

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 11 2021

BY 
NATHANIEL JOHNSON, DEPUTY

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

ALLIANTE INTERNATIONAL INC., a Nevada Corporation, a California Corporation; and DOES 1-50, Inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JOSHUA READING and NICHOLAS READING, 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):

San Bernardino Superior Court - Civil Division
247 West Third Street
San Bernardino, CA 92415

CIVSB 2105728
CASE NUMBER
(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: (619) 599-8291
JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

Nathaniel Johnson

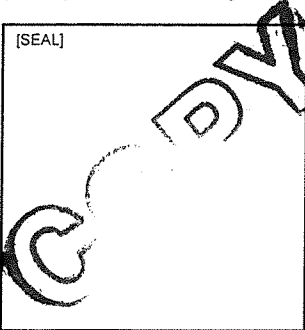
DATE:
(Fecha)

FEB 11 2021

Clerk, by _____
(Secretario)

Deputy
(Adjunto)

(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)).



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: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):

VIA FAX

1 **ZAKAY LAW GROUP, APLC**
Shani O. Zakay (State Bar #277924)
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SAN BERNARDINO DISTRICT

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BY 
NATHANIEL JOHNSON, DEPUTY

8 Attorneys for Plaintiffs

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO**

11 JOSHUA READING and NICHOLAS
12 READING, individuals, on behalf of
themselves and on behalf of all persons
13 similarly situated,

14 Plaintiffs,

15 v.

16 ALLIANTE INTERNTIONAL INC., a
Nevada Corporation, a California
17 Corporation; and DOES 1-50, Inclusive,

18 Defendant.

Case No: **CIV SB 2105728**

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 and 226.2;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 9) FAILURE TO TIMELY PAY EARNED WAGES IN VIOLATION OF CAL. LAB. CODE § 204.

DEMAND FOR A JURY TRIAL

VIA FAX

1 Plaintiffs Joshua Reading and Nicholas Reading, individuals, (“PLAINTIFFS”), on behalf
2 of themselves and all other similarly situated current and former employees, allege on information
3 and belief, except for their own acts and knowledge which are based on personal knowledge, the
4 following:

5 **PRELIMINARY ALLEGATIONS**

6 1. Defendant ALLIANTE INTERNATIONAL INC. (“DEFENDANT”) is a Nevada
7 corporation and at all relevant times mentioned herein conducted and continues to conduct
8 substantial and regular business throughout California.

9 2. DEFENDANT, owns and operates a company that provides loss prevention and
10 security services to its clients throughout California, including in San Bernardino County where
11 PLAINTIFFS worked.

12 3. PLAINTIFF Joshua Reading was employed by DEFENDANT in California as a
13 non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from
14 March of 2020 to September of 2020.

15 4. PLAINTIFF Nicholas Reading was employed by DEFENDANT in California as
16 a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from
17 February of 2020 to September of 2020.

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

25 6. PLAINTIFFS bring this Class Action on behalf of themselves and a
26 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
27 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy
28 and practice which failed to lawfully compensate these employees for all their time worked.
DEFENDANT’S uniform policy and practice alleged herein is an unlawful, unfair and deceptive

1 business practice whereby DEFENDANT retained and continues to retain wages due to
2 PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other
3 members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by
4 DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the
5 CALIFORNIA CLASS who have been economically injured by DEFENDANT'S past and
6 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

24 THE CONDUCT

25 9. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
26 required to pay PLAINTIFFS and the CALIFORNIA CLASS Members for all their time worked,
27 meaning the time during which an employee is subject to the control of an employer, including
28 all the time the employee is suffered or permitted to work. From time to time, DEFENDANT

1 required PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all
2 the time they were under DEFENDANT'S control. Specifically, due to DEFENDANT'S
3 unlawful policy of only compensating for overtime wages that were pre-approved by
4 DEFENDANT, PLAINTIFFS performed work before, during, and after their shifts, as well as
5 during their meal breaks, spending time under DEFENDANT'S control for which they were not
6 compensated. Moreover, PLAINTIFFS and other CALIFORNIA CLASS Members were not
7 compensated for work they performed while "on-call" for DEFENDANT. As a result, the
8 PLAINTIFFS and other CALIFORNIA CLASS Members forfeited minimum wage and overtime
9 compensation by regularly working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANT'S uniform
11 policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all
12 time worked is evidenced by DEFENDANT's business records.

13 10. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed and continues
14 to fail to accurately calculate and pay PLAINTIFFS and the other members of the CALIFORNIA
15 CLASS for their overtime worked. DEFENDANT systematically, unlawfully and unilaterally
16 failed to accurately calculate minimum and overtime wages for time worked by PLAINTIFFS and
17 other members of the CALIFORNIA CLASS in order to avoid paying these employees the correct
18 compensation. As a result, PLAINTIFFS and the other members of the CALIFORNIA CLASS
19 forfeited wages due them for working without compensation at the correct rates. DEFENDANT's
20 uniform policy and practice to not pay the members of the CALIFORNIA CLASS the correct
21 minimum and overtime wages for all time worked in accordance with applicable law is evidenced
22 by DEFENDANT's business records.

