

SUMMONS (CITACION JUDICIAL)

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

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

CONSTELLATION BRANDS, INC., a Delaware Corporation;
(See attached)

FILED
1/3/2022 2:19 PM
Clerk of the Napa Superior Court
By: Kelly Rose, Deputy

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

MICHAEL HILLSTROM, an individual, on behalf of himself and on behalf of all persons similarly situated,

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):
Napa Superior Court, Historic Courthouse
825 Brown St,
Napa, CA 94559

CASE NUMBER:
(Número del Caso): 22CV000006

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shani O. Zakay, Esq. SBN:277924 Tel: (619) 255-9047 Fax: (858) 404-9203
Zakay Law Group, APLC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

Robert E. Fleshman
, Deputy
(Adjunto)

DATE:
(Fecha) 1/3/2022

Clerk, by Kelly Rose
(Secretaria)

(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):



SHORT TITLE: Hillstrom v. Constellation Brands, Inc., et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- ➔ This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- ➔ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

TPWC, INC., a Delaware Corporation; ROBERT MONDAVI WINERY, a California Corporation; CONSTELLATION BRANDS U.S. OPERATIONS, INC., a New York Corporation; FRANCISCAN VINEYARDS, INC., a Delaware Corporation; CONSTELLATION WINES U.S., INC., a Corporation; and DOES 1-50, Inclusive,

Page _____ of _____

Page 1 of 1

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Attorneys for Plaintiff MICHAEL HILLSTROM

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

MICHAEL HILLSTROM, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

CONSTELLATION BRANDS, INC., a Delaware Corporation; TPWC, INC., a Delaware Corporation; ROBERT MONDAVI WINERY, a California Corporation; CONSTELLATION BRANDS U.S. OPERATIONS, INC., a New York Corporation; FRANCISCAN VINEYARDS, INC., a Delaware Corporation; CONSTELLATION WINES U.S., INC., a Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No22CV000006

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

- 1 THE APPLICABLE IWC WAGE ORDER;
2 6) FAILURE TO PROVIDE ACCURATE
3 ITEMIZED STATEMENTS IN
4 VIOLATION OF CAL. LAB. CODE § 226;
5 7) FAILURE TO PROVIDE WAGES WHEN
6 DUE IN VIOLATION OF CAL. LAB.
7 CODE §§ 201, 202 AND 203;
8 8) FAILURE TO REIMBURSE
9 EMPLOYEES FOR REQUIRED
10 EXPENSES IN VIOLATION OF
11 CALIFORNIA LABOR CODE §2802;
12 9) UNPAID SICK PAY IN VIOLATION OF
13 CALIFORNIA LABOR CODE § 246;
14 10) VIOLATION OF THE PRIVATE
15 ATTORNEYS GENERAL ACT [LABOR
16 CODE §§ 2698 ET SEQ.]

DEMAND FOR A JURY TRIAL

11
12 Plaintiff MICHAEL HILLSTROM (“PLAINTIFF”), an individual, on behalf of
13 himself and all other similarly situated current and former employees, alleges on information and
14 belief, except for his own acts and knowledge which are based on personal knowledge, the
15 following:

16 **THE PARTIES**

17 1. Defendant CONSTELLATION BRANDS, INC. (“Defendant Constellation
18 Brands”) is a Delaware corporation that at all relevant times mentioned herein conducted and
19 continues to conduct substantial and regular business in the state of California.

20 2. Defendant TPWC, INC. (“Defendant TPWC”) is a Delaware corporation that at
21 all relevant times mentioned herein conducted and continues to conduct substantial and regular
22 business in the state of California.

23 3. Defendant ROBERT MONDAVI WINERY (“Defendant Robert Mondavi”) is a
24 Delaware corporation that at all relevant times mentioned herein conducted and continues to
25 conduct substantial and regular business in the state of California.

26 4. Defendant CONSTELLATION BRANDS U.S. OPERATIONS, INC.
27 (“Defendant Constellation Brands U.S.”) is a New York corporation that at all relevant times
28 mentioned herein conducted and continues to conduct substantial and regular business in the state
of California.

1 5. Defendant FRANCISCAN VINEYARDS, INC. (“Defendant Franciscan”) is a
2 Delaware corporation that at all relevant times mentioned herein conducted and continues to
3 conduct substantial and regular business in the state of California.

4 6. Defendant CONSTELLATION WINES U.S., INC. (“Defendant Constellation
5 Wines”) is a corporation that at all relevant times mentioned herein conducted and continues to
6 conduct substantial and regular business in the state of California.

7 7. Defendant Constellation Brands, Defendant TPWC, Defendant Robert Mondavi,
8 Defendant Constellation Brands U.S., Defendant Constellation Wines, Defendant Franciscan and
9 Defendant Constellation Wines were the joint employers of PLAINTIFF as evidenced by the
10 contracts signed and by the company the PLAINTIFF performed work for respectively, and are
11 therefore jointly responsible as employers for the conduct alleged herein and collectively referred
12 to herein as “DEFENDANTS” and/or “DEFENDANT.”

13 8. DEFENDANTS operates wineries and restaurants in the State of California,
14 including at the Napa County, California location where PLAINTIFF worked.

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

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

1 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
2 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
3 Defendants' agents, servants and/or employees.

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

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

15 13. PLAINTIFF was employed by DEFENDANT in California from May of 2014 to
16 May of 2021 and was at all times classified by DEFENDANT as a non-exempt employee, paid
17 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
18 minimum and overtime wages due for all time worked.

19 14. PLAINTIFF brings this Class Action on behalf of himself and a California class,
20 defined as all persons who are or previously were employed by Defendant Constellation Brands
21 and/or Defendant TPWC and/or Defendant Robert Mondavi and/or Defendant Constellation
22 Brands U.S. and/or Defendant Constellation Wines and/or Defendant Franciscan and/or
23 Defendant Constellation Wines in California and classified as non-exempt employees (the
24 "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the
25 filing of this Complaint and ending on the date as determined by the Court (the "CLASS
26 PERIOD"). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS
27 Members is under five million dollars (\$5,000,000.00).

28 15. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
the CLASS PERIOD caused by DEFENDANT's uniform policy and practice which failed to

1 lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged
2 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained
3 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
4 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
5 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
6 other members of the CALIFORNIA CLASS who have been economically injured by
7 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
8 relief.

