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Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

BLAKE BOYER, LORI STEWARD, and
MIKE SHIRDEL, individuals, on behalf of
themselves, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

SPROUT MORTGAGE, LLC, a Delaware
limited liability company; RECOVCO
MORTGAGE MANAGEMENT, LLC, a
Delaware limited liability company; MICHAEL
STRAUSS, an individual; and DOES 1-50,
Inclusive,

Defendants.

Case No: 37-2022-00029036-CU-OE-CTL

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1) VIOLATION OF CALIFORNIA WARN
ACT, CAL. LAB. CODE § 1400 *et seq.*;
- 2) UNFAIR COMPETITION IN VIOLATION
OF CAL. BUS. & PROF. CODE §17200 *et
seq.*;
- 3) UNLAWFUL DEDUCTIONS IN
VIOLATION OF CAL. LAB. CODE § 221;
- 4) FAILURE TO REIMBURSE EMPLOYEES
FOR REQUIRED EXPENSES IN
VIOLATION OF CAL. LAB. CODE § 2802;
- 5) FAILURE TO PROVIDE WAGES WHEN
DUE IN VIOLATION OF CAL. LAB.
CODE §§ 201, 202 AND 203;
- 6) FAILURE TO PAY VACATION WAGES
DUE;

7) VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT [LABOR
CODE §§ 2698 ET SEQ.

DEMAND FOR A JURY TRIAL

PLAINTIFFS BLAKE BOYER, LORI STEWARD, and MIKE SHIRDEL
("PLAINTIFFS"), individuals, on behalf of themselves and all other similarly situated employees,
allege on information and belief, except for their own acts and knowledge which are based on
personal knowledge, the following:

PRELIMINARY ALLEGATIONS

1. Defendant SPROUT MORTGAGE, LLC ("Defendant Sprout") is a Delaware
limited liability company that at all relevant times mentioned herein conducted and continues to
conduct substantial and regular business throughout California. Defendant Sprout owns, operates,
and/or manages a mortgage lender servicing company in the state of California.

2. Defendant RECOVCO MORTGAGE MANAGEMENT, LLC ("Defendant
Recovco") is a Delaware limited liability company that at all relevant times mentioned herein
conducted and continues to conduct substantial and regular business throughout California.
Defendant Recovco is a provider of due diligence, quality control, transaction management and
loan servicing solutions for residential mortgage and consumer loans.

3. Defendant Sprout and Defendant Recovco were the joint employers of
PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed
work for respectively. Upon information and belief, at all relevant times, Defendant Sprout and
Defendant Recovco operated as a single integrated enterprise and held themselves out as Sprout
and Recovco interchangeably. Therefore, Defendant Sprout and Defendant Recovco are jointly
responsible as employers for the conduct alleged herein and collectively referred to herein as
"DEFENDANTS" and/or "DEFENDANT."

4. Defendant MICHAEL STRAUSS ("Defendant Strauss"), is an individual that at
all relevant times mentioned herein acted as the Chief Executive Officer of Defendant Sprout and
was directly involved in – and directly responsible for – the illegal policies and practices
articulated herein.

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

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

19 7. PLAINTIFF BLAKE BOYER was employed by DEFENDANT in California from
20 August of 2021 to July 6, 2022 and worked for DEFENDANT in San Diego, California.

21 8. PLAINTIFF LORI STEWARD was employed by DEFENDANT in California
22 from June of 2020 to July 6, 2022 and worked for DEFENDANT in San Diego, California.

23 9. PLAINTIFF MIKE SHIRDEL was employed by DEFENDANT in California
24 from June of 2019 to July 6, 2022 and worked for DEFENDANT in Anaheim, California.

25 10. After years of operating as a mortgage lender and employing a workforce in the
26 state of California, including in San Diego County where PLAINTIFFS worked, DEFENDANT
27 decided to lay off approximately over 300 employees without advance 60-days’ notice.
28

1 11. Under such circumstances, the California Worker Adjustment and Retraining
2 Notification Act (hereinafter, “California WARN Act”) requires an employer to give at least 60
3 days advanced notice of layoffs. This notice is intended to give employees 60 days to prepare for
4 the loss of their job, such as by finding replacement employment.

5 12. If an employer does not provide the required notice, the California WARN Act
6 requires the employer to pay each affected employee up to 60 days’ work of wages and job
7 benefits.

8 13. Because DEFENDANT violated the California WARN Act, PLAINTIFFS bring
9 this action, on behalf of themselves and other similarly situated employees to recover the wages
10 and benefits DEFENDANT owed them.

11 14. PLAINTIFFS bring this Class Action on behalf of themselves and a class, defined
12 as all of Defendant Sprout’s and/or Defendant Recovco’s California employees who were
13 terminated on or around July 6, 2022 without being provided 60 days’ written notice of mass
14 layoff, relocation, or termination of business (“CALIFORNIA WARN CLASS”).

15 15. PLAINTIFFS also bring this Class Action on behalf of themselves and a class,
16 defined as all employees who are or previously were employed by Defendant Sprout and/or
17 Defendant Recovco in California (the “CALIFORNIA LABOR CLASS”) at any time during the
18 period beginning four (4) years prior to the filing of this Second Amended Complaint and ending
19 on the date as determined by the Court (the “CLASS PERIOD”).

20 16. The CALIFORNIA WARN CLASS and CALIFORNIA LABOR CLASS will be
21 referred to herein, collectively, as the “CALIFORNIA CLASS.” The amount in controversy for
22 the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars
23 (\$5,000,000.00).

24 17. PLAINTIFFS bring this Class Action on behalf of themselves and the
25 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS Members for
26 their losses incurred caused by DEFENDANT’S uniform policy and practice which, *inter alia*,
27 failed to provide proper notice of mass layoff, unlawfully collected or received part of
28 CALIFORNIA LABOR CLASS Members’ wages, and failed to reimburse CALIFORNIA

1 LABOR CLASS Members for required business expenses. DEFENDANT’S uniform policy and
2 practice alleged herein was an unlawful, unfair, and deceptive business practice whereby
3 DEFENDANT retained and continues to retain wages due to PLAINTIFFS and the other members
4 of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA
5 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the
6 named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been
7 economically injured by DEFENDANT’S past and current unlawful conduct, and all other
8 appropriate legal and equitable relief.

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

15 19. DEFENDANT’S uniform policies and practices alleged herein were unlawful,
16 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
17 wages due to PLAINTIFFS and other members of the CALIFORNIA CLASS.

18 20. PLAINTIFFS and other members of the CALIFORNIA CLASS seek an injunction
19 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and
20 other members of the CALIFORNIA CLASS who has been economically injured by
21 DEFENDANT’S past and current unlawful conduct, and all other appropriate legal and equitable
22 relief.

