
April 30, 2024

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

MITCHELL REPAIR INFORMATION COMPANY, LLC

c/o C T CORPORATION SYSTEM

330 N Brand Blvd. Suite 700

Glendale, CA 91203

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 0361 2318 12

SNAP-ON INCORPORATED

c/o C T CORPORATION SYSTEM

330 N Brand Blvd. Suite 700

Glendale, CA 91203

Sent via Certified Mail and Return Receipt No. 9589 0710 5270 0361 2318 29

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, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff LOUIS CARABETTA (“Plaintiff”) and other aggrieved employees in a proposed lawsuit against Defendant MITCHELL REPAIR INFORMATION COMPANY, LLC and/or Defendant SNAP-ON INCORPORATED (“Defendants”). Plaintiff was employed by Defendants in California from September of 2020 through present, 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. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendants failed to provide accurate wage statements to him 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.

Plaintiff seeks to represent a group of aggrieved employees defined as all current and former non-exempt employees who worked for Defendants in California during the relevant claim period.

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

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

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

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

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

Very truly yours,

JCL LAW FIRM, APC

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

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 SAN DIEGO

LOUIS CARABETTA, an individual, on behalf
of himself, and on behalf of all persons similarly
situated,

Plaintiffs,

v.

MITCHELL REPAIR INFORMATION
COMPANY, LLC, a Delaware limited liability
company; SNAP-ON INCORPORATED, a
Delaware 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 REIMBURSE EMPLOYEES
2 FOR REQUIRED EXPENSES IN
3 VIOLATION OF CAL. LAB. CODE § 2802;
4 7) FAILURE TO PROVIDE ACCURATE
5 ITEMIZED STATEMENTS IN
6 VIOLATION OF CAL. LAB. CODE § 226;
7 8) FAILURE TO PROVIDE WAGES WHEN
8 DUE IN VIOLATION OF CAL. LAB.
9 CODE §§ 201, 202 AND 203.

10 **DEMAND FOR A JURY TRIAL**

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

14 **PRELIMINARY ALLEGATIONS**

15 1. Defendant MITCHELL REPAIR INFORMATION COMPANY, LLC
16 (“Defendant”) is a Delaware limited liability company that at all relevant times mentioned herein
17 conducted and continues to conduct substantial and regular business throughout California.

18 2. Defendant SNAP-ON INCORPORATED is a Delaware corporation that at all
19 relevant times mentioned herein conducted and continues to conduct substantial and regular
20 business throughout California.

21 3. Defendant MITCHELL REPAIR INFORMATION COMPANY, LLC and/or
22 Defendant SNAP-ON INCORPORATED were the joint employers of PLAINTIFF as evidenced by
23 the documents issued to PLAINTIFF and by the company PLAINTIFF performed work for
24 respectively and are therefore jointly responsible as employers for the conduct alleged herein as
25 “DEFENDANTS” and/or “DEFENDANT.”

26 4. DEFENDANTS are an American company that produces software for automobile
27 repair shops throughout the state of California, including the county of San Diego, where
28 PLAINTIFF works.

29 5. PLAINTIFF was employed by DEFENDANTS in California from September of
2020 through present as a non-exempt employee, paid on an hourly basis, and entitled to the

1 legally required meal and rest periods and payment of minimum and overtime wages due for all
2 time worked.

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

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

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

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

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

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

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

25 13. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
26 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and
27 other members of the CALIFORNIA CLASS who has been economically injured by
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1 DEFENDANTS’ past and current unlawful conduct, and all other appropriate legal and equitable
2 relief.