9 16. 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 17. 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's past and current unlawful conduct, and all other appropriate legal
16 and equitable relief

17 **JURISDICTION AND VENUE**

18 18. 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 19. 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
28 ///

THE CONDUCT

1
2 20. In violation of the applicable sections of the California Labor Code and the
3 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a
4 matter of company policy, practice and procedure, intentionally, knowingly and systematically
5 failed to provide legally compliant meal and rest periods, failed to accurately compensate
6 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
7 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
8 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF
9 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,
10 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest
11 premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
12 Members for business expenses, and failed to issue to PLAINTIFF and the members of the
13 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all
14 applicable hourly rates in effect during the pay periods and the corresponding amount of time
15 worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to
16 purposefully avoid the accurate and full payment for all time worked as required by California
17 law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
18 competitors who comply with the law. To the extent equitable tolling operates to toll claims by
19 the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted
20 accordingly.

21 **A. Meal Period Violations**

22 21. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
23 were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
24 meaning the time during which an employee is subject to the control of an employer, including
25 all the time the employee is suffered or permitted to work. From time-to-time during the CLASS
26 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work
27 without paying them for all the time they were under DEFENDANTS' control. Specifically, as a
28 result of PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing,

1 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
2 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work
3 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
4 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. More
5 specifically, from time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
6 required by DEFENDANTS' supervisors to falsify their time records to reflect timely, off-duty
7 meal breaks despite being required to continue working through meal breaks. As a result, the
8 PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and overtime
9 wages by regularly working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
11 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
12 time worked is evidenced by DEFENDANTS' business records.

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

28 ///

1 **B. Rest Period Violations**

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

16 **C. Regular Rate Violation – Overtime, Sick Pay and Meal and Rest Period Premiums**

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

26 25. State law provides that employees must be paid overtime at one-and-one half times
27 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were
28

1 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
2 employee's performance.

3 26. The second component of PLAINTIFF's and other CALIFORNIA CLASS
4 Member's compensation was DEFENDANTS' non-discretionary incentive program that paid
5 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
6 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
7 paid on an hourly basis with bonus, and/or commission compensation when the employees met
8 the various performance goals set by DEFENDANTS. DEFENDANT gave PLAINTIFF and the
9 CALIFORNIA CLASS received bonuses when the employees met various performance goals set
10 by DEFENDANT.

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

25 28. As a matter of law, the incentive and commission compensation received by
26 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly
27 calculated into the "regular rate of pay" for purposes of overtime compensation, meal and rest
28 period premiums, and sick pay. DEFENDANTS' failure to do so has resulted in DEFENDANTS'

1 systematic underpayment of overtime compensation, meal and rest period premiums, and sick pay
2 to PLAINTIFF and other CALIFORNIA CLASS members. Specifically, California Labor Code
3 Section 246 mandates that paid sick time for non-employees shall be calculated in the same
4 manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid
5 sick time, whether or not the employee actually works overtime in that workweek.
6 DEFENDANT’S conduct, as articulated herein, by failing to include the incentive compensation
7 as part of the “regular rate of pay” for purposes of sick pay compensation was in violation of Cal.
8 Lab. Code § 246.

9 29. In violation of the applicable sections of the California Labor Code and the
10 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
11 matter of company policy, practice, and procedure, intentionally, and knowingly failed to
12 compensate PLAINTIFF and the CALIFORNIA CLASS at the correct rate of pay for all overtime
13 and/or sick pay compensation. This uniform policy and practice of DEFENDANTS is intended
14 to purposefully avoid the payment of the correct overtime and/or sick pay compensation as
15 required by California law which allowed DEFENDANTS to illegally profit and gain an unfair
16 advantage over competitors who complied with the law. To the extent equitable tolling operates
17 to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should
18 be adjusted accordingly.

19 **D. Unreimbursed Business Expenses**

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

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

3 31. In the course of their employment, DEFENDANTS required PLAINTIFF and
4 other CALIFORNIA CLASS Members to use their personal cell phone and personal vehicles as
5 a result of and in furtherance of their job duties as employees for DEFENDANT. But for the use
6 of their own personal cell phones and personal vehicles, PLAINTIFF and the CALIFORNIA
7 CLASS Members could not complete their essential job duties. Furthermore, PLAINTIFF and
8 other CALIFORNIA CLASS Members were required to drive their personal vehicle to and from
9 the store in order to purchase supplies on behalf of DEFENDANTS. However, DEFENDANTS
10 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for their
11 use of their personal cell phones and personal vehicles. As a result, in the course of their
12 employment with DEFENDANTS, the PLAINTIFF and other CALIFORNIA CLASS Members
13 incurred unreimbursed business expenses, but were not limited to, costs related to the use of their
14 personal cellular phones and personal vehicles, all on behalf of and for the benefit of
15 DEFENDANT.

16 **E. Wage Statement Violations**

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

25 33. From time to time during the CLASS PERIOD, when PLAINTIFF and other
26 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
27 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
28 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate

1 wage statements which failed to show, among other things, the accurate name and address of the
2 legal entity that is the employer, the total hours worked and all applicable hourly rates in effect
3 during the pay period and the corresponding amount of time worked at each hourly rate, correct
4 rates of pay for penalty payments or missed meal and rest periods.

5 34. For instance, PLAINTIFF received remuneration from DEFENDANTS described
6 as Gift Card Award,” “Bonus-Annual,” or “Bonus-Misc (Spot Bonus).” DEFENDANTS violated
7 California Labor Codes section 226 by failing to list the applicable hourly rate and the
8 corresponding number of hours worked at the applicable hourly rate for such remunerations.
9 PLAINTIFF, and all those similarly situated CALIFORNIA CLASS Members, suffered damage
10 as a result of DEFENDANTS’ aforementioned violation because he could not promptly and easily
11 determine from the wage statement alone the applicable hourly rate and the corresponding number
12 of hours worked at the applicable hourly rate for the line items of remuneration described as Gift
13 Card Award,” “Bonus-Annual,” or “Bonus-Mis (Spot Bonus).”

14 35. In addition to the violations described above, DEFENDANTS, from time to time,
15 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
16 that comply with Cal. Lab. Code § 226.