23 **JURISDICTION AND VENUE**

24 21. This Court has jurisdiction over this Action pursuant to California Code of Civil
25 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
26 action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees
27 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382 and Cal. Labor Code § 1404.
28

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

THE CONDUCT

A. Violation of the California WARN Act

23. On or around July 6, 2022, DEFENDANT mass laid off approximately more than 300 of its employees. DEFENDANT did not give advance notice of this layoff so that employees could get their lives in order.

24. The California WARN Act, Cal. Labor Code § 1400, *et seq.* requires employers at a “covered establishment” (75 or more employees), give 60 days’ notice before a mass layoff (of 50 or more employees), a relocation, or a cessation of doing business. Employers must give notice not only to employees, but also to the relevant California government agency, the Employment Development Department. *See* Cal. Labor Code § 1401(a).

25. Employers are excused from providing notice of a mass layoff only if there is a “physical calamity” (such as an earthquake) or “act of war.” Cal. Labor Code § 1401(c).

26. If an employer fails to give notice of a mass layoff, relocation, or cessation of business, its employees are entitled to recover: up to 60 days of wages (at their regular rate of pay), and the value of any employment benefits that the employee would have received during that time (such as payment of medical expenses under a health insurance plan, or matching contributions to a 401(k) retirement plan). *See* Cal. Labor Code § 1402.

27. Here, DEFENDANT did not provide advance notice to CALIFORNIA WARN CLASS Members that they would be terminated. Notice was provided only on the day of the layoffs.

28. PLAINTIFFS allege, upon information and belief, DEFENDANT did not file a WARN notice with the California Employment Development Department.

1 29. Upon information and belief, since July 6, 2022, DEFENDANT has not
2 compensated PLAINTIFFS and CALIFORNIA WARN CLASS Members for its failure to
3 provide notice of the mass layoffs.

4 **B. Unreimbursed Business Expenses**

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

16 31. In the course of their employment, DEFENDANT required PLAINTIFFS and
17 other CALIFORNIA LABOR CLASS Members to use their personal cell phones as a result of
18 and in furtherance of their job duties. Specifically, PLAINTIFFS and other CALIFORNIA
19 LABOR CLASS Members were required to use their personal cell phones and personal home
20 internet in order to perform work related tasks. Further, PLAINTIFFS and other CALIFORNIA
21 LABOR CLASS Members were also required to incur personal expenses for travel, meals, and
22 payments to various business vendors on behalf of and in furtherance of their job duties for
23 DEFENDANT. However, DEFENDANT unlawfully failed to reimburse PLAINTIFFS and other
24 CALIFORNIA LABOR CLASS Members for the use of their personal cell phones, personal home
25 internet, and personal expenses for travel, meals and payments to various business vendors. As a
26 result, in the course of their employment with DEFENDANT, the PLAINTIFFS and other
27 CALIFORNIA LABOR CLASS Members incurred unreimbursed business expenses that
28 included, but were not limited to, costs related to the use of their personal cell phones, personal

1 home internet, and personal expenses for travel, meals and payments to various business vendors,
2 all on behalf of and for the benefit of DEFENDANT.

3 **C. Unlawful Deductions**

4 32. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFFS
5 and CALIFORNIA LABOR CLASS Members' pay without explanations and without
6 authorization to do so or notice to PLAINTIFFS and the CALIFORNIA LABOR CLASS
7 Members. Such unlawful deductions include, but are not limited to, health insurance premiums
8 despite DEFENDANT failing to provide health coverage to PLAINTIFFS and the CALIFORNIA
9 LABOR CLASS Members since May 1, 2022. Further, DEFENDANT from time to time
10 unlawfully deducted wages from PLAINTIFFS' and CALIFORNIA LABOR CLASS Members'
11 pay for life insurance premiums, short and/or long term disability insurance premiums, and 401(k)
12 contributions despite failing to ensure those deductions were properly allocated to said life
13 insurance, short and/or long term disability insurance, and 401(k) policies. As a result,
14 DEFENDANT violated Labor Code § 221.

15 33. Specifically, as to PLAINTIFFS, DEFENDANT unlawfully deducted wages from
16 PLAINTIFFS for health insurance premiums despite failing to provide health insurance coverage
17 from May 1, 2022 until PLAINTIFFS' termination on July 6, 2022. DEFENDANT also failed to
18 reimburse PLAINTIFFS for required business expenses related to the personal expenses incurred
19 for the use of their personal cell phones, personal home internet, and personal computers, on
20 behalf of and in furtherance of their employment with DEFENDANT. To date, DEFENDANT
21 has not fully paid PLAINTIFFS all compensation still owed to them or any penalty wages owed
22 to them under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFFS individually
23 does not exceed the sum or value of \$75,000.

24 **D. Failure to Pay Vested, Unused Vacation Wages**

25 34. Further, upon PLAINTIFFS' and CALIFORNIA LABOR CLASS Members'
26 separation of employment, they had not used all of their vested vacation and thus their unused,
27 vested vacation was required to have been paid at their final rate upon separation of employment.
28

1 DEFENDANT, however failed to pay the vested vacation time, and when it did, it paid it at the
2 wrong rate. As a result, DEFENDANT violated Labor Code §227.3.

3 **CLASS ACTION ALLEGATIONS**

4 35. PLAINTIFFS bring this Class Action on behalf of themselves and a class, defined
5 as all of Defendant Sprout's and/or Defendant Recovco's California employees who were
6 terminated on or around July 6, 2022 without being provided 60 days' written notice of mass
7 layoff, relocation, or termination of business ("CALIFORNIA WARN CLASS").

8 36. PLAINTIFFS also bring this Class Action on behalf of themselves and a class,
9 defined as all employees who are or previously were employed by Defendant Sprout and/or
10 Defendant Recovco in California (the "CALIFORNIA LABOR CLASS") at any time during the
11 period beginning four (4) years prior to the filing of this Second Amended Complaint and ending
12 on the date as determined by the Court (the "CLASS PERIOD").

13 37. PLAINTIFFS and the other CALIFORNIA CLASS Members have uniformly been
14 deprived of wages and penalties from unpaid wages earned and due, and interest, statutory and
15 civil penalties, attorney's fees, costs, and expenses.

16 38. The members of the class are so numerous that joinder of all class members is
17 impractical.

18 39. Membership in the CALIFORNIA CLASS can be determined from
19 DEFENDANT'S own records.

