

July 11, 2024

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

DYNAMIC NURSING SERVICES, INC.

c/o Carol R. Silver Lutza
14260 Ventura Blvd. No. 300
Sharman Oaks, CA 91423

Via Certified U.S. Mail with Return Receipt No. 9589 0710 5270 1756 9911 75

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 Plaintiffs MARINA SANTANA ("Plaintiff Santana") and MARICELA MORALES VIDAL ("Plaintiff Vidal") (collectively, hereinafter "Plaintiffs"), and other aggrieved employees in a proposed lawsuit against Defendant DYNAMIC NURSING SERVICES, INC. ("Defendant"). Plaintiff Santana has been employed by Defendant since November of 2020, 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. Plaintiff Vidal was employed by Defendant from January of 2023, to May 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. Defendant, however, unlawfully failed to record and pay Plaintiffs and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendant failed to timely pay Plaintiffs and other aggrieved employees for earned wages.

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

Plaintiffs seek to represent a group of aggrieved employees defined as all non-exempt employees who are or previously were employed by Defendant in California during the relevant claim period.

A true and correct copy of the proposed Complaint by Plaintiffs against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiffs, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiffs, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiffs therefore incorporate 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—Plaintiffs reserve any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiffs continue their 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 Plaintiffs to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiffs and all aggrieved California employees.

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

Very truly yours,
JCL LAW FIRM, APC

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

Jean-Claude Lapuyade, Esq.

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Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

MARINA SANTANA, and MARICELA
MORALES VIDAL, individuals, on behalf of
themselves, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

DYNAMIC NURSING SERVICES, INC., a
California corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

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

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

10 **DEMAND FOR A JURY TRIAL**

11 PLAINTIFFS MARINA SANTANA (“Plaintiff Santana”) and MARICELA MORALES
12 VIDAL (“Plaintiff Vidal”) (hereinafter collectively, “PLAINTIFFS”), individuals, on behalf of
13 themselves, and on behalf of all persons similarly situated current and former employees, allege on
14 information and belief, except for her own acts and knowledge which are based on personal
15 knowledge, the following:

16 **PRELIMINARY ALLEGATIONS**

17 1. DEFENDANT DYNAMIC SERVICES, INC. (“DEFENDANT”) is a California
18 corporation that at all relevant times mentioned herein conducted and continues to conduct
19 substantial and regular business throughout California.

20 2. DEFENDANT provides at-home healthcare services in the state of California,
21 county of Los Angeles, where PLAINTIFFS worked.

22 3. Plaintiff Santana has been employed by DEFENDANT in California since
23 November of 2020 as a non-exempt employee, paid on an hourly basis and entitled to the legally
24 required meal and rest periods and payment of minimum and overtime wages due for all time
25 worked.

26 4. Plaintiff Vidal was employed by DEFENDANT in California from January of
27 2023, to May of 2024, as a non-exempt employee, paid on an hourly basis and entitled to the
28 legally required meal and rest periods and payment of minimum and overtime wages due for all
time worked.

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1 5. PLAINTIFFS bring this Class Action on behalf of themselves and a California
2 class, defined as all persons who are or previously were employed by DEFENDANT in California
3 and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the
4 period beginning four (4) years prior to the filing of this Complaint and ending on the date as
5 determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate
6 claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

27 8. The agents, servants and/or employees of the Defendants and each of them acting
28 on behalf of the Defendants acted within the course and scope of his, her or its authority as the

1 agent, servant and/or employee of the Defendants, and personally participated in the conduct
2 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
3 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
4 Defendants are jointly and severally liable to PLAINTIFFS and the other members of the
5 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
6 Defendants' agents, servants and/or employees.

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

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

18 11. DEFENDANT'S uniform policies and practices alleged herein were unlawful,
19 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
20 wages due to PLAINTIFFS and other members of the CALIFORNIA CLASS.

21 12. PLAINTIFFS and other members of the CALIFORNIA CLASS seek an injunction
22 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFFS and
23 other members of the CALIFORNIA CLASS who has been economically injured by
24 DEFENDANTS' past and current unlawful conduct, and all other appropriate legal and equitable
25 relief.

26 **JURISDICTION AND VENUE**

27 13. This Court has jurisdiction over this Action pursuant to California Code of Civil
28 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This

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

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

7 **THE CONDUCT**

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

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1 **A. Meal Period Violations**

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

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

1 legally required meal breaks is evidenced by DEFENDANT’S business records. PLAINTIFFS
2 and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
3 compensation and in accordance with DEFENDANT’S strict corporate policy and practice.