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

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

22 37. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
23 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
24 CLASS for all hours worked. Specifically, DEFENDANT from time-to-time required
25 PLAINTIFF and the other members of the CALIFORNIA CLASS to perform off-the-clock pre-
26 shift and post-shift work. Notwithstanding, from time-to-time DEFENDANTS failed to pay
27 PLAINTIFF and other members of the CALIFORNIA CLASS necessary wages for attending for
28 performing work at DEFENDANTS’ direction, request and benefit, while off-the clock.

1 38. During the CLASS PERIOD, from time-to-time DEFENDANTS required
2 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift work. This
3 resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while
4 off-the-clock.

5 39. DEFENDANTS directed and directly benefited from the uncompensated off-the-
6 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

7 40. DEFENDANTS controlled the work schedules, duties, protocols, applications,
8 assignments, and employment conditions of PLAINTIFF and the other members of the
9 CALIFORNIA CLASS.

10 41. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
11 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
12 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
13 wages earned and owed for all the work they performed, including pre-shift, post shift and during
14 meal period off-the-clock work.

15 42. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
16 exempt employees, subject to the requirements of the California Labor Code.

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

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

24 45. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
25 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
26 for the time spent opening the jewelry store while off-the-clock. DEFENDANTS' uniform policy
27 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
28

1 hours worked in accordance with applicable law is evidenced by DEFENDANTS’ business
2 records.

3 **G. CLASS ACTION ALLEGATIONS**

4 46. PLAINTIFF brings the First through Ninth Causes of Action as a class action
5 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or
6 previously were employed by Defendant Constellation Brands and/or Defendant TPWC and/or
7 Defendant Robert Mondavi and/or Defendant Constellation Brands U.S. and/or Defendant
8 Constellation Wines and/or Defendant Franciscan and/or Defendant Constellation Wines in
9 California and classified as non-exempt employees (“CALIFORNIA CLASS”) during the period
10 beginning four years prior to the filing of the Complaint and ending on a date determined by the
11 Court (“CLASS PERIOD”).

12 47. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
13 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
14 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
15 and illegal meal and rest period policies. Defendant further failed to reimburse for business
16 expenses, failed to compensate for off-the-clock work, failed to provide accurate itemized wage
17 statements, and failed to maintain required records, and interest, statutory and civil penalties,
18 attorney’s fees, costs, and expenses.

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

21 49. Common questions of law and fact regarding DEFENDANTS’ conduct, including
22 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
23 accurately calculate the regular rate of pay for overtime compensation, failure to accurately
24 calculate the regular rate of compensation for missed meal and rest period premiums, failing to
25 provide legally compliant meal and rest periods, failed to reimburse for business expenses, failure
26 to provide accurate itemized wage statements accurate, and failure to ensure they are paid at least
27 minimum wage and overtime, exist as to all members of the class and predominate over any
28

1 questions affecting solely any individual members of the class. Among the questions of law and
2 fact common to the class are:

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

1 50. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
2 a result of DEFENDANTS' conduct and actions alleged herein.

3 51. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has
4 the same interests as the other members of the class.

5 52. PLAINTIFF will fairly and adequately represent and protect the interests of the
6 CALIFORNIA CLASS Members.

7 53. PLAINTIFF retained able class counsel with extensive experience in class action
8 litigation.

9 54. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
10 interests of the other CALIFORNIA CLASS Members.

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

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

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

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

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

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

8 **FIRST CAUSE OF ACTION**

9 **Unlawful Business Practices**

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

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

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

15 60. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
16 Code § 17021.

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

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

1 62. 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, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,
5 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
6 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 63. By the conduct alleged herein, DEFENDANT's practices were unlawful and
9 unfair in that these practices violated public policy, were immoral, unethical, oppressive
10 unscrupulous or substantially injurious to employees, and were without valid justification or
11 utility for which this Court should issue equitable and injunctive relief pursuant to Section 17203
12 of the California Business & Professions Code, including restitution of wages wrongfully
13 withheld.

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

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

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

1 67. Therefore, PLAINTIFF demands on behalf of himself 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 68. PLAINTIFF further demands on behalf of himself 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 69. 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 70. 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 71. 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 72. 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 73. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
2 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
3 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
4 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
5 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
6 and economic harm unless DEFENDANT is restrained from continuing to engage in these
7 unlawful and unfair business practices.

8 **SECOND CAUSE OF ACTION**

9 **Failure To Pay Minimum Wages**

10 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1.)**

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

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

15 75. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
16 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
17 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
18 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

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

21 77. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
22 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
23 the minimum so fixed is unlawful.

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

26 79. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
27 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
28 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and

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

3 80. 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 81. 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 82. 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 83. 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 84. 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 85. 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 86. 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 87. 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 88. 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 89. 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 90. 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 91. 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 92. 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 93. 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 94. 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 95. 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 96. 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 97. 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 himself and the CALIFORNIA CLASS based on
13 DEFENDANT's violations of non- negotiable, non-waivable rights provided by the State of
14 California.

15 98. 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 99. 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.

24 100. 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.

1 101. 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.

7 102. 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.

15 103. 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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1 111. 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)**

8 112. 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.

11 113. 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
21 employee 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.

3 114. When DEFENDANT did not accurately record PLAINTIFF's and other
4 CALIFORNIA CLASS Members' wages, and missed meal and rest breaks, DEFENDANT
5 violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide an accurate wage statement
6 in writing that properly and accurately itemizes all wages, and missed meal and rest periods and
7 reporting time wages owed to PLAINTIFF and the other members of the CALIFORNIA CLASS
8 and thereby also failed to set forth the correct wages earned by the employees. During the CLASS
9 PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the other members of the
10 CALIFORNIA CLASS with complete and accurate wage statements which failed to accurately
11 show, among other things, (1) total number of hours worked, (2) net wages earned, (3) gross
12 wages earned; (4) the correct name and address of the legal entity that is the employer; and (5) all
13 applicable hourly rates in effect during the pay period and the corresponding number of hours
14 worked at each hourly rate by the employee in violation of California Labor Code Section 226(a).
15 Specifically, DEFENDANTS violated Cal. Lab. Code § 226(a)(2) by providing two separate line
16 items for overtime hours worked by PLAINTIFF and members of the CALIFORNIA CLASS,
17 such that the overtime hours were double-counted. As such, the wage statements issued to
18 PLAINTIFF and members of the CALIFORNIA CLASS violated Cal. Lab. Code § 226(a)(2). In
19 addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to
20 PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of
21 California Labor Code Section 226.