20 40. There are questions of law and fact common to the CALIFORNIA CLASS, which
21 predominate over any questions affecting only individual CALIFORNIA CLASS Members.
22 These common questions of law and fact include, without limitation:

- 23 a. Whether provisions of the California WARN Act apply;
- 24 b. Where DEFENDANT engaged in a "mass layoff," "relocation," or "termination"
25 of business under the California WARN Act;
- 26 c. Whether DEFENDANT failed to provide the required notice under the California
27 WARN Act to CALIFORNIA WARN CLASS Members;
- 28 d. The measure of damages and/or penalties owed under the California WARN Act;

- 1 e. Whether DEFENDANT failed to compensate PLAINTIFFS and the
2 CALIFORNIA LABOR CLASS Members for required business expenses;
3 f. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA
4 LABOR CLASS Members wages when due;
5 g. Whether DEFENDANT made unlawful deductions to PLAINTIFFS and the
6 CALIFORNIA LABOR CLASS Members' wages;
7 h. Whether DEFENDANT failed to pay PLAINTIFFS and other CALIFORNIA
8 LABOR CLASS Members' for their vested, but unused vacation at the time of
9 separation;
10 i. Whether DEFENDANT committed an act of unfair competition by systematically
11 making unlawful deductions to PLAINTIFFS' and the CALIFORNIA LABOR
12 CLASS Members' wages;

13 41. PLAINTIFFS are members of the CALIFORNIA WARN CLASS and
14 CALIFORNIA LABOR CLASS and suffered damages as a result of DEFENDANT'S conduct
15 and actions alleged herein.

16 42. PLAINTIFFS' claims are typical of the claims of the CALIFORNIA CLASS, and
17 PLAINTIFFS have the same interests as the other members of the class.

18 43. PLAINTIFFS will fairly and adequately represent and protect the interests of the
19 CALIFORNIA CLASS Members.

20 44. PLAINTIFFS retained able class counsel with extensive experience in class action
21 litigation.

22 45. Further, PLAINTIFFS' interests are coincident with, and not antagonistic to, the
23 interest of the other CALIFORNIA CLASS Members.

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

47. 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.

48. 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.

49. 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 DEFENDANT.

FIRST CAUSE OF ACTION

VIOLATION OF CALIFORNIA WARN ACT, CAL. LAB. CODE § 1400 *et seq.*
(Alleged by PLAINTIFFS and the CALIFORNIA WARN CLASS against all Defendants)

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

51. DEFENDANT is an “employer” that operates a “covered establishment” under the California WARN Act, Cal. Labor Code § 1400 *et seq.*, because DEFENDANT runs a business enterprise that employs 75 or more employees.

52. DEFENDANT engaged in a “mass layoff” because DEFENDANT terminated 50 or more employees within a 30-day period.

53. None of the exemptions to the notice requirements of the California WARN Act applies.

54. DEFENDANT willfully violated the California WARN Act by failing to provide the required notice.

55. PLAINTIFFS and all CALIFORNIA WARN CLASS Members have been damaged by DEFENDANT'S conduct constituting violations of the California WARN Act and are entitled to damages for their back pay and associated benefits for each day of the violation.

56. DEFENDANT has not acted in good faith nor with reasonable grounds to believe its acts or omissions were not in violation of the California WARN Act.

SECOND CAUSE OF ACTION

Unlawful Business Practices

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

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

57. 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 Second Amended Complaint.

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

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

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or

1 judgments, including the appointment of a receiver, as may be necessary to prevent the
2 use or employment by any person of any practice which constitutes unfair competition, as
3 defined in this chapter, or as may be necessary to restore to any person in interest any
4 money or property, real or personal, which may have been acquired by means of such
5 unfair competition. (Cal. Bus. & Prof. Code § 17203).

6 60. By the conduct alleged herein, DEFENDANT has engaged and continues to
7 engage in a business practice which violates California law, including but not limited to, the
8 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
9 including Sections 201, 202, 203, 221, 227.3, 1400 *et seq.*, and 2802, for which this Court should
10 issue declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be
11 necessary to prevent and remedy the conduct held to constitute unfair competition, including
12 restitution of wages wrongfully withheld.

13 61. By the conduct alleged herein, DEFENDANT'S practices were unlawful and
14 unfair in that these practices violated public policy, were immoral, unethical, oppressive
15 unscrupulous or substantially injurious to employees, and were without valid justification or
16 utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203
17 of the California Business & Professions Code, including restitution of wages wrongfully
18 withheld.

19 62. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
20 CALIFORNIA CLASS member, (1) all back pay and associated benefits for each day of the
21 California WARN Act violation, (2) all unlawfully deducted wages, (3) all vested, but unused
22 vacation pay, and (4) all unreimbursed business expenses.

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

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

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

65. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which DEFENDANT has acquired, or of which PLAINTIFFS 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.

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

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

THIRD CAUSE OF ACTION

Unlawful Deductions from PLAINTIFF and CLASS MEMBERS Paychecks

[Cal. Labor Code §§ 221 and 223]

(By PLAINTIFFS and the CLASS LABOR CLASS Against all DEFENDANTS)

68. PLAINTIFFS incorporate herein by specific reference, as though fully set forth, the allegations in the preceding paragraphs.

69. During the CLASS PERIOD, DEFENDANT regularly and consistently maintained corporate policies and procedures designed to reduce labor costs by reducing or minimizing the amount of compensation paid to its employees, especially overtime compensation.

1 70. DEFENDANT made deductions from PLAINTIFFS and the other CLASS
2 LABOR MEMBERS' paychecks including but limited to amounts for health insurance earned by
3 PLAINTIFFS and the other CLASS MEMBERS' during various pay periods. Further, such
4 unlawful deductions include, but are not limited to, health insurance premiums despite
5 DEFENDANT failing to provide health coverage to PLAINTIFFS and the CALIFORNIA
6 LABOR CLASS Members since May 1, 2022. Further, DEFENDANT from time to time
7 unlawfully deducted wages from PLAINTIFFS' and CALIFORNIA LABOR CLASS Members'
8 pay for life insurance premiums, short and/or long term disability insurance premiums, and 401(k)
9 contributions despite failing to ensure those deductions were properly allocated to said life
10 insurance, short and/or long term disability insurance, and 401(k) policies.

11 71. Labor Code § 221 provides it is unlawful for any employer to collect or receive
12 from an employee any part of wages theretofore paid by employer to employee.

13 72. Labor Code § 223 provides that where any statute or contract requires an employer
14 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
15 purporting to pay the wage designated by statute or by contract. Labor Code section 225 further
16 provides that the violation of any provision of Labor Code §§ 221 and 223 is a misdemeanor.

17 73. As a result of the conduct alleged above, DEFENDANTS unlawfully collected or
18 received from PLAINTIFFS' and the other CLASS LABOR MEMBERS' part of the wages paid
19 to their employees.

20 74. Wherefore, PLAINTIFFS and the other CLASS LABOR MEMBERS demand the
21 return of all wages unlawfully deducted from the paychecks, including interest thereon, penalties,
22 reasonable attorneys' fees, and costs of suit pursuant to Labor Code §§ 225.5 and 1194.

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1 **FOURTH CAUSE OF ACTION**

2 **Failure To Reimburse Employees for Required Expenses**

3 **(Cal. Lab. Code §§ 2802)**

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

5 75. PLAINTIFFS, and the other members of the CALIFORNIA LABOR CLASS,
6 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
7 this Second Amended Complaint.

