

**SUMMONS  
(CITACION JUDICIAL)**

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

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**08/27/2020** at 04:44:18 PM

Clerk of the Superior Court  
By Taylor Crandall, Deputy Clerk

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

LAZ PARKING CALIFORNIA, LLC, a Connecticut limited liability corporation; and DOES 1 through 50, Inclusive;

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

HECTOR AVITIA, an individual, on behalf of himself, and on behalf of all persons similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): San Diego Superior Court, Hall of Justice  
330 W Broadway Street  
San Diego, CA 92101

CASE NUMBER: (Número del Caso):  
37-2020-00030133-CU-OE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jean-Claude Lapuyade, Esq.; JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110; T: (619) 599-8292

DATE: 08/28/2020  
(Fecha)

Clerk, by *T. Crandall*, Deputy  
(Secretario) T. Crandall (Adjunto)

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



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

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
4.  by personal delivery on (date)

1 JEAN-CLAUDE LAPUYADE (SBN 248676)

2 [JLAPUYADE@JCL-LAWFIRM.COM](mailto:JLAPUYADE@JCL-LAWFIRM.COM)

3 **JCL LAW FIRM, APC**

4 3990 OLD TOWN AVENUE, SUITE C204

5 SAN DIEGO, CA 92110

6 TEL: (619) 599-8292

7 FAX: (619) 599-8291

8 SHANI O. ZAKAY (SBN 277924)

9 **ZAKAY LAW GROUP, APLC**

10 5850 OBERLIN DRIVE, SUITE 230A

11 SAN DIEGO, CA 92121

12 TEL: (619) 255-9047

13 FAX: (619) 404-9203

14 ATTORNEYS FOR PLAINTIFF

15 **SUPERIOR COURT OF CALIFORNIA**

16 **COUNTY OF SAN DIEGO**

17 HECTOR AVITIA, an individual, on behalf of  
18 himself, and on behalf of all persons similarly  
19 situated,

20 Plaintiffs,

21 vs.

22 LAZ PARKING CALIFORNIA, LLC, a  
23 Connecticut limited liability corporation; and  
24 DOES 1 through 50, Inclusive;

25 DEFENDANTS.

Case No. 37-2020-00030133-CU-OE-CTL

**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 PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;

**DEMAND FOR JURY TRIAL**

1 Plaintiff HECTOR AVITIA (“PLAINTIFF”) an individual, on behalf of himself and all other  
2 similarly situated current and former employees alleges on information and belief, except for his own  
3 acts and knowledge which are based on personal knowledge, the following:

4 **THE PARTIES**

5 1. Defendant LAZ PARKING CALIFORNIA, LLC (“DEFENDANT”) is a Connecticut  
6 corporation that at all relevant times mentioned herein conducted and continues to conduct substantial  
7 business in the state of California, county of San Diego, City of San Diego operates and/or manages  
8 parking lots and parking structures throughout California.

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

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

25 4. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of  
26 PLAINTIFF’s employer, within the meaning of California Labor Code § 558, who violated or caused  
27 to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision regulating  
28



1 hours and days of work in any order of the Industrial Welfare Commission and, as such, are subject to  
2 civil penalties for each underpaid employee, as set forth in Labor Code § 558, at all relevant times.

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

8 6. PLAINTIFF has been employed by DEFENDANTS as a non-exempt employee, paid on  
9 an hourly basis, entitled to certain non-discretionary flat-sum incentive awards, bonuses, overtime pay  
10 and legally compliant meal and rest periods from approximately March 2017 to the present.

11 7. PLAINTIFF brings this Class Action on behalf of himself and on behalf of all of  
12 DEFENDANTS current and former non-exempt California employees (the "CALIFORNIA CLASS")  
13 at any time between a date beginning four (4) years prior to the filing of this complaint and ending on  
14 a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate  
15 claim of CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00).

16 8. PLAINTIFF brings this Class Action on behalf of himself and on behalf of the  
17 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
18 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which  
19 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest  
20 periods or an additional hour of pay at the regular rate of compensation in lieu thereof in violation of  
21 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission  
22 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in  
23 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to  
24 provide accurate itemized wage statements in violation of California Labor Code Sections 226 and  
25 226.3.

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



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

5 **JURISDICTION AND VENUE**

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

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

15 **THE CONDUCT**

16 13. In violation of the applicable sections of the California Labor Code and the requirements  
17 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company  
18 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally  
19 complaint meal and rest period, failed to accurately compensate PLAINTIFF and the other members of  
20 the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other  
21 members of the CALIFORNIA CLASS for all time worked, and failed to issue to PLAINTIFF and the  
22 members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other  
23 things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time  
24 worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to  
25 purposefully avoid the accurate and full payment for all time worked as required by California law  
26 which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who  
27 comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
28 CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.



1     **A. Meal Period Violations**

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

17           15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work  
18 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA  
19 CLASS members were from time to time unable to take thirty (30) minute off duty meal breaks and  
20 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS  
21 members were required from time to time to perform work as ordered by DEFENDANTS for more  
22 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from  
23 time to time failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-  
24 duty meal period for some workdays in which these employees were required by DEFENDANTS to  
25 work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF  
26 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed  
27 "on-duty" meal period exception. PLAINTIFF and other members of the CALIFORNIA CLASS  
28 therefore forfeited meal breaks without additional compensation and in accordance with



1 DEFENDANTS' strict corporate policy and practice. DEFENDANTS failed to maintain adequate  
2 staffing levels while increasing the production levels for each employee at the busy airports they  
3 provided services for.

4 **B. Rest Period Violations**

5 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA  
6 CLASS members were also required from time to time to work in excess of four (4) hours without  
7 being provided ten (10) minute rest periods as a result of their rigorous work schedule and  
8 DEFENDANTS' inadequate staffing . Further, for the same reasons these employees were denied their  
9 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours  
10 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of  
11 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least  
12 ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. PLAINTIFF and  
13 other CALIFORNIA CLASS members were also not provided with one-hour wages in lieu thereof. As  
14 a result of their rigorous work schedules and DEFENDANTS' inadequate staffing, PLAINTIFF and  
15 other CALIFORNIA CLASS members were from time to time denied their proper rest periods by  
16 DEFENDANTS and DEFENDANTS' managers.

17 **C. Overtime Regular Rate Violation**

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

25 18. State law provides that employees must be paid overtime at one-and-one-half times their  
26 "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS members were compensated at  
27 an hourly rate plus flat-sum incentive pay that was tied to specific elements of an employee's  
28 performance.



1           19. The second component of PLAINTIFF’S and other CALIFORNIA CLASS members’  
2 compensation was DEFENDANTS’ flat-sum non-discretionary incentive program that paid  
3 PLAINTIFF and other CLASS MEMBERS flat-sum incentive wages based on their performance for  
4 DEFENDANTS. The flat-sum non-discretionary bonus program provided all employees paid on an  
5 hourly basis with flat-sum bonus compensation when the employees met the various performance goals  
6 set by DEFENDANTS. These flat-sum incentive payments are identified as “BONUS” in the wage  
7 statements issued by DEFENDANTS to PLAINTIFF and the other CALIFORNIA CLASS members.

8           20. However, from-time-to-time during the CLASS PERIOD, when calculating the regular  
9 rate of pay, in those pay periods where PLAINTIFF and other CALIFORNIA CLASS members worked  
10 overtime and earned this flat-sum non-discretionary bonus, DEFENDANTS failed to accurately include  
11 the flat-sum non-discretionary bonus compensation as part of the employees’ “regular rate of pay”  
12 and/or calculated all hours worked rather than just all non-overtime hours worked. Management and  
13 supervisors described the incentive/bonus program to potential and new employees as part of the  
14 compensation package. As a matter of law, the incentive compensation received by PLAINTIFF and  
15 other CALIFORNIA CLASS members must be included in the “regular rate of pay.” The failure to do  
16 so has resulted in a systematic underpayment of overtime compensation to PLAINTIFF and other  
17 CALIFORNIA CLASS members by DEFENDANTS.

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

27  
28 ///





1 **D. Wage Statement Violations**

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

10 23. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
11 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurate missed meal  
12 and rest period premiums, or were paid overtime in the same pay period where they earned a non-  
13 discretionary incentive award, DEFENDANTS also failed to provide PLAINTIFF and the other  
14 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to  
15 accurately show, among other things, (1) gross wages earned, (2) total hours worked, (3) all deductions,  
16 (4) net wages earned, and, (5) all applicable hourly rates in effect during the pay period and the  
17 corresponding number of hours worked at each hourly rate by the employee all applicable hourly rates  
18 in effect during the pay period and the corresponding amount of time worked at each hourly rate, correct  
19 rates of pay for penalty payments or missed meal and rest periods.

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

24 **E. Suitable Seating Violations**

25 25. PLAINTIFF further alleges that the kiosks and booths located at DEFENDANT's  
26 operated and/or managed parking lots and structures provide ample space to allow for the presence and  
27 use of a stool or seat by DEFENDANT's employees' during the performance of their work duties.  
28 DEFENDANT's employees' working at DEFENDANT's operated and/or managed parking lots and



1 structures, spend a very substantial portion, and, in many workdays, the vast majority of their working  
2 time within these kiosks or booths. The nature of the position can reasonably be accomplished while  
3 using a seat/stool.

4 26. In violation of the applicable sections of the California Labor Code and the requirements  
5 of the applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of  
6 company policy, practice and procedure, intentionally, knowingly and systematically failed to provide  
7 PLAINTIFF and the other Aggrieved Employees suitable seating when the nature of these employees'  
8 work reasonably permitted sitting.

9 27. DEFENDANT knew or should have known that PLAINTIFF and other Aggrieved  
10 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere with the  
11 performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not  
12 allow them to sit when it did not interfere with the performance of their duties. By reason of this conduct  
13 applicable to PLAINTIFF and all Aggrieved Employees, DEFENDANT violated California Labor  
14 Code Section 1198 and Wage Order 4-2001, Section 14 by failing to provide suitable seats.

15 **CLASS ACTION ALLEGATIONS**

16 28. PLAINTIFF brings the First through Sixth Causes of Action as a class action pursuant to  
17 California Code of Civil Procedure § 382 on behalf of the CALIFORNIA CLASS for claims accruing  
18 against DEFENDANTS, as described herein, during the CLASS PERIOD.

19 29. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been  
20 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid  
21 minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal  
22 and rest period policies, failure to separately compensate rest periods, failure to separately compensate  
23 for all non-productive time, failure to provide accurate itemized wage statements, failure to maintain  
24 required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

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

26 31. 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 committed an act of unfair competition by  
20 systematically failing to record and pay PLAINTIFF and the other members  
21 of the CALIFORNIA CLASS for all time worked;
- 22 h. Whether DEFENDANTS committed an act of unfair competition by  
23 systematically failing to record all meal and rest breaks missed by  
24 PLAINTIFF and other CALIFORNIA CLASS members, even though  
25 DEFENDANTS enjoyed the benefit of this work, required employees to  
26 perform this work and permits or suffers to permit this work;
- 27 i. Whether DEFENDANTS committed an act of unfair competition in  
28 violation of the UCL, by failing to provide the PLAINTIFF and the other

1 members of the CALIFORNIA CLASS with the legally required meal and  
2 rest periods; and,

3 32. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result  
4 of DEFENDANTS' conduct and actions alleged herein.

5 33. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same  
6 interests as the other members of the class.

7 34. PLAINTIFF will fairly and adequately represent and protect the interests of the  
8 CALIFORNIA CLASS members.

9 35. PLAINTIFF retained able class counsel with extensive experience in class action  
10 litigation.

11 36. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests  
12 of the other CALIFORNIA CLASS members.

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

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

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

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

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

5 40. Class treatment provides manageable judicial treatment calculated to bring an efficient  
6 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of  
7 DEFENDANTS.

8 **FIRST CAUSE OF ACTION**

9 **For Unlawful Business Practices**

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

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

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

14 42. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
15 17021.

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

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

27 Cal. Bus. & Prof. Code § 17203.

28 44. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA

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

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

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

22 47. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and  
23 deceptive in that DEFENDANTS’ employment practices caused PLAINTIFF and the other members of  
24 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANTS.

25 48. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and  
26 deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to, *inter alia*,  
27 provide the legally mandated meal and rest periods, the required accurate amount of compensation for  
28 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage





1 statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal.  
2 Labor Code.

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

7 50. PLAINTIFF further demands on behalf of himself and on behalf of each CALIFORNIA  
8 CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not  
9 timely provided as required by law.

10 51. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
11 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
12 calculated overtime and missed meal and rest periods premiums.

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

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

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

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

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

12 **SECOND CAUSE OF ACTION**

13 **For Failure to Pay Overtime Compensation**

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

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

16 57. 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 58. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period between  
19 April 6, 2016 and the present (“LABOR CLASS PERIOD”) bring a claim for DEFENDANTS’ willful  
20 and intentional violations of the California Labor Code and the Industrial Welfare Commission  
21 requirements for DEFENDANTS’ failure to pay these employees for all overtime worked, including,  
22 work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or  
23 forty (40) hours in any workweek.

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

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

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

5           62.     During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members  
6 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they  
7 worked or were not accurately compensated for all overtime hours worked.

8           63.     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 failed to accurately record overtime worked by PLAINTIFF and other  
11 CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the other  
12 members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed  
13 in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours  
14 in any workweek.

15           64.     In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
16 calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid  
17 the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS.  
18 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits  
19 in violation of the California Labor Code, the Industrial Welfare Commission requirements and other  
20 applicable laws and regulations.

21           65.     As a direct result of DEFENDANTS’ unlawful wage practices as alleged herein,  
22 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
23 all overtime worked.

24           66.     Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the  
25 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other  
26 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude  
28 the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on

1 behalf of himself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-  
2 negotiable, non-waivable rights provided by the State of California.

3 67. 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 68. 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 §§ 510, 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 69. 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 70. 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 71. 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 72. 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 73. 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 74. 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 75. 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 76. 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 77. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages, including

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

2 78. 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 while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without  
6 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to  
7 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members  
8 of the CALIFORNIA CLASS.

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

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

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

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

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



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

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

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

24  
25  
26  
27  
28     ///

1 **FOURTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

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

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

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



1 **FIFTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

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

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

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

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

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

25  
26  
27  
28 ////



1 **SIXTH CAUSE OF ACTION**

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

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

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

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

7 96. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
8 “accurate itemized” statement in writing showing:

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

27 97. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF  
28 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements

1 which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages  
2 earned, (3) gross wages earned and (7) all applicable hourly rates in effect during the pay period and  
3 the corresponding number of hours worked at each hourly rate by the employee in violation of  
4 California Labor Code Section 226.

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

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

22 100. Cal. Lab. Code § 200 provides that:

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



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

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

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

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

20 103. There was no definite term in PLAINTIFF’s or any CALIFORNIA CLASS Members’  
21 employment contract.

22 104. Cal. Lab. Code § 203 provides:

23 If an employer willfully fails to pay, without abatement or  
24 reduction, in accordance with Sections 201, 201.5, 202, and  
25 205.5, any wages of an employee who is discharged or who  
26 quits, the wages of the employee shall continue as a penalty  
27 from the due date thereof at the same rate until paid or until  
28



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

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

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

11 **PRAYER FOR RELIEF**

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

14 1. On behalf of the CALIFORNIA CLASS:

15 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as  
16 a class action pursuant to Cal. Code of Civ. Proc. § 382;

17 B) An order temporarily, preliminarily and permanently enjoining and restraining  
18 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

19 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld  
20 from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,

21 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for  
22 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to the other  
23 members of the CALIFORNIA CLASS.

24 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth and Seventh Causes of  
25 Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. §  
26 382;

27 1. Compensatory damages, according to proof at trial, including compensatory  
28 damages for overtime compensation due PLAINTIFF and the other members of the



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

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;

5. For waiting time penalties pursuant to California Labor Code Section 201, 202 and 20; and,

2. 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: August 27, 2020

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: August 27, 2020

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

By:   
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF



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