3 **JURISDICTION AND VENUE**

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

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

12 **THE CONDUCT**

13 16. In violation of the applicable sections of the California Labor Code and the
14 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
15 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
19 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF
20 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,
21 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest
22 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
23 Members for business expenses, and failed to issue to PLAINTIFF and the members of the
24 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all
25 applicable hourly rates in effect during the pay periods and the corresponding amount of time
26 worked at each hourly rate, total hours worked, and only the last four digits of the employee’s
27 social security number or an employee identification number other than social security number.
28 DEFENDANTS’ uniform policies and practices are intended to purposefully avoid the accurate

1 and full payment for all time worked as required by California law which allows DEFENDANTS
2 to illegally profit and gain an unfair advantage over competitors who comply with the law. To
3 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against
4 DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

5 **A. Meal Period Violations**

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

20 18. From time to time during the CLASS PERIOD, as a result of their rigorous work
21 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
22 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minutes off duty
23 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other
24 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANTS for
25 more than five (5) hours during some shifts without receiving a meal break. The nature of the
26 work performed by PLAINTIFF and other CALIFORNIA CLASS Members does not qualify for
27 the limited and narrowly construed "on-duty" meal period exception. When they were provided
28 with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to

1 time, required to remain on duty and on call. Further, DEFENDANTS from time to time required
2 PLAINTIFF and other CALIFORNIA CLASS Members to maintain cordless communication
3 devices in order to receive and respond to work-related communications during what was
4 supposed to be their off-duty meal breaks. DEFENDANTS' failure to provide PLAINTIFF and
5 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by
6 DEFENDANTS' business records. PLAINTIFF and other members of the CALIFORNIA
7 CLASS therefore forfeit meal breaks without additional compensation and in accordance with
8 DEFENDANTS' strict corporate policy and practice.

9 **B. Rest Period Violations**

10 19. From time to time during the CLASS PERIOD, PLAINTIFF and other
11 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
12 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
13 DEFENDANTS' inadequate staffing. Further, for the same reasons, these employees were denied
14 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
15 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
16 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
17 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
18 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
19 CLASS Members were, from time to time, required to remain on duty and/or on call. Further,
20 DEFENDANTS from time to time required PLAINTIFF and other CALIFORNIA CLASS
21 Members to maintain cordless communication devices in order to receive and respond to work-
22 related communications during what was supposed to be their off-duty rest breaks. PLAINTIFF
23 and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu*
24 thereof. As a result of their rigorous work schedules and DEFENDANT's inadequate staffing,
25 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their
26 proper rest periods by DEFENDANTS and DEFENDANTS' managers.

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1 **C. Unreimbursed Business Expenses**

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

13 21. In the course of their employment, DEFENDANTS required PLAINTIFF and
14 other CALIFORNIA CLASS Members to use their personal cell phones and personal home
15 Internet as a result of and in furtherance of their job duties, including but not limited to receiving
16 and/or responding to work-related communications and performing work-related duties.
17 However, DEFENDANTS unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA
18 CLASS Members for the use of their personal cell phones and personal home Internet. As a result,
19 in the course of their employment with DEFENDANTS, the PLAINTIFF and other
20 CALIFORNIA CLASS Members incurred unreimbursed business expenses that included, but
21 were not limited to, costs related to the use of their personal cell phones.

22 **D. Wage Statement Violations**

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

1 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
2 period and the corresponding number of hours worked at each hourly rate by the employee.

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

12 24. Specifically, DEFENDANTS from time to time failed to issue wage statements to
13 PLAINTIFF and other CALIFORNIA CLASS Members that listed the total hours worked, the
14 name and address of the legal entity that is the employer, and an employee identification number
15 or the last four digits of the employee's social security number.

16 25. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide
17 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
18 Cal. Lab. Code § 226.

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

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

24 27. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
25 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
26 for all hours worked.

27 28. During the CLASS PERIOD, from time-to-time DEFENDANTS required
28 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift

1 work, including but not limited to, submitting to Covid-19 health screenings, health
2 questionnaires, temperature checks, and spending time manually submitting a labor sheet due to
3 DEFENDANTS' faulty timekeeping system. This resulted in PLAINTIFF and other members of
4 the CALIFORNIA CLASS having to work while off-the-clock.

