

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

SKY HOTELS, INC., a California corporation; MODCO 2, LLC, a California limited liability company; and DOES 1-50, Inclusive,

Electronically Filed
9/6/2022 2:07 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Juan Medina, Deputy

YOU ARE BEING SUED BY PLAINTIFF:**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

EDWARD GRAY and JESSICA MUTO, individuals; on behalf of themselves, and on behalf of all persons similarly situated,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Stanislaus Superior Court - City Towers Courthouse
801 10th Street 4th floor
Modesto, CA 95354

CASE NUMBER: CV-22-004004
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (858) 599-8291

JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: 9/6/2022 2:07 PM
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjuvante)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010),
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Juan Medina

[SEAL]

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

Z AKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com
julieann@zakaylaw.com

Electronically Filed
9/6/2022 2:07 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Juan Medina, Deputy

\$435 PAID

\$1000 COMPLEX FEE PAID

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney S. Castillo-Johnson (State Bar #343881)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com

Freeland, John D
This case has been assigned to Judge _____
Dept. 23
Department _____, for all purposes including Trial.

Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF STANISLAUS

EDWARD GRAY and JESSICA MUTO,
individuals; on behalf of themselves, and on
behalf of all persons similarly situated,

Case No: CV-22-004004

CLASS ACTION COMPLAINT FOR:

Plaintiffs,

v.

SKY HOTELS, INC., a California corporation;
MODCO 2, LLC, a California limited liability
company; and DOES 1-50, Inclusive,

Defendants.

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

- 1 6) FAILURE TO REIMBURSE EMPLOYEES
2 FOR REQUIRED EXPENSES IN
3 VIOLATION OF CAL. LAB. CODE § 2802;
4 7) FAILURE TO PROVIDE ACCURATE
5 ITEMIZED STATEMENTS IN
6 VIOLATION OF CAL. LAB. CODE § 226;
7 8) FAILURE TO PROVIDE WAGES WHEN
8 DUE IN VIOLATION OF CAL. LAB.
9 CODE §§ 201, 202 AND 203;
10 9) VIOLATIONS OF THE PRIVATE
11 ATTORNEY GENERAL ACT AT LABOR
12 CODE SECTIONS 2698 *ET SEQ.*

13 **DEMAND FOR A JURY TRIAL**

14 Plaintiffs EDWARD GRAY (“Plaintiff Gray”) and JESSICA MUTO (“Plaintiff Muto”)
15 (collectively “PLAINTIFFS”), individuals, on behalf of themselves and all other similarly situated
16 current and former employees, allege on information and belief, except for their own acts and
17 knowledge which are based on personal knowledge, the following:

18 **PRELIMINARY ALLEGATIONS**

19 1. Defendant SKY HOTELS, INC. (“DEFENDANT Sky Hotels”) is a California
20 corporation that at all relevant times mentioned herein conducted and continues to conduct
21 substantial and regular business throughout California.

22 2. Defendant MODCO 2, LLC (“Defendant Modco2”) is a California limited liability
23 company that at all relevant times mentioned herein conducted and continues to conduct
24 substantial and regular business throughout California.

25 3. Defendant Sky Hotels and Defendant Modco2 were the joint employers of
26 PLAINTIFFS as evidenced by the documents issued to PLAINTIFFS and by the company
27 PLAINTIFFS performed work for respectively and are therefore jointly responsible as employers
28 for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANTS own, operate, and/or manage hotels and provide hotel
management, consulting, development, and financial services throughout the state of California,
including in the county of Stanislaus where PLAINTIFFS worked.

1 5. Plaintiff Gray has been employed by DEFENDANT in California since October
2 of 2021 as a non-exempt employee, paid in part an hourly basis and non-discretionary bonuses,
3 and entitled to the legally required meal and rest periods and payment of minimum and overtime
4 wages due for all time worked. Plaintiff Muto was employed by DEFENDANT in California from
5 October of 2021 to May of 2022, as a non-exempt employee, paid in part an hourly basis and non-
6 discretionary bonuses, and entitled to the legally required meal and rest periods and payment of
7 minimum and overtime wages due for all time worked.

8 6. PLAINTIFFS bring this Class Action on behalf of themselves and a California
9 class, defined as all persons who are or previously were employed by Defendant Sky Hotels and/or
10 Defendant Modco2 in California and classified as non-exempt employees (the “CALIFORNIA
11 CLASS”) at any time during the period beginning four (4) years prior to the filing of this
12 Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The
13 amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under
14 five million dollars (\$5,000,000.00).

15 7. PLAINTIFFs bring this Class Action on behalf of himself and a CALIFORNIA
16 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
17 the CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed to
18 lawfully compensate these employees. DEFENDANT’s uniform policy and practice alleged
19 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained
20 and continues to retain wages due to PLAINTIFFS and the other members of the CALIFORNIA
21 CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction
22 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and
23 the other members of the CALIFORNIA CLASS who have been economically injured by
24 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable
25 relief.

26 8. The true names and capacities, whether individual, corporate, subsidiary,
27 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are
28 presently unknown to PLAINTIFFs who therefore sue these DEFENDANTS by such fictitious

1 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this
2 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are
3 ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief
4 allege, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
5 inclusive, are responsible in some manner for one or more of the events and happenings that
6 proximately caused the injuries and damages hereinafter alleged.

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

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

26 12. DEFENDANT's uniform policies and practices alleged herein were unlawful,
27 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
28 wages due to PLAINTIFFS and other members of the CALIFORNIA CLASS.