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

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

13 77. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
14 Code § 2802, by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA
15 LABOR CLASS members for required expenses incurred in the discharge of their job duties for
16 DEFENDANT'S benefit. DEFENDANT failed to reimburse PLAINTIFFS and the
17 CALIFORNIA LABOR CLASS members for expenses which included, but were not limited to,
18 personal expenses incurred for the use of personal cell phones, personal home internet, and
19 personal computers all on behalf of and for the benefit of DEFENDANT. Specifically,
20 PLAINTIFFS and other CALIFORNIA LABOR CLASS Members were required by
21 DEFENDANT to use their own personal cell phones and personal home internet to execute their
22 essential job duties on behalf of DEFENDANT. Further, PLAINTIFFS and other CALIFORNIA
23 LABOR CLASS Members were also required to incur personal expenses for travel, meals, and
24 payments to various business vendors on behalf of and in furtherance of their job duties for
25 DEFENDANT. DEFENDANT'S uniform policy, practice and procedure was to not reimburse
26 PLAINTIFFS and the CALIFORNIA CLASS members for expenses resulting from the use of
27 personal cell phones, personal home internet, and personal expenses for travel, meals, and
28 payments to various business vendors for DEFENDANT within the course and scope of their
employment for DEFENDANT. These expenses were necessary to complete their principal job
duties. DEFENDANT is estopped by DEFENDANT'S conduct to assert any waiver of this

1 expectation. Although these expenses were necessary expenses incurred by PLAINTIFFS and the
2 CALIFORNIA LABOR CLASS members, DEFENDANT failed to indemnify and reimburse
3 PLAINTIFFS and the CALIFORNIA LABOR CLASS members for these expenses as an
4 employer is required to do under the laws and regulations of California.

5 78. PLAINTIFFS therefore demand reimbursement for expenditures or losses incurred
6 by them and the CALIFORNIA LABOR CLASS members in the discharge of their job duties for
7 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory
8 rate and costs under Cal. Lab. Code § 2802.

9 **FIFTH CAUSE OF ACTION**

10 **Failure To Pay Wages When Due**

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

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

13 79. PLAINTIFFS, and the other members of the CALIFORNIA LABOR CLASS,
14 realleges and incorporates by this reference, as though fully set forth herein, the prior paragraphs
15 of this Second Amended Complaint.

16 80. Cal. Lab. Code § 200 provides that:

17 As used in this article:

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

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

27 82. Cal. Lab. Code § 202 provides, in relevant part, that:

28 If an employee not having a written contract for a definite period 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.
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.

83. There was no definite term in PLAINTIFF'S or any CALIFORNIA LABOR CLASS Members' employment contract.

84. 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.

85. The employment of PLAINTIFFS and many CALIFORNIA LABOR CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees, as required by law.

86. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the members of the CALIFORNIA LABOR CLASS whose employment has, 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.

SIXTH CAUSE OF ACTION

For Failure to Pay Vacation Wages

(By PLAINTIFFS and CALIFORNIA LABOR CLASS Members Against Defendant)

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

88. At all relevant times, California Labor Code §227.3 provides for the following: Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

89. At all times relevant, including at times throughout the four-year period preceding

1 the filing of the original complaint, PLAINTIFFS, and upon information and belief, and
2 CALIFORNIA LABOR CLASS Members were subject to an employer policy and/or contract of
3 employment that provided for paid vacations not otherwise provided by a collective-bargaining
4 agreement. Upon PLAINTIFFS' and CALIFORNIA LABOR CLASS Members' separation of
5 employment, they had not used all of their vested vacation and thus their unused, vested vacation
6 was required to have been paid at their final rate upon separation of employment. As a result of
7 the miscalculation, DEFENDANT violated Labor Code §227.3.

8 90. PLAINTIFFS seek, on her themselves and on behalf of the CALIFORNIA
9 LABOR CLASS, all damages and remedies available under California Labor Code §227.3,
10 including payment of the vacation wages at the final rate.

11 **SEVENTH CAUSE OF ACTION**

12 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

13 **(By PLAINTIFFS and CALIFORNIA LABOR CLASS Members Against Defendants)**

14 90. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth
15 herein, the prior paragraphs of this Second Amended Complaint.

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

25 92. PLAINTIFFS, and such persons that may be added from time to time who satisfy
26 the requirements and exhaust the administrative procedures under the Private Attorney General
27 Act, bring this Representative Action on behalf of the State of California with respect to
28 themselves and all individuals who are or previously were employed by DEFENDANT and

1 classified as non-exempt employees in California during the time period of July 22, 2021 until
2 the present (the "AGGRIEVED EMPLOYEES").

3 93. On July 22, 2022, Plaintiff Boyer gave written notice by certified mail to the Labor
4 and Workforce Development Agency (the "Agency") and the employer of the specific
5 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
6 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
7 period for Plaintiff to add these allegations to the Second Amended Complaint has expired. As
8 a result, pursuant to Section 2699.3, Plaintiff may now commence a representative civil action
9 under PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all
10 AGGRIEVED EMPLOYEES as herein defined.

11 94. The policies, acts and practices heretofore described were and are an unlawful
12 business act or practice because DEFENDANTS (a) failed to properly record and pay
13 PLAINTIFFS and the other AGGRIEVED EMPLOYEES for all of the hours they worked,
14 including overtime hours in violation of the Wage Order, (b) failed to provide accurate itemized
15 wage statements, (c) failed to provide mandatory meal breaks and rest breaks, (d) failed to pay
16 meal and rest break premiums, and (e) failed to timely pay wages at the correct rate, all in violation
17 of the applicable Labor Code sections listed in Labor Code §2699.5, including but not limited to
18 Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 225, 225.5, 226, 226.2,
19 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199,
20 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to statutory
21 penalties as a result of such conduct. PLAINTIFFS hereby seeks recovery of civil penalties as
22 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the
23 State of California for the illegal conduct perpetrated on PLAINTIFFS and the other
24 AGGRIEVED EMPLOYEES.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFFS pray for a judgment against each Defendant, jointly and
3 severally, as follows:

- 4 1. An order determining that this action may be maintained as a class action;
5 2. Designation of PLAINTIFFS as a class representative and PLAINTIFFS' counsel as
6 class counsel;
7 3. Judgment against DEFENDANT for PLAINTIFFS', CALIFORNIA CLASS
8 Members', and AGGRIEVED EMPLOYEES asserted causes of action;
9 4. Appropriate declaratory relief against DEFENDANT;
10 5. An award of all applicable damages;
11 6. Prejudgment interest;
12 7. An award of reasonable attorney's fees and other litigation costs; and
13 8. Any other relief to which PLAINTIFFS, the CALIFORNIA CLASS Members, and
14 AGGRIEVED EMPLOYEES may be entitled.