5 29. DEFENDANTS directed and directly benefited from the undercompensated off-
6 the-clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

7 30. DEFENDANTS controlled the work schedules, duties, and protocols, applications,
8 assignments, and employment conditions of PLAINTIFF and the other members of the
9 CALIFORNIA CLASS.

10 31. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
11 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
12 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
13 wages earned and owed for all the work they performed.

14 32. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
15 exempt employees, subject to the requirements of the California Labor Code.

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

22 34. DEFENDANTS knew or should have known that PLAINTIFF and the other
23 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

24 35. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
25 forfeited wages due to them for all hours worked at DEFENDANTS' direction, control, and
26 benefit for the time spent working while off-the-clock. DEFENDANTS' uniform policy and
27 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
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1 hours worked in accordance with applicable law is evidenced by DEFENDANTS’ business
2 records.

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

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

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

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

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

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

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

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

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

42. 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.

43. 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.

H. Unlawful Deductions

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

I. Timekeeping Manipulation

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

///

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

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

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

17 **J. Unlawful Rounding Practices**

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

1 accurately recorded and without compensation at the applicable overtime rates.

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

8 **K. Sick Pay Violations**

9 51. Cal. Labor Code Section 246 (a)(1) mandates that "An employee who, on or after
10 July 1, 2015, works in California for the same employer for 30 or more days within a year from
11 the commencement of employment is entitled to paid sick days as specified in this section."
12 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From
13 time to time, DEFENDANTS failed to have a policy or practice in place that provided
14 PLAINTIFF and other members of the CALIFORNIA CLASS with sick days and/or paid sick
15 leave. As of January 1, 2024, Defendants failed to adhere to the law in that they failed to provide
16 and allow employees to use at least 40 hours or five days of paid sick leave per year.

17 52. 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, DEFENDANTS violated Cal. Lab. Code § 246 by failing to furnish
20 PLAINTIFF and other members of the CALIFORNIA CLASS with wage statements setting forth
21 the amount of paid sick leave available.

22 **CLASS ACTION ALLEGATIONS**

23 53. PLAINTIFF brings this Class Action on behalf of himself, and a California class
24 defined as all persons who are or previously were employed by Defendant Mitchell Repair
25 Information Company, LLC and/or Defendant Snap-On Incorporated, and classified as non-
26 exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four
27 (4) years prior to the filing of this Complaint and ending on the date as determined by the Court
28 (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the

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

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

8 55. The members of the class are so numerous that joinder of all class members is
9 impractical.

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

- 19 a. Whether DEFENDANTS maintained legally compliant meal period policies and
20 practices;
- 21 b. Whether DEFENDANTS maintained legally compliant rest period policies and
22 practices;
- 23 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
24 CLASS Members accurate premium payments for missed meal and rest periods;
- 25 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
26 CLASS Members accurate overtime wages;
- 27 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
28 CLASS Members at least minimum wage for all hours worked;

- 1 f. Whether DEFENDANTS failed to compensate PLAINTIFF and the
2 CALIFORNIA CLASS Members for required business expenses;
3 g. Whether DEFENDANTS issued legally compliant wage statements;
4 h. Whether DEFENDANTS committed an act of unfair competition by
5 systematically failing to record and pay PLAINTIFF and the other members of the
6 CALIFORNIA CLASS for all time worked;
7 i. Whether DEFENDANTS committed an act of unfair competition by
8 systematically failing to record all meal and rest breaks missed by PLAINTIFF
9 and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed
10 the benefit of this work, required employees to perform this work and permits or
11 suffers to permit this work;
12 j. Whether DEFENDANTS committed an act of unfair competition in violation of
13 the UCL, by failing to provide the PLAINTIFF and the other members of the
14 CALIFORNIA CLASS with the legally required meal and rest periods.

15 57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
16 a result of DEFENDANTS' conduct and actions alleged herein.