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

JURISDICTION AND VENUE

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

15. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because 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

16. In violation of the applicable sections of the California Labor Code and the requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a matter of company policy, practice, and procedure, intentionally, knowingly, and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFFS and the other members of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time worked, failed compensate PLAINTIFFS and other members of the CALIFORNIA CLASS for off-the-clock work, failed to pay PLAINTIFFS and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFFS and other members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse PLAINTIFFS and other CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFFS and the members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay

1 periods and the corresponding amount of time worked at each hourly rate. DEFENDANT's
2 uniform policies and practices are intended to purposefully avoid the accurate and full payment
3 for all time worked as required by California law which allows DEFENDANT to illegally profit
4 and gain an unfair advantage over competitors who comply with the law. To the extent equitable
5 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS
6 PERIOD should be adjusted accordingly.

7 **A. Meal Period Violations**

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

22 18. From time to time during the CLASS PERIOD, as a result of their rigorous work
23 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFFS and other
24 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
25 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFFS and other
26 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for
27 more than five (5) hours during some shifts without receiving a meal break. Further,
28 DEFENDANT fails to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second

1 off-duty meal period for some workdays in which these employees are required by DEFENDANT
2 to work ten (10) hours of work. The nature of the work performed by PLAINTIFFS and other
3 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed “on-
4 duty” meal period exception. When they were provided with meal periods, PLAINTIFFS and
5 other CALIFORNIA CLASS Members were, from time to time, required to remain on duty, on
6 call, and/or on-premises. Moreover, DEFENDANT from time to time required PLAINTIFFS and
7 the CALIFORNIA CLASS Members to maintain cordless communication devices on them in
8 order to send and/or receive work-related communications during what was supposed to be their
9 off-duty meal breaks. DEFENDANT’s failure to provide PLAINTIFFS and the CALIFORNIA
10 CLASS Members with legally required meal breaks is evidenced by DEFENDANT’s business
11 records. PLAINTIFFS and other members of the CALIFORNIA CLASS therefore forfeit meal
12 breaks without additional compensation and in accordance with DEFENDANT’s strict corporate
13 policy and practice.

14 **B. Rest Period Violations**

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

1 wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANT's inadequate
2 staffing, PLAINTIFFS and other CALIFORNIA CLASS Members were from time to time denied
3 their proper rest periods by DEFENDANT and DEFENDANT's managers.

4 **C. Unreimbursed Business Expenses**

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

16 21. In the course of their employment, DEFENDANT required PLAINTIFFS and
17 other CALIFORNIA CLASS Members to use their personal cell phones as a result of and in
18 furtherance of their job duties. Specifically, PLAINTIFFS and other CALIFORNIA CLASS
19 Members were required to use their personal cell phones in order to perform work related tasks.
20 However, DEFENDANT unlawfully failed to reimburse PLAINTIFFS and other CALIFORNIA
21 CLASS Members for the use of their personal cell phones. As a result, in the course of their
22 employment with DEFENDANT, the PLAINTIFFS and other CALIFORNIA CLASS Members
23 incurred unreimbursed business expenses that included, but were not limited to, costs related to
24 the use of their personal cell phones, all on behalf of and for the benefit of DEFENDANT.

25 **D. Wage Statement Violations**

26 22. California Labor Code Section 226 required an employer to furnish its employees
27 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
28 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,

1 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
2 name of the employee and only the last four digits of the employee's social security number or an
3 employee identification number other than a social security number, (8) the name and address of
4 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
5 period and the corresponding number of hours worked at each hourly rate by the employee.

6 23. From time to time during the CLASS PERIOD, when PLAINTIFFS and other
7 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
8 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
9 failed to provide PLAINTIFFS and other CALIFORNIA CLASS Members with complete and
10 accurate wage statements which failed to show, among other things, all deductions, the total hours
11 worked and all applicable hourly rates in effect during the pay period, and the corresponding
12 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
13 meal and rest periods.

14 24. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
15 PLAINTIFFS and the CALIFORNIA CLASS Members with wage statements that comply with
16 Cal. Lab. Code § 226.

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

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

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

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

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

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

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

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

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

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

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

26
27 ///
28

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

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

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

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

23 38. However, from-time-to-time, when calculating the regular rate of pay, in those pay
24 periods where PLAINTIFFS and other CALIFORNIA CLASS members worked overtime, double
25 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
26 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
27 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
28 rather than just all non-overtime hours worked. Management and supervisors described the

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

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

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

25 40. Pursuant to California Labor Code section 204, PLAINTIFFS and the
26 CALIFORNIA CLASS members were entitled to timely payment of wages during their
27 employment. PLAINTIFFS and the CALIFORNIA CLASS members, from time to time, did not
28

1 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
2 meal period premium wages, and rest period premium wages within permissible time period.

3 ///

4 **H. Unlawful Deductions**

5 41. DEFENDANTS, from time-to-time unlawfully deducted wages from
6 PLAINTIFFS and CALIFORNIA CLASS Members' pay without explanations and without
7 authorization to do so or notice to PLAINTIFFS and the CALIFORNIA CLASS Members. As a
8 result, DEFENDANTS violated Labor Code § 221.

