

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

7/19/2024 1:26:18 PM

Clerk of the Superior Court
By C. Miranda ,Deputy Clerk

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

HOST HEALTHCARE, INC., a Delaware corporation; HOST HEALTHCARE, LLC, a Delaware limited liability company, and DOES 1-50, Inclusive,

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

SAMANTHA BRODISH, an individual, on behalf of herself, and on behalf of all persons similarly situated,

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

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

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

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

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

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

CASE NUMBER:
(Número del Caso):

24CU001979C

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jean-Claude Lapuyade, Esq. T: (619)599-8292 JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: July 22, 2024
(Fecha)

Clerk, by C. Miranda, Deputy
(Secretario) (Adjunto)

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



NOTICE TO THE PERSON SERVED: You are served

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

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
Perssia Razma (State Bar #351398)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
prazma@jcl-lawfirm.com

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By C. Miranda ,Deputy Clerk

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com

Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

SAMANTHA BRODISH, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

HOST HEALTHCARE, INC., a Delaware
corporation; HOST HEALTHCARE, LLC, a
Delaware limited liability company, and
DOES 1-50, Inclusive,

Defendants.

Case No: 24CU001979C

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 REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;

DEMAND FOR A JURY TRIAL

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

PRELIMINARY ALLEGATIONS

1. Defendant HOST HEALTHCARE, INC. (“Defendant Host Healthcare, Inc.”) is a Delaware corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant HOST HEALTHCARE, LLC (“Defendant Host Healthcare, LLC”) is a Delaware limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant Host Healthcare, Inc. and Defendant Host Healthcare, LLC were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANTS operate traveling healthcare services throughout the state of California, including in the county of San Diego, where PLAINTIFF worked.

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1 5. PLAINTIFF performed work for DEFENDANTS in California in January 2024 as
2 a non-exempt employee, paid an hourly basis and entitled to the legally required meal and rest
3 periods and payment of minimum and overtime wages due for all time worked.

4 6. PLAINTIFF brings this Class Action on behalf of herself and a California class,
5 defined as all persons who are or previously were employed by Defendant Host Healthcare, Inc.
6 and/or Defendant Host Healthcare, LLC in California and classified as non-exempt employees
7 (the “CALIFORNIA CLASS”) at any time during the period beginning four (4) years prior to the
8 filing of this Complaint and ending on the date as determined by the Court (the “CLASS
9 PERIOD”). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS
10 Members is under five million dollars (\$5,000,000.00).

11 7. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
12 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
13 the CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed to
14 lawfully compensate these employees. DEFENDANT’s uniform policy and practice alleged
15 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained
16 and continues to retain wages due to PLAINTIFF and the other members of the CALIFORNIA
17 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
18 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
19 other members of the CALIFORNIA CLASS who have been economically injured by
20 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable
21 relief.

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

1 inclusive, are responsible in some manner for one or more of the events and happenings that
2 proximately caused the injuries and damages hereinafter alleged.

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

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

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

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

25 13. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction
26 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and
27 other members of the CALIFORNIA CLASS who has been economically injured by
28

1 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable
2 relief.

3 **JURISDICTION AND VENUE**

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

8 15. Venue is proper in this Court pursuant to California Code of Civil Procedure,
9 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs
10 the CALIFORNIA CLASS across California, including in this County, and committed the
11 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

12 **THE CONDUCT**

13 16. In violation of the applicable sections of the California Labor Code and the
14 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a
15 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
19 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS
20 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA
21 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other
22 members of the CALIFORNIA CLASS meal and rest premiums at the regular rate, failed to
23 reimburse PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and
24 failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate
25 itemized wage statements showing, among other things, all applicable hourly rates in effect during
26 the pay periods and the corresponding amount of time worked at each hourly rate.
27 DEFENDANT’s uniform policies and practices are intended to purposefully avoid the accurate
28 and full payment for all time worked as required by California law which allows DEFENDANT

1 to illegally profit and gain an unfair advantage over competitors who comply with the law. To
2 the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against
3 DEFENDANT, the CLASS PERIOD should be adjusted accordingly.

4 **A. Meal Period Violations**

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

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

1 duty” meal period exception. When they were provided with meal periods, PLAINTIFF and other
2 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.
3 Further, DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to
4 maintain cordless communication devices on them during meal periods in order to receive and
5 respond to work-related communications. DEFENDANT’s failure to provide PLAINTIFF and
6 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by
7 DEFENDANT’s business records. PLAINTIFF and other members of the CALIFORNIA CLASS
8 therefore forfeit meal breaks without additional compensation and in accordance with
9 DEFENDANT’s strict corporate policy and practice.