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

19 59. PLAINTIFF will fairly and adequately represent and protect the interests of the
20 CALIFORNIA CLASS Members.

21 60. PLAINTIFF retained able class counsel with extensive experience in class action
22 litigation.

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

25 62. There is a strong community of interest among PLAINTIFF and the members of
26 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANTS are
27 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
28 sustained.

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

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

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

65. 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)

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

1 67. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
2 Code § 17021.

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

7 Any person who engages, has engaged, or proposes to engage in unfair competition may
8 be enjoined in any court of competent jurisdiction. The court may make such orders or
9 judgments, including the appointment of a receiver, as may be necessary to prevent the
10 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).

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

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

24 71. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and
25 fraudulent in that DEFENDANTS’ uniform policy and practice failed to provide the legally
26 mandated meal and rest periods and the required amount of compensation for missed meal and
27 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all
28 necessary business expenses incurred, due to a systematic business practice that cannot be

1 justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission
2 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should
3 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
4 restitution of wages wrongfully withheld.

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

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

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

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

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

27 77. All the acts described herein as violations of, among other things, the Industrial
28 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor

Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

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

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

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

SECOND CAUSE OF ACTION

Failure To Pay Minimum Wages

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

Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL DEFENDANTS)

81. 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.

82. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the

1 Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate
2 and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

3 83. 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 84. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than
7 the minimum so fixed is unlawful.

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

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

15 87. 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 denies accurate compensation to PLAINTIFF
18 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

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

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

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

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

24 94. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
25 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the
26 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
27 California Labor Code and/or other applicable statutes. To the extent minimum wage
28 compensation is determined to be owed to the CALIFORNIA CLASS Members who have

1 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or
2 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
3 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
4 Members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good
5 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and
6 recover statutory costs.

7 **THIRD CAUSE OF ACTION**

8 **Failure To Pay Overtime Compensation**

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

10 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL DEFENDANTS)**

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

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

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

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

24 99. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
25 including minimum and overtime compensation and interest thereon, together with the costs of
26 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
27 than those fixed by the Industrial Welfare Commission is unlawful.
28

1 100. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
2 were required by DEFENDANTS to work for DEFENDANT and were not paid for all the time
3 they worked, including overtime work.

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

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

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

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

1 105. During the CLASS PERIOD, PLAINTIFF and the other members of the
2 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to,
3 constituting a failure to pay all earned wages.

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

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

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

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

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

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

13 **FOURTH CAUSE OF ACTION**

14 **Failure To Provide Required Meal Periods**

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

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

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

20 112. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally
21 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as
22 required by the applicable Wage Order and Labor Code. The nature of the work performed by
23 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being
24 relieved of all of their duties for the legally required off-duty meal periods. As a result of their
25 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often
26 not fully relieved of duty by DEFENDANTS for their meal periods. Additionally,
27 DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
28 legally required meal breaks prior to their fifth (5th) hour of work is evidenced by

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

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

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

15 **FIFTH CAUSE OF ACTION**

16 **Failure To Provide Required Rest Periods**

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

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

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

22 116. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
23 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
24 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
25 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten
26 (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
27 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
28 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour

1 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other
2 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
3 DEFENDANTS and DEFENDANTS' managers. In addition, DEFENDANTS failed to
4 compensate PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as
5 required by the applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to
6 provide PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid
7 rest periods is evidenced by DEFENDANT's business records.

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

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

16 **SIXTH CAUSE OF ACTION**

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

18 **(Cal. Lab. Code §§ 2802)**

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

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

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

24 An employer shall indemnify his or her employee for all necessary expenditures or
25 losses incurred by the employee in direct consequence of the discharge of his or her
26 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.