9 42. Specifically, as to PLAINTIFFS, PLAINTIFFS were from time to time unable to
10 take off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
11 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)
12 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
13 provide PLAINTIFFS with a second off-duty meal period each workday in which he was required
14 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFFS
15 with a rest break, they required PLAINTIFFS to remain on-duty, on-call, and on-premises for the
16 rest break. DEFENDANT policy caused PLAINTIFFS to remain on-call, on-duty, and on-
17 premises during what was supposed to be his off-duty meal periods. PLAINTIFFS therefore
18 forfeited meal and rest breaks without additional compensation and in accordance with
19 DEFENDANT'S strict corporate policy and practice. Moreover, DEFENDANT also provided
20 PLAINTIFFS with paystubs that failed to comply with Cal. Lab. Code § 226. Further,
21 DEFENDANT also failed to reimburse PLAINTIFFS for required business expenses related to
22 the personal expenses incurred for the use of his personal cell phone, on behalf of and in
23 furtherance of his employment with DEFENDANT. To date, DEFENDANT has not fully paid
24 PLAINTIFFS the minimum, overtime and double time compensation still owed to him or any
25 penalty wages owed to him under Cal. Lab. Code § 203. The amount in controversy for
26 PLAINTIFFS individually does not exceed the sum or value of \$75,000.

27 ///

CLASS ACTION ALLEGATIONS

43. PLAINTIFFS bring this Class Action on behalf of themselves, and a California class defined as all persons who are or previously were employed by Defendant Sky Hotels and/or Defendant Modco2 in California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”).

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

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

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

- a. Whether DEFENDANT maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANT maintained legally compliant rest period policies and practices;

- c. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members accurate premium payments for missed meal and rest periods;
- d. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members accurate overtime wages;
- e. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFFS and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFFS and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

47. PLAINTIFFS are members of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANT's conduct and actions alleged herein.

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

49. PLAINTIFFS will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

50. PLAINTIFFS retained able class counsel with extensive experience in class action litigation.

1 51. Further, PLAINTIFFS' interests are coincident with, and not antagonistic to, the
2 interest of the other CALIFORNIA CLASS Members.

3 52. There is a strong community of interest among PLAINTIFFS and the members of
4 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
5 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
6 sustained.

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

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

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

25 55. Class treatment provides manageable judicial treatment calculated to bring an
26 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
27 the conduct of DEFENDANT.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

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

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

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

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

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

21 59. By the conduct alleged herein, DEFENDANT has engaged and continues to
22 engage in a business practice which violates California law, including but not limited to, the
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
24 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and
25 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
26 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
27 constitute unfair competition, including restitution of wages wrongfully withheld.

28 60. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

12 62. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
13 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and the
14 other members of the CALIFORNIA CLASS to be underpaid during their employment with
15 DEFENDANT.

16 63. By the conduct alleged herein, DEFENDANT's practices were also unfair and
17 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
18 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members as
19 required by Cal. Lab. Code §§ 226.7 and 512.

20 64. Therefore, PLAINTIFFS demands on behalf of themselves and on behalf of each
21 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
22 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
23 each workday in which a second off-duty meal period was not timely provided for each ten (10)
24 hours of work.

25 65. further demands on behalf of himself and on behalf of each CALIFORNIA CLASS
26 member, one (1) hour of pay for each workday in which a rest period was not timely provided as
27 required by law.
28

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

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

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

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

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

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3

4

5
6
7

8
9
10
11

12
1314
15
1617
18

19
20
21
22
23

24
25
26
27

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

7 79. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
8 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive the correct
9 minimum wage compensation for their time worked for DEFENDANT.

10 80. During the CLASS PERIOD, PLAINTIFFS and the other members of the
11 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
12 failure to pay all earned wages.

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

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

25 83. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act
28 intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of the

1 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
2 consequences to them, and with the despicable intent of depriving them of their property and legal
3 rights, and otherwise causing them injury in order to increase company profits at the expense of
4 these employees.

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

16 **THIRD CAUSE OF ACTION**

17 **Failure To Pay Overtime Compensation**

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

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

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

23 86. PLAINTIFFS and the other members of the CALIFORNIA CLASS bring a claim
24 for DEFENDANT's willful and intentional violations of the California Labor Code and the
25 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
26 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
27 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.
28

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

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

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

10 90. During the CLASS PERIOD, PLAINTIFFS and CALIFORNIA CLASS Members
11 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
12 they worked, including overtime work.

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

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

26 93. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
27 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive the correct
28 overtime compensation for their time worked for DEFENDANT.

1 94. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
2 from the overtime requirements of the law. None of these exemptions are applicable to
3 PLAINTIFFS and the other members of the CALIFORNIA CLASS. Further, PLAINTIFFS and
4 the other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
5 agreement that would preclude the causes of action contained herein this Complaint. Rather,
6 PLAINTIFFs bring this Action on behalf of themselves, and the CALIFORNIA CLASS, based
7 on DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
8 California.

9 95. During the CLASS PERIOD, PLAINTIFFS and the other members of the
10 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
11 a failure to pay all earned wages.

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

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

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

1 PLAINTIFFS and the other members of the CALIFORNIA CLASS the correct overtime wages
2 for their overtime worked.

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

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

21 **FOURTH CAUSE OF ACTION**

22 **Failure To Provide Required Meal Periods**

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

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

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

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

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

20 104. As a proximate result of the aforementioned violations, PLAINTIFFS and
21 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
22 and seek all wages earned and due, interest, penalties, expenses and costs of suit.
23
24
25
26

27 ///
28

1 **FIFTH CAUSE OF ACTION**

2 **Failure To Provide Required Rest Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

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

SIXTH CAUSE OF ACTION

Failure To Reimburse Employees for Required Expenses

(Cal. Lab. Code §§ 2802)

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

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

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

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

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

1 DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA CLASS
2 members for these expenses as an employer is required to do under the laws and regulations of
3 California.

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

8 **SEVENTH CAUSE OF ACTION**

9 **Failure To Provide Accurate Itemized Statements**

10 **(Cal. Lab. Code § 226)**

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

12 113. PLAINTIFFS, 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.