22 115. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
23 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
24 CLASS. These damages include, but are not limited to, costs expended calculating the correct
25 wages for all missed meal and rest breaks and the amount of employment taxes which were not
26 properly paid to state and federal tax authorities. These damages are difficult to estimate.
27 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
28 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation

1 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
2 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
3 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
4 of the CALIFORNIA CLASS herein).

5 **SEVENTH CAUSE OF ACTION**

6 **Failure To Pay Wages When Due**

7 **(Cal. Lab. Code §§ 203)**

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

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

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

13 As used in this article:

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

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

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

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

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

1 121. Cal. Lab. Code § 203 provides:
2 If an employer willfully fails to pay, without abatement or reduction, in accordance with
3 Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who
4 quits, the wages of the employee shall continue as a penalty from the due date thereof at
the same rate until paid or until an action therefor is commenced; but the wages shall not
continue for more than 30 days.

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

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

14 **EIGHTH CAUSE OF ACTION**

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

16 **(Cal. Lab. Code §§ 2802)**

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

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

21 125. Cal. Lab. Code § 2802 provides, in relevant part, that:
22 An employer shall indemnify his or her employee for all necessary expenditures or losses
23 incurred by the employee in direct consequence of the discharge of his or her duties, or of
his or her obedience to the directions of the employer, even though unlawful, unless the
employee, at the time of obeying the directions, believed them to be unlawful

24 126. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal.
25 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the
26 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for
27 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of
28 the CALIFORNIA CLASS for expenses which included, but were not limited to, costs related to

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

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

18 **NINTH CAUSE OF ACTION**

19 **UNPAID SICK PAY**

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

21 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS and against all DEFENDANTS)**

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

25 129. Cal. Labor Code Sections 246(l)(1) mandates that “[p]aid sick time for nonexempt
26 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
27 which the employee uses paid sick time, whether or not the employee actually works overtime in
28 that workweek.”

1 130. From time-to-time, during the PLAINTIFF and other members of the
2 CALIFORNIA CLASS were compensated at an hourly rate plus bonuses. As a matter of law, the
3 bonus compensation received by PLAINTIFF and other members of the CALIFORNIA CLASS
4 must be included in the “regular rate of pay.”

5 131. From time-to-time during the CLASS PERIOD, in those pay periods where
6 PLAINTIFF and other members of the CALIFORNIA CLASS earned hourly compensation and
7 non-discretionary incentive compensation, and took paid sick time, DEFENDANT failed to
8 properly calculate the regular rate of pay for purposes of compensating paid sick time by omitting
9 non-discretionary incentive pay from the regular rate of pay.

10 132. DEFENDANT’s uniform policy and practice of omitting non-discretionary
11 bonuses from the regular rate of pay for purposes of paying paid sick pay, resulted in the
12 underpayment of sick pay wages to PLAINTIFF and other members of the CALIFORNIA
13 CLASS. PLAINTIFF and other members of the CALIFORNIA CLASS therefore request
14 recovery of all unpaid wages, including sick pay wages, according to proof, interest, statutory
15 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as
16 provided by the California Labor Code and/or other applicable statutes. To the extent sick pay is
17 determined to be owed to other members of the CALIFORNIA CLASS who have terminated their
18 employment, DEFENDANT’s conduct also violates Labor Code §§ 201 and/or 202, and therefore
19 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
20 penalties are sought herein on behalf of other members of the CALIFORNIA
21 CLASS. DEFENDANT’S conduct as alleged herein was willful, intentional and not in good
22 faith. Further, PLAINTIFF and other members of the CALIFORNIA CLASS are entitled to seek
23 and recover statutory costs.

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NINTH CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT

(Cal. Lab. Code §§2698 et seq.)

(Alleged by PLAINTIFF against all Defendants)

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

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

135. PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to themselves and all individuals who are or previously were employed by DEFENDANT and classified as non-exempt employees in California during the time period of October 27, 2020 until the present (the "AGGRIEVED EMPLOYEES").

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

1 137. The policies, acts and practices heretofore described were and are an unlawful
2 business act or practice because DEFENDANTS (a) failed to properly record and pay PLAINTIFF
3 and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including overtime
4 hours in violation of the Wage Order, (b) failed to provide accurate itemized wage statements, (c)
5 failed to provide mandatory meal breaks and rest breaks, (d) failed to pay meal and rest break
6 premiums at the correct rate, and (e) failed to timely pay wages at the correct rate, all in violation
7 of the applicable Labor Code sections listed in Labor Code §2699.5, including but not limited to
8 Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510,
9 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and the applicable
10 Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct.
11 PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private
12 Attorney General Act of 2004 as the representative of the State of California for the illegal conduct
13 perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

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, Eighth, and Ninth 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 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 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.

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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: January 3, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: January 3, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

EXHIBIT 1



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

Client #42801

October 27, 2021

Via Online Filing to LWDA and Certified Mail to Defendants

Labor and Workforce Development Agency

Online Filing

<p>CONSTELLATION BRANDS, INC. c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 0911</i></p>	<p>TPWC, INC. c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 0904</i></p>
<p>ROBERT MONDAVI WINERY c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 0898</i></p>	<p>CONSTELLATION BRANDS U.S. OPERATIONS, INC. c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 0881</i></p>
<p>FRANCISCAN VINEYARDS, INC. c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 0874</i></p>	<p>CONSTELLATION WINES U.S., INC. c/o CT CORPORATION SYSTEM 330 N. Brand Blvd., Ste 700 Glendale, CA 91203 <i>Sent Via Certified Mail & Return Receipt</i> <i>No. 7021 0350 0000 8465 9232</i></p>

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

Dear Sir/Madam:

Our offices represent Plaintiff MICHAEL HILLSTROM (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendants CONSTELLATION BRANDS, INC., TPWC, INC., ROBERT MONDAVI WINERY, CONSTELLATION BRANDS U.S. OPERATIONS, INC., FRANCISCAN VINEYARDS, INC., and CONSTELLATION WINES U.S., INC., (“Defendants”). Plaintiff was employed by Defendants in California between May of

2014 to May of 2021 and was entitled to payment of all wages and the legally required meal and rest breaks. Plaintiff was paid on an hourly basis and entitled to legally required meal and rest periods. At all times during his employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all wages owed and legally mandated off-duty meal and rest periods.