4 **B. Rest Period Violations**

5 18. From time to time during the CLASS PERIOD, PLAINTIFFS and other
6 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
7 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
8 DEFENDANTS’ inadequate staffing. Further, for the same reasons, these employees were denied
9 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
10 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
11 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
12 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
13 time to time. When they were provided with rest breaks, PLAINTIFFS and other CALIFORNIA
14 CLASS Members were, from time to time, required to remain on premises, on duty and/or on call.
15 PLAINTIFFS and other CALIFORNIA CLASS Members were also not provided with one-hour
16 wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANT’S
17 inadequate staffing, PLAINTIFFS and other CALIFORNIA CLASS Members were from time to
18 time denied their proper rest periods by DEFENDANT and DEFENDANT’S managers.

19 **C. Wage Statement Violations**

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

28 20. From time to time during the CLASS PERIOD, when PLAINTIFFS and other

1 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
2 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS
3 also failed to provide PLAINTIFFS and other CALIFORNIA CLASS Members with complete
4 and accurate wage statements which failed to show the complete requirements under California
5 Labor Code sections 226(a)(1)-(9), including but not limited to, all deductions, the total hours
6 worked and all applicable hourly rates in effect during the pay period and the corresponding
7 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
8 meal and rest periods.

9 21. Further, from time to time, DEFENDANT included Holiday hours into the
10 computation of total hours worked for purposes of Cal. Lab. Code §226(a)(2), notwithstanding
11 the fact Holiday hours are not considered hours worked. DEFENDANT’S inclusion of Holiday
12 hours into the total hours worked in itemized wage statements issued to PLAINTIFFS and other
13 CALIFORNIA CLASS Members violates Cal. Lab. Code §226(a)(2).

14 22. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
15 PLAINTIFFS and the CALIFORNIA CLASS Members with wage statements that comply with
16 Cal. Lab. Code § 226(a)(1)-(9).

17 23. As a result, DEFENDANT issued PLAINTIFFS and other members of the
18 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
19 DEFENDANT’S violations are knowing and intentional, were not isolated due to an unintentional
20 payroll error due to clerical or inadvertent mistake.

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

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

25 25. During the CLASS PERIOD, from time-to-time DEFENDANT required
26 PLAINTIFFS and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
27 work. This resulted in PLAINTIFFS and other members of the CALIFORNIA CLASS to have to
28 work while off-the-clock.

1 26. DEFENDANT directed and directly benefited from the undercompensated off-the-
2 clock work performed by PLAINTIFFS and the other CALIFORNIA CLASS Members.

3 27. DEFENDANT controlled the work schedules, duties, and protocols, applications,
4 assignments, and employment conditions of PLAINTIFFS and the other members of the
5 CALIFORNIA CLASS.

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

10 29. PLAINTIFFS and the other members of the CALIFORNIA CLASS were non-
11 exempt employees, subject to the requirements of the California Labor Code.

12 30. DEFENDANT’S policies and practices deprived PLAINTIFFS and the other
13 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed
14 for the off-the-clock work activities. Because PLAINTIFFS and the other members of the
15 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than
16 eight (8) hours per day, DEFENDANT’S policies and practices also deprived them of overtime
17 pay.

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

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

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

33. From time to time during the CLASS PERIOD, DEFENDANT failed and continues to fail to accurately calculate and pay PLAINTIFFS and the other CALIFORNIA CLASS Members for their overtime and double time hours worked, meal and rest period premiums, and redeemed sick pay. As a result, PLAINTIFFS and the other CALIFORNIA CLASS Members forfeited wages due to them for working overtime without compensation at the correct overtime and double time rates, meal and rest period premiums, and redeemed sick pay rates. DEFENDANT’S uniform policy and practice not to pay the CALIFORNIA CLASS Members at the correct rate for all overtime and double time worked, meal and rest period premiums, and redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT’S business records.

34. State law provides that employees must be paid overtime at one-and-one-half times their “regular rate of pay.” PLAINTIFFS 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.

35. The second component of PLAINTIFFS’ and other CALIFORNIA CLASS Members’ compensation was DEFENDANT’S non-discretionary incentive program that paid PLAINTIFFS and other CLASS MEMBERS incentive wages based on their performance for DEFENDANT. The non-discretionary bonus program provided all employees paid on an hourly basis with bonus compensation when the employees met the various performance goals set by DEFENDANT.