15
16 DATED: February 15, 2023

JCL LAW FIRM, APC

17 By: 
18 Jean-Claude Lapuyade
19 Attorney for PLAINTIFFS
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DEMAND FOR A JURY TRIAL

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

DATED: February 15, 2023

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorney for PLAINTIFFS

EXHIBIT 1



ZAKAY LAW GROUP
A PROFESSIONAL LAW CORPORATION

Client # 51801

July 22, 2022

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

SPROUT MORTGAGE, LLC

c/o Universal Registered Agents, Inc.
2020 Hurley Way Ste. 350
Sacramento, CA 95825

Sent via Certified Mail and Return Receipt 7022 0410 0001 5846 7162

RECOVCO MORTGAGE MANAGEMENT, LLC

c/o C T Corporation system
330 N Brand Blvd Ste. 700
Glendale, CA 91203

Sent via Certified Mail and Return Receipt 7022 0410 0001 5846 7179

MICHAEL STRAUSS

c/o Universal Registered Agents, Inc.
2020 Hurley Way Ste. 350
Sacramento, CA 95825

Sent via Certified Mail and Return Receipt 7022 0410 0001 5846 7186

MICHAEL STRAUSS

1680 SW. St. Lucie West Blvd., Suite 208
Port Saint Lucie, FL 34986

Sent via Certified Mail and Return Receipt 7022 0410 0001 5846 7223

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 225, 225.5, 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, 1400 et seq., 1402, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff BLAKE BOYER ("Plaintiff"), and other aggrieved employees in a proposed lawsuit against Defendants SPROUT MORTGAGE, LLC ("Defendant Sprout"), RECOVCO MORTGAGE MANAGEMENT, LLC ("Defendant Recovco"), and MICHAEL STRAUSS ("Defendant Strauss") (hereinafter collectively "Defendants"). Plaintiff was employed by Defendants in California from August of 2021 to July of 2022.

After years of operating as a mortgage lender and employing a workforce in the state of California, Defendants decided to lay off approximately over 300 employees without advance 60-days' notice. Under such circumstances, the California Worker Adjustment and Retraining Notification Act (hereinafter, "California WARN Act") requires an employer to give at least 60 days advanced notice of layoffs. If an employer does not provide the required notice, the California WARN Act requires the employer to pay each affected employee up to 60 days' work of wages and job benefits. Because Defendants violated the California WARN Act, Plaintiff brings this action, on behalf of herself and other similarly situated employees to recover the wages and benefits Defendants owed them.

Additionally, Defendants unlawfully deducted wages from Plaintiff's and similarly situated employees' pay without explanations and without authorization to do so. Such unlawful deductions include, but are not limited to, health insurance premiums, life insurance premiums, short and/or long term disability insurance premiums, and 401(k) contributions despite failing to ensure those deductions were properly allocated to the respective policies. As a result, Defendant violated Cal. Labor Code § 221. Further, Defendants failed to reimburse Plaintiff and similarly situated employees for business expenses. Defendants also failed to pay Plaintiff and similarly situated employees for all vested, but unused vacation wages upon termination of employment in violation of Cal. Labor Code § 227.3.

Further, with respect to Defendants' non-exempt employees, Defendants required them to perform work as ordered by Defendants for more than five (5) hours during some shifts without receiving a meal break. Further, Defendants failed to provide its non-exempt employees with a second off-duty meal period for some workdays in which these employees are required by Defendants to work ten (10) hours of work. Additionally, Defendants' non-exempt employees were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements. For the same reasons, these non-exempt employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. Defendants' non-exempt employees were paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks and payment of minimum and overtime wages due for all time worked. Defendants, however, unlawfully failed to record and pay non-exempt employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay the non-exempt employees for earned wages

As a consequence, Plaintiff contends that Defendants failed to fully compensate her and other similarly situated and aggrieved employees. Accordingly, Plaintiff contends that Defendants' conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 223, 225, 225.5, 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, 1400 *et seq.*, 1402, 2802, and 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff seeks to represent a group of aggrieved employees defined as all employees of Defendant Sprout and/or Defendant Recovco in California who were terminated on or around July 6, 2022 without being provided 60 days' written notice of mass layoff, relocation, or termination of business in violation of the California WARN Act.

Plaintiff also seeks to represent a group of aggrieved employees defined as all exempt and non-exempt employees who worked for Defendant Sprout and/or Defendant Recovco in California during the relevant claim period.

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

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

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

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

Sincerely,



Shani O. Zakay
Attorney for Plaintiff

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

BLAKE BOYER, an individual, on behalf of
herself, and on behalf of all persons similarly
situated,

Plaintiffs,

v.

SPROUT MORTGAGE, LLC, a Delaware
limited liability company; RECOVCO
MORTGAGE MANAGEMENT, LLC, a
Delaware limited liability company; MICHAEL
STRAUSS, an individual; and DOES 1-50,
Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) VIOLATION OF CALIFORNIA WARN ACT, CAL. LAB. CODE § 1400 *et seq.*;
- 2) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq.*;
- 3) UNLAWFUL DEDUCTIONS IN VIOLATION OF CAL. LAB. CODE § 221;
- 4) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 5) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 6) FAILURE TO PAY VACATION WAGES DUE.

DEMAND FOR A JURY TRIAL

1 PLAINTIFF BLAKE BOYER (“PLAINTIFF”), an individual, on behalf of herself and all
2 other similarly situated employees, allege on information and belief, except for her own acts and
3 knowledge which are based on personal knowledge, the following:

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant SPROUT MORTGAGE, LLC (“Defendant Sprout”) is a Delaware
6 limited liability company that at all relevant times mentioned herein conducted and continues to
7 conduct substantial and regular business throughout California. Defendant Sprout owns, operates,
8 and/or manages a mortgage lender servicing company in the state of California.

9 2. Defendant RECOVCO MORTGAGE MANAGEMENT, LLC (“Defendant
10 Recovco”) is a Delaware limited liability company that at all relevant times mentioned herein
11 conducted and continues to conduct substantial and regular business throughout California.
12 Defendant Recovco is a provider of due diligence, quality control, transaction management and
13 loan servicing solutions for residential mortgage and consumer loans.

14 3. Defendant Sprout and Defendant Recovco were the joint employers of
15 PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed
16 work for respectively. Upon information and belief, at all relevant times, Defendant Sprout and
17 Defendant Recovco operated as a single integrated enterprise and held themselves out as Sprout
18 and Recovco interchangeably. Therefore, Defendant Sprout and Defendant Recovco are jointly
19 responsible as employers for the conduct alleged herein and collectively referred to herein as
20 “DEFENDANTS” and/or “DEFENDANT.”

21 4. Defendant MICHAEL STRAUSS (“Defendant Strauss”), is an individual that at
22 all relevant times mentioned herein acted as the Chief Executive Officer of Defendant Sprout and
23 was directly involved in – and directly responsible for – the illegal policies and practices
24 articulated herein.

25 5. The true names and capacities, whether individual, corporate, subsidiary,
26 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are
27 presently unknown to PLAINTIFF who therefore sues these DEFENDANTS by such fictitious
28 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this

1 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
2 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief
3 alleges, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
4 inclusive (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”), are responsible in
5 some manner for one or more of the events and happenings that proximately caused the injuries
6 and damages hereinafter alleged.

