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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

NOEMY FLORES, an individual, on behalf of herself, and on behalf of all persons similarly situated,

Plaintiffs,

vs.

AVEN GROUP, INC., a California corporation; and DOES 1 through 50, Inclusive;

Defendants.

Case No. 21STCV36642

**FIRST AMENDED CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, 1451, & 1454.
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
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

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- THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
  7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
  8. FAILURE TO PROVIDE PAID SICK DAYS AND SICK LEAVE BALANCE IN VIOLATION OF CAL. LAB. CODE § 246, *et seq.*;
  9. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203
  10. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *ET SEQ.*]

**DEMAND FOR JURY TRIAL**

Plaintiff NOEMY FLORES (“PLAINTIFF”) an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

**THE PARTIES**

1. Defendant AVEN GROUP, INC. (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Los Angeles, and owns, operates and/or manages a healthcare staffing agency.

2. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief allege, that the Defendants named in this

1 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively “DEFENDANTS”), are  
2 responsible in some manner for one or more of the events and happenings that proximately caused the  
3 injuries and damages hereinafter alleged.

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

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

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

21 6. PLAINTIFF was employed by DEFENDANTS as a personal attendant, paid on an hourly  
22 basis and entitled to legally compliant overtime wages from 2015 to September of 2020. PLAINTIFF  
23 was required to supervise, feed, or dress a person who by reason of mental deficiency needed  
24 supervision as part of her employment with DEFENDANTS.

25 7. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of  
26 DEFENDANTS current and former California hourly employees (the “CALIFORNIA CLASS”) at any  
27 time during the period beginning four years from the date of the filing of this Complaint and ending on  
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1 a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate  
2 claim of CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00).

3 8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the  
4 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
5 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which  
6 (1) failed to accurately pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in  
7 violation of, *inter alia*, California Labor Code Sections 510, 1451, 1454, 1194, 1197, and 1197.1, and  
8 (2) failed to provide accurate itemized wage statements in violation of California Labor Code Sections  
9 226 and 226.3.

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

13 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
14 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other  
15 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS's past  
16 and current unlawful conduct, and all other appropriate legal and equitable relief.

17 **JURISDICTION AND VENUE**

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

22 12. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections  
23 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and DEFENDANTS  
24 (i) currently maintains and at all relevant times, maintained offices and facilities in this County and/or  
25 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged  
26 in this County against members of the CALIFORNIA CLASS.

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1 **THE CONDUCT**

2 13. In violation of the applicable sections of the California Labor Code and the requirements  
3 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company  
4 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally  
5 complaint meal and rest period, failed to accurately compensate members of the CALIFORNIA CLASS  
6 for missed meal and rest periods, failed to pay PLAINTIFF and the other members of the  
7 CALIFORNIA CLASS for all time worked, failed to pay PLAINTIFF and other members of the  
8 CALIFORNIA CLASS for overtime wages, and failed to issue to PLAINTIFF and the members of the  
9 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all  
10 requirements pursuant to Cal. Lab. Code § 226, *et seq.* DEFENDANTS' uniform policies and practices  
11 are intended to purposefully avoid the accurate and full payment for all time worked as required by  
12 California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over  
13 competitors who comply with the law. To the extent equitable tolling operates to toll claims by the  
14 CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

15 **A. Overtime Violation for Personal Attendants**

16 14. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and continue to  
17 fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS Members for  
18 their overtime hours worked. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
19 forfeited wages due to them for working overtime without compensation at the correct overtime and  
20 sick pay rates. DEFENDANTS' uniform policy and practice not to pay the PLAINTIFF and the  
21 CALIFORNIA CLASS the correct overtime rate for all overtime worked in accordance with applicable  
22 law is evidenced by DEFENDANTS' business records.

23 15. Under California Labor Code section 1451(d), personal attendants include, among other  
24 persons, any person employed by a third-party employer recognized in the health care industry to work  
25 in a private household, to supervise, feed, or dress a person who by reason of mental deficiency needs  
26 supervision. Throughout PLAINTIFF's employment with DEFENDANTS, she was responsible for,  
27 among other things, supervising, feeding, and feeding a particular client of DEFENDANTS' who had  
28 a mental deficiency.

1           16. California Labor Code section 1454 provides that a domestic worker who is a personal  
2 attendant must be paid overtime at "one and-one half times the employee's regular rate of pay for all  
3 hours worked over nine hours in any workday and for all hours worked more than 45 hours in the  
4 workweek." PLAINTIFF and other CALIFORNIA CLASS Members were compensated at an hourly  
5 rate.

6           17. However, from time-to-time, in those pay periods where PLAINTIFF and other  
7 CALIFORNIA CLASS Members worked overtime, DEFENDANTS failed to accurately compensate  
8 employees at the correct overtime rate. Specifically, DEFENDANTS paid PLAINTIFF and other  
9 CALIFORNIA CLASS Members at their regular rate of pay regardless of the number of overtime hours  
10 worked.

11           18. In violation of the applicable sections of the California Labor Code, DEFENDANTS as a  
12 matter of company policy, practice, and procedure, intentionally and knowingly failed to compensate  
13 PLAINTIFF and other CALIFORNIA CLASS Members at the correct rate of pay for all overtime  
14 compensation. This uniform policy and practice of DEFENDANTS is intended to purposefully avoid  
15 the payment of the correct overtime compensation as required by California law which allowed  
16 DEFENDANTS to illegally profit and gain an unfair advantage over competitors who complied with  
17 the law.