36. However, from-time-to-time, when calculating the regular rate of pay, in those pay periods where PLAINTIFFS and other CALIFORNIA CLASS members worked overtime, double time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-discretionary bonus, DEFENDANT failed to accurately include the non-discretionary bonus compensation as part of the employees’ “regular rate of pay” and/or calculated all hours worked rather than just all non-overtime hours worked. Management and supervisors described the

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

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

24 **F. Unreimbursed Business Expenses**

25 38. DEFENDANT as a matter of corporate policy, practice, and procedure,
26 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFFS
27 and the other CALIFORNIA CLASS Members for required business expenses incurred by the
28 PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence of discharging

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

8 39. In the course of their employment, DEFENDANT required PLAINTIFFS and
9 other CALIFORNIA CLASS Members to incur personal expenses for the use of their personal
10 cell phones and personal vehicles as a result of and in furtherance of their job duties. Specifically,
11 PLAINTIFFS and other CALIFORNIA CLASS Members were required to use their own personal
12 cell phones and personal vehicles in order to perform work related tasks. However, DEFENDANT
13 unlawfully failed to reimburse PLAINTIFFS and other CALIFORNIA CLASS Members for the
14 personal expenses incurred for the use of their own personal cell phones and personal vehicles.
15 As a result, in the course of their employment with DEFENDANT, PLAINTIFFS and other
16 CALIFORNIA CLASS Members incurred unreimbursed business expenses that included, but
17 were not limited to, costs related to the use of their own personal cell phones and personal vehicles
18 all on behalf of and for the benefit of DEFENDANT.

19 **G. Unlawful Rounding Practices**

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

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

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

10 **H. Timekeeping Manipulation**

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

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

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

1 DEFENDANT’S uniform policy and practice of denying employees uninterrupted thirty (30)
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

3 45. As a result, PLAINTIFFS and the other members of the CALIFORNIA CLASS
4 forfeited wages due them for all hours worked at DEFENDANT’S direction, control and benefit
5 for the time the timekeeping system was inoperable. DEFENDANT’S uniform policy and
6 practice to not pay PLAINTIFFS and the members of the CALIFORNIA CLASS wages for all
7 hours worked in accordance with applicable law is evidenced by DEFENDANT’S business
8 records.

9 **I. Sick Pay Violations**

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

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

22 **J. Failure to Provide Personnel Files**

23 48. On May 6, 2024, PLAINTIFFS caused written requests via certified mail to be
24 delivered to DEFENDANT for PLAINTIFFS’ personnel and employment records, including but
25 not limited to: (1) payroll records; (2) employment contracts; (3) itemized pay stubs; and (4)
26 PLAINTIFFS’ complete employment files.

27 49. DEFENDANT failed to provide and/or make available to PLAINTIFFS their
28 personnel records, payroll records, employment contracts, and entire employment files within

thirty (30) days of their requests stated above. In fact, as of the date of filing of this complaint, DEFENDANT has still failed to pay PLAINTIFFS the statutory penalty in the amount of \$750. DEFENDANT violated Cal. Lab. Code Section 1198.5 by failing to respond and provide PLAINTIFFS with their employment files. Section 1198.5 states that employees (and former employees) have the right to inspect personnel records maintained by the employer “related to the employee’s performance or to any grievance concerning the employee.” Employers must allow inspection or copying within thirty (30) days of the request. PLAINTIFFS are now entitled to and requests injunctive relief to obtain compliance with Cal. Lab. Code Section 1198.5, a statutory penalty, and an award of attorneys’ fees and costs for bringing this action.

K. Violations for Untimely Payment of Wages

50. Pursuant to California Labor Code section 204, PLAINTIFFS and the CALIFORNIA CLASS members were entitled to timely payment of wages during their employment. PLAINTIFFS 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.

L. Unlawful Deductions

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

52. Specifically, as to PLAINTIFFS, PLAINTIFFS were from time to time unable to take off duty meal and rest breaks and were not fully relieved of duty for their rest and meal periods. PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFFS with a second off-duty meal period each workday in which they were required by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFFS with a rest break, they required PLAINTIFFS to remain on-duty and on-call for the rest break. DEFENDANT’S policy caused PLAINTIFFS to remain on-call and on-duty during

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

10 **CLASS ACTION ALLEGATIONS**

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

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

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

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

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

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

1 57. PLAINTIFFS are members of the CALIFORNIA CLASS and suffered damages
2 as a result of DEFENDANT’S conduct and actions alleged herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **SECOND CAUSE OF ACTION**

6 **Failure To Pay Minimum Wages**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **THIRD CAUSE OF ACTION**

21 **Failure To Pay Overtime Compensation**

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

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

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

27 96. PLAINTIFFS and the other members of the CALIFORNIA CLASS bring a claim
28 for DEFENDANT’S willful and intentional violations of the California Labor Code and the

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

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

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

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

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

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

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

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

4 104. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
5 from the overtime requirements of the law. None of these exemptions are applicable to
6 PLAINTIFFS and the other members of the CALIFORNIA CLASS. Further, PLAINTIFFS and
7 the 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 PLAINTIFFS bring this Action on behalf of themselves, and the CALIFORNIA CLASS, based
10 on DEFENDANT’S violations of non-negotiable, non-waivable rights provided by the State of
11 California.