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

15 7. PLAINTIFF was employed by DEFENDANT in California from August of 2021
16 to July 6, 2022 ad worked for DEFENDANT in San Diego, California.

17 8. After years of operating as a mortgage lender and employing a workforce in the
18 state of California, including in San Diego County where PLAINTIFF worked, DEFENDANT
19 decided to lay off approximately over 300 employees without advance 60-days’ notice.

20 9. Under such circumstances, the California Worker Adjustment and Retraining
21 Notification Act (hereinafter, “California WARN Act”) requires an employer to give at least 60
22 days advanced notice of layoffs. This notice is intended to give employees 60 days to prepare for
23 the loss of their job, such as by finding replacement employment.

24 10. If an employer does not provide the required notice, the California WARN Act
25 requires the employer to pay each affected employee up to 60 days’ work of wages and job
26 benefits.

1 11. Because DEFENDANT violated the California WARN Act, PLAINTIFF brings
2 this action, on behalf of herself and other similarly situated employees to recover the wages and
3 benefits DEFENDANT owed them.

4 12. PLAINTIFF brings this Class Action on behalf of herself and a class, defined as
5 all of Defendant Sprout's and/or Defendant Recovco's California employees who were terminated
6 on or around July 6, 2022 without being provided 60 days' written notice of mass layoff,
7 relocation, or termination of business ("CALIFORNIA WARN CLASS").

8 13. PLAINTIFF also brings this Class Action on behalf of herself and a class, defined
9 as all employees who are or previously were employed by Defendant Sprout and/or Defendant
10 Recovco in California (the "CALIFORNIA LABOR CLASS") at any time during the period
11 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
12 by the Court (the "CLASS PERIOD").

13 14. The CALIFORNIA WARN CLASS and CALIFORNIA LABOR CLASS will be
14 referred to herein, collectively, as the "CALIFORNIA CLASS." The amount in controversy for
15 the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars
16 (\$5,000,000.00).

17 15. PLAINTIFF brings this Class Action on behalf of herself and the CALIFORNIA
18 CLASS in order to fully compensate the CALIFORNIA CLASS Members for their losses
19 incurred caused by DEFENDANT'S uniform policy and practice which, *inter alia*, failed to
20 provide proper notice of mass layoff, unlawfully collected or received part of CALIFORNIA
21 LABOR CLASS Members' wages, and failed to reimburse CALIFORNIA LABOR CLASS
22 Members for required business expenses. DEFENDANT'S uniform policy and practice alleged
23 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained
24 and continues to retain wages due to PLAINTIFF and the other members of the CALIFORNIA
25 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
26 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
27 other members of the CALIFORNIA CLASS who have been economically injured by
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1 DEFENDANT’S past and current unlawful conduct, and all other appropriate legal and equitable
2 relief.

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

9 17. DEFENDANT’S uniform policies and practices alleged herein were unlawful,
10 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
11 wages due to PLAINTIFF and other members of the CALIFORNIA CLASS.

12 18. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
13 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and
14 other members of the CALIFORNIA CLASS who has been economically injured by
15 DEFENDANT’S past and current unlawful conduct, and all other appropriate legal and equitable
16 relief.

17 **JURISDICTION AND VENUE**

18 19. This Court has jurisdiction over this Action pursuant to California Code of Civil
19 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
20 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
21 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382 and Cal. Labor Code § 1404.

22 20. Venue is proper in this Court pursuant to California Code of Civil Procedure,
23 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
24 the CALIFORNIA CLASS across California, including in this County, and committed the
25 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

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1 **THE CONDUCT**

2 **A. Violation of the California WARN Act**

3 21. On or around July 6, 2022, DEFENDANT mass laid off approximately more than
4 300 of its employees. DEFENDANT did not give advance notice of this layoff so that employees
5 could get their lives in order.

6 22. The California WARN Act, Cal. Labor Code § 1400, *et seq.* requires employers at
7 a “covered establishment” (75 or more employees), give 60 days’ notice before a mass layoff (of
8 50 or more employees), a relocation, or a cessation of doing business. Employers must give notice
9 not only to employees, but also to the relevant California government agency, the Employment
10 Development Department. *See* Cal. Labor Code § 1401(a).

11 23. Employers are excused from providing notice of a mass layoff only if there is a
12 “physical calamity” (such as an earthquake) or “act of war.” Cal. Labor Code § 1401(c).

13 24. If an employer fails to give notice of a mass layoff, relocation, or cessation of
14 business, its employees are entitled to recover: up to 60 days of wages (at their regular rate of
15 pay), and the value of any employment benefits that the employee would have received during
16 that time (such as payment of medical expenses under a health insurance plan, or matching
17 contributions to a 401(k) retirement plan). *See* Cal. Labor Code § 1402.

18 25. Here, DEFENDANT did not provide advance notice to CALIFORNIA WARN
19 CLASS Members that they would be terminated. Notice was provided only on the day of the
20 layoffs.

21 26. PLAINTIFF alleges, upon information and belief, DEFENDANT did not file a
22 WARN notice with the California Employment Development Department.

23 27. Upon information and belief, since July 6, 2022, DEFENDANT has not
24 compensated PLAINTIFF and CALIFORNIA WARN CLASS Members for its failure to provide
25 notice of the mass layoffs.

26 **B. Unreimbursed Business Expenses**

27 28. DEFENDANT as a matter of corporate policy, practice, and procedure,
28 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF

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

10 29. In the course of their employment, DEFENDANT required PLAINTIFF and other
11 CALIFORNIA LABOR CLASS Members to use their personal cell phones as a result of and in
12 furtherance of their job duties. Specifically, PLAINTIFF and other CALIFORNIA LABOR
13 CLASS Members were required to use their personal cell phones and personal home internet in
14 order to perform work related tasks. Further, PLAINTIFF and other CALIFORNIA LABOR
15 CLASS Members were also required to incur personal expenses for travel, meals, and payments
16 to various business vendors on behalf of and in furtherance of their job duties for DEFENDANT.
17 However, DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA
18 LABOR CLASS Members for the use of their personal cell phones, personal home internet, and
19 personal expenses for travel, meals and payments to various business vendors. As a result, in the
20 course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA
21 LABOR CLASS Members incurred unreimbursed business expenses that included, but were not
22 limited to, costs related to the use of their personal cell phones, personal home internet, and
23 personal expenses for travel, meals and payments to various business vendors, all on behalf of
24 and for the benefit of DEFENDANT.

25 **C. Unlawful Deductions**

26 30. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFF
27 and CALIFORNIA LABOR CLASS Members' pay without explanations and without
28 authorization to do so or notice to PLAINTIFF and the CALIFORNIA LABOR CLASS Members.