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

- 17 a. Gross wages earned,
- 18 b. (2) total hours worked by the employee, except for any employee whose
19 compensation is solely based on a salary and who is exempt from payment of
20 overtime under subdivision (a) of Section 515 or any applicable order of the
21 Industrial Welfare Commission,
- 22 c. the number of piece-rate units earned and any applicable piece rate if the employee
23 is paid on a piece-rate basis,
- 24 d. all deductions, provided that all deductions made on written orders of the employee
25 may be aggregated and shown as one item,
- 26 e. net wages earned,
- 27 f. the inclusive dates of the period for which the employee is paid,
- 28

- 1 g. the name of the employee and his or her social security number, except that by
2 January 1, 2008, only the last four digits of his or her social security number of an
3 employee identification number other than social security number may be shown
4 on the itemized statement,
- 5 h. the name and address of the legal entity that is the employer, and
- 6 i. all applicable hourly rates in effect during the pay period and the corresponding
7 number of hours worked at each hourly rate by the employee.

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

17 116. In addition to the foregoing, DEFENDANT failed to provide itemized wage
18 statements to PLAINTIFFS and members of the CALIFORNIA CLASS that complied with the
19 requirements of California Labor Code Section 226.

20 117. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
21 § 226, causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA
22 CLASS. These damages include, but are not limited to, costs expended calculating the correct
23 wages for all missed meal and rest breaks and the amount of employment taxes which were not
24 properly paid to state and federal tax authorities. These damages are difficult to estimate.
25 Therefore, PLAINTIFFS and the other members of the CALIFORNIA CLASS may elect to
26 recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
27 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay
28 period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but

1 in no event more than four thousand dollars (\$4,000.00) for PLAINTIFFS and each respective
2 member of the CALIFORNIA CLASS herein).

3 **EIGHTH CAUSE OF ACTION**

4 **Failure To Pay Wages When Due**

5 **(Cal. Lab. Code § 203)**

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

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

10 119. Cal. Lab. Code § 200 provides that:

11 As used in this article:

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

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

21 121. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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

123. 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

1 the same rate until paid or until an action therefor is commenced; but the wages shall not
2 continue for more than 30 days.

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

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

11 **NINTH CAUSE OF ACTION**

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

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

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

15 126. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
16 herein, the prior paragraphs of this Complaint.

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

26 128. PLAINTIFF brings this Representative Action on behalf of the State of California
27 with respect to himself and all other current and former non-exempt employees employed by
28 DEFENDANT during the time period of July 1, 2021, until the present (the AGGRIEVED
EMPLOYEES").

1 129. At all relevant times, for the reasons described herein, and others, PLAINTIFF and
2 the AGGRIEVED EMPLOYEES were aggrieved employees of DEFENDANT within the
3 meaning of Labor Code Section 2699(c).

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

7 131. PLAINTIFF complied with the procedures for bringing suit specified in Labor
8 Code Section 2699.3. By certified letter, return receipt requested, dated July 1, 2022, PLAINTIFF
9 gave written notice to the Labor and Workforce Development Agency (“LWDA”) and to
10 DEFENDANT of the specific provisions of the Labor Code alleged to have been violated,
11 including the facts and theories to support the alleged violations. (See Exhibit #1.)

12 132. As of the date of this complaint, more than sixty-five (65) days after serving the
13 LWDA with notice of DEFENDANT’S violations, the LWDA has not provided any notice by
14 certified mail of its intent to investigate the DEFENDANT’S alleged violations as mandated by
15 Labor Code Section 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section
16 2699.3(a)(2)A, PLAINTIFF may commence and is authorized to pursue this cause of action.

17 133. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and the
18 AGGRIEVED EMPLOYEES are entitled to civil penalties for DEFENDANTS’ violations of
19 Labor Code Section 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7,
20 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and
21 2804 in the following amounts:

22 a. For violation of Labor Code Sections 201, 202, 203, and 204,
23 one hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per
24 pay period for the initial violation and two hundred dollars (\$200) for
25 AGGRIEVED EMPLOYEE per pay period for each subsequent
26 violation [penalty per Labor Code Section 2699(f)(2)];

27 b. For violations of Labor Code Section 226(a), a civil penalty
28 in the amount of two hundred fifty dollars (\$250) for each

1 AGGRIEVED EMPLOYEE for any initial violation and one
2 thousand dollars for each subsequent violation [penalty per Labor
3 Code Section 226.3];

4 c. For violations of Labor Code Sections 204, a civil penalty in
5 the amount of one hundred dollars (\$100) for each AGGRIEVED
6 EMPLOYEE for any initial violation and two hundred dollars (\$200)
7 for AGGRIEVED EMPLOYEE for each subsequent violation
8 [penalty per Labor Code Section 210];

9 d. For violations of Labor Code Sections 226.7, 510 and 512, a
10 civil penalty in the amount of fifty dollars (\$50) for each underpaid
11 AGGRIEVED EMPLOYEE for the initial violation and hundred
12 dollars (\$100) for each underpaid AGGRIEVED EMPLOYEE for
13 each subsequent violation [penalty per Labor Code Section 558];

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

19 f. For violations of Labor Code Section 1174(d), a civil penalty
20 in the amount of five hundred (\$500) dollars for per AGGRIEVED
21 EMPLOYEE [penalty per Labor Code Section 1174.5].

22 g. For violations of Labor Code Sections 1194, 1194.2, 1197,
23 1198 and 1199, a civil penalty in the amount of one hundred dollars
24 (\$100) per AGGRIEVED EMPLOYEE per pay period for the initial
25 violation and two hundred dollars fifty (\$250) per AGGRIEVED
26 EMPLOYEE per pay period for each subsequent violation [penalty
27 per Labor Code Section].
28

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

135. To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFF during the period of July 1, 2021 until the present, PLAINTIFF seeks penalties for those violations that affected other AGGRIEVED EMPLOYEES. (*Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, 519; See also *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751 ["PAGA allows an "aggrieved employee"—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer."], Emphasis added, reh'g denied (June 13, 2018).)

