

**SUMMONS
(CITACION JUDICIAL)**

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

FILED

DEC 21 2020

EL DORADO CO. SUPERIOR COURT
BY W. Warden
(DEPUTY CLERK)

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

TEAZ N PLEAZ, INC., a California corporation d.b.a. SEDUCTIONS;
and DOES 1 through 50, Inclusive

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

JESSICA BARACKMAN, an individual, on behalf of herself, 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), 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. 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), 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.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): El Dorado-South Lake Tahoe Branch
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

CASE NUMBER:
(Número del Caso):
SC 20200179

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):
Shani O. Zakay, Esq., 3990 Old Town Ave., Ste. C204, San Diego, CA 92110 Telephone: (619) 225-9047

DATE:
(Fecha) **DEC 21 2020**

Clerk, by
(Secretario) W. Warden, Deputy
Tania G. Ugrin-Capobianco (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)).

[SEAL]
Issued

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- 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):
- by personal delivery on (date):

FILED

DEC 21 2020

EL DORADO CO. SUPERIOR COURT
BY W. Warden
(DEPUTY CLERK)

Assigned to Judge
MICHAEL J. McLAUGHLIN

DEC 21 2020

FOR ALL PURPOSES

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12 ATTORNEYS FOR PLAINTIFF

13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF EL DORADO

15 Case No. **SC 20200179**

16 JESSICA BARACKMAN, an individual, on
17 behalf of herself, and on behalf of all persons
18 similarly situated,

19 Plaintiffs,

20 vs.

21 TEAZ N PLEAZ, INC., a California
22 corporation d.b.a. SEDUCTIONS; and
23 DOES 1 through 50, Inclusive;

24 DEFENDANTS.

25

26 CLASS ACTION COMPLAINT FOR:

- 27 1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
- 28 2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
- 1 3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 2 4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 3 5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 4 6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 5 7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 6 8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;
- 7 9. VIOLATIONS OF THE PRIVATE ATTORNEY GENERAL ACT AT LABOR CODE §§ 2698 ET SEQ.

8 DEMAND FOR JURY TRIAL

VIA FAX

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

5 **THE PARTIES**

6 1. Defendant TEAZ N PLEAZ d.b.a. TEAZ N’ PLEAZ and/or SEDUCTIONS
7 (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and
8 continues to conduct substantial business in the state of California, county of El Dorado, City of South
9 Lake Tahoe, owns, operates and/or manages TEAZ N PLEAZ and SEDUCTOINS, a chain of adult
10 novelty and lingerie brink and mortar stores and online retail stores located throughout the United States
11 with three locations in California.

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

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

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

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

11 6. PLAINTIFF was been employed by DEFENDANTS at the TEAZ N' PLEAZE store
12 located in South Lake Tahoe as a non-exempt sales associate, paid on an hourly basis and entitled to
13 certain non-discretionary flat-sum incentive awards, bonuses, overtime pay and legally compliant meal
14 and rest periods from January 2018 to June 2020.

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

20 8. PLAINTIFF evokes the tolling permitted pursuant to the California State Judicial Counsel
21 amended Rule of Court, Emergency Rule Number 9, which tolled the statute of limitation and statutes
22 of repose from April 6, 2020 to either (a) August 3, 2020 for statutes of limitation and repose for civil
23 causes of action that are 180 days or less, or (b) October 1, 2020 for statutes of limitation and repose
24 for civil causes of action that exceed 180 days.

25 9. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
26 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
27 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which
28 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest

1 periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of
2 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission
3 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in
4 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, and (3) failed to
5 provide accurate itemized wage statements in violation of California Labor Code Sections 226 and
6 226.3.

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

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

14 **JURISDICTION AND VENUE**

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

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

24 **THE CONDUCT**

25 14. In violation of the applicable sections of the California Labor Code and the requirements
26 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
27 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally
28

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

12 **A. Meal Period Violations**

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

1 rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA
2 CLASS members for all time worked is evidenced by DEFENDANTS' business records.

3 16. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
4 schedules and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA
5 CLASS members were from time to time unable to take thirty (30) minute off duty meal breaks and
6 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS
7 members were required from time to time to perform work as ordered by DEFENDANTS for more
8 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from
9 time to time failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-
10 duty meal period for some workdays in which these employees were required by DEFENDANTS to
11 work ten (10) hours of work from time to time. The nature of the work performed by the PLAINTIFF
12 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed
13 "on-duty" meal period exception. PLAINTIFF and other members of the CALIFORNIA CLASS
14 therefore forfeited meal breaks without additional compensation and in accordance with
15 DEFENDANTS' strict corporate policy and practice. DEFENDANTS failed to maintain adequate
16 staffing levels while increasing the production levels for each employee at the busy airports they
17 provided services for.

18 **B. Rest Period Violations**

19 17. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
20 CLASS members were also required from time to time to work in excess of four (4) hours without
21 being provided ten (10) minute rest periods as a result of their rigorous work schedule,
22 DEFENDANTS' inadequate staffing and DEFENDANTS policy that required PLAINTIFF and the
23 CLIFORNIA CLASS MEMBERS on DEFENDANTS' premises during their rest periods.. Further,
24 for the same reasons these employees were denied their first rest periods of at least ten (10) minutes for
25 some shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period
26 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to
27 time, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten
28 (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA CLASS members were

1 also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules and
2 DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS members were
3 from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

4 **C. Unreimbursed Business Expenses**

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

15 19. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the
16 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones
17 and personal vehicles as a result of and in furtherance of their job duties as employees for
18 DEFENDANTS. But for the use of their personal cell phones and vehicles, PLAINTIFF and the
19 members of the CALIFORNIA CLASS could not complete their essential job duties. Notwithstanding,
20 DEFENDANTS did not reimburse or indemnify PLAINTIFF or the members of the CALIFORNIA
21 CLASS for the cost associated with the use of their personal cellular phones and personal vehicles for
22 DEFENDANTS' benefit. As a result, in the course of their employment with DEFENDANTS,
23 PLAINTIFF and the members of the CALIFORNIA CLASS incurred unreimbursed business expenses
24 which included, but were not limited to, costs related to the use of their personal cellular phones, gas
25 and associated vehicle expenses, all on behalf of and for the benefit of DEFENDANTS.

26 **D. Wage Statement Violations**

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

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

7 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other
8 CALIFORNIA CLASS members missed meal and rest breaks, were paid inaccurate missed meal and
9 rest period premiums, or were required to work off the clock during what was supposed to be their meal
10 breaks, DEFENDANTS issued to them wage statements which failed to reflect the accurate number of
11 hours worked and wages earned. DEFENDANTS also failed to provide PLAINTIFF and the other
12 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
13 show, among other things, all applicable hourly rates in effect during the pay period and the
14 corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or
15 missed meal and rest periods, the inclusive dates of the period for which the employee was paid and
16 the name of the legal entity that is the employer.

17 22. For instance, PLAINTIFF, and all those similarly situated members of the CALIFORNIA
18 CLASS, suffered damage as a result of DEFENDANTS' aforementioned violation because, *inter alia*,
19 they could not promptly and easily determine from the wage statement alone the inclusive dates the
20 employee is being paid, the legal name of entity that is the employer, the applicable hourly rate and the
21 corresponding number of hours worked at the applicable hourly rate.

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

26 **E. Suitable Seating Violations**

27 24. PLAINTIFF further alleges that the station counters in DEFENDANT's stores provide
28 ample space behind each counter area to allow for the presence and use of a stool or seat by

1 DEFENDANT's employees' during the performance of their work duties. DEFENDANT's
2 employees' working at DEFENDANT's stores spend a very substantial portion, and, in many
3 workdays, the vast majority of their working time behind these counters. The nature of the position
4 can reasonably be accomplished while using a seat/stool.