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

27 12. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
28 Members' compensation was DEFENDANT's non-discretionary incentive program that paid

1 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
2 performance for DEFENDANT. The non-discretionary incentive program provided all
3 employees paid on an hourly basis with incentive compensation when the employees met the
4 various performance goals set by DEFENDANT. However, when calculating the regular rate of
5 pay in order to pay overtime to PLAINTIFFS and other CALIFORNIA CLASS Members,
6 DEFENDANT failed to include the incentive compensation as part of the employees' "regular
7 rate of pay" for purposes of calculating overtime pay. Management and supervisors described the
8 incentive program to potential and new employees as part of the compensation package. However,
9 DEFENDANT failed to include non-discretionary incentive compensation into the "regular rate
10 of pay" for purposes of calculating overtime pay. As a matter of law, the incentive compensation
11 received by PLAINTIFFS and other CALIFORNIA CLASS Members must be included in the
12 "regular rate of pay." The failure to do so has resulted in a systematic underpayment of overtime
13 compensation to PLAINTIFFS and other CALIFORNIA CLASS Members by DEFENDANT.

14 13. As a result of their rigorous work schedules, PLAINTIFFS and other
15 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal breaks
16 and were not fully relieved of duty for meal periods. Specifically, PLAINTIFFS and
17 CALIFORNIA CLASS Members were from time to time interrupted during their off-duty meal
18 breaks to complete tasks for DEFENDANT. PLAINTIFFS and other CALIFORNIA CLASS
19 Members were required to perform work as ordered by DEFENDANT for more than five (5)
20 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
21 provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty meal period
22 each workday in which these employees were required by DEFENDANT to work ten (10) hours
23 of work. PLAINTIFFS and the other CALIFORNIA CLASS Members therefore forfeited meal
24 breaks without additional compensation and in accordance with DEFENDANT's strict corporate
25 policy and practice.

26 14. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFFS and
27 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours
28 without being provided ten (10) minute rest periods. Further, these employees were denied their

1 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
2 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between
3 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for
4 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their
5 rest breaks, PLAINTIFFS and the CALIFORNIA CLASS Members were often interrupted and
6 required by DEFENDANT to work during their rest breaks. When they did have an opportunity
7 to take their rest breaks, PLAINTIFFS and the CALIFORNIA CLASS Members were required to
8 remain on the premises, on-duty and on-call, and subject to DEFENDANT's control in
9 accordance with DEFENDANT's written policy. PLAINTIFFS and other CALIFORNIA CLASS
10 Members were also not provided with one hour wages in lieu thereof. As a result of their rigorous
11 work schedules, PLAINTIFFS and other CALIFORNIA CLASS Members were periodically
12 denied their proper rest periods by DEFENDANT and DEFENDANT'S managers.

13 15. Under California law, every employer shall pay to each employee, on the
14 established payday for the period involved, not less than the applicable minimum wage for all
15 hours worked in the payroll period, whether the remuneration is measured by time, piece,
16 commission, or otherwise. Hours worked is defined in the applicable Wage Order as "the time
17 during which an employee is subject to the control of an employer and includes all the time the
18 employee is suffered or permitted to work, whether or not required to do so." PLAINTIFFS and
19 other CALIFORNIA CLASS Members were from time to time required to perform work for
20 DEFENANT before and after their scheduled shifts, as well as during their off-duty meal breaks.
21 Further, PLAINTIFF and other CALIFORNIA CLASS Members were required to complete work
22 related tasks during their off-duty meal breaks. DEFENDANT failed to compensate PLAINTIFF
23 and other CALIFORNIA CLASS Members for any of the time spent under DEFENDANT's
24 control while working off-the-clock. As such, DEFENDANT failed to pay PLAINTIFFS and
25 other CALIFORNIA CLASS Members the applicable minimum wage for all hours worked in a
26 payroll period.

27 16. In violation of the applicable sections of the California Labor Code and the
28 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a

1 matter of company policy, practice and procedure, intentionally and knowingly failed to
2 compensate PLAINTIFFS and the other members of the CALIFORNIA CLASS for all time
3 worked. This uniform policy and practice of DEFENDANT is intended to purposefully avoid the
4 payment of the correct compensation as required by California law which allowed DEFENDANT
5 to illegally profit and gain an unfair advantage over competitors who complied with the law. To
6 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against
7 DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

8 17. From time to time, when PLAINTIFFS and other CALIFORNIA CLASS
9 Members worked during what was supposed to be their meal breaks or otherwise off the clock,
10 DEFENDANT also failed to provide PLAINTIFFS and the other members of the CALIFORNIA
11 CLASS with complete and accurate wage statements which failed to show, among other things,
12 the correct time worked, including, work performed in excess of eight (8) hours in a workday
13 and/or forty (40) hours in any workweek, and the gross wages paid for those periods during the
14 pay period, and the correct penalty payments or missed meal and rest periods in violation of
15 California Labor Code Sections 226 and 226.2.

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

24 19. Aside from the violations listed herein, DEFENDANT failed to issue to
25 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor
26 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the
27 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.
28 Code § 226.

1 20. California Labor Code Section 204 requires an employer, who has in place a pay
2 period schedule different than that provide in Cal. Lab. Code § 204(a), to pay wages within seven
3 calendar days from the close of the payroll period. DEFENDANT as a matter of corporate policy,
4 practice and procedure, failed to pay PLAINTIFFS and the other CALIFORNIA CLASS
5 Members within seven calendar days from the close of DEFENDANT'S payroll period from time
6 to time. DEFENDANT'S failure to pay PLAINTIFFS and other CALIFORNIA CLASS members
7 within seven days from the close of the payroll period is evidenced by the itemized wage
8 statements issued to PLAINTIFFS and other CALIFORNIA CLASS members.

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

20 22. In the course of their employment, PLAINTIFFS and other CALIFORNIA CLASS
21 Members as a business expense, were required by DEFENDANT to use their own personal
22 cellular phones and personal vehicles as a result of and in furtherance of their job duties as
23 employees for DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the
24 cost associated with the use of their personal cellular phones and personal vehicles for
25 DEFENDANT'S benefit. Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members
26 were required by DEFENDANT to use their personal cell phones and personal vehicles for work
27 related issues. As a result, in the course of their employment with DEFENDANT the
28 PLAINTIFFS and other members of the CALIFORNIA CLASS incurred unreimbursed business

1 expenses which included, but were not limited to, costs related to the use of their personal cellular
2 phones and personal vehicles all on behalf of and for the benefit of DEFENDANT.

3 23. By reason of this uniform conduct applicable to PLAINTIFFS and all
4 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in
5 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
6 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately
7 calculate and record all missed meal and rest periods by PLAINTIFFS and other CALIFORNIA
8 CLASS Members, and failed to pay PLAINTIFFS and other CALIFORNIA CLASS Members
9 the correct overtime rate. The proper recording of these employees’ missed meal and rest breaks,
10 and proper payment of minimum wages and overtime, is the DEFENDANT’S burden. As a result
11 of DEFENDANT’S intentional disregard of the obligation to meet this burden, DEFENDANT
12 failed to properly pay all required compensation for work performed by the members of the
13 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated
14 thereunder as herein alleged.

15 24. Specifically, as to PLAINTIFFS’ pay, they were from time to time unable to take
16 off duty meal and rest breaks and were not fully relieved of duty for their rest and meal periods.
17 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)
18 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
19 provide PLAINTIFFS with a second off-duty meal period each workday in which they were
20 required by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided
21 PLAINTIFFS with a rest break, they required PLAINTIFFS to remain on the premises, on-duty
22 and on-call, for the rest break. PLAINTIFFS therefore forfeited meal and rest breaks without
23 additional compensation and in accordance with DEFENDANT’S strict corporate policy and
24 practice. Further, as a result of DEFENDANT’S unlawful policy to only pay overtime wages for
25 pre-approved overtime hours, PLAINTIFFS were not fully compensated for all time spent
26 working for and under DEFENDANT’S control. Moreover, DEFENDANT also provided
27 PLAINTIFFS with a paystub that failed to accurately display PLAINTIFFS’ correct time worked
28 and wages, as well as payments for missed meal and rest periods for certain pay periods in

1 violation of Cal. Lab. Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFFS the
2 overtime compensation still owed to them or any penalty wages owed to them under Cal. Lab.
3 Code § 203. The amount in controversy for PLAINTIFFS individually do not exceed the sum or
4 value of \$75,000.

5 **JURISDICTION AND VENUE**

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

10 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,
11 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times
12 maintained offices and facilities in this County and/or conducts substantial business in this
13 County, and (ii) committed the wrongful conduct herein alleged in this County against members
14 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

15 **THE CALIFORNIA CLASS**

16 27. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive
17 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
18 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
19 individuals who are or previously were employed by DEFENDANT in California and classified
20 as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning
21 four (4) years prior to the filing of the original complaint and ending on the date as determined by
22 the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate
23 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

24 28. To the extent equitable tolling operates to toll claims by the CALIFORNIA
25 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
26 accordingly.

27 29. DEFENDANT, as a matter of company policy, practice and procedure, and in
28 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order

1 requirements, and the applicable provisions of California law, intentionally, knowingly, and
2 willfully, engaged in a practice whereby DEFENDANT systematically failed to record all meal
3 and rest breaks missed by PLAINTIFFS and the other members of the CALIFORNIA CLASS,
4 even though DEFENDANT enjoyed the benefit of this work, required employees to perform this
5 work and permitted or suffered to permit this work.

6 30. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
7 CLASS Member was paid accurately and was provided all meal and rest breaks missed as required
8 by California laws. DEFENDANT, however, as a matter of uniform and systematic policy and
9 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to
10 have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member
11 is paid as required by law, so as to satisfy its burden. This common business practice applicable
12 to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as
13 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the
14 “UCL”) as causation, damages, and reliance are not elements of this claim.

15 31. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA
16 CLASS Members is impracticable.

17 32. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
18 California law by:

- 19 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
20 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company
21 policies, practices and procedures that failed to pay all minimum and overtime
22 wages due the CALIFORNIA CLASS for all time worked, and failed to accurately
23 record the applicable rates of all overtime worked by the CALIFORNIA CLASS;
- 24 b. Committing an act of unfair competition in violation of the California Unfair
25 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide
26 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA
27 CLASS members;

- 1 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
2 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
3 company policies, practices and procedures that uniformly and systematically
4 failed to record and pay PLAINTIFFS and other members of the CALIFORNIA
5 CLASS for all time worked, including minimum wages owed and overtime wages
6 owed for work performed by these employees; and
- 7 d. Committing an act of unfair competition in violation of the California Unfair
8 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.
9 Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS
10 members with necessary expenses incurred in the discharge of their job duties.

11 33. The Class Action meets the statutory prerequisites for the maintenance of a Class
12 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 13 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
14 joinder of all such persons is impracticable and the disposition of their claims as a
15 class will benefit the parties and the Court;
- 16 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
17 raised in this Complaint are common to the CALIFORNIA CLASS will apply
18 uniformly to every member of the CALIFORNIA CLASS;
- 19 c. The claims of the representative PLAINTIFFS are typical of the claims of each
20 member of the CALIFORNIA CLASS. PLAINTIFFS, like all the other members
21 of the CALIFORNIA CLASS, were classified as a non- exempt employee paid on
22 an hourly basis who was subjected to the DEFENDANT'S deceptive practice and
23 policy which failed to provide the legally required meal and rest periods to the
24 CALIFORNIA CLASS and thereby systematically underpaid compensation to
25 PLAINTIFFS and CALIFORNIA CLASS. PLAINTIFFS sustained economic
26 injury as a result of DEFENDANT'S employment practices. PLAINTIFFS and the
27 members of the CALIFORNIA CLASS were and are similarly or identically

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1 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
2 misconduct engaged in by DEFENDANT; and

- 3 d. The representative PLAINTIFFS will fairly and adequately represent and protect
4 the interest of the CALIFORNIA CLASS, and has retained counsel who are
5 competent and experienced in Class Action litigation. There are no material
6 conflicts between the claims of the representative PLAINTIFFS and the members
7 of the CALIFORNIA CLASS that would make class certification inappropriate.
8 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all
9 CALIFORNIA CLASS Members.

10 34. In addition to meeting the statutory prerequisites to a Class Action, this action is
11 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 12 a. Without class certification and determination of declaratory, injunctive, statutory
13 and other legal questions within the class format, prosecution of separate actions
14 by individual members of the CALIFORNIA CLASS will create the risk of:
- 15 i. Inconsistent or varying adjudications with respect to individual members
16 of the CALIFORNIA CLASS which would establish incompatible
17 standards of conduct for the parties opposing the CALIFORNIA CLASS;
18 and/or;
 - 19 ii. Adjudication with respect to individual members of the CALIFORNIA
20 CLASS which would as a practical matter be dispositive of interests of the
21 other members not party to the adjudication or substantially impair or
22 impede their ability to protect their interests.
- 23 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on
24 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
25 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
26 DEFENDANT uniformly failed to pay all wages due for all time worked by the
27 members of the CALIFORNIA CLASS as required by law;

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- i. With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFFS seek declaratory relief holding that the DEFENDANT’S policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;
- c. Common questions of law and fact exist as to the members of the CALIFORNIA CLASS, with respect to the practices and violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA CLASS Members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
 - i. The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
 - ii. Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - 1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or;
 - 2. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication

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or substantially impair or impede their ability to protect their interests;

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and

iv. A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

35. The Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT'S employment practices are uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;

- 1 d. PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able to
2 obtain effective and economic legal redress unless the action is maintained as a
3 Class Action;
- 4 e. There is a community of interest in obtaining appropriate legal and equitable relief
5 for the acts of unfair competition, statutory violations and other improprieties, and
6 in obtaining adequate compensation for the damages and injuries which
7 DEFENDANT's actions have inflicted upon the CALIFORNIA CLASS;
- 8 f. There is a community of interest in ensuring that the combined assets of
9 DEFENDANT are sufficient to adequately compensate the members of the
10 CALIFORNIA CLASS for the injuries sustained;
- 11 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
12 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
13 respect to the CALIFORNIA CLASS as a whole;
- 14 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
15 business records of DEFENDANT; and
- 16 i. Class treatment provides manageable judicial treatment calculated to bring an
17 efficient and rapid conclusion to all litigation of all wage and hour related claims
18 arising out of the conduct of DEFENDANT as to the members of the
19 CALIFORNIA CLASS.