PRAYER FOR RELIEF

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

1. On behalf of the CALIFORNIA CLASS:

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

1 2. On behalf of the CALIFORNIA CLASS:

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

21 3. On behalf of the State of California and with respect to all AGGRIEVED

22 EMPLOYEES:

- 23 a. Recovery of civil penalties as prescribe by the Labor Code Private Attorneys
- 24 General Act of 2004.

25

26

27

28 ///

1 4. On all claims:

- 2 a. An award of interest, including prejudgment interest at the legal rate;
- 3 b. Such other and further relief as the Court deems just and equitable; and
- 4 c. An award of penalties, attorneys' fees, and costs of suit, as allowable under the law,
- 5 including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.
- 6

7 DATED: September 6, 2022

JCL LAW FIRM, APC

8

9 By: 

Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFFS

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

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

DATED: September 6, 2022

JCL LAW FIRM, APC

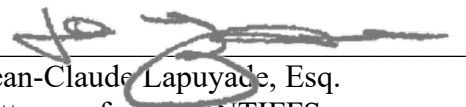
By: 
Jean-Claude Lapuyade, Esq.
Attorney for PLAINTIFFS

EXHIBIT 1



Client # 51301

July 1, 2022

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

Online Filing

SKY HOTELS, INC.

c/o Nick Patel

309 Prosperity Blvd.

Chowchilla, CA 93610

Sent via Certified Mail and Return Receipt No. 7022 0410 0001 5846 6813**MODCO 2, LLC**

c/o Nick Patel

309 Prosperity Blvd.

Chowchilla, CA 93610

Sent via Certified Mail and Return Receipt No. 7022 0410 0001 5846 6820

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

Dear Sir/Madam:

Our offices represent Plaintiffs EDWARD GRAY (“Plaintiff Gray”) and JESSICA MUTO (“Plaintiff Muto”), and other aggrieved employees in a proposed lawsuit against Defendants SKY HOTELS, INC. (“Defendant Sky Hotels”) and MODCO 2, LLC (“Defendant Modco 2”). Plaintiff Gray was employed by Defendants in California from May of 2016 to August of 2021 as a non-exempt employee, paid on an hourly basis and non-discretionary bonuses, 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. Plaintiff Muto was employed by Defendants in California from October 2021 to May of 2022 as a non-exempt employee, paid on an hourly basis and non-discretionary bonuses, 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 Plaintiffs and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay Plaintiffs and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiffs further contend that Defendants failed to provide accurate wage statements to them, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804,

violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Plaintiffs seek to represent a group of aggrieved employees defined as all non-exempt employees who worked for Defendant Sky Hotels and/or Defendant Modco2 in California during the relevant claim period.

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

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

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

This notice is provided to enable Plaintiffs to proceed with the Complaint against Defendants as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiffs and all aggrieved California employees. Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney for Plaintiff

Z AKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com
julieann@zakaylaw.com

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Eduardo Garcia (State Bar #290572)
Sydney S. Castillo-Johnson (State Bar #343881)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com
scastillo@jcl-lawfirm.com

Attorneys for PLAINTIFFS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF STANISLAUS

EDWARD GRAY and JESSICA MUTO,
individuals; on behalf of themselves, and on
behalf of all persons similarly situated,

Plaintiffs,

v.

SKY HOTELS, INC., a California corporation;
MODCO 2, LLC, a California limited liability
company; and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

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

LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.

DEMAND FOR A JURY TRIAL

Plaintiffs EDWARD GRAY (“Plaintiff Gray”) and JESSICA MUTO (“Plaintiff Muto”) (collectively “PLAINTIFFS”), individuals, on behalf of themselves and all other similarly situated current and former 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 SKY HOTELS, INC. (“DEFENDANT Sky Hotels”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant MODCO 2, LLC (“Defendant Modco2”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant Sky Hotels and Defendant Modco2 were the joint employers of PLAINTIFFS as evidenced by the documents issued to PLAINTIFFS and by the company PLAINTIFFS performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANTS own, operate, and/or manage hotels and provide hotel management, consulting, development, and financial services throughout the state of California, including in the county of Stanislaus where PLAINTIFFS worked.

5. Plaintiff Gray has been employed by DEFENDANT in California since October of 2021 as a non-exempt employee, paid in part an hourly basis and non-discretionary bonuses,

1 and entitled to the legally required meal and rest periods and payment of minimum and overtime
2 wages due for all time worked. Plaintiff Muto was employed by DEFENDANT in California from
3 October of 2021 to May of 2022, as a non-exempt employee, paid in part an hourly basis and non-
4 discretionary bonuses, and entitled to the legally required meal and rest periods and payment of
5 minimum and overtime wages due for all time worked.

6 6. PLAINTIFFS bring this Class Action on behalf of themselves and a California
7 class, defined as all persons who are or previously were employed by Defendant Sky Hotels and/or
8 Defendant Modco2 in California and classified as non-exempt employees (the “CALIFORNIA
9 CLASS”) at any time during the period beginning four (4) years prior to the filing of this
10 Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The
11 amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under
12 five million dollars (\$5,000,000.00).