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

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendants CONSTELLATION BRANDS, INC., and/or TPWC, INC., and/or ROBERT MONDAVI WINERY, and/or CONSTELLATION BRANDS U.S. OPERATIONS, INC., and/or FRANCISCAN VINEYARDS, INC., and/or CONSTELLATION WINES U.S., INC., during the relevant claim period.

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

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, Defendant is on notice that Plaintiff continues his 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.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil

penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiff and all aggrieved California employees and Class Members

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney for Plaintiff

ZAKAY LAW GROUP, APLC

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Attorneys for Plaintiff MICHAEL HILLSTROM

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

MICHAEL HILLSTROM, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

CONSTELLATION BRANDS, INC., a Delaware Corporation; TPWC, INC., a Delaware Corporation; ROBERT MONDAVI WINERY, a California Corporation; CONSTELLATION BRANDS U.S. OPERATIONS, INC., a New York Corporation; FRANCISCAN VINEYARDS, INC., a Delaware Corporation; CONSTELLATION WINES U.S., INC., a 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

- 1 VIOLATION OF CAL. LAB. CODE § 226;
2 7) FAILURE TO PROVIDE WAGES WHEN
3 DUE IN VIOLATION OF CAL. LAB.
4 CODE §§ 201, 202 AND 203;
5 8) FAILURE TO REIMBURSE
6 EMPLOYEES FOR REQUIRED
7 EXPENSES IN VIOLATION OF
8 CALIFORNIA LABOR CODE §2802;
9 9) UNPAID SICK PAY IN VIOLATION OF
10 CALIFORNIA LABOR CODE § 246

11 **DEMAND FOR A JURY TRIAL**

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

15 **THE PARTIES**

16 1. Defendant CONSTELLATION BRANDS, INC. (“Defendant Constellation
17 Brands”) is a Delaware corporation that at all relevant times mentioned herein conducted and
18 continues to conduct substantial and regular business in the state of California.

19 2. Defendant TPWC, INC. (“Defendant TPWC”) is a Delaware corporation that at
20 all relevant times mentioned herein conducted and continues to conduct substantial and regular
21 business in the state of California.

22 3. Defendant ROBERT MONDAVI WINERY (“Defendant Robert Mondavi”) is a
23 Delaware corporation that at all relevant times mentioned herein conducted and continues to
24 conduct substantial and regular business in the state of California.

25 4. Defendant CONSTELLATION BRANDS U.S. OPERATIONS, INC.
26 (“Defendant Constellation Brands U.S.”) is a New York corporation that at all relevant times
27 mentioned herein conducted and continues to conduct substantial and regular business in the state
28 of California.

5. Defendant FRANCISCAN VINEYARDS, INC. (“Defendant Franciscan”) is a
Delaware corporation that at all relevant times mentioned herein conducted and continues to
conduct substantial and regular business in the state of California.

1 6. Defendant CONSTELLATION WINES U.S., INC. (“Defendant Constellation
2 Wines”) is a corporation that at all relevant times mentioned herein conducted and continues to
3 conduct substantial and regular business in the state of California.

4 7. Defendant Constellation Brands, Defendant TPWC, Defendant Robert Mondavi,
5 Defendant Constellation Brands U.S., Defendant Constellation Wines, Defendant Franciscan and
6 Defendant Constellation Wines were the joint employers of PLAINTIFF as evidenced by the
7 contracts signed and by the company the PLAINTIFF performed work for respectively, and are
8 therefore jointly responsible as employers for the conduct alleged herein and collectively referred
9 to herein as “DEFENDANTS” and/or “DEFENDANT.”

10 8. DEFENDANTS operates wineries and restaurants in the State of California,
11 including at the Napa County, California location where PLAINTIFF worked.

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

22 10. The agents, servants, and/or employees of the Defendants and each of them acting
23 on behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as
24 the agent, servant and/or employee of the Defendants, and personally participated in the conduct
25 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
26 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
27 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
28

1 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
2 Defendants' agents, servants and/or employees.

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

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

14 13. PLAINTIFF was employed by DEFENDANT in California from May of 2014 to
15 May of 2021 and was at all times classified by DEFENDANT as a non-exempt employee, paid
16 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
17 minimum and overtime wages due for all time worked.

18 14. PLAINTIFF brings this Class Action on behalf of himself and a California class,
19 defined as all persons who are or previously were employed by Defendant Constellation Brands
20 and/or Defendant TPWC and/or Defendant Robert Mondavi and/or Defendant Constellation
21 Brands U.S. and/or Defendant Constellation Wines and/or Defendant Franciscan and/or
22 Defendant Constellation Wines in California and classified as non-exempt employees (the
23 "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing
24 of this Complaint and ending on the date as determined by the Court (the "CLASS PERIOD").
25 The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is
26 under five million dollars (\$5,000,000.00).

27 15. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
28 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during

1 the CLASS PERIOD caused by DEFENDANT's uniform policy and practice which failed to
2 lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged
3 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained
4 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
5 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
6 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
7 other members of the CALIFORNIA CLASS who have been economically injured by
8 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable
9 relief.

10 16. 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 17. 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
17 and equitable relief

18 **JURISDICTION AND VENUE**

19 18. 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 19. 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

20. 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 matter of company policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all applicable hourly rates in effect during the pay periods and the corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and practices are intended to purposefully avoid the accurate and full payment for all time worked as required by California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over competitors who comply with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

A. Meal Period Violations

21. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they were under DEFENDANTS' control. Specifically, as a result of PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing,

1 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
2 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by work
3 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
4 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. More
5 specifically, from time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
6 required by DEFENDANTS' supervisors to falsify their time records to reflect timely, off-duty
7 meal breaks despite being required to continue working through meal breaks. As a result, the
8 PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and overtime
9 wages by regularly working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
11 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
12 time worked is evidenced by DEFENDANTS' business records.

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

28

1 **B. Rest Period Violations**

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

16 **C. Regular Rate Violation – Overtime, Sick Pay and Meal and Rest Period Premiums**

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

26 25. State law provides that employees must be paid overtime at one-and-one half times
27 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were
28

1 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
2 employee's performance.

3 26. The second component of PLAINTIFF's and other CALIFORNIA CLASS
4 Member's compensation was DEFENDANTS' non-discretionary incentive program that paid
5 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
6 performance for DEFENDANTS. The non-discretionary bonus program provided all employees
7 paid on an hourly basis with bonus, and/or commission compensation when the employees met
8 the various performance goals set by DEFENDANTS. DEFENDANT gave PLAINTIFF and the
9 CALIFORNIA CLASS received bonuses when the employees met various performance goals set
10 by DEFENDANT.

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

25 28. As a matter of law, the incentive and commission compensation received by
26 PLAINTIFFS and other CALIFORNIA CLASS members must be included and correctly
27 calculated into the "regular rate of pay" for purposes of overtime compensation, meal and rest
28 period premiums, and sick pay. DEFENDANTS' failure to do so has resulted in DEFENDANTS'

1 systematic underpayment of overtime compensation, meal and rest period premiums, and sick pay
2 to PLAINTIFF and other CALIFORNIA CLASS members. Specifically, California Labor Code
3 Section 246 mandates that paid sick time for non-employees shall be calculated in the same
4 manner as the regular rate of pay for the workweek in which the non-exempt employee uses paid
5 sick time, whether or not the employee actually works overtime in that workweek.
6 DEFENDANT’S conduct, as articulated herein, by failing to include the incentive compensation
7 as part of the “regular rate of pay” for purposes of sick pay compensation was in violation of Cal.
8 Lab. Code § 246.

9 29. In violation of the applicable sections of the California Labor Code and the
10 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANTS as a
11 matter of company policy, practice, and procedure, intentionally, and knowingly failed to
12 compensate PLAINTIFF and the CALIFORNIA CLASS at the correct rate of pay for all overtime
13 and/or sick pay compensation. This uniform policy and practice of DEFENDANTS is intended
14 to purposefully avoid the payment of the correct overtime and/or sick pay compensation as
15 required by California law which allowed DEFENDANTS to illegally profit and gain an unfair
16 advantage over competitors who complied with the law. To the extent equitable tolling operates
17 to toll claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should
18 be adjusted accordingly.

19 **D. Unreimbursed Business Expenses**

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

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

3 31. In the course of their employment, DEFENDANTS required PLAINTIFF and
4 other CALIFORNIA CLASS Members to use their personal cell phone and personal vehicles as
5 a result of and in furtherance of their job duties as employees for DEFENDANT. But for the use
6 of their own personal cell phones and personal vehicles, PLAINTIFF and the CALIFORNIA
7 CLASS Members could not complete their essential job duties. Furthermore, PLAINTIFF and
8 other CALIFORNIA CLASS Members were required to drive their personal vehicle to and from
9 the store in order to purchase supplies on behalf of DEFENDANTS. However, DEFENDANTS
10 unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS Members for their
11 use of their personal cell phones and personal vehicles. As a result, in the course of their
12 employment with DEFENDANTS, the PLAINTIFF and other CALIFORNIA CLASS Members
13 incurred unreimbursed business expenses, but were not limited to, costs related to the use of their
14 personal cellular phones and personal vehicles, all on behalf of and for the benefit of
15 DEFENDANT.

16 **E. Wage Statement Violations**

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

25 33. From time to time during the CLASS PERIOD, when PLAINTIFF and other
26 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
27 meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed
28 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate

1 wage statements which failed to show, among other things, the accurate name and address of the
2 legal entity that is the employer, the total hours worked and all applicable hourly rates in effect
3 during the pay period and the corresponding amount of time worked at each hourly rate, correct
4 rates of pay for penalty payments or missed meal and rest periods.

5 34. For instance, PLAINTIFF received remuneration from DEFENDANTS described
6 as Gift Card Award,” “Bonus-Annual,” or “Bonus-Misc (Spot Bonus).” DEFENDANTS violated
7 California Labor Codes section 226 by failing to list the applicable hourly rate and the
8 corresponding number of hours worked at the applicable hourly rate for such remunerations.
9 PLAINTIFF, and all those similarly situated CALIFORNIA CLASS Members, suffered damage
10 as a result of DEFENDANTS’ aforementioned violation because he could not promptly and easily
11 determine from the wage statement alone the applicable hourly rate and the corresponding number
12 of hours worked at the applicable hourly rate for the line items of remuneration described as Gift
13 Card Award,” “Bonus-Annual,” or “Bonus-Mis (Spot Bonus).”

14 35. In addition to the violations described above, DEFENDANTS, from time to time,
15 failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements
16 that comply with Cal. Lab. Code § 226.

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

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

22 37. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and
23 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
24 CLASS for all hours worked. Specifically, DEFENDANT from time-to-time required
25 PLAINTIFF and the other members of the CALIFORNIA CLASS to perform off-the-clock pre-
26 shift and post-shift work. Notwithstanding, from time-to-time DEFENDANTS failed to pay
27 PLAINTIFF and other members of the CALIFORNIA CLASS necessary wages for attending for
28 performing work at DEFENDANTS’ direction, request and benefit, while off-the clock.

1 38. During the CLASS PERIOD, from time-to-time DEFENDANTS required
2 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift work. This
3 resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while
4 off-the-clock.

5 39. DEFENDANTS directed and directly benefited from the uncompensated off-the-
6 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

7 40. DEFENDANTS controlled the work schedules, duties, protocols, applications,
8 assignments, and employment conditions of PLAINTIFF and the other members of the
9 CALIFORNIA CLASS.

10 41. DEFENDANTS were able to track the amount of time PLAINTIFF and the other
11 members of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to
12 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
13 wages earned and owed for all the work they performed, including pre-shift, post shift and during
14 meal period off-the-clock work.

15 42. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
16 exempt employees, subject to the requirements of the California Labor Code.

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

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

24 45. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
25 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit
26 for the time spent opening the jewelry store while off-the-clock. DEFENDANTS' uniform policy
27 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
28

1 hours worked in accordance with applicable law is evidenced by DEFENDANTS’ business
2 records.

3 **G. CLASS ACTION ALLEGATIONS**

4 46. PLAINTIFF brings the First through Ninth Causes of Action as a class action
5 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or
6 previously were employed by Defendant Constellation Brands and/or Defendant TPWC and/or
7 Defendant Robert Mondavi and/or Defendant Constellation Brands U.S. and/or Defendant
8 Constellation Wines and/or Defendant Franciscan and/or Defendant Constellation Wines in
9 California and classified as non-exempt employees (“CALIFORNIA CLASS”) during the period
10 beginning four years prior to the filing of the Complaint and ending on a date determined by the
11 Court (“CLASS PERIOD”).