27 121. From time to time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab.
28 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS

1 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
2 benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA CLASS
3 members for expenses which included, but were not limited to, their personal cell phones and
4 personal home Internet as a result of and in furtherance of their job duties, including but not
5 limited to receiving and/or responding to work-related communications and performing work-
6 related duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were
7 required by DEFENDANTS to use their personal cell phones and personal home Internet to
8 execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy,
9 practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA CLASS
10 members for expenses resulting from using their personal cell phones and personal home Internet
11 for DEFENDANTS within the course and scope of their employment for DEFENDANTS. These
12 expenses were necessary to complete their principal job duties. DEFENDANTS are estopped by
13 DEFENDANTS' conduct to assert any waiver of this expectation. Although these expenses were
14 necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,
15 DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
16 members for these expenses as an employer is required to do under the laws and regulations of
17 California.

18 122. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred
19 by them and the CALIFORNIA CLASS members in the discharge of their job duties for
20 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the
21 statutory rate and costs under Cal. Lab. Code § 2802.

22 **SEVENTH CAUSE OF ACTION**

23 **Failure To Provide Accurate Itemized Statements**

24 **(Cal. Lab. Code § 226)**

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

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

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

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

21 125. When DEFENDANTS did not accurately record PLAINTIFF’S and other
22 CALIFORNIA CLASS Members’ missed meal and rest breaks, or were paid inaccurate missed
23 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated
24 Cal. Lab. Code § 226 in that DEFENDANTS failed to provide PLAINTIFF and other
25 CALIFORNIA CLASS Members with complete and accurate wage statements which failed to
26 show, among other things, all deductions, the accurate gross wages earned, net wages earned,
27 the total hours worked and all applicable hourly rates in effect during the pay period and the
28

1 corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty
2 payments or missed meal and rest periods.

3 126. In addition to the foregoing, DEFENDANTS failed to provide itemized wage
4 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the
5 requirements of California Labor Code Section 226.

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

17 **EIGHTH CAUSE OF ACTION**

18 **Failure To Pay Wages When Due**

19 **(Cal. Lab. Code § 203)**

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

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

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

25 As used in this article:

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

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

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

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

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

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

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

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

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

28 135. Therefore, as provided by Cal Lab. Code § 203, on behalf of himself 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 demands an accounting
and payment of all wages due, plus interest and statutory costs as allowed by law.

PRAYER FOR RELIEF

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

1 1. On behalf of the CALIFORNIA CLASS:

- 2 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
- 3 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- 4 b. An order temporarily, preliminarily and permanently enjoining and restraining
- 5 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 6 c. An order requiring DEFENDANT to pay all overtime wages and all sums
- 7 unlawfully withheld from compensation due to PLAINTIFF and the other members
- 8 of the CALIFORNIA CLASS; and
- 9 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
- 10 for restitution of the sums incidental to DEFENDANT's violations due to
- 11 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

12 2. On behalf of the CALIFORNIA CLASS:

- 13 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
- 14 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
- 15 to Cal. Code of Civ. Proc. § 382;
- 16 b. Compensatory damages, according to proof at trial, including compensatory
- 17 damages for overtime compensation due to PLAINTIFF and the other members of
- 18 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
- 19 thereon at the statutory rate;
- 20 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
- 21 the applicable IWC Wage Order;
- 22 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
- 23 which a violation occurs and one hundred dollars (\$100) per each member of the
- 24 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding
- 25 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for
- 26 violation of Cal. Lab. Code § 226;
- 27 e. The wages of all terminated employees from the CALIFORNIA CLASS as a
- 28 penalty from the due date thereof at the same rate until paid or until an action

1 therefore is commenced, in accordance with Cal. Lab. Code § 203.

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

4 3. On all claims:

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

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

7 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
8 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

9
10 DATED: April 30, 2024

ZAKAY LAW GROUP, APLC

11
12 By: 

Shani O. Zakay

13 Attorney for PLAINTIFF

14 **DEMAND FOR A JURY TRIAL**

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

16
17 DATED: April 30, 2024

ZAKAY LAW GROUP, APLC

18
19 By: 

Shani O. Zakay

20 Attorney for PLAINTIFF
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