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

24 8. The true names and capacities, whether individual, corporate, subsidiary,
25 partnership, associate or otherwise of DEFENDANTS DOES 1 through 50, inclusive, are
26 presently unknown to PLAINTIFFS who therefore sue these DEFENDANTS by such fictitious
27 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this
28 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are

1 ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief
2 allege, that the DEFENDANTS named in this Complaint, including DOES 1 through 50,
3 inclusive, are responsible in some manner for one or more of the events and happenings that
4 proximately caused the injuries and damages hereinafter alleged.

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

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

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

24 12. DEFENDANT's uniform policies and practices alleged herein were unlawful,
25 unfair, and deceptive business practices whereby DEFENDANT retained and continue to retain
26 wages due to PLAINTIFFS and other members of the CALIFORNIA CLASS.

27 13. PLAINTIFFS and other members of the CALIFORNIA CLASS seek an injunction
28 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and

1 other members of the CALIFORNIA CLASS who has been economically injured by
2 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
3 relief.

4 **JURISDICTION AND VENUE**

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

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

13 **THE CONDUCT**

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

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

5 **A. Meal Period Violations**

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

20 18. From time to time during the CLASS PERIOD, as a result of their rigorous work
21 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFFS and other
22 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty
23 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFFS and other
24 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for
25 more than five (5) hours during some shifts without receiving a meal break. Further,
26 DEFENDANT fails to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second
27 off-duty meal period for some workdays in which these employees are required by DEFENDANT
28 to work ten (10) hours of work. The nature of the work performed by PLAINTIFFS and other

CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed “on-duty” meal period exception. When they were provided with meal periods, PLAINTIFFS and other CALIFORNIA CLASS Members were, from time to time, required to remain on duty, on call, and/or on-premises. Moreover, DEFENDANT from time to time required PLAINTIFFS and the CALIFORNIA CLASS Members to maintain cordless communication devices on them in order to send and/or receive work-related communications during what was supposed to be their off-duty meal breaks. DEFENDANT’s failure to provide PLAINTIFFS and the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by DEFENDANT’s business records. PLAINTIFFS and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional compensation and in accordance with DEFENDANT’s strict corporate policy and practice.

B. Rest Period Violations

19. From time to time during the CLASS PERIOD, PLAINTIFFS and other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work requirements and DEFENDANT’s inadequate staffing. Further, for the same reasons, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some 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 from time to time. When they were provided with rest breaks, PLAINTIFFS and other CALIFORNIA CLASS Members were, from time to time, required to remain on duty, on call and/or on-premises. Moreover, DEFENDANT from time to time required PLAINTIFFS and the CALIFORNIA CLASS Members to maintain cordless communication devices on them in order to send and/or receive work-related communications during what was supposed to be their off-duty rest breaks. PLAINTIFFS and other CALIFORNIA CLASS Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules and DEFENDANT’s inadequate

1 staffing, PLAINTIFFS and other CALIFORNIA CLASS Members were from time to time denied
2 their proper rest periods by DEFENDANT and DEFENDANT's managers.

3 **C. Unreimbursed Business Expenses**

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

15 21. In the course of their employment, DEFENDANT required PLAINTIFFS and
16 other CALIFORNIA CLASS Members to use their personal cell phones as a result of and in
17 furtherance of their job duties. Specifically, PLAINTIFFS and other CALIFORNIA CLASS
18 Members were required to use their personal cell phones in order to perform work related tasks.
19 However, DEFENDANT unlawfully failed to reimburse PLAINTIFFS and other CALIFORNIA
20 CLASS Members for the use of their personal cell phones. As a result, in the course of their
21 employment with DEFENDANT, the PLAINTIFFS and other CALIFORNIA CLASS Members
22 incurred unreimbursed business expenses that included, but were not limited to, costs related to
23 the use of their personal cell phones, all on behalf of and for the benefit of DEFENDANT.

24 **D. Wage Statement Violations**

25 22. California Labor Code Section 226 required an employer to furnish its employees
26 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
27 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
28 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the

1 name of the employee and only the last four digits of the employee's social security number or an
2 employee identification number other than a social security number, (8) the name and address of
3 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
4 period and the corresponding number of hours worked at each hourly rate by the employee.

5 23. From time to time during the CLASS PERIOD, when PLAINTIFFS and other
6 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
7 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
8 failed to provide PLAINTIFFS and other CALIFORNIA CLASS Members with complete and
9 accurate wage statements which failed to show, among other things, all deductions, the total hours
10 worked and all applicable hourly rates in effect during the pay period, and the corresponding
11 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
12 meal and rest periods.

13 24. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
14 PLAINTIFFS and the CALIFORNIA CLASS Members with wage statements that comply with
15 Cal. Lab. Code § 226.

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

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

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

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

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

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

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

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

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

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

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

26
27 ///
28

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

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

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

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

23 38. However, from-time-to-time, when calculating the regular rate of pay, in those pay
24 periods where PLAINTIFFS and other CALIFORNIA CLASS members worked overtime, double
25 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
26 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
27 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
28 rather than just all non-overtime hours worked. Management and supervisors described the

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

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

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

25 40. Pursuant to California Labor Code section 204, PLAINTIFFS and the
26 CALIFORNIA CLASS members were entitled to timely payment of wages during their
27 employment. PLAINTIFFS and the CALIFORNIA CLASS members, from time to time, did not
28

1 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
2 meal period premium wages, and rest period premium wages within permissible time period.

3 ///

4 **H. Unlawful Deductions**

5 41. DEFENDANTS, from time-to-time unlawfully deducted wages from
6 PLAINTIFFS and CALIFORNIA CLASS Members' pay without explanations and without
7 authorization to do so or notice to PLAINTIFFS and the CALIFORNIA CLASS Members. As a
8 result, DEFENDANTS violated Labor Code § 221.

9 42. Specifically, as to PLAINTIFFS, PLAINTIFFS were from time to time unable to
10 take off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
11 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)
12 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
13 provide PLAINTIFFS with a second off-duty meal period each workday in which he was required
14 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFFS
15 with a rest break, they required PLAINTIFFS to remain on-duty, on-call, and on-premises for the
16 rest break. DEFENDANT policy caused PLAINTIFFS to remain on-call, on-duty, and on-
17 premises during what was supposed to be his off-duty meal periods. PLAINTIFFS therefore
18 forfeited meal and rest breaks without additional compensation and in accordance with
19 DEFENDANT'S strict corporate policy and practice. Moreover, DEFENDANT also provided
20 PLAINTIFFS with paystubs that failed to comply with Cal. Lab. Code § 226. Further,
21 DEFENDANT also failed to reimburse PLAINTIFFS for required business expenses related to
22 the personal expenses incurred for the use of his personal cell phone, on behalf of and in
23 furtherance of his employment with DEFENDANT. To date, DEFENDANT has not fully paid
24 PLAINTIFFS the minimum, overtime and double time compensation still owed to him or any
25 penalty wages owed to him under Cal. Lab. Code § 203. The amount in controversy for
26 PLAINTIFFS individually does not exceed the sum or value of \$75,000.

27 ///

CLASS ACTION ALLEGATIONS

43. PLAINTIFFS bring this Class Action on behalf of themselves, and a California class defined as all persons who are or previously were employed by Defendant Sky Hotels and/or Defendant Modco2 in California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”).

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

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

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

- a. Whether DEFENDANT maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANT maintained legally compliant rest period policies and practices;

- c. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members accurate premium payments for missed meal and rest periods;
- d. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members accurate overtime wages;
- e. Whether DEFENDANT failed to pay PLAINTIFFS and the CALIFORNIA CLASS Members at least minimum wage for all hours worked;
- f. Whether DEFENDANT failed to compensate PLAINTIFFS and the CALIFORNIA CLASS Members for required business expenses;
- g. Whether DEFENDANT issued legally compliant wage statements;
- h. Whether DEFENDANT committed an act of unfair competition by systematically failing to record and pay PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time worked;
- i. Whether DEFENDANT committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- j. Whether DEFENDANT committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFFS and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

47. PLAINTIFFS are members of the CALIFORNIA CLASS and suffered damages as a result of DEFENDANT's conduct and actions alleged herein.

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

49. PLAINTIFFS will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS Members.

50. PLAINTIFFS retained able class counsel with extensive experience in class action litigation.

1 51. Further, PLAINTIFFS' interests are coincident with, and not antagonistic to, the
2 interest of the other CALIFORNIA CLASS Members.

3 52. There is a strong community of interest among PLAINTIFFS and the members of
4 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
5 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
6 sustained.

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

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

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

25 55. Class treatment provides manageable judicial treatment calculated to bring an
26 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
27 the conduct of DEFENDANT.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

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

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

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

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

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

21 59. By the conduct alleged herein, DEFENDANT has engaged and continues to
22 engage in a business practice which violates California law, including but not limited to, the
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
24 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and
25 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
26 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
27 constitute unfair competition, including restitution of wages wrongfully withheld.

28 60. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

12 62. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
13 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and the
14 other members of the CALIFORNIA CLASS to be underpaid during their employment with
15 DEFENDANT.

16 63. By the conduct alleged herein, DEFENDANT's practices were also unfair and
17 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
18 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members as
19 required by Cal. Lab. Code §§ 226.7 and 512.

20 64. Therefore, PLAINTIFFS demands on behalf of themselves and on behalf of each
21 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal
22 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for
23 each workday in which a second off-duty meal period was not timely provided for each ten (10)
24 hours of work.

25 65. further demands on behalf of himself and on behalf of each CALIFORNIA CLASS
26 member, one (1) hour of pay for each workday in which a rest period was not timely provided as
27 required by law.
28

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

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

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

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

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

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3

4

5
6
7

8
9
10
11

12
1314
15
1617
18

19
20
21
22
23

24
25
26
27

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

7 79. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
8 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive the correct
9 minimum wage compensation for their time worked for DEFENDANT.

10 80. During the CLASS PERIOD, PLAINTIFFS and the other members of the
11 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
12 failure to pay all earned wages.

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

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

25 83. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act
28 intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of the

1 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
2 consequences to them, and with the despicable intent of depriving them of their property and legal
3 rights, and otherwise causing them injury in order to increase company profits at the expense of
4 these employees.

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

16 **THIRD CAUSE OF ACTION**

17 **Failure To Pay Overtime Compensation**

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

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

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

23 86. PLAINTIFFS and the other members of the CALIFORNIA CLASS bring a claim
24 for DEFENDANT's willful and intentional violations of the California Labor Code and the
25 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
26 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
27 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.
28

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

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

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

10 90. During the CLASS PERIOD, PLAINTIFFS and CALIFORNIA CLASS Members
11 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
12 they worked, including overtime work.

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

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

26 93. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
27 PLAINTIFFS and the other members of the CALIFORNIA CLASS did not receive the correct
28 overtime compensation for their time worked for DEFENDANT.

1 94. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
2 from the overtime requirements of the law. None of these exemptions are applicable to
3 PLAINTIFFS and the other members of the CALIFORNIA CLASS. Further, PLAINTIFFS and
4 the other members of the CALIFORNIA CLASS are not subject to a valid collective bargaining
5 agreement that would preclude the causes of action contained herein this Complaint. Rather,
6 PLAINTIFFs bring this Action on behalf of themselves, and the CALIFORNIA CLASS, based
7 on DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
8 California.

9 95. During the CLASS PERIOD, PLAINTIFFS and the other members of the
10 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
11 a failure to pay all earned wages.

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

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

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

1 PLAINTIFFS and the other members of the CALIFORNIA CLASS the correct overtime wages
2 for their overtime worked.

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

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

21 **FOURTH CAUSE OF ACTION**

22 **Failure To Provide Required Meal Periods**

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

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

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

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

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

20 104. As a proximate result of the aforementioned violations, PLAINTIFFS and
21 CALIFORNIA CLASS Members have been damaged in an amount according to proof at trial,
22 and seek all wages earned and due, interest, penalties, expenses and costs of suit.
23
24
25
26

27 ///
28

1 **FIFTH CAUSE OF ACTION**

2 **Failure To Provide Required Rest Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

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

SIXTH CAUSE OF ACTION

Failure To Reimburse Employees for Required Expenses

(Cal. Lab. Code §§ 2802)

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

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

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

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

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

1 DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA CLASS
2 members for these expenses as an employer is required to do under the laws and regulations of
3 California.

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

8 **SEVENTH CAUSE OF ACTION**

9 **Failure To Provide Accurate Itemized Statements**

10 **(Cal. Lab. Code § 226)**

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

12 113. PLAINTIFFS, 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.

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

- 17 a. Gross wages earned,
- 18 b. (2) total hours worked by the employee, except for any employee whose
19 compensation is solely based on a salary and who is exempt from payment of
20 overtime under subdivision (a) of Section 515 or any applicable order of the
21 Industrial Welfare Commission,
- 22 c. the number of piece-rate units earned and any applicable piece rate if the employee
23 is paid on a piece-rate basis,
- 24 d. all deductions, provided that all deductions made on written orders of the employee
25 may be aggregated and shown as one item,
- 26 e. net wages earned,
- 27 f. the inclusive dates of the period for which the employee is paid,
- 28

- 1 g. the name of the employee and his or her social security number, except that by
2 January 1, 2008, only the last four digits of his or her social security number of an
3 employee identification number other than social security number may be shown
4 on the itemized statement,
- 5 h. the name and address of the legal entity that is the employer, and
- 6 i. all applicable hourly rates in effect during the pay period and the corresponding
7 number of hours worked at each hourly rate by the employee.

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

17 116. In addition to the foregoing, DEFENDANT failed to provide itemized wage
18 statements to PLAINTIFFS and members of the CALIFORNIA CLASS that complied with the
19 requirements of California Labor Code Section 226.

20 117. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
21 § 226, causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA
22 CLASS. These damages include, but are not limited to, costs expended calculating the correct
23 wages for all missed meal and rest breaks and the amount of employment taxes which were not
24 properly paid to state and federal tax authorities. These damages are difficult to estimate.
25 Therefore, PLAINTIFFS and the other members of the CALIFORNIA CLASS may elect to
26 recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
27 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay
28 period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but

1 in no event more than four thousand dollars (\$4,000.00) for PLAINTIFFS and each respective
2 member of the CALIFORNIA CLASS herein).

3 **EIGHTH CAUSE OF ACTION**

4 **Failure To Pay Wages When Due**

5 **(Cal. Lab. Code § 203)**

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

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

10 119. Cal. Lab. Code § 200 provides that:

11 As used in this article:

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

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

21 121. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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

123. 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

1 the same rate until paid or until an action therefor is commenced; but the wages shall not
2 continue for more than 30 days.

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

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

11 **PRAYER FOR RELIEF**

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

14 1. On behalf of the CALIFORNIA CLASS:

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

25 2. On behalf of the CALIFORNIA CLASS:

- 26 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
27 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
28 to Cal. Code of Civ. Proc. § 382;
b. Compensatory damages, according to proof at trial, including compensatory

1 damages for overtime compensation due to PLAINTIFFS and the other members
2 of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
3 thereon at the statutory rate;

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

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

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

14 f. The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
15 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

16 3. On all claims:

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

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

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

21
22 DATED: July 1, 2022

23 **ZAKAY LAW GROUP, APLC**

24 By: 
25 Shani O. Zakay
26 Attorney for PLAINTIFFS
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

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

DATED: July 1, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFFS

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:

Sky Hotels, Inc.
c/o Nick Patel
309 Prosperity Blvd
Chowchilla, CA 93610



9590 9402 6758 1074 2021 09

2. Article Number (Transfer from service label)

7022 0410 0001 5846 6813

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

7/1/22 Gray 007-336

3. Service Type

☐ Adult Signature☐ Priority Mail Express®☐ Adult Signature Restricted Delivery☐ Registered Mail™☐ Certified Mail®☐ Registered Mail Restricted Delivery☐ Certified Mail Restricted Delivery☐ Signature Confirmation™☐ Collect on Delivery☐ Signature Confirmation Restricted Delivery☐ Collect on Delivery Restricted Delivery☐ Restricted Delivery

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

Domestic Return Receipt

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:

MODCO 2, LLC
c/o Nick Patel
309 Prosperity Blvd
Chowchilla, CA 93610



9590 9402 6758 1074 2020 79

2. Article Number (Transfer from service label)

7022 0410 0001 5846 6820

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

7/1/22 Gray 002-336

3. Service Type

☐ Adult Signature☐ Priority Mail Express®☐ Adult Signature Restricted Delivery☐ Registered Mail™☐ Certified Mail®☐ Registered Mail Restricted Delivery☐ Certified Mail Restricted Delivery☐ Signature Confirmation™☐ Collect on Delivery☐ Signature Confirmation Restricted Delivery☐ Collect on Delivery Restricted Delivery☐ Restricted Delivery

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

Domestic Return Receipt