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

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

16 **CLASS ACTION ALLEGATIONS**

17 27. PLAINTIFF brings the First through Eighth Causes of Action as a class action pursuant
18 to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former non-
19 exempt California employees ("CALIFORNIA CLASS") between April 6, 2016 and a date determined
20 by the Court ("CLASS PERIOD").

21 28. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been
22 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid
23 minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums, illegal meal
24 and rest period policies, failure to reimburse for expenses, failure to provide accurate itemized wage
25 statements, failure to maintain required records, and interest, statutory and civil penalties, attorney's
26 fees, costs, and expenses.

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

28 30. Common questions of law and fact regarding DEFENDANTS' conduct, including but not

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

6 a. Whether DEFENDANTS maintained legally complaint 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 31. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result
4 of DEFENDANTS' conduct and actions alleged herein.

5 32. 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 33. PLAINTIFF will fairly and adequately represent and protect the interests of the
8 CALIFORNIA CLASS members.

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

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

13 36. 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 37. 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 38. 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 39. 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 40. 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 41. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
15 17021.

16 42. 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 43. 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 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
6 1197, 1197.1, 1198 & 2802, for which this Court should issue declaratory and other equitable relief
7 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
8 held to constitute unfair competition, including restitution of wages wrongfully withheld.

9 44. 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 45. 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 46. 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 47. 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 48. Therefore, PLAINTIFF demands on behalf of herself 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 49. PLAINTIFF further demands on behalf of herself 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 50. 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 51. 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 52. 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 53. 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 60. 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 61. 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 62. 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 63. 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 64. 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 65. 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 herself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-
2 negotiable, non-waivable rights provided by the State of California.

3 66. 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 67. 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 68. 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 69. 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 70. 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 71. 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 72. 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 73. 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 74. 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 75. 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 76. 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 77. 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 78. 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 79. 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 80. 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 81. 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 82. 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 83. 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 84. 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 85. 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 **FOURTH CAUSE OF ACTION**

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

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

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

28 86. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and

1 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

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

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

24 **FIFTH CAUSE OF ACTION**

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

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

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

28 90. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and

1 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

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

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

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

20 **SIXTH CAUSE OF ACTION**

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

22 **[Cal. Lab. Code § 2802]**

23 **(By PLAINTIFF Against All Defendants)**

24 94. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
25 the prior paragraphs of this Complaint.

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

27 An employer shall indemnify his or her employee for all necessary
28 expenditures or losses incurred by the employee in direct consequence of

1 the discharge of his or her duties, or of his or her obedience to the directions
2 of the employer, even though unlawful, unless the employee, at the time of
3 obeying the directions, believed them to be unlawful.

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

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

25 **SEVENTH CAUSE OF ACTION**

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

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

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

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

3 99. Cal. Labor Code § 226 provides that an employer must furnish employees with an
4 “accurate itemized” statement in writing showing:

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

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

1 101. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §
2 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA
3 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for
4 the overtime worked and the amount of employment taxes which were not properly paid to state and
5 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other
6 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
7 for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
8 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and
9 penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time
10 of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective
11 member of the CALIFORNIA CLASS herein.

12 **EIGHTH CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES WHEN DUE**

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

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

16 102. 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.

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

19 As used in this article:(a) "Wages" includes all amounts for
20 labor performed by employees of every description, whether
21 the amount is fixed or ascertained by the standard of time,
22 task, piece, Commission basis, or other method of
23 calculation. (b) "Labor" includes labor, work, or service
24 whether rendered or performed under contract, subcontract,
25 partnership, station plan, or other agreement if the labor to
26 be paid for is performed personally by the person demanding
27 payment.
28

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

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

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

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

19 107. Cal. Lab. Code § 203 provides:

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

1 113. To the extent equitable tolling operates to toll the claims asserted by the PLAINTIFF
2 against DEFENDANT, the PAGA PERIOD should be adjusted accordingly.

3 114. To the extent that it applies, PLAINTIFF invokes the tolling permitted pursuant to the
4 California State Judicial Counsel amended Rule of Court, Emergency Rule Number 9, tolled the statute
5 of limitation and statutes of repose from April 6, 2020 to either (a) August 3, 2020 for statutes of
6 limitation and repose for civil causes of action that are 180 days or less, or (b) October 1, 2020 for
7 statutes of limitation and repose for civil causes of action that exceed 180 days.

8 115. At all relevant times, for the reasons described herein, and others, PLAINTIFF and
9 similarly situated employees were aggrieved employees of DEFENDANT within the meaning of Labor
10 Code Section 2699(c).

11 116. Labor Code Sections 2699(a) and (g) authorize an AGGRIEVED EMPLOYEE, like
12 PLAINTIFF, on behalf of herself and other current or former employees, to bring a civil action to
13 recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3

14 117. PLAINTIFF complied with the procedures for bringing suit specified in Labor Code
15 Section 2699.3. By certified letter, return receipt requested, dated October 12, 2020, PLAINTIFF gave
16 written notice to the Labor and Workforce Development Agency (“LWDA”) and to DEENDANT of
17 the specific provisions of the Labor Code alleged to have been violated, including the facts and theories
18 to support the alleged violations.

19 118. As of the date of this filing, the LWDA has not provided any notice by certified mail of
20 its intent to investigate the DEFENDANTS’ alleged violations as mandated by Labor Code Section
21 2699.3(a)(2)(A). Accordingly, pursuant to Labor Code Section 2699.3(a)(2)A, PLAINTIFF may
22 commence and is authorized to pursue this cause of action.

23 119. Pursuant to Labor Code Sections 2699(a) and (f), PLAINTIFF and similarly
24 AGGRIEVED EMPLOYEES are entitled to civil penalties for DEFENDANTS’ violations of Labor
25 Code Section 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d),
26 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802, and 2804 in the following amounts:

- 27 a. For violation of Labor Code Sections 201, 202, 203, and 204, one
28 hundred dollars (\$100) for each AGGRIEVED EMPLOYEE per pay

1 period for the initial violation and two hundred dollars (\$200) for
2 AGGIEVED EMPLOYEE per pay period for each subsequent violation
3 [penalty per Labor Code Section 2699(f)(2)];

4 b. For violations of Labor Code Section 226(a), a civil penalty in the
5 amount of two hundred fifty dollars (\$250) for each AGGRIEVED
6 EMOPLOYEE for any initial violation and one thousand dollars for
7 each subsequent violation [penalty per Labor Code Section 226.3];

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

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

18 e. For violations of Labor Code Section 2269(a), a civil penalty in the
19 amount of two hundred fifty dollars (\$250) per AGGRIEVED
20 EMPLOYEE per violation in an initial citation and one thousand dollars
21 (\$1,000) per AGGRIEVED EMPLOYEE for each subsequent violation
22 [penalty per Labor Code Section 226.3];

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

26 g. For violations of Labor Code Sections 1194, 1194.2, 1197, 1198 and
27 1199, a civil penalty in the amount of one hundred dollars (\$100) per
28 AGGRIEVED EMPLOYEE per pay period for the initial violation and

1 two hundred dollars fifty (\$250) per AGGRIEVED EMPLOYEE per pay
2 period for each subsequent violation [penalty per Labor Code Section].

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

9
10 **PRAYER FOR RELIEF**

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

13 1. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

26 1. Compensatory damages, according to proof at trial, including compensatory
27 damages for unreimbursed expenses, minimum wages and overtime compensation due to
28

1 PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable
2 CALIFORNIA CLASS PERIOD plus interest thereon at the statutory rate;

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

8 3. Meal and rest period compensation pursuant to California Labor Code Section
9 226.7, 512 and the applicable IWC Wage Order;

10 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
11 1197;

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

14 2. On behalf of the State of California and the AGGRIEVED EMPLOYEES

15 a. For reasonable attorneys' fees and costs of suit to the extent permitted by law, including
16 pursuant to Cal. Cal. Code § 2699, et seq.