12 47. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
13 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
14 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
15 and illegal meal and rest period policies. Defendant further failed to reimburse for business
16 expenses, failed to compensate for off-the-clock work, failed to provide accurate itemized wage
17 statements, and failed to maintain required records, and interest, statutory and civil penalties,
18 attorney’s fees, costs, and expenses.

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

21 49. Common questions of law and fact regarding DEFENDANTS’ conduct, including
22 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to
23 accurately calculate the regular rate of pay for overtime compensation, failure to accurately
24 calculate the regular rate of compensation for missed meal and rest period premiums, failing to
25 provide legally compliant meal and rest periods, failed to reimburse for business expenses, failure
26 to provide accurate itemized wage statements accurate, and failure to ensure they are paid at least
27 minimum wage and overtime, exist as to all members of the class and predominate over any
28

1 questions affecting solely any individual members of the class. Among the questions of law and
2 fact common to the class are:

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

1 50. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
2 a result of DEFENDANTS' conduct and actions alleged herein.

3 51. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has
4 the same interests as the other members of the class.

5 52. PLAINTIFF will fairly and adequately represent and protect the interests of the
6 CALIFORNIA CLASS Members.

7 53. PLAINTIFF retained able class counsel with extensive experience in class action
8 litigation.

9 54. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
10 interests of the other CALIFORNIA CLASS Members.

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

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

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

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

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

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

8 **FIRST CAUSE OF ACTION**

9 **Unlawful Business Practices**

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

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

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

15 60. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
16 Code § 17021.

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

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

28 62. By the conduct alleged herein, DEFENDANT has engaged and continues to
engage in a business practice which violates California law, including but not limited to, the
applicable Wage Order(s), the California Code of Regulations and the California Labor Code
including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,

1 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
2 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
3 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

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

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

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

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

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

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

20 72. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
21 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
22 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
23 engaging in any unlawful and unfair business practices in the future.

24 73. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
25 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
26 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
27 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
28 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal

1 and economic harm unless DEFENDANT is restrained from continuing to engage in these
2 unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

4 **Failure To Pay Minimum Wages**

5 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1.)**

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

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

10 75. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
11 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
12 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
13 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

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

16 77. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
17 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
18 the minimum so fixed is unlawful.

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

21 79. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
22 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
23 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and
24 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
25 CALIFORNIA CLASS.

26 80. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
27 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
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1 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
2 and the other members of the CALIFORNIA CLASS in regards to minimum wage pay.

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

9 82. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,
10 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
11 minimum wage compensation for their time worked for DEFENDANT.

12 83. During the CLASS PERIOD, PLAINTIFF and the other members of the
13 CALIFORNIA CLASS were paid less for time worked than they were entitled to, constituting a
14 failure to pay all earned wages.

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

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

27 86. In performing the acts and practices herein alleged in violation of California labor
28 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked

1 and provide them with the requisite compensation, DEFENDANT acted and continues to act
2 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
3 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
4 consequences to them, and with the despicable intent of depriving them of their property and legal
5 rights, and otherwise causing them injury in order to increase company profits at the expense of
6 these employees.

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

18 **THIRD CAUSE OF ACTION**

19 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

13 93. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
14 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
15 they worked, including overtime work.

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

23 95. In committing these violations of the California Labor Code, DEFENDANT
24 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
25 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
26 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
27 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
28 regulations.

1 96. As a direct result of DEFENDANT’s unlawful wage practices as alleged herein,
2 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
3 compensation for overtime worked.

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

12 98. During the CLASS PERIOD, PLAINTIFF and the other members of the
13 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
14 constituting a failure to pay all earned wages.

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

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

26 101. DEFENDANTS knew or should have known that PLAINTIFF and the other
27 members of the CALIFORNIA CLASS were under compensated for all overtime worked.
28 DEFENDANT systematically elected, either through intentional malfeasance or gross

1 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
2 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
3 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked.

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

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

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FOURTH CAUSE OF ACTION

Failure To Provide Required Meal Periods

(Cal. Lab. Code §§ 226.7 & 512)

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

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

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

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

1 111. 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)**

8 112. 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.

11 113. 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.

3 114. When DEFENDANT did not accurately record PLAINTIFF's and other
4 CALIFORNIA CLASS Members' wages, and missed meal and rest breaks, DEFENDANT
5 violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide an accurate wage statement
6 in writing that properly and accurately itemizes all wages, and missed meal and rest periods and
7 reporting time wages owed to PLAINTIFF and the other members of the CALIFORNIA CLASS
8 and thereby also failed to set forth the correct wages earned by the employees. During the CLASS
9 PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the other members of the
10 CALIFORNIA CLASS with complete and accurate wage statements which failed to accurately
11 show, among other things, (1) total number of hours worked, (2) net wages earned, (3) gross
12 wages earned; (4) the correct name and address of the legal entity that is the employer; and (5) all
13 applicable hourly rates in effect during the pay period and the corresponding number of hours
14 worked at each hourly rate by the employee in violation of California Labor Code Section 226(a).
15 Specifically, DEFENDANTS violated Cal. Lab. Code § 226(a)(2) by providing two separate line
16 items for overtime hours worked by PLAINTIFF and members of the CALIFORNIA CLASS,
17 such that the overtime hours were double-counted. As such, the wage statements issued to
18 PLAINTIFF and members of the CALIFORNIA CLASS violated Cal. Lab. Code § 226(a)(2). In
19 addition to the foregoing, DEFENDANTS failed to provide itemized wage statements to
20 PLAINTIFF and members of the CALIFORNIA CLASS that complied with the requirements of
21 California Labor Code Section 226.

22 115. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
23 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
24 CLASS. These damages include, but are not limited to, costs expended calculating the correct
25 wages for all missed meal and rest breaks and the amount of employment taxes which were not
26 properly paid to state and federal tax authorities. These damages are difficult to estimate.
27 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover
28 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation

1 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
2 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
3 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member
4 of the CALIFORNIA CLASS herein).

5 **SEVENTH CAUSE OF ACTION**

6 **Failure To Pay Wages When Due**

7 **(Cal. Lab. Code §§ 203)**

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

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

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

13 As used in this article:

14 (d) "Wages" includes all amounts for labor performed by employees of every
15 description, whether the amount is fixed or ascertained by the standard of time,
16 task, piece, Commission basis, or other method of calculation.

