRIAL**

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

DATED: July 15, 2024

**JCL LAW FIRM, APC**

By:   
Jean-Claude Lapuyade, Esq.  
Attorney for PLAINTIFF