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

15 106. DEFENDANT failed to accurately pay PLAINTIFFS 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 PLAINTIFFS and the other members of the CALIFORNIA CLASS were regularly
19 required to work, and did in fact work overtime, and did in fact work overtime as to which
20 DEFENDANT failed to accurately record and pay as evidenced by DEFENDANT’S business
21 records and witnessed by employees.

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

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

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 **Failure To Provide Required Meal Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

5 111. PLAINTIFFS 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.

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

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

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114. As a proximate result of the aforementioned violations, PLAINTIFFS 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 PLAINTIFFS and the CALIFORNIA CLASS against all Defendants)

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

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

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

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

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Pay Wages When Due**

8 **(Cal. Lab. Code § 203)**

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

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

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

14 As used in this article:

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

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

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

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

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

124. Cal. Lab. Code § 203 provides:

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

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

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

SEVENTH CAUSE OF ACTION

Failure To Provide Accurate Itemized Statements

(Cal. Lab. Code § 226)

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

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

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

a. Gross wages earned,

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

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

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

130. Further, from time to time, DEFENDANT included Holiday hours into the computation of total hours worked for purposes of Cal. Lab. Code §226(a)(2), notwithstanding the fact Holiday hours are not considered hours worked. DEFENDANT'S inclusion of Holiday hours into the total hours worked in itemized wage statements issued to PLAINTIFFS and other CALIFORNIA CLASS Members violates Cal. Lab. Code §226(a)(2).

131. In addition to the foregoing, DEFENDANT failed to provide itemized wage

1 statements to PLAINTIFFS and members of the CALIFORNIA CLASS that complied with the
2 requirements of California Labor Code Section 226(a)(1)-(9).

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

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES**

16 **(Cal. Lab. Code §§ 2802)**

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

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

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

22 An employer shall indemnify his or her employee for all necessary expenditures or
23 losses incurred by the employee in direct consequence of the discharge of his or her
24 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.

25 135. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
26 Code § 2802, by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA
27 CLASS members for required expenses incurred in the discharge of their job duties for
28 DEFENDANT'S benefit. DEFENDANT failed to reimburse PLAINTIFFS and the

1 CALIFORNIA CLASS members for expenses which included, but were not limited to, the use
2 of their own personal cell phones and personal vehicles all on behalf of and for the benefit of
3 DEFENDANT. Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members were
4 required by DEFENDANT to the use their own personal cell phones and personal vehicles to
5 perform their essential job duties on behalf of DEFENDANT. DEFENDANT'S uniform policy,
6 practice and procedure was to not reimburse PLAINTIFFS and the CALIFORNIA CLASS
7 members for expenses resulting from the use of their personal cell phones and personal vehicles
8 for DEFENDANT within the course and scope of their employment for DEFENDANT. These
9 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by
10 DEFENDANT'S conduct to assert any waiver of this expectation. Although these expenses were
11 necessary expenses incurred by PLAINTIFFS and the CALIFORNIA CLASS members,
12 DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA CLASS
13 members for these expenses as an employer is required to do under the laws and regulations of
14 California.

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

19 **PRAYER FOR RELIEF**

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

22 1. On behalf of the CALIFORNIA CLASS:

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

members of the CALIFORNIA CLASS; and

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

2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due to PLAINTIFFS and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226
- e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- f. The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

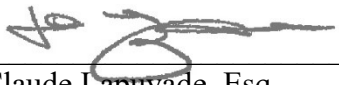
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3. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
 - b. Such other and further relief as the Court deems just and equitable; and
 - c. An award of penalties, attorneys’ fees, and costs of suit, as allowable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

DATED: July 11, 2024

JCL LAW FIRM, APC

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

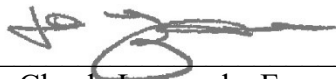
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DEMAND FOR A JURY TRIAL

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

DATED: July 11, 2024

JCL LAW FIRM, APC

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