18           **B. Unreimbursed Business Expenses**

19           19. DEFENDANTS as a matter of corporate policy, practice, and procedure, intentionally,  
20 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the members of the  
21 CALIFORNIA CLASS or required business expenses they incurred in direct consequence of  
22 discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802,  
23 employers are required to indemnify employees for all expenses incurred in the course and scope of  
24 their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her  
25 employee for all necessary expenditures or losses incurred by the employee in direct consequence of  
26 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even  
27 though unlawful, unless the employee, at the time of obeying the directions, believed them to be  
28 unlawful."

1           20. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the  
2 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones  
3 because of, and in furtherance of their job duties as employees for DEFENDANTS. But for the use of  
4 their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not  
5 complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify  
6 PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their  
7 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment  
8 with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred  
9 unreimbursed business expenses which included, but were not limited to, costs related to the use of  
10 their personal cellular phones, all on behalf of and for the benefit of DEFENDANTS.

11 **C. Sick Pay Violations**

12           21. California Labor Code Section 246, *et seq.* states, "An employee who...works in  
13 California for the same employer for 30 or more days within a year from the commencement of  
14 employment is entitled to paid sick days" as specified in Cal. Lab. Code § 246. However,  
15 DEFENDANTS from time to time failed to provide PLAINTIFF and other members of the  
16 CALIFORNIA CLASS with sick days, in violation of Cal. Lab. Code § 246, *et seq.*

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

22 **D. Wage Statement Violations**

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





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

3 24. From time to-time during the CLASS PERIOD, when PLAINTIFF and other  
4 CALIFORNIA CLASS members were not paid for all hours worked and/or were not paid at the correct  
5 overtime rate, DEFENDANTS also failed to provide PLAINTIFF and the other members of the  
6 CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other  
7 things, all applicable hourly rates in effect during the pay period and the corresponding amount of time  
8 worked at each hourly rate.

9 25. In addition to the violations described above, DEFENDANTS, from time to time, failed  
10 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply  
11 with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and the other members of  
12 the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,  
13 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an unintentional  
14 payroll error due to clerical or inadvertent mistake.

15 **E. CLASS ACTION ALLEGATIONS**

16 26. PLAINTIFF brings the First through Ninth Causes of Action as a class action pursuant to  
17 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former hourly  
18 California employees ("CALIFORNIA CLASS") during the period beginning four years prior to the  
19 filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

20 27. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been  
21 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid  
22 minimum wages, unpaid overtime compensation, failure to provide accurate itemized wage statements,  
23 failure to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and  
24 expenses.

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

26 29. Common questions of law and fact regarding DEFENDANTS' conduct, including but not  
27 limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate  
28 the regular rate of pay for overtime compensation, failure to accurately calculate the regular rate of





1 compensation for missed meal and rest period premiums, failing to provide legally compliant meal and  
2 rest periods, failure to provide accurate itemized wage statements accurate, and failure ensure they are  
3 paid at least minimum wage and overtime, exist as to all members of the class and predominate over  
4 any questions affecting solely any individual members of the class. Among the questions of law and fact  
5 common to the class are:

- 6 a. Whether DEFENDANTS maintained legally compliant meal period  
7 policies and practices;
- 8 b. Whether DEFENDANTS maintained legally compliant rest period  
9 policies and practices;
- 10 c. Whether DEFENDANTS failed to pay PLAINTIFF and the  
11 CALIFORNIA CLASS members accurate premium payments for missed  
12 meal and rest periods;
- 13 d. Whether DEFENDANTS failed to pay PLAINTIFF and the  
14 CALIFORNIA CLASS members accurate overtime wages.
- 15 e. Whether DEFENDANTS failed to pay PLAINTIFF and the  
16 CALIFORNIA CLASS members at least minimum wage for all hours  
17 worked.
- 18 f. Whether DEFENDANTS issued legally compliant wage statements;
- 19 g. Whether DEFENDANTS failed to provide PLAINTIFF and the  
20 CALIFORNIA CLASS with paid sick days and sick leave balance on wage  
21 statements;
- 22 h. Whether DEFENDANTS failed to reimburse PLAINTIFF and the  
23 CALIFORNIA CLASS members for required business expenses;
- 24 i. Whether DEFENDANTS committed an act of unfair competition by  
25 systematically failing to record and pay PLAINTIFF and the other members  
26 of the CALIFORNIA CLASS for all time worked;
- 27 j. Whether DEFENDANTS committed an act of unfair competition by  
28 systematically failing to record all meal and rest breaks missed by

1 PLAINTEIFF and other CALIFORNIA CLASS members, even though  
2 DEFENDANTS enjoyed the benefit of this work, required employees to  
3 perform this work and permits or suffers to permit this work;

4 k. Whether DEFENDANTS committed an act of unfair competition in  
5 violation of the UCL, by failing to provide the PLAINTEIFF and the other  
6 members of the CALIFORNIA CLASS with the legally required meal and  
7 rest periods.

8 30. PLAINTEIFF is a member of the CALIFORNIA CLASS and suffered damages as a result  
9 of DEFENDANTS' conduct and actions alleged herein.

10 31. PLAINTEIFF's claims are typical of the claims of the class, and PLAINTEIFF has the same  
11 interests as the other members of the class.

12 32. PLAINTEIFF will fairly and adequately represent and protect the interests of the  
13 CALIFORNIA CLASS members.

14 33. PLAINTEIFF retained able class counsel with extensive experience in class action  
15 litigation.

16 34. Further, PLAINTEIFF's interests are coincident with, and not antagonistic to, the interests  
17 of the other CALIFORNIA CLASS members.