20 36. DEFENDANT maintain records from which the Court can ascertain and identify
21 by job title each of DEFENDANT'S employees who as have been systematically, intentionally
22 and uniformly subjected to DEFENDANT'S company policy, practices and procedures as herein
23 alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles
24 of similarly situated employees when they have been identified.

25 **THE CALIFORNIA LABOR SUB-CLASS**

26 37. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh,
27 Eighth, and Ninth causes of Action on behalf of a California sub-class, defined as all members of
28 the CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA LABOR

1 SUB-CLASS”) at any time during the period three (3) years prior to the filing of the original
2 complaint and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-
3 CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the
4 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
5 (\$5,000,000.00).

6 38. DEFENDANT, as a matter of company policy, practice and procedure, and in
7 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
8 requirements, and the applicable provisions of California law, intentionally, knowingly, and
9 willfully, engaged in a practice whereby DEFENDANT failed to correctly pay for the time
10 worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS,
11 and other wages and premiums owed to these employees, even though DEFENDANT enjoyed
12 the benefit of this work, required employees to perform this work and permitted or suffered to
13 permit this overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR
14 SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the
15 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the
16 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-
17 CLASS PERIOD should be adjusted accordingly.

18 39. DEFENDANT maintains records from which the Court can ascertain and identify
19 by name and job title, each of DEFENDANT’S employees who have been systematically,
20 intentionally and uniformly subjected to DEFENDANT’S company policy, practices and
21 procedures as herein alleged. PLAINTIFFS will seek leave to amend the Complaint to include
22 any additional job titles of similarly situated employees when they have been identified.

23 40. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
24 CALIFORNIA LABOR SUB-CLASS Members is impracticable

25 41. Common questions of law and fact exist as to members of the CALIFORNIA
26 LABOR SUB-CLASS, including, but not limited, to the following:

- 27 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
28 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for

- 1 missed meal and rest breaks in violation of the California Labor Code and
2 California regulations and the applicable California Wage Order;
- 3 b. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of
4 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted
5 thirty (30) minute meal breaks and rest periods;
- 6 c. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of
7 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
8 statements;
- 9 d. Whether DEFENDANT unlawfully failed to correctly calculate and pay overtime
10 compensation to members of the CALIFORNIA LABOR SUB-CLASS in
11 violation of the California Labor Code and California regulations and the
12 applicable California Wage Order;
- 13 e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to
14 compensation for time worked, including overtime worked, under the overtime
15 pay requirements of California law;
- 16 f. Whether DEFENDANTNT unlawfully failed to timely pay earned wages to
17 PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS;
- 18 g. Whether DEFENDANT has engaged in unfair competition by the above-listed
19 conduct;
- 20 h. The proper measure of damages and penalties owed to the members of the
21 CALIFORNIA LABOR SUB-CLASS; and
- 22 i. Whether DEFENDANT's conduct was willful.
- 23 42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
24 under California law by:
- 25 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFFS
26 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for
27 overtime worked, for which DEFENDANT are liable pursuant to Cal. Lab. Code
28 § 1194;

- 1 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
2 pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS
3 the correct minimum wage pay for which DEFENDANT are liable pursuant to
4 Cal. Lab. Code §§ 1194 and 1197;
- 5 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS
6 and the other members of the CALIFORNIA CLASS with all legally required off-
7 duty, uninterrupted thirty (30) minute meal breaks and the legally required rest
8 breaks;
- 9 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the
10 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
11 statement in writing showing all accurate rates in effect during the pay period and
12 the corresponding amount of time worked at each overtime rate by the employee;
- 13 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the
14 CALIFORNIA CLASS members with necessary expenses incurred in the
15 discharge of their job duties;
- 16 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
17 employee is discharged or quits from employment, the employer must pay the
18 employee all wages due without abatement, by failing to tender full payment
19 and/or restitution of wages owed or in the manner required by California law to
20 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
21 their employment; and
- 22 g. Violating Cal. Lab. Code § 204, which provides that an employer must pay an
23 employee wages within seven days of the close of the payroll period.

24 43. This Class Action meets the statutory prerequisites for the maintenance of a Class
25 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 26 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
27 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
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1 is impracticable and the disposition of their claims as a class will benefit the parties
2 and the Court;

3 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
4 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS
5 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-
6 CLASS;

7 c. The claims of the representative PLAINTIFFS are typical of the claims of each
8 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the
9 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt
10 employee paid on an hourly basis who was subjected to the DEFENDANT'S
11 practice and policy which failed to pay the correct amount of wages due to the
12 CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury
13 as a result of DEFENDANT'S employment practices. PLAINTIFFS and the
14 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or
15 identically harmed by the same unlawful, deceptive, unfair and pervasive pattern
16 of misconduct engaged in by DEFENDANT; and

17 d. The representative PLAINTIFFS will fairly and adequately represent and protect
18 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel
19 who are competent and experienced in Class Action litigation. There are no
20 material conflicts between the claims of the representative PLAINTIFFS and the
21 members of the CALIFORNIA LABOR SUB-CLASS that would make class
22 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
23 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS
24 Members.

25 44. In addition to meeting the statutory prerequisites to a Class Action, this action is
26 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

27 a. Without class certification and determination of declaratory, injunctive, statutory
28 and other legal questions within the class format, prosecution of separate actions

1 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
2 the risk of:

- 3 i. Inconsistent or varying adjudications with respect to individual members
4 of the CALIFORNIA LABOR SUB-CLASS which would establish
5 incompatible standards of conduct for the parties opposing the
6 CALIFORNIA LABOR SUB-CLASS; or
- 7 ii. Adjudication with respect to individual members of the CALIFORNIA
8 LABOR SUB-CLASS which would as a practical matter be dispositive of
9 interests of the other members not party to the adjudication or substantially
10 impair or impede their ability to protect their interests.
- 11 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
12 refused to act on grounds generally applicable to the CALIFORNIA LABOR
13 SUB-CLASS, making appropriate class-wide relief with respect to the
14 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly
15 failed to pay all wages due for all time worked by the members of the
16 CALIFORNIA LABOR SUB-CLASS as required by law;
- 17 c. Common questions of law and fact predominate as to the members of the
18 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations
19 of California Law as listed above, and predominate over any question affecting
20 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class
21 Action is superior to other available methods for the fair and efficient adjudication
22 of the controversy, including consideration of:
- 23 i. The interests of the members of the CALIFORNIA LABOR SUB-CLASS
24 in individually controlling the prosecution or defense of separate actions in
25 that the substantial expense of individual actions will be avoided to recover
26 the relatively small amount of economic losses sustained by the individual
27 CALIFORNIA LABOR SUB-CLASS Members when compared to the
28 substantial expense and burden of individual prosecution of this litigation;

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ii. Class certification will obviate the need for unduly duplicative litigation that would create the risk of:

1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

2. Adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

iii. In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

iv. A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

45. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;

- 1 b. A Class Action is superior to any other available method for the fair and efficient
2 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-
3 CLASS because in the context of employment litigation a substantial number of
4 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting
5 their rights individually out of fear of retaliation or adverse impact on their
6 employment;
- 7 c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
8 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS
9 before the Court;
- 10 d. PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will
11 not be able to obtain effective and economic legal redress unless the action is
12 maintained as a Class Action;
- 13 e. There is a community of interest in obtaining appropriate legal and equitable relief
14 for the acts of unfair competition, statutory violations and other improprieties, and
15 in obtaining adequate compensation for the damages and injuries which
16 DEFENDANT'S actions have inflicted upon the CALIFORNIA LABOR SUB-
17 CLASS;
- 18 f. There is a community of interest in ensuring that the combined assets of
19 DEFENDANT are sufficient to adequately compensate the members of the
20 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 21 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
22 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
23 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 24 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily
25 ascertainable from the business records of DEFENDANT. The CALIFORNIA
26 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified
27 as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS
28 PERIOD; and

1 i. Class treatment provides manageable judicial treatment calculated to bring an
2 efficient and rapid conclusion to all litigation of all wage and hour related claims
3 arising out of the conduct of DEFENDANT as to the members of the
4 CALIFORNIA LABOR SUB-CLASS.

5 **FIRST CAUSE OF ACTION**

6 **UNLAWFUL BUSINESS PRACTICES**

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

8 **(Alleged By PLAINTIFFS and the CALIFORNIA CLASS against all DEFENDANT)**

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

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

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

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

25 49. By the conduct alleged herein, DEFENDANT has engaged and continues to
26 engage in a business practice which violates California law, including but not limited to, the
27 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
28 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1,
1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant
to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held
to constitute unfair competition, including restitution of wages wrongfully withheld.

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

7 51. By the conduct alleged herein, DEFENDANT'S practices were deceptive and
8 fraudulent in that DEFENDANT'S uniform policy and practice failed to pay PLAINTIFFS, and
9 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time
10 worked, and failed to reimburse for expenses due to a systematic practice that cannot be justified,
11 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
12 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive
13 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
14 wrongfully withheld.

15 52. By the conduct alleged herein, DEFENDANT'S practices were also unlawful,
16 unfair and deceptive in that DEFENDANT'S employment practices caused PLAINTIFFS and the
17 other members of the CALIFORNIA CLASS to be underpaid during their employment with
18 DEFENDANT.

19 53. By the conduct alleged herein, DEFENDANT'S practices were also unfair and
20 deceptive in that DEFENDANT'S uniform policies, practices and procedures failed to provide
21 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members.

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

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

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

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

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

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

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

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

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY MINIMUM WAGES**
5 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

6 **(Alleged By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**
7 **DEFENDANT)**

8 61. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
9 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
10 this Complaint.

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

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

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

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

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

27 67. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,
28 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFFS

1 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage
2 pay.

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

9 69. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,
10 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
11 the correct minimum wage compensation for their time worked for DEFENDANT.

12 70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the
13 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
14 they were entitled to, constituting a failure to pay all earned wages.

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

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

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

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

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

16 **THIRD CAUSE OF ACTION**

17 **FAILURE TO PAY OVERTIME COMPENSATION**
18 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

19 **(Alleged By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**
20 **DEFENDANT)**

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

24 76. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
25 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code
26 and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately
27 calculate the applicable rates for all overtime worked by PLAINTIFFS and other members of the
28 CALIFORNIA LABOR SUB-CLASS and DEFENDANT'S failure to properly compensate the

1 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work
2 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

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

13 80. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and
14 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
15 amount of overtime worked and correct applicable overtime rate for the amount of overtime they
16 worked. As set forth herein, DEFENDANT'S uniform policy and practice was to unlawfully and
17 intentionally deny timely payment of wages due for the overtime worked by PLAINTIFFS and
18 the other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANT in fact failed
19 to pay these employees the correct applicable overtime wages for all overtime worked.

20 81. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,
21 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
22 of implementing a uniform policy and practice that denied accurate compensation to
23 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for all
24 overtime worked, including, the work performed in excess of eight (8) hours in a workday and/or
25 forty (40) hours in any workweek.

26 82. In committing these violations of the California Labor Code, DEFENDANT
27 inaccurately calculated the amount of overtime worked and the applicable overtime rates and
28 consequently underpaid the actual time worked by PLAINTIFFS and other members of the
CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal attempt to avoid the

1 payment of all earned wages, and other benefits in violation of the California Labor Code, the
2 Industrial Welfare Commission requirements and other applicable laws and regulations.

3 83. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,
4 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
5 full compensation for all overtime worked.

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

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

17 86. DEFENDANT failed to accurately pay PLAINTIFFS and the other members of the
18 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
19 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
20 1198, even though PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
21 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed
22 to accurately record and pay using the applicable overtime rate as evidenced by DEFENDANT'S
23 business records and witnessed by employees.

24 87. By virtue of DEFENDANT'S unlawful failure to accurately pay all earned
25 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
26 CLASS for the true time they worked, PLAINTIFFS and the other members of the CALIFORNIA
27 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts
28 which are presently unknown to them and which will be ascertained according to proof at trial.

88. DEFENDANT knew or should have known that PLAINTIFFS and the other
members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

4 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all
DEFENDANT)**

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

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

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

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

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE REQUIRED REST PERIODS

(Cal. Lab. Code §§ 226.7 & 512)

(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all DEFENDANT)

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

96. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANT and DEFENDANT'S managers. When DEFENDANT provided PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they required PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members to stay on DEFENDANT'S premises for those rest breaks.

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

98. As a proximate result of the aforementioned violations, PLAINTIFFS and CALIFORNIA LABOR SUB-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.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES**

3 **(Cal. Lab. Code §§ 2802)**

4 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**
5 **DEFENDANT)**

6 99. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
8 paragraphs of this Complaint.

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

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

15 101. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by
16 failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
17 members for required expenses incurred in the discharge of their job duties for DEFENDANT'S
18 benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-
19 CLASS members for expenses which included, but were not limited to, costs related to using their
20 personal cellular phones and personal vehicles all on behalf of and for the benefit of
21 DEFENDANT. Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members were
22 required by DEFENDANT to use their personal cell phones to respond to work related issues and
23 use their personal vehicles to travel to and from work sites. DEFENDANT'S uniform policy,
24 practice and procedure was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-
25 CLASS members for expenses resulting from using their personal cellular phones and personal
26 vehicles for DEFENDANT within the course and scope of their employment for DEFENDANT.
27 These expenses were necessary to complete their principal job duties. DEFENDANT is estopped
28 by DEFENDANT'S conduct to assert any waiver of this expectation. Although these expenses
were necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-
CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the

1 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to
2 do under the laws and regulations of California.

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

7 **SEVENTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

9 **(Cal. Lab. Code §§ 226 and 226.2)**

10 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all
11 DEFENDANT)**

12 103. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
14 paragraphs of this Complaint.

15 104. 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. 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
25 employee 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 g. The name of the employee and his or her social security number, except that by
January 1, 2008, only the last four digits of his or her social security number or an

1 employee identification number other than a social security number may be shown
2 on the itemized statement;

- 3 h. The name and address of the legal entity that is the employer; and
- 4 i. All applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate by the employee.

6 105. Cal. Labor Code § 226.2 provides that an employer must furnish piece-rate
7 employees with an “accurate itemized” statement in writing showing:

- 8 a. The total hours of compensable rest and recovery periods, the rate of
9 compensation, and the gross wages paid for those periods during the
10 pay period; and
- 11 b. The total hours of other nonproductive time, the rate of
12 compensation, and the gross wages paid for that time during the pay
13 period.

14 106. When DEFENDANT did not accurately record PLAINTIFFS’ and other
15 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANT also
16 failed to provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with
17 complete and accurate wage statements which failed to show, among other things, the correct
18 overtime rate, the correct number of hours worked, missed meal and rest periods, owed to
19 PLAINTIFFS and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that
20 every employer shall furnish each of his or her employees with an accurate itemized wage
21 statement in writing showing, among other things, gross wages earned and all applicable hourly
22 rates in effect during the pay period and the corresponding amount of time worked at each hourly
23 rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to
24 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor
25 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the
26 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.
27 Code § 226.

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

7 112. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR SUB-
8 CLASS Members' employment contract.

9 113. Cal. Lab. Code § 203 provides:

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

13 114. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-
14 CLASS Members terminated and DEFENDANT has not tendered payment of wages, to these
15 employees who missed meal and rest breaks, as required by law.

16 115. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
17 members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFFS
18 demand up to thirty days of pay as penalty for not paying all wages due at time of termination for
19 all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS
20 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory
21 costs as allowed by law.

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1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY EARNED WAGES**

3 **(Cal. Lab. Code § 204)**

4 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**
5 **DEFENDANT)**

6 116. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
8 paragraphs of this Complaint.

9 117. Cal. Lab. Code § 204(a) provides in relevant part, that:

10 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2,
11 earned by any person in any employment are due and payable twice during each
12 calendar month, on days designated in advance by the employer as the regular
13 paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar
14 month shall be paid for between the 16th and the 26th day of the month during
15 which the labor was performed, and labor performed between the 16th and the last
16 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th
17 day of the following month.

18 118. DEFENDANT did not have in place a pay period schedule of the 1st and 15th, and
19 16th and the last day of the month. Rather, DEFENDANT had in place a pay period schedule
20 different than that provide in Cal. Lab. Code § 204(a).

21 119. As such, Cal. Lab. Code § 204(d) provides that:

22 The requirements of this section shall be deemed satisfied by the payment of wages
23 for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
24 *seven calendar days* following the close of the payroll period.

25 120. PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS
26 were from time to time paid more than seven days after the close of DEFENDANT's payroll
27 period.

28 121. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
§ 204, causing injury and damages to the PLAINTIFFS and the other members of the
CALIFORNIA LABOR SUB-CLASS. Therefore, PLAINTIFFS and the other members of the
CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages pursuant to Cal.
Lab. Code § 210 of one hundred dollars (\$100.00) for the initial violation for each failure to pay

1 each employee, and two hundred dollars (\$200.00) for each subsequent violation, plus 25 percent
2 (25%) of the amount unlawfully withheld, in an amount according to proof at the time of trial.

3
4 **PRAYER FOR RELIEF**

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

7 1. On behalf of the CALIFORNIA CLASS:

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

18 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 19 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and
20 Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a
21 class action pursuant to Cal. Code of Civ. Proc. § 382;
- 22 b. Compensatory damages, according to proof at trial, including compensatory
23 damages for minimum wages, overtime wages, unreimbursed expenses, and other
24 compensation due to PLAINTIFFS and the other members of the CALIFORNIA
25 LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-
26 CLASS PERIOD plus interest thereon at the statutory rate;
- 27 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
28 the applicable IWC Wage Order;

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- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
- e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203; and
- f. The greater of all actual damages or one hundred dollars (\$100) for the initial pay period in which a violation occurs and two hundred dollars (\$200) per member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, plus 25 percent (25%) of the amount unlawfully withheld, for violation of Cal. Lab. Code § 210.

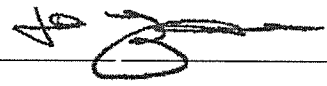
3. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

d.

DATED: February 10, 2021

JCL LAW FIRM, APC

By:  _____

Jean-Claude Lapuyade
Attorney for Plaintiffs

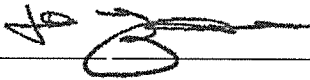
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DEMAND FOR A JURY TRIAL

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

DATED: February 10, 2021

JCL LAW FIRM, APC

By:  _____

Jean-Claude Lapuyade
Attorney for Plaintiffs