17 b. For civil penalties to the extent permitted bylaw pursuant to the Labor Code under the
18 Private Attorneys General Act; and

19 c. For such other relief as the Court deems just and proper.

20 //

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1 3. On all claims:


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

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

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

6
7 Dated: December 16, 2020

Respectfully Submitted,
ZAKAY LAW GROUP, A.P.C.


8
9 By: 
10 Shani O. Zakay
11 Attorneys for PLAINTIFF

12 **DEMAND FOR JURY TRIAL**

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

14
15 Dated: December 16, 2020

Respectfully Submitted,
ZAKAY LAW GROUP, A.P.C.

16
17 By: 
18 Shani O. Zakay
19 Attorneys for PLAINTIFF

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EXHIBIT 1



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October 12, 2020

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGA@dir.ca.gov
Via Online Submission

TEAZ N PLEAZ, INC. dba Seductions
c/o Registered Agents, Inc.
1267 Willis Street, Suite 200
Redding, CA 96001

E.B.S. ENTERPRISES, INC. dba Teaz N Pleaz
c/o ROBERT BRYAN COSTA
5378 SUNRISE BLVD.
FAIR OAKS CA 95628

Re: Notice of Violations of California Labor Code Sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802, and 2804 Applicable Industrial Welfare Commission Wage Orders, and Pursuant to California Labor Code Section 2699.3.

Dear Sir/ Madam:

This office represents JESSICA BARACKMAN (“Client”) and other aggrieved employees in a class action against TEAZ N PLEAZ (dba Seductions) and E.B.S. ENTERPRISES, INC (“Defendant”). This office intends to file the enclosed Class Action Complaint on behalf of Client and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Client was employed by Defendants in California. Client was paid on an hourly basis and entitled to legally required meal and rest periods. At all times during her employment, Defendant failed to, among other things, provide Client, and all those similarly situated, with all legally mandated off-duty meal and rest periods and overtime compensation at one-and-one-half times the regular rate of pay. Defendant also failed to provide suitable seating to Client and other Aggrieved Employees.

As a consequence, Client contends that Defendant failed to fully compensate her, and other similarly situated and aggrieved employees, for all earned wages and failed to provide accurate wage statements. Accordingly, Client contends that Defendants’ conduct violated Labor

Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, 2802, and 2804 and applicable wage orders, including Wage Order 4-2001, Section 14, and is therefore actionable pursuant to section 2698 *et seq.*

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

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

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

Sincerely,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'Jean-Claude Lapuyade', with a stylized flourish at the end.

Jean-Claude Lapuyade, Esq.

Enclosure (1)

1 JEAN-CLAUDE LAPUYADE (SBN 248676)

2 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 ORANGE**

17 JESSICA BARACKMAN, an individual, on
18 behalf of himself, and on behalf of all persons
19 similarly situated,

20 Plaintiffs,

21 vs.

22 TEAZ N PLEAZ, INC., a California
23 corporation d.b.a. SEDUCTIONS; E.B.S.
24 ENTERPRISES, INC.; a Texas corporation
25 d.b.a. Teaz N Plaez, and DOES 1 through 50,
26 Inclusive;

27 DEFENDANTS.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;



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- 7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203

DEMAND FOR JURY TRIAL

Plaintiff JESSICA BARACKMAN (“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 TEAZ N PLEAZ d.b.a. TEAZ N’ PLEAZ and/or SEDUCTIONS (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Placer, City of South Lake Tahoe, owns, operates and/or manages TEAZ N PLEAZ and SEDUCTOINS, a chain of adult novelty and lingerie brick and mortar stores and online retail stores located throughout the United States with three locations in California.

2. Defendant E.B.S. ENTERPRISES, INC. d.b.a. TEAZ N’ PLEAZ and/or SEDUCTIONS (“DEFENDANT”) is a Texas corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Placer, City of South Lake Tahoe, owns, operates and/or manages TEAZ N PLEAZ and SEDUCTOINS, a chain of adult novelty and lingerie brick and mortar stores and online retail stores located throughout the United States with three locations in California.

3. Defendant E.B.S. ENTERPRISES, INC and Defendant TEAZ N PLEAZ were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS”.

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

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

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

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

27 8. PLAINTIFF was been employed by DEFENDANTS at the TEAZ N’ PLEAZE store
28 located in South Lake Tahoe as a non-exempt sales associate, paid on an hourly basis and entitled to



1 certain non-discretionary flat-sum incentive awards, bonuses, overtime pay and legally compliant meal
2 and rest periods from January 2018 to June 2020.

3 9. PLAINTIFF brings this Class Action on behalf of himself and on behalf of all of
4 DEFENDANT E.B.S. ENTERPRISES, INC's and/or Defendant TEAZ N PLEAZ's current and former
5 non-exempt California employees (the "CALIFORNIA CLASS") at any time between April 6, 2016
6 on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the
7 aggregate claim of CALIFORNIA CLASS members is under five million dollars (\$5,000,000.00).

8 10. PLAINTIFF evokes the tolling permitted pursuant to the California State Judicial Counsel
9 amended Rule of Court, Emergency Rule Number 9, which tolled the statute of limitation and statutes
10 of repose from April 6, 2020 to either (a) August 3, 2020 for statutes of limitation and repose for civil
11 causes of action that are 180 days or less, or (b) October 1, 2020 for statutes of limitation and repose
12 for civil causes of action that exceed 180 days.

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

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

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



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

3 **JURISDICTION AND VENUE**

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

8 15. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
9 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, resides in this County,
10 and DEFENDANTS (i) currently maintains and at all relevant times maintained offices and facilities
11 in this County and/or conducts substantial business in this County, and (ii) committed the wrongful
12 conduct herein alleged in this County against members of the CALIFORNIA CLASS.

13
14 **THE CONDUCT**

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



1 **A. Meal Period Violations**

2 17. 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. Further, DEFENDANTS failed to relieved
13 PLAINTIFF and the CALIFORNIA CLASS members of all duties during their meal period by
14 instituting a policy that required PLAINTIFF and the CLIFORNIA CLASS MEMBERS on
15 DEFENDANTS' premises during meal periods. As a result, the PLAINTIFF and other CALIFORNIA
16 CLASS members forfeited minimum wage and overtime wages by regularly working without their time
17 being accurately recorded and without compensation at the applicable minimum wage and overtime
18 rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA
19 CLASS members for all time worked is evidenced by DEFENDANTS' business records.

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

1 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly construed
2 “on-duty” meal period exception. PLAINTIFF and other members of the CALIFORNIA CLASS
3 therefore forfeited meal breaks without additional compensation and in accordance with
4 DEFENDANTS’ strict corporate policy and practice. DEFENDANTS failed to maintain adequate
5 staffing levels while increasing the production levels for each employee at the busy airports they
6 provided services for.

7 **B. Rest Period Violations**

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

21 **C. Unreimbursed Business Expenses**

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



1 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
2 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
3 unlawful."

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

15 **D. Wage Statement Violations**

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

24 23. From time to time during the CLASS PERIOD, when PLAINTIFF and other
25 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurate missed meal
26 and rest period premiums, the inclusive dates of the period for which the employee was paid and the
27 name of the legal entity that is the employer. DEFENDANTS also failed to provide PLAINTIFF and
28 the other members of the CALIFORNIA CLASS with complete and accurate wage statements which



1 failed to show, among other things, all applicable hourly rates in effect during the pay period and the
2 corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or
3 missed meal and rest periods.

4 24. For instance, PLAINTIFF, and all those similarly situated members of the CALIFORNIA
5 CLASS, suffered damage as a result of DEFENDANTS' aforementioned violation because, *inter alia*,
6 they could not promptly and easily determine from the wage statement alone the inclusive dates the
7 employee is being paid, the legal name of entity that is the employer, the applicable hourly rate and the
8 corresponding number of hours worked at the applicable hourly rate.

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

13 **E. Suitable Seating Violations**

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

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

25 28. DEFENDANT knew or should have known that PLAINTIFF and other Aggrieved
26 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere with the
27 performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not
28 allow them to sit when it did not interfere with the performance of their duties. By reason of this conduct



1 applicable to PLAINTIFF and all Aggrieved Employees, DEFENDANT violated California Labor
2 Code Section 1198 and Wage Order 4-2001, Section 14 by failing to provide suitable seats.

3 **CLASS ACTION ALLEGATIONS**

4 29. PLAINTIFF brings the First through Sixth Causes of Action as a class action pursuant to
5 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS’ current and former non-
6 exempt California employees (“CALIFORNIA CLASS”) between April 6, 2016 and a date determined
7 by the Court (“CLASS PERIOD”).

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

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

15 32. Common questions of law and fact regarding DEFENDANTS’ conduct, including but not
16 limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to provide legally
17 compliant meal and rest periods, failure to provide accurate itemized wage statements accurate, and
18 failure ensure they are paid at least minimum wage and overtime, exist as to all members of the class
19 and predominate over any questions affecting solely any individual members of the class. Among the
20 questions of law and fact common to the class are:

- 21 a. Whether DEFENDANTS maintained legally compliant meal period
22 policies and practices;
- 23 b. Whether DEFENDANTS maintained legally compliant rest period
24 policies and practices;
- 25 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
26 CALIFORNIA CLASS members accurate premium payments for missed
27 meal and rest periods;
- 28 d. Whether DEFENDANTS failed to pay PLAINTIFF and the



1 CALIFORNIA CLASS members accurate overtime wages.

2 e. Whether DEFENDANTS failed to pay PLAINTIFF and the
3 CALIFORNIA CLASS members at least minimum wage for all hours
4 worked.

5 f. Whether DEFENDANTS issued legally compliant wage statements;

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

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

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

18 33. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result
19 of DEFENDANTS' conduct and actions alleged herein.

20 34. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same
21 interests as the other members of the class.

22 35. PLAINTIFF will fairly and adequately represent and protect the interests of the
23 CALIFORNIA CLASS members.

24 36. PLAINTIFF retained able class counsel with extensive experience in class action
25 litigation.

26 37. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests
27 of the other CALIFORNIA CLASS members.

28 38. There is a strong community of interest among PLAINTIFF and the members of the

1 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient
2 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

3 39. The questions of law and fact common to the CALIFORNIA CLASS members
4 predominate over any questions affecting only individual members, including legal and factual issues
5 relating to liability and damages.

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

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

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

20 41. Class treatment provides manageable judicial treatment calculated to bring an efficient
21 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of
22 DEFENDANTS.

23 **FIRST CAUSE OF ACTION**

24 **For Unlawful Business Practices**

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

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

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

1 43. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
2 17021.

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

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

14 Cal. Bus. & Prof. Code § 17203.

15 45. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
16 CLASS members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
17 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
18 “UCL”), by engaging and continuing to engage in business practices which violates California law,
19 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
20 and the California Labor Code including Sections 204, 210, 226, 226.7, 510, 512, 1194, 1197, 1197.1,
21 1198 & 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
22 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
23 unfair competition, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

25 52. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the
26 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
27 calculated overtime and missed meal and rest periods premiums.

28 53. By and through the unlawful and unfair business practices described herein,

1 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other
2 members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has
3 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of
4 these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly
5 compete against competitors who comply with the law.

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

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

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

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

27 **SECOND CAUSE OF ACTION**

28 **For Failure to Pay Overtime Compensation**

1 [Cal. Lab. Code §§ 510, *et seq.*]

2 (By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

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

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

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

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

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

20 63. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
21 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they
22 worked or were not accurately compensated for all overtime hours worked.

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



1 in any workweek.

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

8 66. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
9 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for
10 all overtime worked.

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

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

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

27 70. By virtue of DEFENDANTS' unlawful failure to accurately pay all earned compensation
28 to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true time they worked,

1 PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to
2 suffer an economic injury in amounts which are presently unknown to them and which will be
3 ascertained according to proof at trial.

4 71. DEFENDANTS knew or should have known that PLAINTIFF and the other members of
5 the CALIFORNIA CLASS were under compensated for all overtime worked. DEFENDANTS
6 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
7 employees for their labor as a matter of uniform company policy, practice and procedure, and
8 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
9 members of the CALIFORNIA CLASS for overtime worked.

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

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

27 **THIRD CAUSE OF ACTION**

28 **For Failure to Pay Minimum Wages**

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

2 (By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)

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

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

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

12 77. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
13 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
14 minimum so fixed is unlawful.

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

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

24 80. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
25 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
26 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members
27 of the CALIFORNIA CLASS in regard to minimum wage pay.

28 81. In committing these violations of the California Labor Code, DEFENDANTS inaccurately

1 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF
2 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid
3 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
4 Industrial Welfare Commission requirements and other applicable laws and regulations.

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

8 83. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the
9 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure
10 to pay all earned wages.

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

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

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

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

11 **FOURTH CAUSE OF ACTION**

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

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

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

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

17 89. During the LABOR CLASS PERIOD, from time to time, DEFENDANTS failed to
18 provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA
19 CLASS members as required by the applicable Wage Order and Labor Code. The nature of the work
20 performed by PLAINTIFF and CALIFORNIA CLASS members did not prevent these employees from
21 being relieved of all of their duties for the legally required off-duty meal periods. As a result of their
22 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS members were from time to
23 time not fully relieved of duty by DEFENDANTS for their meal periods. Additionally,
24 DEFENDANTS' failure to provide PLAINTIFF and the CALIFORNIA CLASS members with legally
25 required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business
26 records from time to time. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA
27 CLASS members with a second off-duty meal period in some workdays in which these employees were
28 required by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members

1 of the CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
2 accordance with DEFENDANTS' strict corporate policy and practice.

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

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

11 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

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

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

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

7 **SIXTH CAUSE OF ACTION**

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

9 **[Cal. Lab. Code § 2802]**

10 **(By PLAINTIFF Against All Defendants)**

11
12 96. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
13 the prior paragraphs of this Complaint.

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

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

20 98. From time-to-time during the LABOR CLASS PERIOD, DEFENDANTS violated Cal.
21 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
22 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
23 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the
24 CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to using their
25 personal cellular phone and personal vehicle all on behalf of and for the benefit of DEFENDANTS.
26 Specifically, PLAINTIFF and the members of the CALIFORNIA CLASS were required by
27 DEFENDANTS to use their personal cell phones to execute their essential job duties on behalf of
28 DEFENDANTS. DEFENDANTS' uniform policy, practice and procedure was to not reimburse

1 PLAINTIFF and the members of the CALIFORNIA CLASS for expenses resulting from using their
2 personal cellular phones for DEFENDANTS within the course and scope of their employment for
3 DEFENDANTS. These expenses were necessary to complete their principal job duties. DEFENDANTS
4 are estopped by DEFENDANTS' conduct to assert any waiver of their expectation. Although these
5 expenses were necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA
6 CLASS, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the members of the
7 CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and
8 regulations of California.

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

13 **SEVENTH CAUSE OF ACTION**

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

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

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

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

19 101. Cal. Labor Code § 226 provides that an employer must furnish employees with an
20 “accurate itemized” statement in writing showing:

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



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

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

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

28 **EIGHTH CAUSE OF ACTION**

1 **FAILURE TO PAY WAGES WHEN DUE**

2 **(Cal Lab. Code §§201, 202, 203)**

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

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

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

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

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

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

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



1 shall constitute the date of payment for purposes of the
2 requirement to provide payment within 72 hours of the
3 notice of quitting.

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

6 109. Cal. Lab. Code § 203 provides:

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

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

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

22 **PRAYER FOR RELIEF**

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

25 1. On behalf of the CALIFORNIA CLASS:

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

28

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, Seventh and Eighth Causes
9 of 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