1 Such unlawful deductions include, but are not limited to, health insurance premiums despite
2 DEFENDANT failing to provide health coverage to PLAINTIFF and the CALIFORNIA LABOR
3 CLASS Members since May 1, 2022. Further, DEFENDANT from time to time unlawfully
4 deducted wages from PLAINTIFF’S and CALIFORNIA LABOR CLASS Members’ pay for life
5 insurance premiums, short and/or long term disability insurance premiums, and 401(k)
6 contributions despite failing to ensure those deductions were properly allocated to said life
7 insurance, short and/or long term disability insurance, and 401(k) policies. As a result,
8 DEFENDANT violated Labor Code § 221.

9 31. Specifically, as to PLAINTIFF, DEFENDANT unlawfully deducted wages from
10 PLAINTIFF for health insurance premiums despite failing to provide health insurance coverage
11 from May 1, 2022 until PLAINTIFF’S termination on July 6, 2022. DEFENDANT also failed to
12 reimburse PLAINTIFF for required business expenses related to the personal expenses incurred
13 for the use of her personal cell phones, personal home internet, and personal computers, on behalf
14 of and in furtherance of her employment with DEFENDANT. To date, DEFENDANT has not
15 fully paid PLAINTIFF all compensation still owed to her or any penalty wages owed to her under
16 Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does not exceed
17 the sum or value of \$75,000.

18 **D. Failure to Pay Vested, Unused Vacation Wages**

19 32. Further, upon PLAINTIFF’S and CALIFORNIA LABOR CLASS Members’
20 separation of employment, they had not used all of their vested vacation and thus their unused,
21 vested vacation was required to have been paid at their final rate upon separation of employment.
22 DEFENDANT, however failed to pay the vested vacation time, and when it did, it paid it at the
23 wrong rate. As a result, DEFENDANT violated Labor Code §227.3.

24 **CLASS ACTION ALLEGATIONS**

25 33. PLAINTIFF brings this Class Action on behalf of herself and a class, defined as
26 all of Defendant Sprout’s and/or Defendant Recovco’s California employees who were terminated
27 on or around July 6, 2022 without being provided 60 days’ written notice of mass layoff,
28 relocation, or termination of business (“CALIFORNIA WARN CLASS”).

1 34. PLAINTIFF also brings this Class Action on behalf of herself and a class, defined
2 as all employees who are or previously were employed by Defendant Sprout and/or Defendant
3 Recovco in California (the "CALIFORNIA LABOR CLASS") at any time during the period
4 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
5 by the Court (the "CLASS PERIOD").

6 35. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
7 deprived of wages and penalties from unpaid wages earned and due, and interest, statutory and
8 civil penalties, attorney's fees, costs, and expenses.

9 36. The members of the class are so numerous that joinder of all class members is
10 impractical.

11 37. Membership in the CALIFORNIA CLASS can be determined from
12 DEFENDANT'S own records.

13 38. There are questions of law and fact common to the CALIFORNIA CLASS, which
14 predominate over any questions affecting only individual CALIFORNIA CLASS Members.
15 These common questions of law and fact include, without limitation:

- 16 a. Whether provisions of the California WARN Act apply;
- 17 b. Where DEFENDANT engaged in a "mass layoff," "relocation," or "termination"
18 of business under the California WARN Act;
- 19 c. Whether DEFENDANT failed to provide the required notice under the California
20 WARN Act to CALIFORNIA WARN CLASS Members;
- 21 d. The measure of damages and/or penalties owed under the California WARN Act;
- 22 e. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
23 LABOR CLASS Members for required business expenses;
- 24 f. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA
25 LABOR CLASS Members wages when due;
- 26 g. Whether DEFENDANT made unlawful deductions to PLAINTIFF and the
27 CALIFORNIA LABOR CLASS Members' wages;
- 28

1 h. Whether DEFENDANT failed to pay PLAINTIFF and other CALIFORNIA
2 LABOR CLASS Members' for their vested, but unused vacation at the time of
3 separation;

4 i. Whether DEFENDANT committed an act of unfair competition by systematically
5 making unlawful deductions to PLAINTIFF'S and the CALIFORNIA LABOR
6 CLASS Members' wages;

7 39. PLAINTIFF is a member of the CALIFORNIA WARN CLASS and
8 CALIFORNIA LABOR CLASS and suffered damages as a result of DEFENDANT'S conduct
9 and actions alleged herein.

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

12 41. PLAINTIFF will fairly and adequately represent and protect the interests of the
13 CALIFORNIA CLASS Members.

14 42. PLAINTIFF retained able class counsel with extensive experience in class action
15 litigation.

16 43. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
17 interest of the other CALIFORNIA CLASS Members.

18 44. There is a strong community of interest among PLAINTIFF and the members of
19 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
20 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
21 sustained.

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

25 46. A class action is superior to other available methods for the fair and efficient
26 adjudication of this controversy because joinder of all class members is impractical. Moreover,
27 since the damages suffered by individual members of the class may be relatively small, the
28 expense and burden of individual litigation makes it practically impossible for the members of the

1 class individually to redress the wrongs done to them. Without class certification and
2 determination of declaratory, injunctive, statutory, and other legal questions within the class
3 format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will
4 create the risk of:

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

12 47. Class treatment provides manageable judicial treatment calculated to bring an
13 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
14 the conduct of DEFENDANT.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF CALIFORNIA WARN ACT, CAL. LAB. CODE § 1400 *et seq.***

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

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

21 49. DEFENDANT is an “employer” that operates a “covered establishment” under the
22 California WARN Act, Cal. Labor Code § 1400 *et seq.*, because DEFENDANT runs a business
23 enterprise that employs 75 or more employees.

24 50. DEFENDANT engaged in a “mass layoff” because DEFENDANT terminated 50
25 or more employees within a 30-day period.

26 51. None of the exemptions to the notice requirements of the California WARN Act
27 applies.

1 52. DEFENDANT willfully violated the California WARN Act by failing to provide
2 the required notice.

3 53. PLAINTIFF and all CALIFORNIA WARN CLASS Members have been damaged
4 by DEFENDANT’S conduct constituting violations of the California WARN Act and are entitled
5 to damages for their back pay and associated benefits for each day of the violation.

6 54. DEFENDANT has not acted in good faith nor with reasonable grounds to believe
7 its acts or omissions were not in violation of the California WARN Act.

8 **SECOND CAUSE OF ACTION**

9 **Unlawful Business Practices**

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

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

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

15 56. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
16 Code § 17021.

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

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

28 58. By the conduct alleged herein, DEFENDANT has engaged and continues to
engage in a business practice which violates California law, including but not limited to, the
applicable Wage Order(s), the California Code of Regulations and the California Labor Code
including Sections 201, 202, 203, 221, 227.3, 1400 *et seq.*, and 2802, for which this Court should

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

4 59. 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 60. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
11 CALIFORNIA CLASS member, (1) all back pay and associated benefits for each day of the
12 California WARN Act violation, (2) all unlawfully deducted wages, (3) all vested, but unused
13 vacation pay. and (4) all unreimbursed business expenses.

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

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

25 63. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
26 and do, seek such relief as may be necessary to restore to them the money and property which
27 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the
28

1 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
2 business practices, including earned but unpaid wages for all time worked.