17 (e) "Labor" includes labor, work, or service whether rendered or performed under
18 contract, subcontract, partnership, station plan, or other agreement if the to be
19 paid for is performed personally by the person demanding payment.

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

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

24 If an employee not having a written contract for a definite period quits his or her
25 employment, his or her wages shall become due and payable not later than 72 hours
26 thereafter, unless the employee has given 72 hours previous notice of his or her intention
27 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

28 Notwithstanding any other provision of law, an employee who quits without providing a

1 72-hour notice shall be entitled to receive payment by mail if he or she so requests and
2 designates a mailing address. The date of the mailing shall constitute the date of payment
3 for purposes of the requirement to provide payment within 72 hours of the notice of
4 quitting.

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

7 121. Cal. Lab. Code § 203 provides:

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

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

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

22 **EIGHTH CAUSE OF ACTION**

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

24 **(Cal. Lab. Code §§ 2802)**

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

26 124. 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.

1 125. Cal. Lab. Code § 2802 provides, in relevant part, that:
2 An employer shall indemnify his or her employee for all necessary expenditures or losses
3 incurred by the employee in direct consequence of the discharge of his or her duties, or of
4 his or her obedience to the directions of the employer, even though unlawful, unless the
5 employee, at the time of obeying the directions, believed them to be unlawful

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

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

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1 **NINTH CAUSE OF ACTION**

2 **UNPAID SICK PAY**

3 **(Cal. Lab. Code § 246, et seq.)**

4 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS and against all DEFENDANTS)**

5 128. 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.

8 129. Cal. Labor Code Sections 246(l)(1) mandates that “[p]aid sick time for nonexempt
9 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
10 which the employee uses paid sick time, whether or not the employee actually works overtime in
11 that workweek.”

12 130. From time-to-time, during the PLAINTIFF and other members of the
13 CALIFORNIA CLASS were compensated at an hourly rate plus bonuses. As a matter of law, the
14 bonus compensation received by PLAINTIFF and other members of the CALIFORNIA CLASS
15 must be included in the “regular rate of pay.”

16 131. From time-to-time during the CLASS PERIOD, in those pay periods where
17 PLAINTIFF and other members of the CALIFORNIA CLASS earned hourly compensation and
18 non-discretionary incentive compensation, and took paid sick time, DEFENDANT failed to
19 properly calculate the regular rate of pay for purposes of compensating paid sick time by omitting
20 non-discretionary incentive pay from the regular rate of pay.

21 132. DEFENDANT’s uniform policy and practice of omitting non-discretionary
22 bonuses from the regular rate of pay for purposes of paying paid sick pay, resulted in the
23 underpayment of sick pay wages to PLAINTIFF and other members of the CALIFORNIA
24 CLASS. PLAINTIFF and other members of the CALIFORNIA CLASS therefore request
25 recovery of all unpaid wages, including sick pay wages, according to proof, interest, statutory
26 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as
27 provided by the California Labor Code and/or other applicable statutes. To the extent sick pay is
28 determined to be owed to other members of the CALIFORNIA CLASS who have terminated their

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

7 **PRAYER FOR RELIEF**

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

10 1. On behalf of the CALIFORNIA CLASS:

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

21 2. On behalf of the CALIFORNIA CLASS:

- 22 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and
23 Ninth Causes of Action asserted by the CALIFORNIA CLASS as a class action
24 pursuant to Cal. Code of Civ. Proc. § 382;
- 25 b. Compensatory damages, according to proof at trial, including compensatory
26 damages for overtime compensation and separately owed rest periods, due to
27 PLAINTIFF and the other members of the CALIFORNIA CLASS, during the
28 applicable CLASS PERIOD plus interest thereon at the statutory rate;

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- 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: October 27, 2021

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: October 27, 2021

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

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<input type="checkbox"/> Return Receipt (hardcopy) \$	
<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$	
Total Postage and Fees \$	
Sent To <u>Constellation Brands, Inc.</u>	
Street and Apt. No., or PO Box No.	
City, State, ZIP+4®	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7021 0350 0000 8465 0881

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee \$	Postmark Here
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy) \$	
<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$	
Total Postage and Fees \$	
Sent To <u>Constellation Brands V.S. 2P.</u>	
Street and Apt. No., or PO Box No.	
City, State, ZIP+4®	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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:

Constellation Brands, Inc.
 c/o CI Corporation System
 330 N. Brand Blvd, Ste 700
 Glendale, CA 91203



9590 9402 6758 1074 2015 91

2. Article Number (Transfer from service label)

7021 0350 0000 8465 0911

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

NOV 2002

C. Date of Delivery

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

Delivery Service

Hillstrom

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

fail Restricted Delivery

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:

Robert Blondavi Winery
 c/s of CORPORATION System
 330 N. Brand Blvd, Ste 700
 Glendale, CA 91203



9590 9402 6758 1074 2015 84

2. Article Number (Transfer from service label)

7021 0350 0000 8465 0898

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

NOV 1 2001

C. Date of Delivery

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

Delivery Service

Hillstrom

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

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:

TPWC, INC.
 do IT Corporation System
 330 N. Brand Blvd. Ste 700
 Glendale, CA 91203



9590 9402 6758 1074 2016 07

2. Article Number (Transfer from service label)

7021 0350 0000 8465 0904

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

NOV 1 2021

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

Delivery by
 Hillstrom

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation®
- Signature Confirmation Restricted Delivery

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:

Constellation Wines U.S. Inc
 c/o CT Corporation System
 330 N. Brand Blvd, Ste 700
 Glendale, CA 91203



9590 9402 6758 1074 2016 76

2. Article Number (Transfer from service label)

7019 1640 0000 6893 9232

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

NOV

C. Date of Delivery

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

Hillston

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation®
- Signature Confirmation Restricted Delivery
- Priority Mail Express®

Registered Mail
 Registered Mail Restricted Delivery
 (over \$500)

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:

Franciscan Vineyards Inc.
 c/o CT Corporation System
 330 N. Brand Blvd, Ste 700
 Glendale, CA 91203



9590 9402 6758 1074 2015 53

2. Article Number (Transfer from service label)

7021 0350 0000 8465 0874

COMPLETE THIS SECTION ON DELIVERY

A. Signature

NDS

X

- Agent
- Addressee

B. Received by (Printed Name)

NOV - 1 2021

C. Date of Delivery

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

Delivery Service

Millstom

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery