

SUMMONS
(CITACION JUDICIAL)

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

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TVI, INC., d.b.a. SAVERS a Washington corporation; and DOES 1 through 50, Inclusive;

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

RICK MELEAD, an individual, on behalf of himself, and on behalf of all persons similarly situated,

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of Orange, Civil Complex Center
751 W. Santa Ana Blvd.
Santa Ana, CA 92701

CASE NUMBER: 30-2020-01140887-CU-OE-CXC
(Número del Caso):

Judge Glenda Sanders

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-8291
JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DAVID H. YAMASAKI, Clerk of the Court

DATE: 05/26/2020
(Fecha)

Clerk, by _____, Deputy
(Secretario) *Amase* *(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)).

Sarah Loose



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)

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7 SAN DIEGO, CA 92121

8 TEL: (619) 255-9047

FAX: (619) 404-9203

9 ATTORNEYS FOR PLAINTIFF

10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF ORANGE**

30-2020-01140887-CU-OE-CXC

12 RICK MELEAD, an individual, on behalf of
13 himself, and on behalf of all persons similarly
situated,

14 Plaintiffs,

15 vs.

16 TVI, INC., d.b.a. SAVERS a Washington
17 corporation; and DOES 1 through 50,
Inclusive;

18 DEFENDANTS.

Case No. _____ Judge Glenda Sanders
Assigned for all purposes to: Dept: CX101
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;

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7. FAILURE TO PAY WAGES WHEN
DUE IN VIOLATION OF CAL. LABOR
CODE §§ 201, 202 AND 203

DEMAND FOR JURY TRIAL

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

THE PARTIES

1. Defendant TVI, INC. d.b.a. SAVERS® (“DEFENDANT”) is a Washington corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Orange, City of Yorba Linda, owns, operates and/or manages SAVERS®, a chain of second hand clothing stores throughout California.

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.

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 has been employed by DEFENDANTS at the Yorba Linda SAVERS® store
14 location, store number 1222, as a non-exempt salesclerk, paid on an hourly basis and entitled to certain
15 non-discretionary flat-sum incentive awards, bonuses, overtime pay and legally compliant meal and
16 rest periods from October 2015 to October 2019.

17 7. PLAINTIFF brings this Class Action on behalf of himself and on behalf of all of
18 DEFENDANTS current and former non-exempt California employees (the "CALIFORNIA CLASS")
19 at any time between April 6, 2016 on a date determined by the Court (the "CLASS PERIOD"). The
20 amount in controversy for the aggregate claim of CALIFORNIA CLASS members is
21 under five million dollars (\$5,000,000.00).

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

1 failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in
2 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1,
3 and (3) failed to provide accurate itemized wage statements in violation of California
4 Labor Code Sections 226 and 226.3.

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

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

12 **JURISDICTION AND VENUE**

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

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

22 **THE CONDUCT**

23 13. In violation of the applicable sections of the California Labor Code and the requirements
24 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
25 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally
26 complaint meal and rest period, failed to accurately compensate PLAINTIFF and the other members of
27 the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other
28 members of the CALIFORNIA CLASS for all time worked, and failed to issue to PLAINTIFF and the



1 members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other
2 things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time
3 worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to
4 purposefully avoid the accurate and full payment for all time worked as required by California law
5 which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who
6 comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA
7 CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

8 **A. Meal Period Violations**

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

24 15. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
25 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA
26 CLASS members were from time to time unable to take thirty (30) minute off duty meal breaks and
27 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS
28 members were required from time to time to perform work as ordered by DEFENDANTS for more



1 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from
2 time to time failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-
3 duty meal period for some workdays in which these employees were required by DEFENDANTS to
4 work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF
5 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed
6 “on-duty” meal period exception. PLAINTIFF and other members of the CALIFORNIA CLASS
7 therefore forfeited meal breaks without additional compensation and in accordance with
8 DEFENDANTS’ strict corporate policy and practice. DEFENDANTS failed to maintain adequate
9 staffing levels while increasing the production levels for each employee at the busy airports they
10 provided services for.

11 **B. Rest Period Violations**

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

24 **C. Overtime Regular Rate Violation**

25 17. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and continue to
26 fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS members for
27 their overtime hours worked. As a result, PLAINTIFF and the other CALIFORNIA CLASS members
28 forfeited wages due them for working overtime without compensation at the correct overtime rates.



1 DEFENDANTS' uniform policy and practice to not pay the CALIFORNIA CLASS members the
2 correct overtime rate for all overtime worked in accordance with applicable law is evidenced by
3 DEFENDANTS' business records.

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

8 19. The second component of PLAINTIFF'S and other CALIFORNIA CLASS members'
9 compensation was DEFENDANTS' flat-sum non-discretionary incentive program that paid
10 PLAINTIFF and other CLASS MEMBERS flat-sum incentive wages based on their performance for
11 DEFENDANTS. The flat-sum non-discretionary bonus program provided all employees paid on an
12 hourly basis with flat-sum bonus compensation when the employees met the various performance goals
13 set by DEFENDANTS. These flat-sum incentive payments are identified as "SLSBNS" in the wage
14 statements issued by DEFENDANTS to PLAINTIFF and the other CALIFORNIA CLASS members.

15 20. However, from-time-to-time, when calculating the regular rate of pay, in those pay periods
16 where PLAINTIFF and other CALIFORNIA CLASS members worked overtime and earned this flat-
17 sum non-discretionary bonus, DEFENDANTS failed to accurately include the flat-sum non-
18 discretionary bonus compensation as part of the employees' "regular rate of pay" and/or calculated all
19 hours worked rather than just all non-overtime hours worked. Management and supervisors described
20 the incentive/bonus program to potential and new employees as part of the compensation package. As
21 a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS
22 members must be included in the "regular rate of pay." The failure to do so has resulted in a systematic
23 underpayment of overtime compensation to PLAINTIFF and other CALIFORNIA CLASS members
24 by DEFENDANTS.

25 21. From time-to-time during the CLASS PERIOD, PLAINTIFF earned "Shift Differ"
26 compensation and worked overtime compensation throughout his employment with DEFENDANTS
27 including, but not limited to the pay period beginning on October 6, 2019 to October 19, 2019.
28 Notwithstanding, DEFENDANTS failed to accurately calculate the non-discretionary, flat-sum bonus



1 entitled "SLSBNS" into the regular rate pay for purposes of PLAINTIFF's overtime compensation.
2 The failure to do so has resulted in an underpayment of overtime compensation to plaintiff PLAINITFF
3 during this pay period.

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

13 **D. Wage Statement Violations**

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

22 24. From time to time during the CLASS PERIOD, when PLAINTIFF and other
23 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurate missed meal
24 and rest period premiums, or were paid overtime in the same pay period where they earned a non-
25 discretionary incentive award, DEFENDANTS also failed to provide PLAINTIFF and the other
26 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
27 show, among other things, all applicable hourly rates in effect during the pay period and the
28



1 corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or
2 missed meal and rest periods.

3 25. For instance, for the pay period between October 6, 2019 and October 19, 2019,
4 PLAINTIFF received remuneration from DEFENDANTS described as "FLSA SUPP OT" in the gross
5 amount of \$2.33. DEFENDANTS violated California Labor Code Section 226 by failing to list the
6 applicable hourly rate and the corresponding number of hours worked at the applicable hourly rate for
7 this line item of remuneration described as "FLSA SUPP OT". PLAINTIFF, and all those similarly
8 situated members of the CALIFORNIA CLASS, suffered damage as a result of DEFENDANTS'
9 aforementioned violation because he could not promptly and easily determine from the wage statement
10 alone the applicable hourly rate and the corresponding number of hours worked at the applicable hourly
11 rate for this line item of remuneration described as "FLSA SUPP OT".

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

16 **E. Suitable Seating Violations**

17 27. PLAINTIFF further alleges that the station counters in DEFENDANT's stores provide
18 ample space behind each counter area to allow for the presence and use of a stool or seat by
19 DEFENDANT's employees' during the performance of their work duties. DEFENDANT's
20 employees' working at DEFENDANT's stores spend a very substantial portion, and, in many
21 workdays, the vast majority of their working time behind these counters. The nature of the position
22 can reasonably be accomplished while using a seat/stool.

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



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

7 30.

CLASS ACTION ALLEGATIONS

8
9 31. PLAINTIFF brings the First through Sixth Causes of Action as a class action pursuant to
10 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former non-
11 exempt California employees ("CALIFORNIA CLASS") between April 6, 2016 and a date determined
12 by the Court ("CLASS PERIOD").

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

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

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

28 a. Whether DEFENDANTS maintained legally complaint meal period

1 policies and practices;

2 b. Whether DEFENDANTS maintained legally compliant rest period
3 policies and practices;

4 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
5 CALIFORNIA CLASS members accurate premium payments for missed
6 meal and rest periods;

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

9 e. Whether DEFENDANTS failed to pay PLAINTIFF and the
10 CALIFORNIA CLASS members at least minimum wage for all hours
11 worked.

12 f. Whether DEFENDANTS issued legally compliant wage statements;

13 g. Whether DEFENDANTS committed an act of unfair competition by
14 systematically failing to record and pay PLAINTIFF and the other members
15 of the CALIFORNIA CLASS for all time worked;

16 h. Whether DEFENDANTS committed an act of unfair competition by
17 systematically failing to record all meal and rest breaks missed by
18 PLAINTIFF and other CALIFORNIA CLASS members, even though
19 DEFENDANTS enjoyed the benefit of this work, required employees to
20 perform this work and permits or suffers to permit this work;

21 i. Whether DEFENDANTS committed an act of unfair competition in
22 violation of the UCL, by failing to provide the PLAINTIFF and the other
23 members of the CALIFORNIA CLASS with the legally required meal and
24 rest periods; and,

25 35. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result
26 of DEFENDANTS' conduct and actions alleged herein.

27 36. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same
28 interests as the other members of the class.

1 37. PLAINTIFF will fairly and adequately represent and protect the interests of the
2 CALIFORNIA CLASS members.

3 38. PLAINTIFF retained able class counsel with extensive experience in class action
4 litigation.

5 39. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests
6 of the other CALIFORNIA CLASS members.

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

10 41. The questions of law and fact common to the CALIFORNIA CLASS members
11 predominate over any questions affecting only individual members, including legal and factual issues
12 relating to liability and damages.

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

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

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

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

1 DEFENDANTS.

2 **FIRST CAUSE OF ACTION**

3 **For Unlawful Business Practices**

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

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

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

8 45. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
9 17021.

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

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

21 Cal. Bus. & Prof. Code § 17203.

22 47. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
23 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
24 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
25 “UCL”), by engaging and continuing to engage in business practices which violates California law,
26 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
27 and the California Labor Code including Sections 204, 210, 226, 226.7, 510, 512, 1194, 1197, 1197.1,
28 1198 & 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.

1 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
2 unfair competition, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

4 54. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the
5 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
6 calculated overtime and missed meal and rest periods premiums.

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

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

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

23 58. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,
24 and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and
25 that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful and
26 unfair business practices in the future.

27 59. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy
28 and/or adequate remedy at law that will end the unlawful and unfair business practices of

1 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result
2 of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of
3 the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic
4 harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair
5 business practices.

6 **SECOND CAUSE OF ACTION**

7 **For Failure to Pay Overtime Compensation**

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

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

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

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

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

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

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

27 65. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
28 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they

1 worked or were not accurately compensated for all overtime hours worked.

2 66. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
3 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
4 uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other
5 CALIFORNIA CLASS members and denied accurate compensation to PLAINTIFF and the other
6 members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed
7 in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours
8 in any workweek.

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

15 68. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
16 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for
17 all overtime worked.

18 69. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the
19 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other
20 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the
21 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude
22 the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on
23 behalf of himself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-
24 negotiable, non-waivable rights provided by the State of California.

25 70. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the
26 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure
27 to pay all earned wages.

28 71. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the

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

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

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

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

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

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

6 **THIRD CAUSE OF ACTION**

7 **For Failure to Pay Minimum Wages**

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

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

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

12 77. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
13 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
14 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay
15 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS members during the
16 LABOR CLASS PERIOD.

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

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

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

24 81. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other
25 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For
26 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to
27 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without
28 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to

1 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members
2 of the CALIFORNIA CLASS.

3 82. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
5 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members
6 of the CALIFORNIA CLASS in regard to minimum wage pay.

7 83. In committing these violations of the California Labor Code, DEFENDANTS inaccurately
8 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF
9 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid
10 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
11 Industrial Welfare Commission requirements and other applicable laws and regulations.

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

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

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

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

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

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

18 **FOURTH CAUSE OF ACTION**

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

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

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

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

24 91. During the LABOR CLASS PERIOD, from time to time, DEFENDANTS failed to
25 provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA
26 CLASS members as required by the applicable Wage Order and Labor Code. The nature of the work
27 performed by PLAINTIFF and CALIFORNIA CLASS members did not prevent these employees from
28 being relieved of all of their duties for the legally required off-duty meal periods. As a result of their

1 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were from time to
2 time not fully relieved of duty by DEFENDANTS for their meal periods. Additionally,
3 DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS members with legally
4 required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business
5 records from time to time. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA
6 CLASS members with a second off-duty meal period in some workdays in which these employees were
7 required by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members
8 of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
9 accordance with DEFENDANTS' strict corporate policy and practice.

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

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

18 **FIFTH CAUSE OF ACTION**

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

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

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

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

24 95. During the LABOR CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS
25 members were from time to time required to work in excess of four (4) hours without being provided
26 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten
27 (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period
28 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,

1 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more
2 from time to time. PLAINTIFF and other CALIFORNIA CLASS members were also not provided with
3 one-hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
4 CALIFORNIA CLASS members were periodically denied their proper rest periods by DEFENDANTS
5 and DEFENDANTS' managers.

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

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

14 **SIXTH CAUSE OF ACTION**

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

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

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

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

20 99. Cal. Labor Code § 226 provides that an employer must furnish employees with an
21 "accurate itemized" statement in writing showing:

- 22 1. Gross wages earned;
- 23 2. Total hours worked by the employee, except for any employee
24 whose compensation is solely based on a salary and who is exempt from
25 payment of overtime under subdivision (a) of Section 515 or any applicable
26 order of the Industrial Welfare Commission;
- 27 3. The number of piece-rate units earned and any applicable piece rate
28 if the employee is paid on a piece-rate basis;

- 1 4. All deductions, provided that all deductions made on written orders
- 2 of the employee may be aggregated and shown as one item;
- 3 5. Net wages earned;
- 4 6. The inclusive dates of the period for which the employee is paid,
- 5 7. The name of the employee and his or her social security number,
- 6 except that by January 1, 2008, only the last four digits of his or her social
- 7 security number or an employee identification number other than a social
- 8 security number may be shown on the itemized statement,
- 9 8. The name and address of the legal entity that is the employer, and
- 10 9. All applicable hourly rates in effect during the pay period and the
- 11 corresponding number of hours worked at each hourly rate by the employee.

12 100. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF
13 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements
14 which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages
15 earned, (3) gross wages earned and (7) all applicable hourly rates in effect during the pay period and
16 the corresponding number of hours worked at each hourly rate by the employee in violation of
17 California Labor Code Section 226.

18 101. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §
19 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA
20 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for
21 the overtime worked and the amount of employment taxes which were not properly paid to state and
22 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other
23 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
24 for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
25 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and
26 penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time
27 of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective
28 member of the CALIFORNIA CLASS herein.

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

3 **(Cal Lab. Code §§201, 202, 203)**

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

5 102. 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.

7 103. Cal. Lab. Code § 200 provides that:

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

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

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

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

1 and designates a mailing address. The date of the mailing
2 shall constitute the date of payment for purposes of the
3 requirement to provide payment within 72 hours of the
4 notice of quitting.

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

7 107. Cal. Lab. Code § 203 provides:

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

15 108. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated
16 and DEFENDANTS has not tendered payment of wages, to these employees who missed meal and rest
17 breaks, as required by law.

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

23 **PRAYER FOR RELIEF**

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

26 1. On behalf of the CALIFORNIA CLASS:

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

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

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

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

8 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth and Seventh Causes of
9 Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. §
10 382;

11 1. Compensatory damages, according to proof at trial, including compensatory
12 damages for overtime compensation due PLAINTIFF and the other members of the
13 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus
14 interest thereon at the statutory rate;

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

20 3. Meal and rest period compensation pursuant to California Labor Code Section
21 226.7, 512 and the applicable IWC Wage Order;

22 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
23 1197;

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

26 2. On all claims:


27 A) An award of interest, including prejudgment interest at the legal rate;

28 B) Such other and further relief as the Court deems just and equitable; and,

1 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
2 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

3
4 Dated: May 11, 2020

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


5
6 By: 
7 Jean-Claude Lapuyade
8 Attorneys for PLAINTIFF

9 **DEMAND FOR JURY TRIAL**

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

11
12 Dated: May 11, 2020

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

13
14 By: 
15 Jean-Claude Lapuyade
16 Attorneys for PLAINTIFF