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

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

24 37. A class action is superior to other available methods for the fair and efficient adjudication  
25 of this controversy because joinder of all class members is impractical. Moreover, since the damages  
26 suffered by individual members of the class may be relatively small, the expense and burden of  
27 individual litigation makes it practically impossible for the members of the class individually to redress  
28 the wrongs done to them. Without class certification and determination of declaratory, injunctive,

1 statutory and other legal questions within the class format, prosecution of separate actions by individual  
2 members of the CALIFORNIA CLASS will create the risk of:

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

6 b. Adjudication with respect to individual members of the CALIFORNIA CLASS  
7 which would as a practical matter be dispositive of the interests of the other members not  
8 party to the adjudication or substantially impair or impeded their ability to protect their  
9 interests.

10 38. Class treatment provides manageable judicial treatment calculated to bring an efficient  
11 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of  
12 DEFENDANTS.

13 **FIRST CAUSE OF ACTION**

14 **For Unlawful Business Practices**

15 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

16 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

19 40. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
20 17021.

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

24 Any person who engages, has engaged, or proposes to engage in unfair  
25 competition may be enjoined in any court of competent jurisdiction. The  
26 court may make such orders or judgments, including the appointment of a  
27 receiver, as may be necessary to prevent the use or employment by any  
28 person of any practice which constitutes unfair competition, as defined in



1 this chapter, or as may be necessary to restore to any person in interest any  
2 money or property, real or personal, which may have been acquired by  
3 means of such unfair competition.

4 Cal. Bus. & Prof. Code § 17203.

5 42. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA  
6 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in  
7 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
8 “UCL”), by engaging and continuing to engage in business practices which violates California law,  
9 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations  
10 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,  
11 1194, 1197, 1197.1, 1198, 1451, 1454, & 2802, for which this Court should issue declaratory and other  
12 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy  
13 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

19 44. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and fraudulent  
20 in that DEFENDANTS’ uniform policy and practice failed to, *inter alia*, provide the legally mandated  
21 meal and rest periods, the required accurate amount of compensation for missed meal and rest periods,  
22 overtime and minimum wages owed and provide accurate itemized wage statements, due to a systematic  
23 business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code r, and Industrial  
24 Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this  
25 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
26 restitution of wages wrongfully withheld.

27 45. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and  
28 deceptive in that DEFENDANTS’ employment practices caused PLAINTIFF and the other members of

1 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANTS.

2 46. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and  
3 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,  
4 provide the legally mandated meal and rest periods, the required accurate amount of compensation for  
5 for missed meal and rest periods, overtime and minimum wages owed and provide accurate itemized  
6 wage statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by  
7 Cal. Labor Code.

8 47. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each  
9 CALIFORNIA CLASS Member, all wages due to PLAINTIFF and other CALIFORNIA CLASS  
10 Members as a result of working overtime and inaccurately calculated overtime pay. PLAINTIFF  
11 demands on behalf of herself and on behalf of each CALIFORNIA CLASS member, one (1) hour of  
12 pay for each workday in which an off-duty meal period was not timely provided for each five (5) hours  
13 of work, and/or one (1) hour of pay for each workday in which a second off-duty meal period was not  
14 timely provided for each ten (10) hours of work.

15 48. PLAINTIFF further demands on behalf of herself and on behalf of each CALIFORNIA  
16 CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not  
17 timely provided as required by law.

18 49. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
19 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
20 calculated overtime and missed meal and rest periods premiums.

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

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



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

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

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

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

20 **SECOND CAUSE OF ACTION**

21 **For Failure to Pay Overtime Compensation**

22 **[Cal. Lab. Code §§ 510& 1454]**

23 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

26 56. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period  
27 beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”)  
28 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and

1 the Industrial Welfare Commission requirements for DEFENDANTS' failure to pay these employees  
2 for all overtime worked, including, work performed in excess of nine (9) hours in a workday and/or  
3 forty-five (45) hours in any workweek.

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

6 58. Cal. Lab. Code § 1454 further provides that a domestic work employee who is a personal  
7 attendant must not be employed more than nine (9) hours per workday or more than 45 hour per  
8 workweek unless they receive additional compensation beyond their regular wages in amounts specified  
9 by law. Specifically, personal attendants are entitled to receive on and-one half times their regular rate  
10 of pay for all hours worked beyond those hours provided herein.

11 59. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including  
12 overtime compensation and interest thereon, together with the costs of suit.

13 60. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members  
14 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they  
15 worked or were not accurately compensated for all overtime hours worked.

16 61. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
17 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
18 uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other  
19 CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the other  
20 members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed  
21 in excess of nine (9) hours in a workday and/or forty-five (45) hours in any workweek.

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

28 63. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,



1 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
2 all overtime worked.

3 64. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the  
4 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure  
5 to pay all earned wages.

6 65. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the  
7 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum  
8 hours permissible by law as required by Cal. Lab. Code §§ 1454, 1194 & 1198, even though PLAINTIFF  
9 and the other members of the CALIFORNIA CLASS were required to work, and did in fact work,  
10 overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime  
11 rate as evidenced by DEFENDANTS' business records and witnessed by employees.

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

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

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

1 in order to increase company profits at the expense of these employees

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

12 **THIRD CAUSE OF ACTION**

13 **For Failure to Pay Minimum Wages**

14 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

15 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

18 71. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
19 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial  
20 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay  
21 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the  
22 LABOR CLASS PERIOD.

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

25 73. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
26 commission is the minimum wage to be paid to employees, and the payment of a less wage than the  
27 minimum so fixed is unlawful.

28 74. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including



1 minimum and overtime wage compensation and interest thereon, together with the costs of suit.

2 75. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other  
3 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For  
4 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to  
5 work overtime without compensation. Further, as set forth herein, DEFENDANTS' uniform policy and  
6 practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the  
7 other members of the CALIFORNIA CLASS.