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

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

14 **THIRD CAUSE OF ACTION**

15 **Unlawful Deductions from PLAINTIFF and CLASS MEMBERS Paychecks**

16 **[Cal. Labor Code §§ 221 and 223]**

17 **(By PLAINTIFF and the CLASS LABOR CLASS Against all DEFENDANTS)**

18 66. PLAINTIFF incorporate herein by specific reference, as though fully set forth, the
19 allegations in the preceding paragraphs.

20 67. During the CLASS PERIOD, DEFENDANT regularly and consistently
21 maintained corporate policies and procedures designed to reduce labor costs by reducing or
22 minimizing the amount of compensation paid to its employees, especially overtime compensation.

23 68. DEFENDANT made deductions from PLAINTIFF and the other CLASS LABOR
24 MEMBERS' paychecks including but limited to amounts for health insurance earned by
25 PLAINTIFF and the other CLASS MEMBERS' during various pay periods. Further, such
26 unlawful deductions include, but are not limited to, health insurance premiums despite
27 DEFENDANT failing to provide health coverage to PLAINTIFF and the CALIFORNIA LABOR
28 CLASS Members since May 1, 2022. Further, DEFENDANT from time to time unlawfully

1 deducted wages from PLAINTIFF'S and CALIFORNIA LABOR CLASS Members' pay for life
2 insurance premiums, short and/or long term disability insurance premiums, and 401(k)
3 contributions despite failing to ensure those deductions were properly allocated to said life
4 insurance, short and/or long term disability insurance, and 401(k) policies.

5 69. Labor Code § 221 provides it is unlawful for any employer to collect or receive
6 from an employee any part of wages theretofore paid by employer to employee.

7 70. Labor Code § 223 provides that where any statute or contract requires an employer
8 to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
9 purporting to pay the wage designated by statute or by contract. Labor Code section 225 further
10 provides that the violation of any provision of Labor Code §§ 221 and 223 is a misdemeanor.

11 71. As a result of the conduct alleged above, DEFENDANTS unlawfully collected or
12 received from PLAINTIFFS and the other CLASS LABOR MEMBERS' part of the wages paid
13 to their employees.

14 72. Wherefore, PLAINTIFFS and the other CLASS LABOR MEMBERS demand the
15 return of all wages unlawfully deducted from the paychecks, including interest thereon, penalties,
16 reasonable attorneys' fees, and costs of suit pursuant to Labor Code §§ 225.5 and 1194.

17 **FOURTH CAUSE OF ACTION**

18 **Failure To Reimburse Employees for Required Expenses**

19 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

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

1 CLASS members for required expenses incurred in the discharge of their job duties for
2 DEFENDANT'S benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA
3 LABOR CLASS members for expenses which included, but were not limited to, personal
4 expenses incurred for the use of personal cell phones, personal home internet, and personal
5 computers all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and
6 other CALIFORNIA LABOR CLASS Members were required by DEFENDANT to use their own
7 personal cell phones and personal home internet to execute their essential job duties on behalf of
8 DEFENDANT. Further, PLAINTIFF and other CALIFORNIA LABOR CLASS Members were
9 also required to incur personal expenses for travel, meals, and payments to various business
10 vendors on behalf of and in furtherance of their job duties for DEFENDANT. DEFENDANT'S
11 uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA
12 CLASS members for expenses resulting from the use of personal cell phones, personal home
13 internet, and personal expenses for travel, meals, and payments to various business vendors for
14 DEFENDANT within the course and scope of their employment for DEFENDANT. These
15 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by
16 DEFENDANT'S conduct to assert any waiver of this expectation. Although these expenses were
17 necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR CLASS members,
18 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR
19 CLASS members for these expenses as an employer is required to do under the laws and
20 regulations of California.

21 76. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
22 by her and the CALIFORNIA LABOR CLASS members in the discharge of their job duties for
23 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory
24 rate and costs under Cal. Lab. Code § 2802.

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1 **FIFTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

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

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

5 77. PLAINTIFF, and the other members of the CALIFORNIA LABOR CLASS,
6 realleges and incorporates by this reference, as though fully set forth herein, the prior paragraphs
7 of this Complaint.

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

9 As used in this article:

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

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

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

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

28 81. There was no definite term in PLAINTIFF'S or any CALIFORNIA LABOR
CLASS Members' employment contract.

82. 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.

83. The employment of PLAINTIFF and many CALIFORNIA LABOR CLASS Members terminated, and DEFENDANT has not tendered payment of wages to these employees, as required by law.

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

SIXTH CAUSE OF ACTION

For Failure to Pay Vacation Wages

(By PLAINTIFF and CALIFORNIA LABOR CLASS Members Against Defendant)

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

86. At all relevant times, California Labor Code §227.3 provides for the following: Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

87. At all times relevant, including at times throughout the four-year period preceding the filing of the original complaint, PLAINTIFF, and upon information and belief, and CALIFORNIA LABOR CLASS Members were subject to an employer policy and/or contract of employment that provided for paid vacations not otherwise provided by a collective-bargaining agreement. Upon PLAINTIFF'S and CALIFORNIA LABOR CLASS Members' separation of employment, they had not used all of their vested vacation and thus their unused, vested vacation was required to have been paid at their final rate upon separation of employment. As a result of the miscalculation, DEFENDANT violated Labor Code §227.3.

1 88. PLAINTIFF seeks, on her behalf and on behalf of the CALIFORNIA LABOR
2 CLASS, all damages and remedies available under California Labor Code §227.3, including
3 payment of the vacation wages at the final rate.

4 **PRAYER FOR RELIEF**

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

- 7 1. An order determining that this action may be maintained as a class action;
- 8 2. Designation of PLAINTIFF as a class representative and PLAINTIFF'S counsel as
9 class counsel;
- 10 3. Judgment against DEFENDANT for PLAINTIFF'S and CALIFORNIA CLASS
11 Members' asserted causes of action;
- 12 4. Appropriate declaratory relief against DEFENDANT;
- 13 5. An award of all applicable damages;
- 14 6. Prejudgment interest;
- 15 7. An award of reasonable attorney's fees and other litigation costs; and
- 16 8. Any other relief to which PLAINTIFF and the CALIFORNIA CLASS Members
17 may be entitled.

18
19 DATED: July 22, 2022

20 **JCL LAW FIRM, APC**

21 By: 
22 Jean-Claude Lapuyade
23 Attorney for PLAINTIFF
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DEMAND FOR A JURY TRIAL

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

DATED: July 22, 2022

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorney for PLAINTIFF

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c/o CT Corporation System
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(10)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Michael Strauss
 c/o Universal Registered Agents Inc.
 2020 Hurley Way, Ste 350
 Sacramento, 95825



9590 9402 7420 2055 3644 86

2. Article Number (Transfer from service label)

7022 0410 0001 5846 7186

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

7/25/22 Bayer 002-378

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail
 Mail Restricted Delivery
 10)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt