

**SUMMONS
(CITACION JUDICIAL)**

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

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

CLASSIC VMS, INC., (dba WOODLAND BODY WORKS and COLLISION PROS), a California Corporation; COLLISION PRO'S INC., a California Corporation; and DOES 1-50, Inclusive,

ELECTRONICALLY FILED
by Superior Court of CA,
County of Yolo,
on 4/28/2022 1:25 PM
By: S. Martinez, Deputy

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

ABIGAIL CHAMBERLAN, an individual(s), on behalf of herself and on behalf of all persons similarly situated,

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

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

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

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

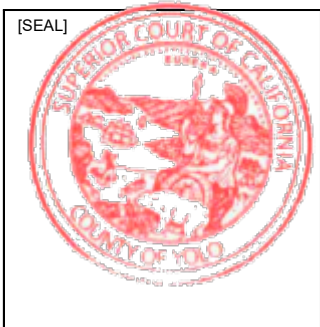
The name and address of the court is:
(El nombre y dirección de la corte es):
Yolo County Superior Court - Civil Division
1000 Main Street
Woodland, CA 95695

CASE NUMBER: CV2022-0652
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-Claude Lapuyade, Esq. SBN: 248676 Tel: (619) 599-8292 Fax: (619) 599-8291
JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121
/s/ S. Martinez

DATE: 4/28/2022 SHAWN C. LANDRY Clerk, by _____, Deputy
(Fecha) (Secretario) (Adjunto)

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



NOTICE TO THE PERSON SERVED: You are served

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

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Attorneys for Plaintiff ABIGAIL CHAMBERLAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF YOLO

ABIGAIL CHAMBERLAN, an individual(s),
on behalf of herself and on behalf of all persons
similarly situated,

Case No: CV2022-0652

CLASS ACTION COMPLAINT FOR:

Plaintiff,

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510 *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN

v.

CLASSIC VMS, INC., (dba WOODLAND BODY WORKS and COLLISION PROS), a California Corporation; COLLISION PRO'S INC., a California Corporation; and DOES 1-50, Inclusive,

Defendants.

DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;

8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CALIFORNIA LABOR CODE §2802;

9) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ.]

DEMAND FOR A JURY TRIAL

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

10 **THE PARTIES**

11 1. Defendant CLASSIC VMS, INC. (dba WOODLAND BODY WORKS and
12 COLLISION PROS) (“Defendant Classic VMS”) is a California corporation that at all relevant
13 times mentioned herein conducted and continues to conduct substantial and regular business in
14 the state of California, county of Yolo.

15 2. Defendant COLLISION PRO’S INC. (“Defendant Collision Pro’s”) is a California
16 corporation that at all relevant times mentioned herein conducted and continues to conduct
17 substantial and regular business in the state of California, county of Yolo.

18 3. Defendant Classic VMS and Defendant Collision Pro’s were the joint employers
19 of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF
20 performed work for respectively, and are therefore jointly responsible as employers for the
21 conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or
22 “DEFENDANT.”

23 4. DEFENDANTS own, operate and manage auto body repair shops in the State of
24 California, including Yolo County, where PLAINTIFF worked.

25 5. The true names and capacities, whether individual, corporate, subsidiary,
26 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
27 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
28 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the
true names and capacities of Does 1 through 50, inclusive, when they are ascertained.

1 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
2 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, (hereinafter
3 collectively “DEFENDANTS” and/or “DEFENDANT”) are responsible in some manner for one
4 or more of the events and happenings that proximately caused the injuries and damages
5 hereinafter alleged.

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

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

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

25 9. PLAINTIFF was employed by DEFENDANTS in California from November of
26 2020 to July of 2021 and was at all times classified by DEFENDANTS as a non-exempt employee,
27 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
28 minimum and overtime wages due for all time worked.

10. PLAINTIFF brings this Class Action on behalf of herself and a California class,
defined as all persons who are or previously were employed by Defendant Classic VMS and/or

1 Defendant Collision Pro's in California and classified as non-exempt employees (the
2 "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing
3 of this Complaint and ending on the date as determined by the Court (the "CLASS PERIOD").
4 The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is
5 under five million dollars (\$5,000,000.00).

6 11. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
7 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
8 the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which failed to
9 lawfully compensate these employees.

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

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

18 **JURISDICTION AND VENUE**

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

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

28 **THE CONDUCT**

16. In violation of the applicable sections of the California Labor Code and the

1 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
2 matter of company policy, practice and procedure, intentionally, knowingly and systematically
3 failed to provide legally compliant meal and rest periods, failed to accurately compensate
4 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
5 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
6 time worked, failed to compensate PLAINTIFF for off-the-clock work, failed to reimburse
7 PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue
8 to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
9 statements showing, among other things, the accurate total hours worked and the name and
10 address of the legal entity that is the employer of PLAINTIFF and other CALIFORNIA CLASS
11 Members. DEFENDANTS' uniform policies and practices are intended to purposefully avoid the
12 accurate and full payment for all time worked as required by California law which allows
13 DEFENDANTS to illegally profit and gain an unfair advantage over competitors who comply
14 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
15 against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

16 **A. Meal Period Violations**

17 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
18 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
19 meaning the time during which an employee is subject to the control of an employer, including
20 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
21 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work
22 without paying them for all the time they were under DEFENDANTS' control. Specifically, as a
23 result of PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing,
24 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
25 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work
26 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
27 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a result,
28 the PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and

1 overtime wages by regularly working without their time being accurately recorded and without
2 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
3 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
4 time worked is evidenced by DEFENDANTS' business records.

5 18. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
6 requirements and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
7 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-
8 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
9 other CALIFORNIA CLASS Members were required from time to time to perform work as
10 ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a
11 meal break. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS
12 Members does not qualify for limited and narrowly construed "on-duty" meal period exception.
13 Further, from time to time, PLAINTIFF and other CALIFORNIA CLASS Members were required
14 to remain on duty, on call, on the premises, and/or respond to communications received on their
15 personal cellular phones during what was supposed to be their off-duty meal periods. PLAINTIFF
16 and other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional
17 compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

18 **B. Rest Period Violations**

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

1 on call. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-
2 hour wages *in lieu* thereof. Further, from time to time, PLAINTIFF and other CALIFORNIA
3 CLASS Members were required to remain on duty, on call, on the premises, and/or respond to
4 communications received on their personal cellular phones during what was supposed to be their
5 off-duty rest periods. Finally, as discussed *infra*, PLAINTIFF and other CALIFORNIA CLASS
6 Members were required manipulate their time sheets to report a rest break when in fact they had
7 not provided a rest break. As a result of their rigorous work schedules and DEFENDANTS'
8 inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to
9 time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

10 **C. Timekeeping Manipulation**

11 20. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
12 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
13 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
14 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
15 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
16 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
17 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
18 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
19 rest breaks.

20 21. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
21 time-to-time, forfeited time worked by working without their time being accurately recorded and
22 without compensation at the applicable pay rates.

23 22. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
24 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and
25 benefit. DEFENDANTS' uniform policy and practice to not pay PLAINTIFF and the members
26 of the CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is
27 evidenced by DEFENDANTS' business records.

28

1 **D. Unreimbursed Business Expenses**

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

13 24. In the course of their employment, DEFENDANTS required PLAINTIFF and
14 other CALIFORNIA CLASS Members to use their personal cell phone and personal vehicle as a
15 result of and in furtherance of their job duties as employees for DEFENDANT. But for the use of
16 their own personal cell phones and personal vehicles, PLAINTIFF and the CALIFORNIA CLASS
17 Members could not complete their essential job duties, including but not limited to downloading
18 a mobile application to clock in and out of shifts, checking customers in, taking photographs of
19 customers vehicles, receiving work-related communications from DEFENDANTS and
20 completing various work-related tasks. Further, PLAINTIFF and CALIFORNIA CLASS
21 Members were from time to time required to use their personal vehicles as a result of and in
22 furtherance of their job duties as employees for DEFENDANT. But for the use of their own
23 personal vehicles, PLAINTIFF and the CALIFORNIA CLASS Members could not complete their
24 essential job duties, including but not limited to, picking up and dropping off customers during
25 work hours, picking up auto parts, and picking up other employees in furtherance of their job
26 duties as employees for DEFENDANT. However, DEFENDANTS unlawfully failed to reimburse
27 PLAINTIFF and other CALIFORNIA CLASS Members for their use of their personal cell phones
28 and personal vehicles. As a result, in the course of their employment with DEFENDANTS, the

1 PLAINTIFF and other CALIFORNIA CLASS Members incurred unreimbursed business
2 expenses, but were not limited to, costs related to the use of their personal cellular phones and
3 personal vehicles, all on behalf of and for the benefit of DEFENDANT.

4 **E. Wage Statement Violations**

5 25. California Labor Code Section 226 requires an employer to furnish its employees
6 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
7 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
8 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
9 of the employee and only the last four digits of the employee's social security number or an
10 employee identification number other than a social security number, (8) the name and address of
11 the legal entity that is the employer,(9) all applicable hourly rates in effect during the pay period
12 and the corresponding number of hours worked at each hourly rate by the employee, (10) the total
13 hours of compensable rest and recovery periods, the rate of compensation, and the gross wages
14 paid for those periods during the pay period, and (11) the total hours of other nonproductive time,
15 the rate of compensation, and the gross wages paid for that time during the pay period.

16 26. From time to time during the CLASS PERIOD, when PLAINTIFF and other
17 CALIFORNIA CLASS Members missed meal and rest breaks, or were not paid for all hours
18 worked, DEFENDANTS failed to provide PLAINTIFF and other CALIFORNIA CLASS
19 Members with complete and accurate wage statements that include, among other things, all
20 applicable hourly rates in effect during the pay period and the corresponding amount of time
21 worked at each hourly rate. Further, DEFENDANT from time to time failed to issue itemized
22 wage statements to PLAINTIFF and other CALIFORNIA CLASS Members containing the
23 accurate name and address of the legal entity that is the employer, in violation of Cal. Lab. Code
24 § 226(a)(8).

25 27. In addition to the violations described above, DEFENDANTS, from time to time,
26 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
27 that comply with Cal. Lab. Code § 226.
28

1 28. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
2 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
3 DEFENDANTS’ violations are knowing and intentional, were not isolated or due to an
4 unintentional payroll error due to clerical or inadvertent mistake.

5 **F. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

6 29. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
7 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
8 CLASS for all hours worked.

9 30. DEFENDANTS directed and directly benefited from the uncompensated off-the-
10 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

11 31. DEFENDANTS controlled the work schedules, duties, protocols, applications,
12 assignments, and employment conditions of PLAINTIFF and the other members of the
13 CALIFORNIA CLASS.

14 32. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
15 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
16 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
17 wages earned and owed for all the work they performed off the clock.

18 33. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
19 exempt employees, subject to the requirements of the California Labor Code.

20 34. DEFENDANTS’ policies and practices deprived PLAINTIFF and the other
21 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
22 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
23 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
24 hours per day, DEFENDANTS’ policies and practices also deprived them of overtime pay.

25 35. DEFENDANTS knew or should have known that PLAINTIFF and the other
26 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

27 36. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
28 forfeited wages due them for all hours worked at DEFENDANTS’ direction, control and benefit.

1 DEFENDANTS’ uniform policy and practice to not pay PLAINTIFF and the members of the
2 CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is
3 evidenced by DEFENDANTS’ business records.

4 **G. Regular Rate Violation- Overtime, Double Time, Meal and Rest Period Premiums, and**
5 **Sick Pay**

6 37. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and
7 continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
8 members for their overtime and double time hours worked, meal and rest period premiums, and
9 sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages
10 due them for working overtime without compensation at the correct overtime and double time
11 rates, meal and rest period premiums, and sick pay rates. DEFENDANTS’ uniform policy and
12 practice to not pay the CALIFORNIA CLASS members the correct rate for all overtime and
13 double time worked, meal and rest period premiums, and sick pay in accordance with applicable
14 law is evidenced by DEFENDANTS’ business records.

15 38. State law provides that employees must be paid overtime at one-and-one-half times
16 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS members were
17 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
18 employee’s performance.

19 39. The second component of PLAINTIFF’S and other CALIFORNIA CLASS
20 members’ compensation was DEFENDANTS’ non-discretionary incentive program that paid
21 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
22 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
23 basis with bonus compensation when the employees met the various performance goals set by
24 DEFENDANTS.

25 40. However, from-time-to-time, when calculating the regular rate of pay, in those pay
26 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
27 time, paid meal and rest period premium payments, and/or paid sick pay, and earned non-
28 discretionary compensation, DEFENDANTS failed to accurately include the non-discretionary

1 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
2 rather than just all non-overtime hours worked. As a matter of law, the compensation received
3 by PLAINTIFF and other CALIFORNIA CLASS members must be included in the "regular rate
4 of pay." The failure to do so has resulted in a systematic underpayment of overtime and double
5 time compensation, meal and rest period premiums, and sick pay to PLAINTIFF and other
6 CALIFORNIA CLASS members by DEFENDANTS. Specifically, California Labor Code
7 Section 246 mandates that paid sick time for non-employees shall be calculated in the same
8 manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid
9 sick time, whether or not the employee actually works overtime in that workweek.
10 DEFENDANTS' conduct, as articulated herein, by failing to include the incentive compensation
11 as part of the "regular rate of pay" for purposes of overtime, double time, paid meal and rest period
12 premium payments, and/or paid sick pay compensation was in violation of Cal. Lab. Code § 246
13 the underpayment of which is recoverable under Cal. Labor Code Sections 201, 202, 203 and/or
14 204.

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

26 **H. Unpaid Vacation/Paid Time Off at Separation**

27 42. During the CLASS PERIOD, DEFENDANTS had in place a policy and practice to
28 pay vacation and/or paid time off pay to PLAINTIFF and other CALIFORNIA CLASS Members.

1 However, despite this policy and practice, DEFENDANTS from time-to-time failed to pay
2 PLAINTIFF and other CALIFORNIA CLASS Members for vested but unused vacation and/or paid
3 time off at the time of separation. As a result, during the CLASS PERIOD, PLAINTIFF and other
4 CALIFORNIA CLASS Members did not receive compensation for vested but unused vacation
5 and/or paid time off they were entitled to at the time of separation.

6 **I. Piece-Rate Violations**

7 43. From time-to-time during the CALIFORNIA CLASS PERIOD, PLAINTIFF and
8 the CALIFORNIA CLASS were paid in part on a piece-rate basis. In those instances where
9 PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis, PLAINTIFF
10 and the CALIFORNIA CLASS were entitled to be separately compensated for all non-productive
11 time at an hourly rate that is no less than the applicable minimum wage. Notwithstanding, in those
12 instances where PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis,
13 DEFENDANT failed to separately compensate PLAINTIFF and the CALIFORNIA CLASS for all
14 non-productive time, including but not limited to, paid rest periods, at an hourly rate that is no less
15 than the applicable minimum wage. As a result, PLAINTIFF and the CALIFORNIA CLASS
16 forfeited minimum wages and overtime wages by DEFENDANT'S failure to separately
17 compensate their non-productive time at an hourly rate that is no less than the applicable minimum
18 wage.

19 44. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
20 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
21 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
22 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
23 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
24 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
25 with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-call, for the
26 rest break. DEFENDANTS' policy caused PLAINTIFF to remain on-call and on-duty during what
27 was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
28 without additional compensation and in accordance with DEFENDANTS' strict corporate policy

1 and practice. Moreover, DEFENDANTS also provided PLAINTIFF with a paystub that failed to
2 comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed to reimburse PLAINTIFF
3 for required business expenses related to the use of her personal vehicle, on behalf of and in
4 furtherance of her employment with DEFENDANTS. Additionally, DEFENDANTS failed to pay
5 PLAINTIFF for all vested but unused vacation and/or paid time off to her at the time of separation.
6 To date, DEFENDANTS have not fully paid PLAINTIFF the minimum, overtime and double time
7 compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203. The
8 amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

9 **J. CLASS ACTION ALLEGATIONS**

10 45. PLAINTIFF brings the First through Eighth Causes of Action as a class action
11 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or previously
12 were employed by Defendant Classic VMS and/or Defendant Collision Pro's in California and
13 classified as non-exempt employees ("CALIFORNIA CLASS") during the period beginning four
14 years prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS
15 PERIOD").

16 46. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
17 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
18 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
19 illegal meal and rest period policies, failure to reimburse for business expenses, failure to
20 compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure
21 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
22 expenses.

23 47. The members of the class are so numerous that joinder of all class members is
24 impractical.

25 48. Common questions of law and fact regarding DEFENDANTS' conduct, including
26 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
27 provide legally compliant meal and rest periods, failure to reimburse for business expenses, failure
28 to provide accurate itemized wage statements, and failure to ensure they are paid at least minimum

1 wage and overtime, exist as to all members of the class and predominate over any questions
2 affecting solely any individual members of the class. Among the questions of law and fact
3 common to the class are:

- 4 a. Whether DEFENDANTS maintained legally compliant meal period policies and
5 practices;
- 6 b. Whether DEFENDANTS maintained legally compliant rest period policies and
7 practices;
- 8 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
9 CLASS Members accurate premium payments for missed meal and rest periods;
- 10 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
11 CLASS Members accurate overtime and double time wages;
- 12 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
13 CLASS Members at least minimum wage for all hours worked;
- 14 f. Whether DEFENDANTS failed to compensate PLAINTIFF and the
15 CALIFORNIA CLASS Members for required business expenses;
- 16 g. Whether DEFENDANTS unlawfully deducted earned wages from PLAINTIFF
17 and the CALIFORNIA CLASS Members' pay;
- 18 h. Whether DEFENDANTS issued legally compliant wage statements;
- 19 i. Whether DEFENDANTS committed an act of unfair competition by
20 systematically failing to record and pay PLAINTIFF and the other members of the
21 CALIFORNIA CLASS for all time worked;
- 22 j. Whether DEFENDANTS committed an act of unfair competition by
23 systematically failing to record all meal and rest breaks missed by PLAINTIFF
24 and other CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed
25 the benefit of this work, required employees to perform this work and permits or
26 suffers to permit this work;

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

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

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

8 51. PLAINTIFF will fairly and adequately represent and protect the interests of the
9 CALIFORNIA CLASS Members.

10 52. PLAINTIFF retained able class counsel with extensive experience in class action
11 litigation.

12 53. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
13 interests of the other CALIFORNIA CLASS Members.

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

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

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

- 1 a. Inconsistent or varying adjudications with respect to individual members of the
- 2 CALIFORNIA CLASS which would establish incompatible standards of conduct
- 3 for the parties opposing the CALIFORNIA CLASS; and/or,
- 4 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
- 5 which would as a practical matter be dispositive of the interests of the other
- 6 members not party to the adjudication or substantially impair or impeded their
- 7 ability to protect their interests.

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

11 **FIRST CAUSE OF ACTION**

12 **Unlawful Business Practices**

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

14 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

15 58. 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
17 Complaint.

18 59. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
19 Code § 17021.

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

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

1 61. By the conduct alleged herein, DEFENDANT has engaged and continues to
2 engage in a business practice which violates California law, including but not limited to, the
3 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
4 including Sections 201, 202, 203, 204, 221, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
5 1198, 2802, for which this Court should issue declaratory and other equitable relief pursuant to
6 Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
7 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

20 64. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
21 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
22 other members of the CALIFORNIA CLASS to be underpaid during their employment with
23 DEFENDANT.

24 65. By the conduct alleged herein, DEFENDANT's practices were also unfair and
25 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
26 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
27 as required by Cal. Lab. Code §§ 226.7 and 512.
28

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

6 67. PLAINTIFF further demands on behalf of herself and on behalf of each
7 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
8 not timely provided as required by law.

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

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

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

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

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

3 79. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
5 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
6 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

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

13 81. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,
14 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
15 minimum wage compensation for their time worked for DEFENDANT.

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

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

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

1 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
2 for their time worked.

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

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

22 **THIRD CAUSE OF ACTION**

23 **Failure To Pay Overtime Compensation**

24 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

25 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

1 88. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
2 for DEFENDANT’s willful and intentional violations of the California Labor Code and the
3 Industrial Welfare Commission requirements for DEFENDANT’s failure to pay these employees
4 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
5 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

16 92. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
17 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
18 they worked, including overtime work.

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

26 94. In committing these violations of the California Labor Code, DEFENDANT
27 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
28 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal

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

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

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

15 97. During the CLASS PERIOD, PLAINTIFF and the other members of the
16 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
17 constituting a failure to pay all earned wages.

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

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

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

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

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

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

4 **SIXTH CAUSE OF ACTION**

5 **Failure To Provide Accurate Itemized Statements**

6 **(Cal. Lab. Code §§ 226)**

7 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

11 112. Cal. Labor Code § 226 provides that an employer must furnish employees with an
12 “accurate itemized” statement in writing showing:

- 13 a. Gross wages earned,
- 14 b. (2) total hours worked by the employee, except for any employee whose
15 compensation is solely based on a salary and who is exempt from payment
16 of overtime under subdivision (a) of Section 515 or any applicable order of
17 the Industrial Welfare Commission,
- 18 c. the number of piecerate units earned and any applicable piece rate if the employee
19 is paid on a piece-rate basis,
- 20 d. all deductions, provided that all deductions made on written orders of the employee
21 may be aggregated and shown as one item,
- 22 e. net wages earned,
- 23 f. the inclusive dates of the period for which the employee is paid,
- 24 g. the name of the employee and his or her social security number, except that by
25 January 1, 2008, only the last four digits of his or her social security number of an
26 employee identification number other than social security number may be shown
27 on the itemized statement,
- 28 h. the name and address of the legal entity that is the employer, and

1 i. all applicable hourly rates in effect during the pay period and the corresponding
2 number of hours worked at each hourly rate by the employee.

3 113. During the CLASS PERIOD, when PLAINTIFF and other CALIFORNIA
4 CLASS Members missed meal and rest breaks, or were paid inaccurate missed meal and rest
5 period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide
6 PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage
7 statements which failed to show, among other things, the total hours worked and all applicable
8 hourly rates in effect during the pay period and the corresponding amount of time worked at each
9 hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further,
10 DEFENDANT from time to time failed to issue itemized wage statements to PLAINTIFF and
11 other CALIFORNIA CLASS Members containing the accurate name and address of the legal
12 entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

13 114. In addition to the foregoing, DEFENDANTS failed to provide itemized wage
14 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the
15 requirements of California Labor Code Section 226.

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

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code §§ 203)**

4 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

8 117. Cal. Lab. Code § 200 provides that:

9 As used in this article:

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

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

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

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

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

31 121. Cal. Lab. Code § 203 provides:

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

1 122. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
2 terminated, and DEFENDANT has not tendered payment of wages to these employees who were
3 underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as
4 required by law.

5 123. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
6 members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF demand
7 up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all
8 employees who terminated employment during the CLASS PERIOD and demand an accounting
9 and payment of all wages due, plus interest and statutory costs as allowed by law.

10 **EIGHTH CAUSE OF ACTION**

11 **Failure To Reimburse Employees For Required Expenses**

12 **(Cal. Lab. Code §§ 2802)**

13 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

17 125. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

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

1 practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA
2 CLASS for expenses resulting from using their personal cellular phones and personal vehicle for
3 DEFENDANTS within the course and scope of their employment for DEFENDANTS. These
4 expenses were necessary to complete their principal job duties. DEFENDANTS are estopped by
5 DEFENDANTS' conduct to assert any waiver of their expectation. Although these expenses were
6 necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA CLASS,
7 DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the members of the
8 CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and
9 regulations of California.

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

14 **NINTH CAUSE OF ACTION**

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

16 **(Cal. Lab. Code §§2698 et seq.)**

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

18 128. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
19 herein, the prior paragraphs of this Complaint.

20 129. PAGA is a mechanism by which the State of California itself can enforce state labor
21 laws through the employee suing under the PAGA who does so as the proxy or agent of the state's
22 labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally
23 a law enforcement action designed to protect the public and not to benefit private parties. The
24 purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing"
25 citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California
26 Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as
27 private attorneys general to recover civil penalties for Labor Code violations ..." (Stats. 2003, ch.
28 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

1 130. PLAINTIFF, and such persons that may be added from time to time who satisfy the
2 requirements and exhaust the administrative procedures under the Private Attorney General Act,
3 bring this Representative Action on behalf of the State of California with respect to themselves and
4 all individuals who are or previously were employed by DEFENDANT and classified as non-
5 exempt employees in California during the time period of February 22, 2021 until the present (the
6 "AGGRIEVED EMPLOYEES").

7 131. On February 22, 2022, PLAINTIFF gave written notice by certified mail to the Labor
8 and Workforce Development Agency (the "Agency") and the employer of the specific
9 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
10 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting period
11 for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to Section
12 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant to Section
13 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES as
14 herein defined.

15 132. The policies, acts and practices heretofore described were and are an unlawful
16 business act or practice because DEFENDANTS (a) failed to properly record and pay PLAINTIFF
17 and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including overtime
18 hours in violation of the Wage Order, (b) failed to provide accurate itemized wage statements, (c)
19 failed to provide mandatory meal breaks and rest breaks, (d) failed to pay meal and rest break
20 premiums, (e) failed to timely pay wages at the correct rate, and (f) engaged in unlawful deductions,
21 all in violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but
22 not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3,
23 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804,
24 and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result
25 of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor
26 Code Private Attorney General Act of 2004 as the representative of the State of California for the
27 illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

28 ///

PRAYER FOR RELIEF

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

1. On behalf of the CALIFORNIA CLASS:

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

2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth, Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for minimum wage, overtime compensation and separately owed rest periods, due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for

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violation of Cal. Lab. Code § 226

e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

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

4. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

DATED: April 28, 2022

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: April 28, 2022

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorney for PLAINTIFF

EXHIBIT 1



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

Client #45901

February 22, 2022

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

CLASSIC VMS, INC.

c/o KRISTINA JOHNSON
3235 Swetzer Road
Loomis, CA 95650

Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 5849

COLLISION PRO'S INC.

c/o BRIAN S. VON TRESS
6020 Paseo Villena
Granite Bay, CA 95746

Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 5856

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff ABIGAIL CHAMERLAN (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendants CLASSIC VMS, INC. (“Defendant Classic VMS”) and COLLISION PRO’S INC. (“Defendant Collision Pro’s”) (collectively, “Defendants”). Plaintiff was employed by Defendants in California from November of 2020 to July of 2021 as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks and payment of minimum and overtime wages due for all time worked. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence, Plaintiff contends that Defendants failed to fully compensate her and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendants’ conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt, exempt, and/or piece-rate based employees who worked for Defendant Classic VMS and/or Defendant Collision Pro's in California during the relevant claim period.

A true and correct copy of the proposed Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendants, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendants are on notice that Plaintiff continues her investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendants as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees.

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,



Shani O. Zakay
Attorney for Plaintiff

ZAKAY LAW GROUP, APLC

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egarcia@jcl-lawfirm.com

Attorneys for Plaintiff ABIGAIL CHAMERLAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF YOLO

ABIGAIL CHAMERLAN, an individual(s), on behalf of herself and on behalf of all persons similarly situated,

Plaintiff,

v.

CLASSIC VMS, INC., (dba WOODLAND BODY WORKS and COLLISION PROS), a California Corporation; COLLISION PRO'S INC., a California Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510 *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN

DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CALIFORNIA LABOR CODE §2802.

DEMAND FOR A JURY TRIAL

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

THE PARTIES

1. Defendant CLASSIC VMS, INC. (dba WOODLAND BODY WORKS and COLLISION PROS) (“Defendant Classic VMS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California, county of Yolo.

2. Defendant COLLISION PRO’S INC. (“Defendant Collision Pro’s”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California, county of Yolo.

3. Defendant Classic VMS and Defendant Collision Pro’s 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” and/or “DEFENDANT.”

4. DEFENDANTS own, operate and manage auto body repair shops in the State of California, including Yolo County, where PLAINTIFF worked.

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

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

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

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

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

24 9. PLAINTIFF was employed by DEFENDANTS in California from November of
25 2020 to July of 2021 and was at all times classified by DEFENDANTS as a non-exempt employee,
26 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of
27 minimum and overtime wages due for all time worked.

28 10. PLAINTIFF brings this Class Action on behalf of herself and a California class,
defined as all persons who are or previously were employed by Defendant Classic VMS and/or
Defendant Collision Pro’s in California and classified as non-exempt employees (the

1 “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the filing
2 of this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”).
3 The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is
4 under five million dollars (\$5,000,000.00).

5 11. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
6 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
7 the CLASS PERIOD caused by DEFENDANTS’ uniform policy and practice which failed to
8 lawfully compensate these employees.

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

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

17 **JURISDICTION AND VENUE**

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

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

27 **THE CONDUCT**

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

1 matter of company policy, practice and procedure, intentionally, knowingly and systematically
2 failed to provide legally compliant meal and rest periods, failed to accurately compensate
3 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
4 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
5 time worked, failed to compensate PLAINTIFF for off-the-clock work, failed to reimburse
6 PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue
7 to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
8 statements showing, among other things, the accurate total hours worked and the name and
9 address of the legal entity that is the employer of PLAINTIFF and other CALIFORNIA CLASS
10 Members. DEFENDANTS' uniform policies and practices are intended to purposefully avoid the
11 accurate and full payment for all time worked as required by California law which allows
12 DEFENDANTS to illegally profit and gain an unfair advantage over competitors who comply
13 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
14 against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

15 **A. Meal Period Violations**

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

1 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
2 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
3 time worked is evidenced by DEFENDANTS' business records.

4 18. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
5 requirements and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other
6 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-
7 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
8 other CALIFORNIA CLASS Members were required from time to time to perform work as
9 ordered by DEFENDANTS for more than five (5) hours during some shifts without receiving a
10 meal break. The nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS
11 Members does not qualify for limited and narrowly construed "on-duty" meal period exception.
12 Further, from time to time, PLAINTIFF and other CALIFORNIA CLASS Members were required
13 to remain on duty, on call, on the premises, and/or respond to communications received on their
14 personal cellular phones during what was supposed to be their off-duty meal periods. PLAINTIFF
15 and other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional
16 compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

17 **B. Rest Period Violations**

18 19. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
19 CALIFORNIA CLASS members were also required from time to time to work in excess of four
20 (4) hours without being provided ten (10) minute rest periods as a result of their rigorous work
21 requirements and DEFENDANTS' inadequate staffing. Further, for the same reasons these
22 employees were denied their first rest periods of at least ten (10) minutes for some shifts worked
23 of at least two (2) to four (4) hours from time to time, a first and second rest period of at least ten
24 (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time, and
25 a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
26 hours or more from time to time. When they were provided with rest breaks, PLAINTIFF and
27 other CALIFORNIA CLASS Members were, from time to time, required to remain on duty and/or
28 on call. PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-

1 hour wages *in lieu* thereof. Further, from time to time, PLAINTIFF and other CALIFORNIA
2 CLASS Members were required to remain on duty, on call, on the premises, and/or respond to
3 communications received on their personal cellular phones during what was supposed to be their
4 off-duty rest periods. Finally, as discussed *infra*, PLAINTIFF and other CALIFORNIA CLASS
5 Members were required manipulate their time sheets to report a rest break when in fact they had
6 not provided a rest break. As a result of their rigorous work schedules and DEFENDANTS'
7 inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members were from time to
8 time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

9 **C. Timekeeping Manipulation**

10 20. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an
11 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of
12 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the
13 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal
14 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally
15 alter the time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and other
16 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours
17 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed
18 rest breaks.

19 21. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from
20 time-to-time, forfeited time worked by working without their time being accurately recorded and
21 without compensation at the applicable pay rates.

22 22. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
23 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and
24 benefit. DEFENDANTS' uniform policy and practice to not pay PLAINTIFF and the members
25 of the CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is
26 evidenced by DEFENDANTS' business records.

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1 **D. Unreimbursed Business Expenses**

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

13 24. In the course of their employment, DEFENDANTS required PLAINTIFF and
14 other CALIFORNIA CLASS Members to use their personal cell phone and personal vehicle as a
15 result of and in furtherance of their job duties as employees for DEFENDANT. But for the use of
16 their own personal cell phones and personal vehicles, PLAINTIFF and the CALIFORNIA CLASS
17 Members could not complete their essential job duties, including but not limited to downloading
18 a mobile application to clock in and out of shifts, checking customers in, taking photographs of
19 customers vehicles, receiving work-related communications from DEFENDANTS and
20 completing various work-related tasks. Further, PLAINTIFF and CALIFORNIA CLASS
21 Members were from time to time required to use their personal vehicles as a result of and in
22 furtherance of their job duties as employees for DEFENDANT. But for the use of their own
23 personal vehicles, PLAINTIFF and the CALIFORNIA CLASS Members could not complete their
24 essential job duties, including but not limited to, picking up and dropping off customers during
25 work hours, picking up auto parts, and picking up other employees in furtherance of their job
26 duties as employees for DEFENDANT. However, DEFENDANTS unlawfully failed to reimburse
27 PLAINTIFF and other CALIFORNIA CLASS Members for their use of their personal cell phones
28 and personal vehicles. As a result, in the course of their employment with DEFENDANTS, the

1 PLAINTIFF and other CALIFORNIA CLASS Members incurred unreimbursed business
2 expenses, but were not limited to, costs related to the use of their personal cellular phones and
3 personal vehicles, all on behalf of and for the benefit of DEFENDANT.

4 **E. Wage Statement Violations**

5 25. California Labor Code Section 226 requires an employer to furnish its employees
6 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,
7 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net
8 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
9 of the employee and only the last four digits of the employee's social security number or an
10 employee identification number other than a social security number, (8) the name and address of
11 the legal entity that is the employer,(9) all applicable hourly rates in effect during the pay period
12 and the corresponding number of hours worked at each hourly rate by the employee, (10) the total
13 hours of compensable rest and recovery periods, the rate of compensation, and the gross wages
14 paid for those periods during the pay period, and (11) the total hours of other nonproductive time,
15 the rate of compensation, and the gross wages paid for that time during the pay period.

16 26. From time to time during the CLASS PERIOD, when PLAINTIFF and other
17 CALIFORNIA CLASS Members missed meal and rest breaks, or were not paid for all hours
18 worked, DEFENDANTS failed to provide PLAINTIFF and other CALIFORNIA CLASS
19 Members with complete and accurate wage statements that include, among other things, all
20 applicable hourly rates in effect during the pay period and the corresponding amount of time
21 worked at each hourly rate. Further, DEFENDANT from time to time failed to issue itemized
22 wage statements to PLAINTIFF and other CALIFORNIA CLASS Members containing the
23 accurate name and address of the legal entity that is the employer, in violation of Cal. Lab. Code
24 § 226(a)(8).

25 27. In addition to the violations described above, DEFENDANTS, from time to time,
26 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
27 that comply with Cal. Lab. Code § 226.
28

1 28. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
2 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
3 DEFENDANTS’ violations are knowing and intentional, were not isolated or due to an
4 unintentional payroll error due to clerical or inadvertent mistake.

5 **F. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

6 29. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
7 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
8 CLASS for all hours worked.

9 30. DEFENDANTS directed and directly benefited from the uncompensated off-the-
10 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

11 31. DEFENDANTS controlled the work schedules, duties, protocols, applications,
12 assignments, and employment conditions of PLAINTIFF and the other members of the
13 CALIFORNIA CLASS.

14 32. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
15 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
16 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
17 wages earned and owed for all the work they performed off the clock.

18 33. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
19 exempt employees, subject to the requirements of the California Labor Code.

20 34. DEFENDANTS’ policies and practices deprived PLAINTIFF and the other
21 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
22 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
23 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
24 hours per day, DEFENDANTS’ policies and practices also deprived them of overtime pay.

25 35. DEFENDANTS knew or should have known that PLAINTIFF and the other
26 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

27 36. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
28 forfeited wages due them for all hours worked at DEFENDANTS’ direction, control and benefit.

1 DEFENDANTS’ uniform policy and practice to not pay PLAINTIFF and the members of the
2 CALIFORNIA CLASS wages for all hours worked in accordance with applicable law is
3 evidenced by DEFENDANTS’ business records.

4 **G. Regular Rate Violation- Overtime, Double Time, Meal and Rest Period Premiums, and**
5 **Sick Pay**

6 37. From time-to-time during the CLASS PERIOD, DEFENDANTS failed and
7 continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
8 members for their overtime and double time hours worked, meal and rest period premiums, and
9 sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages
10 due them for working overtime without compensation at the correct overtime and double time
11 rates, meal and rest period premiums, and sick pay rates. DEFENDANTS’ uniform policy and
12 practice to not pay the CALIFORNIA CLASS members the correct rate for all overtime and
13 double time worked, meal and rest period premiums, and sick pay in accordance with applicable
14 law is evidenced by DEFENDANTS’ business records.

15 38. State law provides that employees must be paid overtime at one-and-one-half times
16 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS members were
17 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
18 employee’s performance.

19 39. The second component of PLAINTIFF’S and other CALIFORNIA CLASS
20 members’ compensation was DEFENDANTS’ non-discretionary incentive program that paid
21 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
22 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
23 basis with bonus compensation when the employees met the various performance goals set by
24 DEFENDANTS.

25 40. However, from-time-to-time, when calculating the regular rate of pay, in those pay
26 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
27 time, paid meal and rest period premium payments, and/or paid sick pay, and earned non-
28 discretionary compensation, DEFENDANTS failed to accurately include the non-discretionary

1 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
2 rather than just all non-overtime hours worked. As a matter of law, the compensation received
3 by PLAINTIFF and other CALIFORNIA CLASS members must be included in the "regular rate
4 of pay." The failure to do so has resulted in a systematic underpayment of overtime and double
5 time compensation, meal and rest period premiums, and sick pay to PLAINTIFF and other
6 CALIFORNIA CLASS members by DEFENDANTS. Specifically, California Labor Code
7 Section 246 mandates that paid sick time for non-employees shall be calculated in the same
8 manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid
9 sick time, whether or not the employee actually works overtime in that workweek.
10 DEFENDANTS' conduct, as articulated herein, by failing to include the incentive compensation
11 as part of the "regular rate of pay" for purposes of overtime, double time, paid meal and rest period
12 premium payments, and/or paid sick pay compensation was in violation of Cal. Lab. Code § 246
13 the underpayment of which is recoverable under Cal. Labor Code Sections 201, 202, 203 and/or
14 204.

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

26 **H. Unpaid Vacation/Paid Time Off at Separation**

27 42. During the CLASS PERIOD, DEFENDANTS had in place a policy and practice to
28 pay vacation and/or paid time off pay to PLAINTIFF and other CALIFORNIA CLASS Members.

1 However, despite this policy and practice, DEFENDANTS from time-to-time failed to pay
2 PLAINTIFF and other CALIFORNIA CLASS Members for vested but unused vacation and/or paid
3 time off at the time of separation. As a result, during the CLASS PERIOD, PLAINTIFF and other
4 CALIFORNIA CLASS Members did not receive compensation for vested but unused vacation
5 and/or paid time off they were entitled to at the time of separation.

6 **I. Piece-Rate Violations**

7 43. From time-to-time during the CALIFORNIA CLASS PERIOD, PLAINTIFF and
8 the CALIFORNIA CLASS were paid in part on a piece-rate basis. In those instances where
9 PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis, PLAINTIFF
10 and the CALIFORNIA CLASS were entitled to be separately compensated for all non-productive
11 time at an hourly rate that is no less than the applicable minimum wage. Notwithstanding, in those
12 instances where PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis,
13 DEFENDANT failed to separately compensate PLAINTIFF and the CALIFORNIA CLASS for all
14 non-productive time, including but not limited to, paid rest periods, at an hourly rate that is no less
15 than the applicable minimum wage. As a result, PLAINTIFF and the CALIFORNIA CLASS
16 forfeited minimum wages and overtime wages by DEFENDANT'S failure to separately
17 compensate their non-productive time at an hourly rate that is no less than the applicable minimum
18 wage.

19 44. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
20 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
21 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
22 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
23 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
24 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
25 with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-call, for the
26 rest break. DEFENDANTS' policy caused PLAINTIFF to remain on-call and on-duty during what
27 was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
28 without additional compensation and in accordance with DEFENDANTS' strict corporate policy

1 and practice. Moreover, DEFENDANTS also provided PLAINTIFF with a paystub that failed to
2 comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed to reimburse PLAINTIFF
3 for required business expenses related to the use of her personal vehicle, on behalf of and in
4 furtherance of her employment with DEFENDANTS. Additionally, DEFENDANTS failed to pay
5 PLAINTIFF for all vested but unused vacation and/or paid time off to her at the time of separation.
6 To date, DEFENDANTS have not fully paid PLAINTIFF the minimum, overtime and double time
7 compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203. The
8 amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

9 **J. CLASS ACTION ALLEGATIONS**

10 45. PLAINTIFF brings the First through Eighth Causes of Action as a class action
11 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or previously
12 were employed by Defendant Classic VMS and/or Defendant Collision Pro's in California and
13 classified as non-exempt employees ("CALIFORNIA CLASS") during the period beginning four
14 years prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS
15 PERIOD").

16 46. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
17 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
18 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
19 illegal meal and rest period policies, failure to reimburse for business expenses, failure to
20 compensate for off-the-clock work, failure to provide accurate itemized wage statements, failure
21 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
22 expenses.

23 47. The members of the class are so numerous that joinder of all class members is
24 impractical.

25 48. Common questions of law and fact regarding DEFENDANTS' conduct, including
26 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
27 provide legally compliant meal and rest periods, failure to reimburse for business expenses, failure
28 to provide accurate itemized wage statements, and failure to ensure they are paid at least minimum

1 wage and overtime, exist as to all members of the class and predominate over any questions
2 affecting solely any individual members of the class. Among the questions of law and fact
3 common to the class are:

- 4 a. Whether DEFENDANTS maintained legally compliant meal period policies and
5 practices;
- 6 b. Whether DEFENDANTS maintained legally compliant rest period policies and
7 practices;
- 8 c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
9 CLASS Members accurate premium payments for missed meal and rest periods;
- 10 d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
11 CLASS Members accurate overtime and double time wages;
- 12 e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA
13 CLASS Members at least minimum wage for all hours worked;
- 14 f. Whether DEFENDANTS failed to compensate PLAINTIFF and the
15 CALIFORNIA CLASS Members for required business expenses;
- 16 g. Whether DEFENDANTS unlawfully deducted earned wages from PLAINTIFF
17 and the CALIFORNIA CLASS Members' pay;
- 18 h. Whether DEFENDANTS issued legally compliant wage statements;
- 19 i. Whether DEFENDANTS committed an act of unfair competition by
20 systematically failing to record and pay PLAINTIFF and the other members of the
21 CALIFORNIA CLASS for all time worked;
- 22 j. Whether DEFENDANTS committed an act of unfair competition by
23 systematically failing to record all meal and rest breaks missed by PLAINTIFF
24 and other CALIFORNIA CLASS Members, even though DEFENDANTS enjoyed
25 the benefit of this work, required employees to perform this work and permits or
26 suffers to permit this work;

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

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

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

8 51. PLAINTIFF will fairly and adequately represent and protect the interests of the
9 CALIFORNIA CLASS Members.

10 52. PLAINTIFF retained able class counsel with extensive experience in class action
11 litigation.

12 53. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
13 interests of the other CALIFORNIA CLASS Members.

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

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

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

- 1 a. Inconsistent or varying adjudications with respect to individual members of the
2 CALIFORNIA CLASS which would establish incompatible standards of conduct
3 for the parties opposing the CALIFORNIA CLASS; and/or,
4 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
5 which would as a practical matter be dispositive of the interests of the other
6 members not party to the adjudication or substantially impair or impeded their
7 ability to protect their interests.

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

11 **FIRST CAUSE OF ACTION**

12 **Unlawful Business Practices**

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

14 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

15 58. 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
17 Complaint.

18 59. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
19 Code § 17021.

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

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

1 61. By the conduct alleged herein, DEFENDANT has engaged and continues to
2 engage in a business practice which violates California law, including but not limited to, the
3 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
4 including Sections 201, 202, 203, 204, 221, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,
5 1198, 2802, for which this Court should issue declaratory and other equitable relief pursuant to
6 Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
7 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

20 64. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
21 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
22 other members of the CALIFORNIA CLASS to be underpaid during their employment with
23 DEFENDANT.

24 65. By the conduct alleged herein, DEFENDANT's practices were also unfair and
25 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
26 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
27 as required by Cal. Lab. Code §§ 226.7 and 512.

28

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

6 67. PLAINTIFF further demands on behalf of herself and on behalf of each
7 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
8 not timely provided as required by law.

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

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

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

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

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

3 79. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
4 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
5 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
6 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

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

13 81. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,
14 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
15 minimum wage compensation for their time worked for DEFENDANT.

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

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

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

1 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
2 for their time worked.

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

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

22 **THIRD CAUSE OF ACTION**

23 **Failure To Pay Overtime Compensation**

24 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

25 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

1 88. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
2 for DEFENDANT’s willful and intentional violations of the California Labor Code and the
3 Industrial Welfare Commission requirements for DEFENDANT’s failure to pay these employees
4 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
5 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

16 92. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
17 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
18 they worked, including overtime work.

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

26 94. In committing these violations of the California Labor Code, DEFENDANT
27 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
28 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal

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

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

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

15 97. During the CLASS PERIOD, PLAINTIFF and the other members of the
16 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
17 constituting a failure to pay all earned wages.

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

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

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 **Failure To Provide Required Meal Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

4 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

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

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

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

4 **SIXTH CAUSE OF ACTION**

5 **Failure To Provide Accurate Itemized Statements**

6 **(Cal. Lab. Code §§ 226)**

7 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

11 112. Cal. Labor Code § 226 provides that an employer must furnish employees with an
12 “accurate itemized” statement in writing showing:

- 13 a. Gross wages earned,
- 14 b. (2) total hours worked by the employee, except for any employee whose
15 compensation is solely based on a salary and who is exempt from payment
16 of overtime under subdivision (a) of Section 515 or any applicable order of
17 the Industrial Welfare Commission,
- 18 c. the number of piecerate units earned and any applicable piece rate if the employee
19 is paid on a piece-rate basis,
- 20 d. all deductions, provided that all deductions made on written orders of the employee
21 may be aggregated and shown as one item,
- 22 e. net wages earned,
- 23 f. the inclusive dates of the period for which the employee is paid,
- 24 g. the name of the employee and his or her social security number, except that by
25 January 1, 2008, only the last four digits of his or her social security number of an
26 employee identification number other than social security number may be shown
27 on the itemized statement,
- 28 h. the name and address of the legal entity that is the employer, and

1 i. all applicable hourly rates in effect during the pay period and the corresponding
2 number of hours worked at each hourly rate by the employee.

3 113. During the CLASS PERIOD, when PLAINTIFF and other CALIFORNIA
4 CLASS Members missed meal and rest breaks, or were paid inaccurate missed meal and rest
5 period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide
6 PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage
7 statements which failed to show, among other things, the total hours worked and all applicable
8 hourly rates in effect during the pay period and the corresponding amount of time worked at each
9 hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further,
10 DEFENDANT from time to time failed to issue itemized wage statements to PLAINTIFF and
11 other CALIFORNIA CLASS Members containing the accurate name and address of the legal
12 entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

13 114. In addition to the foregoing, DEFENDANTS failed to provide itemized wage
14 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the
15 requirements of California Labor Code Section 226.

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

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code §§ 203)**

4 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

8 117. Cal. Lab. Code § 200 provides that:

9 As used in this article:

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

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

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

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

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

31 121. Cal. Lab. Code § 203 provides:

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

1 122. The employment of PLAINTIFF and many CALIFORNIA CLASS Members
2 terminated, and DEFENDANT has not tendered payment of wages to these employees who were
3 underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as
4 required by law.

5 123. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
6 members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF demand
7 up to thirty (30) days of pay as penalty for not paying all wages due at time of termination for all
8 employees who terminated employment during the CLASS PERIOD and demand an accounting
9 and payment of all wages due, plus interest and statutory costs as allowed by law.

10 **EIGHTH CAUSE OF ACTION**

11 **Failure To Reimburse Employees For Required Expenses**

12 **(Cal. Lab. Code §§ 2802)**

13 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

17 125. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

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

1 practice and procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA
2 CLASS for expenses resulting from using their personal cellular phones and personal vehicle for
3 DEFENDANTS within the course and scope of their employment for DEFENDANTS. These
4 expenses were necessary to complete their principal job duties. DEFENDANTS are estopped by
5 DEFENDANTS' conduct to assert any waiver of their expectation. Although these expenses were
6 necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA CLASS,
7 DEFENDANTS failed to indemnify and reimburse PLAINTIFF and the members of the
8 CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and
9 regulations of California.

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

14 **PRAYER FOR RELIEF**

15 WHEREFORE, PLAINTIFF prays for a judgment against each Defendant, jointly and
16 severally, as follows:

17 1. On behalf of the CALIFORNIA CLASS:

- 18 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
19 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- 20 b. An order temporarily, preliminarily and permanently enjoining and restraining
21 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 22 c. An order requiring DEFENDANT to pay all overtime wages and all sums
23 unlawfully withheld from compensation due to PLAINTIFF and the other members
24 of the CALIFORNIA CLASS; and
- 25 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
26 for restitution of the sums incidental to DEFENDANT's violations due to
27 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

28 2. On behalf of the CALIFORNIA CLASS:

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- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth, Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - b. Compensatory damages, according to proof at trial, including compensatory damages for minimum wage, overtime compensation and separately owed rest periods, due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
 - c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
 - d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226
 - e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
3. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
 - b. Such other and further relief as the Court deems just and equitable; and
 - c. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.

DATED: February 22, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: February 22, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 COLLISION PRO'S, INC.
 40 BRIAN S. VON TRESS
 6020 PASEO VILLENA
 Granite Bay, CA 95746



9590 9402 6815 1074 9834 46

2. Article Number (Transfer from service label)
 7021 2720 0000 9972 5856

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *CH* C19 Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
 VON TRESS 2.26.22

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

002-297 899A 2.22.22

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery
- Mail Restricted Delivery (30)

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

CLASSIC VMS, INC.
 40 Kristina Johnson
 3235 Swetzer Rd
 Loomis, CA 95650



9590 9402 6815 1074 9834 53

2. Article Number (Transfer from service label)

7021 2720 0000 9972 5849

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

002-297 PUGO 2.22.22

3. Service Type

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500)

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Restricted Delivery