8 76. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
9 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
10 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members  
11 of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

20 79. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the  
21 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure  
22 to pay all earned wages.

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

28 81. DEFENDANTS knew or should have known that PLAINTIFF and the other members of



1 the CALIFORNIA CLASS were under compensated for their time worked. DEFENDANTS  
2 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay  
3 employees for their labor as a matter of uniform company policy, practice and procedure, and  
4 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other  
5 members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

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

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

23 **FOURTH CAUSE OF ACTION**

24 **For Failure to Provide Required Meal Periods**

25 **[Cal. Lab. Code §§ 226.7 & 512]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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







1 of the employer, even though unlawful, unless the employee, at the time of  
2 obeying the directions, believed them to be unlawful.

3 94. From time-to-time during the LABOR CLASS PERIOD, DEFENDANTS violated Cal.  
4 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the  
5 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for  
6 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the  
7 CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their  
8 personal cellular phone on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF  
9 and the members of the CALIFORNIA CLASS were required by DEFENDANTS to use their personal  
10 cell phones to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform  
11 policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA  
12 CLASS for expenses resulting from using their personal cellular phones for DEFENDANTS within the  
13 course and scope of their employment for DEFENDANTS. These expenses were necessary to complete  
14 their principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any  
15 waiver of their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF  
16 and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse  
17 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is  
18 required to do under the laws and regulations of California.

19 95. PLAINTIFF therefore demands reimbursement on behalf of the members of the  
20 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf  
21 of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory  
22 rate and costs under Cal. Lab. Code § 2802.

23 **SEVENTH CAUSE OF ACTION**

24 **For Failure to Provide Accurate Itemized Statements**

25 **[Cal. Lab. Code §§ 226 and 226.2]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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



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

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

21           98. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF  
22 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which  
23 failed to accurately show, among other things, (1) total number of hours worked, (2) net wages earned,  
24 (3) gross wages earned; (7) all applicable hourly rates in effect during the pay period and the  
25 corresponding number of hours worked at each hourly rate by the employee; and (8) the accurate name  
26 of the legal entity that is the employer in violation of California Labor Code Section 226. In addition to  
27 the foregoing violations, DEFENDANTS failed to provide PLAINTIFF and the other members of the  
28

1 CALIFORNIA CLASS with complete and accurate wage statements that comply with Cal. Lab. Code  
2 § 226.

3 99. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code § 226,  
4 causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA CLASS.  
5 These damages include, but are not limited to, costs expended calculating the correct rates for the  
6 overtime worked and the amount of employment taxes which were not properly paid to state and federal  
7 tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members  
8 of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the  
9 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation  
10 in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and penalties  
11 available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial  
12 (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective  
13 member of the CALIFORNIA CLASS herein.

14 **EIGHTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE PAID SICK DAYS AND SICK LEAVE BALANCE**

16 **(Cal. Lab. Code § 246, *et seq.*)**

17 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**  
18 **DEFENDANT)**

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

22 101. California Labor Code Section 246, *et seq.* states, “An employee who...works in  
23 California for the same employer for 30 or more days within a year from the commencement of  
24 employment is entitled to paid sick days” as specified in Cal. Lab. Code § 246. However,  
25 DEFENDANTS from time to time failed to provide PLAINTIFF and other members of the  
26 CALIFORNIA CLASS with sick days, in violation of Cal. Lab. Code § 246, *et seq.*

27 102. Further, Cal. Lab. Code § 246(i) provides that:  
28

1 An employer shall provide an employee with written notice that sets forth the amount of  
2 paid sick leave available, or paid time off leave an employer provides in lieu of sick  
3 leave, for use on either the employee's itemized wage statement described in Section 226  
4 or in a separate writing provided on the designated pay date with the employee's payment  
5 of wages. If an employer provides unlimited paid sick leave or unlimited paid time off  
6 to an employee, the employer may satisfy this section by indicating on the notice or the  
7 employee's itemized wage statement "unlimited."

8 103. From time to time, DEFENDANT failed to furnish PLAINTIFF and other members of the  
9 CALIFORNIA LABOR SUB-CLASS with written wage statements setting forth the amount of paid  
10 sick leave available to them, as required under Cal. Lab. Code §§ 246, *et seq.*

11 104. As a result of the foregoing, PLAINTIFF and other members of the CALIFORNIA  
12 LABOR-SUBCLASS are entitled to seek and recover statutory costs.

13 **NINTH CAUSE OF ACTION**

14 **FAILURE TO PAY WAGES WHEN DUE**

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

16 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

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

19 106. Cal. Lab. Code § 200 provides that:

20 As used in this article:(a) "Wages" includes all amounts for labor performed  
21 by employees of every description, whether the amount is fixed or  
22 ascertained by the standard of time, task, piece, Commission basis, or other  
23 method of calculation. (b) "Labor" includes labor, work, or service whether  
24 rendered or performed under contract, subcontract, partnership, station plan,  
25 or other agreement if the labor to be paid for is performed personally by the  
26 person demanding payment.

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



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

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

109. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members' employment contract.

110. Cal. Lab. Code § 203 provides:

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

111. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated and DEFENDANTS has not tendered payment of wages, to these employees who were not compensated for overtime hours worked, as required by law.

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

1 **TENTH CAUSE OF ACTION**

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

3 **(Cal. Lab. Code §§2698 et seq.)**

4 **(Alleged by PLAINTIFF against all Defendants)**

5 113. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,  
6 the prior paragraphs of this Complaint.

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

16 115. PLAINTIFF, and such persons that may be added from time to time who satisfy the  
17 requirements and exhaust the administrative procedures under the Private Attorney General Act, bring  
18 this Representative Action on behalf of the State of California with respect to themselves and all  
19 individuals who are or previously were employed by DEFENDANT in California during the time  
20 period of July 30, 2020 until the present (the "AGGRIEVED EMPLOYEES").

21 116. On July 30, 2021, PLAINTIFF gave written notice by certified mail to the Labor and  
22 Workforce Development Agency (the "Agency") and the employer of the specific provisions of this  
23 code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached  
24 hereto and incorporated by this reference herein. The statutory waiting period for Plaintiff to add these  
25 allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, Plaintiff may now  
26 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State  
27 of California with respect to all AGGRIEVED EMPLOYEES as herein defined.






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1. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus interest thereon at the statutory rate;
2. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
3. Meal and rest period compensation pursuant to California Labor Code Section 226.7, 512 and the applicable IWC Wage Order;
4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197; and,

2. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES: Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004;

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 cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

Dated: November 12, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.  
By:   
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF




**DEMAND FOR JURY TRIAL**

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

Dated: November 12, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

By:   
\_\_\_\_\_  
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF



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# **EXHIBIT 1**



3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
Tel: 619-599-8292  
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Jean-Claude Lapuyade, Esq.  
jlapuyade@jcl-lawfirm.com

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July 30, 2021

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

**AVEN GROUP, INC.**

c/o Eby Agu  
17634 Maple Drive  
Carson, CA 90746

***Via Certified Mail with Return Receipt No. 7021 0950 0001 6369 9453***

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

Dear Sir/Madam:

This office represents NOEMY E. FLORES (“Plaintiff”) and other aggrieved employees in a proposed class and representative action against AVEN GROUP, INC. (“Defendant”). This office intends to file the enclosed Class Action Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendant in California from 2015 to September of 2020. Plaintiff was paid on an hourly basis and entitled to legally required meal and rest periods. At all times during her employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods.

As a consequence, Plaintiff contends that Defendant failed to fully compensate her, and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.**

A true and correct copy of the proposed Complaint for the class action is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees and Class Members.

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

Very truly yours,  
JCL LAW FIRM, APC



Jean-Claude Lapuyade, Esq.

Enclosure (1)

1 JEAN-CLAUDE LAPUYADE (SBN 248676)  
2 [JLAPUYADE@JCL-LAWFIRM.COM](mailto:JLAPUYADE@JCL-LAWFIRM.COM)  
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13 **SUPERIOR COURT OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES**

15 NOEMY FLORES, an individual, on behalf of  
16 herself, and on behalf of all persons similarly  
17 situated,

18 Plaintiffs,

19 vs.

20 AVEN GROUP, INC., a California  
21 corporation; and DOES 1 through 50,  
22 Inclusive;

23 DEFENDANTS.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
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 PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8. FAILURE TO PROVIDE PAID SICK DAYS AND SICK LEAVE BALANCE IN VIOLATION OF CAL. LAB. CODE § 246, *et seq.*;
9. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203

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**DEMAND FOR JURY TRIAL**

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Plaintiff NOEMY FLORES (“PLAINTIFF”) an individual, on behalf of herself and all other similarly situated current and former employees alleges on information and belief, except for her own acts and knowledge which are based on personal knowledge, the following:

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**THE PARTIES**

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1. Defendant AVEN GROUP, INC. (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Los Angeles, and owns, operates and/or manages a healthcare staffing agency.

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

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3. The agents, servants and/or employees of the DEFENDANTS and each of them acting on behalf of the DEFENDANT acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the DEFENDANT, and personally participated in the conduct alleged herein on behalf of the DEFENDANT with respect to the conduct alleged herein. Consequently, the acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS are



1 jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a  
2 proximate result of the conduct of the DEFENDANTS' agents, servants and/or employees.

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

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

13 6. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on an  
14 hourly basis and entitled to legally compliant meal and rest periods from 2015 to September of 2020.

15 7. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of  
16 DEFENDANTS current and former non-exempt California employees (the "CALIFORNIA CLASS")  
17 at any time during the period beginning four years from the date of the filing of this Complaint and  
18 ending on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the  
19 aggregate claim of CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00).

20 8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the  
21 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
22 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which  
23 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest  
24 periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of  
25 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission  
26 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in  
27 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to  
28



1 provide accurate itemized wage statements in violation of California Labor Code Sections 226 and  
2 226.3.

3 9. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and  
4 deceptive business practices whereby DEFENDANTS retained and continues to retain wages due  
5 PLAINTIFF and the other members of the CALIFORNIA CLASS.

6 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
7 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other  
8 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS's past  
9 and current unlawful conduct, and all other appropriate legal and equitable relief.

10 **JURISDICTION AND VENUE**

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

15 12. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections  
16 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and DEFENDANTS  
17 (i) currently maintains and at all relevant times, maintained offices and facilities in this County and/or  
18 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged  
19 in this County against members of the CALIFORNIA CLASS.

20 **THE CONDUCT**

21 13. In violation of the applicable sections of the California Labor Code and the requirements  
22 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company  
23 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally  
24 complaint meal and rest period, failed to accurately compensate PLAINTIFF and the other members of  
25 the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other  
26 members of the CALIFORNIA CLASS for all time worked, and failed to issue to PLAINTIFF and the  
27 members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other  
28 things, all requirements pursuant to Cal. Lab. Code § 226, *et seq.* DEFENDANTS' uniform policies



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

6 **A. Meal Period Violations**

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

22 15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work  
23 schedules, PLAINTIFF and other CALIFORNIA CLASS members were from time to time unable to  
24 take thirty (30) minute duty free meal periods and were not fully relieved of duty for their meal periods.  
25 PLAINTIFF and other CALIFORNIA CLASS members were required from time to time to perform  
26 work as ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving  
27 a meal break. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and  
28 CALIFORNIA CLASS members with a second off-duty meal period for some workdays in which these



1 employees were required by DEFENDANTS to work ten (10) hours of work from time to time. The  
2 nature of the work performed by the PLAINTIFF and the members of the CALIFORNIA CLASS does  
3 not qualify for limited and narrowly construed “on-duty” meal period exception. When they were  
4 provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from time  
5 to time, required to remain on duty and/or on call. PLAINTIFF and other members of the  
6 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in  
7 accordance with DEFENDANTS’ strict corporate policy and practice.

8 **B. Rest Period Violations**

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

22 **C. Unreimbursed Business Expenses**

23 17. DEFENDANTS as a matter of corporate policy, practice and procedure, intentionally,  
24 knowingly and systematically failed to reimburse and indemnify PLAINTIFF and the members of the  
25 CALIFORNIA CLASS or required business expenses they incurred in direct consequence of  
26 discharging their duties on behalf of DEFENDANTS. Under California Labor Code Section 2802,  
27 employers are required to indemnify employees for all expenses incurred in the course and scope of  
28 their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her



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

5 18. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the  
6 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones  
7 because of, and in furtherance of their job duties as employees for DEFENDANTS. But for the use of  
8 their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not  
9 complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify  
10 PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their  
11 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment  
12 with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred  
13 unreimbursed business expenses which included, but were not limited to, costs related to the use of  
14 their personal cellular phones, all on behalf of and for the benefit of DEFENDANTS.

15 **D. Sick Pay Violations**

16 19. California Labor Code Section 246, *et seq.* states, "An employee who...works in  
17 California for the same employer for 30 or more days within a year from the commencement of  
18 employment is entitled to paid sick days" as specified in Cal. Lab. Code § 246. However,  
19 DEFENDANTS from time to time failed to provide PLAINTIFF and other members of the  
20 CALIFORNIA CLASS with sick days, in violation of Cal. Lab. Code § 246, *et seq.*

21 20. Further, California Labor Code Section 246, *et seq.* requires an employer to furnish its  
22 employees with written wage statements setting forth the amount of paid sick leave available. From  
23 time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF and other  
24 members of the CALIFORNIA CLASS with wage statements setting forth the amount of paid sick  
25 leave available.

26 **E. Wage Statement Violations**

27 21. California Labor Code Section 226 requires an employer to furnish its employees an  
28 accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked, (3) the



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

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

14 23. In addition to the violations described above, DEFENDANTS, from time to time, failed  
15 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply  
16 with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and the other members of  
17 the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,  
18 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an unintentional  
19 payroll error due to clerical or inadvertent mistake.

20 **F. CLASS ACTION ALLEGATIONS**

21 24. PLAINTIFF brings the First through Ninth Causes of Action as a class action pursuant to  
22 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former non-  
23 exempt California employees ("CALIFORNIA CLASS") during the period beginning four years prior  
24 to the filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

25 25. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been  
26 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid  
27 minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal  
28 and rest period policies, failure to separately compensate rest periods, failure to provide accurate



1 itemized wage statements, failure to maintain required records, and interest, statutory and civil penalties,  
2 attorney's fees, costs, and expenses.

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

4 27. Common questions of law and fact regarding DEFENDANTS' conduct, including but not  
5 limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate  
6 the regular rate of pay for overtime compensation, failure to accurately calculate the regular rate of  
7 compensation for missed meal and rest period premiums, failing to provide legally compliant meal and  
8 rest periods, failure to provide accurate itemized wage statements accurate, and failure ensure they are  
9 paid at least minimum wage and overtime, exist as to all members of the class and predominate over  
10 any questions affecting solely any individual members of the class. Among the questions of law and fact  
11 common to the class are:

12 a. Whether DEFENDANTS maintained legally compliant meal period  
13 policies and practices;

14 b. Whether DEFENDANTS maintained legally compliant rest period  
15 policies and practices;

16 c. Whether DEFENDANTS failed to pay PLAINTIFF and the  
17 CALIFORNIA CLASS members accurate premium payments for missed  
18 meal and rest periods;

19 d. Whether DEFENDANTS failed to pay PLAINTIFF and the  
20 CALIFORNIA CLASS members accurate overtime wages.

21 e. Whether DEFENDANTS failed to pay PLAINTIFF and the  
22 CALIFORNIA CLASS members at least minimum wage for all hours  
23 worked.

24 f. Whether DEFENDANTS issued legally compliant wage statements;

25 g. Whether DEFENDANTS failed to provide PLAINTIFF and the  
26 CALIFORNIA CLASS with paid sick days and sick leave balance on wage  
27 statemenys;

28 h. Whether DEFENDANTS failed to reimburse PLAINTIFF and the

1 CALIFORNIA CLASS members for required business expenses;

2 i. Whether DEFENDANTS committed an act of unfair competition by  
3 systematically failing to record and pay PLAINTIFF and the other members  
4 of the CALIFORNIA CLASS for all time worked;

5 j. Whether DEFENDANTS committed an act of unfair competition by  
6 systematically failing to record all meal and rest breaks missed by  
7 PLAINTIFF and other CALIFORNIA CLASS members, even though  
8 DEFENDANTS enjoyed the benefit of this work, required employees to  
9 perform this work and permits or suffers to permit this work;

10 k. Whether DEFENDANTS committed an act of unfair competition in  
11 violation of the UCL, by failing to provide the PLAINTIFF and the other  
12 members of the CALIFORNIA CLASS with the legally required meal and  
13 rest periods.

14 28. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result  
15 of DEFENDANTS' conduct and actions alleged herein.

16 29. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same  
17 interests as the other members of the class.

18 30. PLAINTIFF will fairly and adequately represent and protect the interests of the  
19 CALIFORNIA CLASS members.

20 31. PLAINTIFF retained able class counsel with extensive experience in class action  
21 litigation.

22 32. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests  
23 of the other CALIFORNIA CLASS members.

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

27 34. The questions of law and fact common to the CALIFORNIA CLASS members  
28 predominate over any questions affecting only individual members, including legal and factual issues



1 relating to liability and damages.

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

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

12 b. Adjudication with respect to individual members of the CALIFORNIA CLASS  
13 which would as a practical matter be dispositive of the interests of the other members not  
14 party to the adjudication or substantially impair or impeded their ability to protect their  
15 interests.

16 36. Class treatment provides manageable judicial treatment calculated to bring an efficient  
17 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of  
18 DEFENDANTS.

19 **FIRST CAUSE OF ACTION**

20 **For Unlawful Business Practices**

21 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

22 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

25 38. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
26 17021.

27 39. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines unfair  
28 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes

1 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

2 Any person who engages, has engaged, or proposes to engage in unfair  
3 competition may be enjoined in any court of competent jurisdiction. The  
4 court may make such orders or judgments, including the appointment of a  
5 receiver, as may be necessary to prevent the use or employment by any  
6 person of any practice which constitutes unfair competition, as defined in  
7 this chapter, or as may be necessary to restore to any person in interest any  
8 money or property, real or personal, which may have been acquired by  
9 means of such unfair competition.

10 Cal. Bus. & Prof. Code § 17203.

11 40. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA  
12 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in  
13 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
14 “UCL”), by engaging and continuing to engage in business practices which violates California law,  
15 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations  
16 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,  
17 1194, 1197, 1197.1, 1198 & 2802, for which this Court should issue declaratory and other equitable  
18 relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct  
19 held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

25 42. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and fraudulent  
26 in that DEFENDANTS’ uniform policy and practice failed to, *inter alia*, provide the legally mandated  
27 meal and rest periods, the required accurate amount of compensation for missed meal and rest periods,  
28 overtime and minimum wages owed, provide accurate itemized wage statements, due to a systematic

1 business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial  
2 Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this  
3 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
4 restitution of wages wrongfully withheld.

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

8 44. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and  
9 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,  
10 provide the legally mandated meal and rest periods, the required accurate amount of compensation for  
11 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage  
12 statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal.  
13 Labor Code.

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

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

21 47. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
22 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
23 calculated overtime and missed meal and rest periods premiums.

24 48. By and through the unlawful and unfair business practices described herein,  
25 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other  
26 members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has  
27 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of  
28 these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly

1 compete against competitors who comply with the law.

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

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

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

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

23 **SECOND CAUSE OF ACTION**

24 **For Failure to Pay Overtime Compensation**

25 **[Cal. Lab. Code §§ 510, *et seq.*]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

1           54.     PLAINTIFF and the other members of the CALIFORNIA CLASS for the period  
2 beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”)  
3 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and  
4 the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees  
5 for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or  
6 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

16          58.     During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members  
17 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they  
18 worked or were not accurately compensated for all overtime hours worked.

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

26          60.     In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
27 calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid  
28 the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS.

1 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits  
2 in violation of the California Labor Code, the Industrial Welfare Commission requirements and other  
3 applicable laws and regulations.

4 61. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
5 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
6 all overtime worked.

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

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

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

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

28 66. DEFENDANTS knew or should have known that PLAINTIFF and the other members of

1 the CALIFORNIA CLASS were under compensated for all overtime worked. DEFENDANTS  
2 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay  
3 employees for their labor as a matter of uniform company policy, practice and procedure, and  
4 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other  
5 members of the CALIFORNIA CLASS for overtime worked.

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

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

23 **THIRD CAUSE OF ACTION**

24 **For Failure to Pay Minimum Wages**

25 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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



1           70.     PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
2 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial  
3 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay  
4 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the  
5 LABOR CLASS PERIOD.

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

8           72.     Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
9 commission is the minimum wage to be paid to employees, and the payment of a less wage than the  
10 minimum so fixed is unlawful.

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

13          74.     DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other  
14 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For  
15 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to  
16 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without  
17 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to  
18 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members  
19 of the CALIFORNIA CLASS.

20          75.     DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
21 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
22 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members  
23 of the CALIFORNIA CLASS in regard to minimum wage pay.

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



1           77. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
2 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct minimum  
3 wage compensation for their time worked for DEFENDANTS.

4           78. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the  
5 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure  
6 to pay all earned wages.

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

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

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

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

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

7 **FOURTH CAUSE OF ACTION**

8 **For Failure to Provide Required Meal Periods**

9 **[Cal. Lab. Code §§ 226.7 & 512]**

10 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

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

27 85. DEFENDANTS further violates California Labor Code §§ 226.7 and the applicable IWC  
28 Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not



1 provided a meal period, in accordance with the applicable Wage Order, one additional hour of  
2 compensation at each employee's regular rate of compensation for each workday that a meal period was  
3 not provided.

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

7 **FIFTH CAUSE OF ACTION**

8 **For Failure to Provide Required Rest Periods**

9 **[Cal. Lab. Code §§ 226.7 & 512]**

10 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

13 88. During the LABOR CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS  
14 members were from time to time required to work in excess of four (4) hours without being provided  
15 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten  
16 (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period  
17 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,  
18 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more  
19 from time to time. PLAINTIFF and other CALIFORNIA CLASS members were also not provided with  
20 one-hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
21 CALIFORNIA CLASS members were periodically denied their proper rest periods by DEFENDANTS  
22 and DEFENDANTS' managers.

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

28 90. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA



1 CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned  
2 and due, interest, penalties, expenses and costs of suit.

3 **SIXTH CAUSE OF ACTION**

4 **For Failure to Reimburse Employees for Required Expenses**

5 **[Cal. Lab. Code § 2802]**

6 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

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

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

15 93. From time-to-time during the LABOR CLASS PERIOD, DEFENDANTS violated Cal.  
16 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the  
17 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for  
18 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the  
19 CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their  
20 personal cellular phone on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF  
21 and the members of the CALIFORNIA CLASS were required by DEFENDANTS to use their personal  
22 cell phones to execute their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform  
23 policy, practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA  
24 CLASS for expenses resulting from using their personal cellular phones for DEFENDANTS within the  
25 course and scope of their employment for DEFENDANTS. These expenses were necessary to complete  
26 their principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any  
27 waiver of their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF  
28 and the members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse  
PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is  
required to do under the laws and regulations of California.





1 99. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
2 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
3 Complaint.

4 100. California Labor Code Section 246, *et seq.* states, "An employee who...works in  
5 California for the same employer for 30 or more days within a year from the commencement of  
6 employment is entitled to paid sick days" as specified in Cal. Lab. Code § 246. However,  
7 DEFENDANTS from time to time failed to provide PLAINTIFF and other members of the  
8 CALIFORNIA CLASS with sick days, in violation of Cal. Lab. Code § 246, *et seq.*

9 101. Further, Cal. Lab. Code § 246(i) provides that:

10 An employer shall provide an employee with written notice that sets forth the amount of  
11 paid sick leave available, or paid time off leave an employer provides in lieu of sick  
12 leave, for use on either the employee's itemized wage statement described in Section 226  
13 or in a separate writing provided on the designated pay date with the employee's payment  
14 of wages. If an employer provides unlimited paid sick leave or unlimited paid time off  
15 to an employee, the employer may satisfy this section by indicating on the notice or the  
16 employee's itemized wage statement "unlimited."

17 102. From time to time, DEFENDANT failed to furnish PLAINTIFF and other members of the  
18 CALIFORNIA LABOR SUB-CLASS with written wage statements setting forth the amount of paid  
19 sick leave available to them, as required under Cal. Lab. Code §§ 246, *et seq.*

20 103. As a result of the foregoing, PLAINTIFF and other members of the CALIFORNIA  
21 LABOR-SUBCLASS are entitled to seek and recover statutory costs.

22 **NINTH CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES WHEN DUE**

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

25 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

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

28 105. Cal. Lab. Code § 200 provides that:

As used in this article:(a) "Wages" includes all amounts for labor performed  
by employees of every description, whether the amount is fixed or  
ascertained by the standard of time, task, piece, Commission basis, or other  
method of calculation. (b) "Labor" includes labor, work, or service whether  
rendered or performed under contract, subcontract, partnership, station plan,



1 or other agreement if the labor to be paid for is performed personally by the  
2 person demanding payment.

3 106. Cal. Lab. Code § 201 provides, in relevant part, that “If an employer discharges an  
4 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

5 107. Cal. Lab. Code § 202 provides, in relevant part, that:

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

16 108. There was no definite term in PLAINTIFF’s or any CALIFORNIA CLASS Members’  
17 employment contract.

18 109. Cal. Lab. Code § 203 provides:

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

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

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

**PRAYER FOR RELIEF**

WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and  
severally, as follows:






- 1        1. On behalf of the CALIFORNIA CLASS:
- 2            A)        That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as
- 3 a class action pursuant to Cal. Code of Civ. Proc. § 382;
- 4            B)        An order temporarily, preliminarily and permanently enjoining and restraining
- 5 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- 6            C)        An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld
- 7 from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
- 8            D)        Restitutionary disgorgement of DEFENDANTS’s ill-gotten gains into a fluid fund for
- 9 restitution of the sums incidental to DEFENDANTS’s violations due to PLAINTIFF and to the other
- 10 members of the CALIFORNIA CLASS.
- 11            E)        That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth
- 12 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ.
- 13 Proc. § 382;
- 14                    1.        Compensatory damages, according to proof at trial, including compensatory
- 15 damages for overtime compensation due PLAINTIFF and the other members of the
- 16 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus
- 17 interest thereon at the statutory rate;
- 18                    2.        The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
- 19 which a violation occurs and one hundred dollars (\$100) per each member of the
- 20 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an
- 21 aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation
- 22 of Cal. Lab. Code § 226;
- 23                    3.        Meal and rest period compensation pursuant to California Labor Code Section
- 24 226.7, 512 and the applicable IWC Wage Order;
- 25                    4.        For liquidated damages pursuant to California Labor Code Sections 1194.2 and
- 26 1197; and,
- 27        2. On all claims:
- 28            A)        An award of interest, including prejudgment interest at the legal rate;

- 1 B) Such other and further relief as the Court deems just and equitable; and,  
2 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,  
3 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.  
4

5 Dated: November 12, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.


7 By:   
8 Jean-Claude Lapuyade  
9 Attorneys for PLAINTIFF

10 **DEMAND FOR JURY TRIAL**

11 PLAINTIFF demands a jury trial on all issues triable to a jury.  
12

13 Dated: November 12, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

15 By:   
16 Jean-Claude Lapuyade  
17 Attorneys for PLAINTIFF

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

AVON GROUP, INC.  
 40 Eby Ave  
 17634 MAPLE DRIVE  
 CARSON, CA 90746



9590 9402 6744 1060 3007 55

2. Article Number (Transfer from service label)

7021 0950 0001 6369 9453

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

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