10 **B. Rest Period Violations**

11 19. From time to time during the CLASS PERIOD, PLAINTIFF and other
12 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
13 being provided ten (10) minute rest periods as a result of their rigorous work requirements and
14 DEFENDANT’s inadequate staffing. Further, for the same reasons, these employees were denied
15 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four
16 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some
17 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and
18 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from
19 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA
20 CLASS Members were, from time to time, required to remain on duty and/or on call. Further,
21 DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to maintain
22 cordless communication devices on them during rest periods in order to receive and respond to
23 work-related communications. PLAINTIFF and other CALIFORNIA CLASS Members were
24 also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous work schedules
25 and DEFENDANT’s inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS
26 Members were from time to time denied their proper rest periods by DEFENDANT and
27 DEFENDANT’s managers.

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1 **C. Unreimbursed Business Expenses**

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

13 21. In the course of their employment, DEFENDANT required PLAINTIFF and other
14 CALIFORNIA CLASS Members to use their personal cell phones as a result of and in furtherance
15 of their job duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were
16 required to use their personal cell phones in order to perform work related tasks. However,
17 DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS
18 Members for the use of their personal cell phones. As a result, in the course of their employment
19 with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS Members incurred
20 unreimbursed business expenses that included, but were not limited to, costs related to the use of
21 their personal cell phones, all on behalf of and for the benefit of DEFENDANT.

22 **D. Wage Statement Violations**

23 22. California Labor Code Section 226 required an employer to furnish its employees
24 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours
25 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,
26 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
27 name of the employee and only the last four digits of the employee's social security number or an
28 employee identification number other than a social security number, (8) the name and address of

1 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
2 period and the corresponding number of hours worked at each hourly rate by the employee.

3 23. From time to time during the CLASS PERIOD, when PLAINTIFF and other
4 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for
5 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also
6 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and
7 accurate wage statements which failed to show, among other things, all deductions, the total hours
8 worked and all applicable hourly rates in effect during the pay period, and the corresponding
9 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed
10 meal and rest periods.

11 24. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
12 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
13 Cal. Lab. Code § 226.

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

18 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

19 26. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
20 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS
21 for all hours worked.

22 27. During the CLASS PERIOD, from time-to-time DEFENDANT required
23 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
24 work, including but not limited to, receiving and responding to work-related communications.
25 This resulted in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work
26 while off-the-clock.

27 28. DEFENDANT directed and directly benefited from the undercompensated off-the-
28 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

1 29. DEFENDANT controlled the work schedules, duties, and protocols, applications,
2 assignments, and employment conditions of PLAINTIFF and the other members of the
3 CALIFORNIA CLASS.

4 30. DEFENDANT was able to track the amount of time PLAINTIFF and the other
5 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to
6 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
7 wages earned and owed for all the work they performed.

8 31. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-
9 exempt employees, subject to the requirements of the California Labor Code.

10 32. DEFENDANT’s policies and practices deprived PLAINTIFF and the other
11 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed
12 for the off-the-clock work activities. Because PLAINTIFF and the other members of the
13 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than
14 eight (8) hours per day, DEFENDANT’s policies and practices also deprived them of overtime
15 pay.

16 33. DEFENDANT knew or should have known that PLAINTIFF and the other
17 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

18 34. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
19 forfeited wages due to them for all hours worked at DEFENDANT’s direction, control, and
20 benefit for the time spent working while off-the-clock, including but not limited to, time spent
21 receiving and responding to work-related communications. DEFENDANT’s uniform policy and
22 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all
23 hours worked in accordance with applicable law is evidenced by DEFENDANT’s business
24 records.

25 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
26 **and Redeemed Sick Pay**

27 35. From time to time during the CLASS PERIOD, DEFENDANT failed and
28 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS

1 Members for their overtime and double time hours worked, meal and rest period premiums, and
2 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members
3 forfeited wages due to them for working overtime without compensation at the correct overtime
4 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
5 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at
6 the correct rate for all overtime and double time worked, meal and rest period premiums, and
7 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT's business
8 records.

9 36. State law provides that employees must be paid overtime at one-and-one-half times
10 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
11 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
12 employee's performance.

13 37. The second component of PLAINTIFF's and other CALIFORNIA CLASS
14 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
15 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
16 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
17 basis with bonus compensation when the employees met the various performance goals set by
18 DEFENDANTS.

19 38. However, from-time-to-time, when calculating the regular rate of pay, in those pay
20 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
21 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
22 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
23 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
24 rather than just all non-overtime hours worked. Management and supervisors described the
25 incentive/bonus program to potential and new employees as part of the compensation package.
26 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
27 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted
28 in a systematic underpayment of overtime and double time compensation, meal and rest period

1 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by
2 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
3 for non-employees shall be calculated in the same manner as the regular rate of pay for the
4 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
5 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by
6 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
7 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
8 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

20 **G. Violations for Untimely Payment of Wages**

21 40. Pursuant to California Labor Code section 204, PLAINTIFF and the
22 CALIFORNIA CLASS members were entitled to timely payment of wages during their
23 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not
24 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
25 meal period premium wages, and rest period premium wages within permissible time period.

26 **H. Unlawful Deductions**

27 41. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF
28 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do

1 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,
2 DEFENDANTS violated Labor Code § 221.

3 42. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
4 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
5 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
6 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
7 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
8 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF
9 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.
10 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was
11 supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks
12 without additional compensation and in accordance with DEFENDANT’S strict corporate policy
13 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
14 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF
15 for required business expenses related to the personal expenses incurred for the use of her personal
16 cell phone, on behalf of and in furtherance of her employment with DEFENDANT. To date,
17 DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double time
18 compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203.

19 **CLASS ACTION ALLEGATIONS**

20 43. PLAINTIFF bring this Class Action on behalf of herself, and a California class
21 defined as all persons who are or previously were employed by DEFENDANT in California and
22 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period
23 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
24 by the Court (the “CLASS PERIOD”).

25 44. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
26 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
27 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
28 illegal meal and rest period policies, failed to reimburse for business expenses, failed compensate

1 for off-the-clock work, failure to provide accurate itemized wage statements, failure to maintain
2 required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

3 45. The members of the class are so numerous that joinder of all class members is
4 impractical.

5 46. Common questions of law and fact regarding DEFENDANT's conduct, including
6 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
7 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
8 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
9 compliant meal and rest periods, failed to reimburse for business expenses, failure to provide
10 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum
11 wage and overtime, exist as to all members of the class and predominate over any questions
12 affecting solely any individual members of the class. Among the questions of law and fact
13 common to the class are:

- 14 a. Whether DEFENDANT maintained legally compliant meal period policies and
15 practices;
- 16 b. Whether DEFENDANT maintained legally compliant rest period policies and
17 practices;
- 18 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
19 Members accurate premium payments for missed meal and rest periods;
- 20 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
21 Members accurate overtime wages;
- 22 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
23 Members at least minimum wage for all hours worked;
- 24 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
25 CLASS Members for required business expenses;
- 26 g. Whether DEFENDANT issued legally compliant wage statements;

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- 1 h. Whether DEFENDANT committed an act of unfair competition by systematically
2 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
3 CLASS for all time worked;
- 4 i. Whether DEFENDANT committed an act of unfair competition by systematically
5 failing to record all meal and rest breaks missed by PLAINTIFF and other
6 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
7 of this work, required employees to perform this work and permits or suffers to
8 permit this work;
- 9 j. Whether DEFENDANT committed an act of unfair competition in violation of the
10 UCL, by failing to provide the PLAINTIFF and the other members of the
11 CALIFORNIA CLASS with the legally required meal and rest periods.
- 12 47. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
13 a result of DEFENDANT's conduct and actions alleged herein.
- 14 48. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
15 PLAINTIFF have the same interests as the other members of the class.
- 16 49. PLAINTIFF will fairly and adequately represent and protect the interests of the
17 CALIFORNIA CLASS Members.
- 18 50. PLAINTIFF retained able class counsel with extensive experience in class action
19 litigation.
- 20 51. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
21 interest of the other CALIFORNIA CLASS Members.
- 22 52. There is a strong community of interest among PLAINTIFF and the members of
23 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
24 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
25 sustained.
- 26 53. The questions of law and fact common to the CALIFORNIA CLASS Members
27 predominate over any questions affecting only individual members, including legal and factual
28 issues relating to liability and damages.

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

- 9 a. Inconsistent or varying adjudications with respect to individual members of the
10 CALIFORNIA CLASS which would establish incompatible standards of conduct
11 for the parties opposing the CALIFORNIA CLASS; and/or,
- 12 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
13 which would as a practical matter be dispositive of the interests of the other
14 members not party to the adjudication or substantially impair or impeded their
15 ability to protect their interests.

16 55. Class treatment provides manageable judicial treatment calculated to bring an
17 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
18 the conduct of DEFENDANT.

19 **FIRST CAUSE OF ACTION**

20 **Unlawful Business Practices**

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

22 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

26 57. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
27 Code § 17021.

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

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

12 59. By the conduct alleged herein, DEFENDANT has engaged and continues to
13 engage in a business practice which violates California law, including but not limited to, the
14 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
15 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and
16 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
17 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
18 constitute unfair competition, including restitution of wages wrongfully withheld.

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

24 61. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
25 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally
26 mandated meal and rest periods and the required amount of compensation for missed meal and
27 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all
28 necessary business expenses incurred, due to a systematic business practice that cannot be
justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission
requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should

1 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
2 restitution of wages wrongfully withheld.

3 62. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
4 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
5 other members of the CALIFORNIA CLASS to be underpaid during their employment with
6 DEFENDANT.

7 63. By the conduct alleged herein, DEFENDANT's practices were also unfair and
8 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
9 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as
10 required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

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

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

8 69. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
9 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,
10 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
11 engaging in any unlawful and unfair business practices in the future.

12 70. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
13 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
14 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
15 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
16 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
17 and economic harm unless DEFENDANT is restrained from continuing to engage in these
18 unlawful and unfair business practices.

19 **SECOND CAUSE OF ACTION**

20 **Failure To Pay Minimum Wages**

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

22 **Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

26 72. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
27 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial
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1 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay
2 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

5 74. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than
7 the minimum so fixed is unlawful.

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

10 76. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
11 other members of the CALIFORNIA CLASS without regard to the correct amount of time they
12 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and
13 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
14 CALIFORNIA CLASS.

15 77. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
16 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
17 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF
18 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

19 78. In committing these violations of the California Labor Code, DEFENDANT
20 inaccurately calculated the correct time worked and consequently underpaid the actual time
21 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
22 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
23 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
24 laws and regulations.

25 79. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
26 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
27 minimum wage compensation for their time worked for DEFENDANT.

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1 80. During the CLASS PERIOD, PLAINTIFF and the other members of the
2 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a
3 failure to pay all earned wages.

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

9 82. DEFENDANT knew or should have known that PLAINTIFF and the other
10 members of the CALIFORNIA CLASS were under-compensated for their time worked.
11 DEFENDANT systematically elected, either through intentional malfeasance or gross
12 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice
13 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
14 PLAINTIFF and the other members of the CALIFORNIA CLASS the correct minimum wages
15 for their time worked.

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

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

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

7 **THIRD CAUSE OF ACTION**

8 **Failure To Pay Overtime Compensation**

9 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

10 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

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

19 87. 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 88. Cal. Lab. Code § 510 provides that employees in California shall not be employed
22 more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless
23 they receive additional compensation beyond their regular wages in amounts specified by law.

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

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1 90. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members
2 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time
3 they worked, including overtime work.

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

11 92. In committing these violations of the California Labor Code, DEFENDANT
12 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
13 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal
14 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
15 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
16 regulations.

17 93. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
18 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
19 overtime compensation for their time worked for DEFENDANT.

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

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1 95. During the CLASS PERIOD, PLAINTIFF and the other members of the
2 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting
3 a failure to pay all earned wages.

4 96. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
5 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
6 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194, & 1198, even
7 though PLAINTIFF and the other members of the CALIFORNIA CLASS were regularly required
8 to work, and did in fact work overtime, and did in fact work overtime as to which DEFENDANT
9 failed to accurately record and pay as evidenced by DEFENDANT's business records and
10 witnessed by employees.

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

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

23 99. In performing the acts and practices herein alleged in violation of California labor
24 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
25 and provide them with the requisite compensation, DEFENDANT acted and continues to act
26 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
27 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the
28 consequences to them, and with the despicable intent of depriving them of their property and legal

1 rights, and otherwise causing them injury in order to increase company profits at the expense of
2 these employees.

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

13 **FOURTH CAUSE OF ACTION**

14 **Failure To Provide Required Meal Periods**

15 **(Cal. Lab. Code §§ 226.7 & 512)**

16 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

20 102. During the CLASS PERIOD, DEFENDANT failed to provide all the legally
21 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as
22 required by the applicable Wage Order and Labor Code. The nature of the work performed by
23 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being
24 relieved of all of their duties for the legally required off-duty meal periods. As a result of their
25 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not
26 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's
27 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required
28 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business

1 records. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS
2 Members with a second off-duty meal period in some workdays in which these employees were
3 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other
4 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation
5 and in accordance with DEFENDANT's strict corporate policy and practice.

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

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

14 **FIFTH CAUSE OF ACTION**

15 **Failure To Provide Required Rest Periods**

16 **(Cal. Lab. Code §§ 226.7 & 512)**

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

18 105. 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.

21 106. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
22 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
23 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
24 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
25 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
26 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
27 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
28 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other

1 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
2 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate
3 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the
4 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide
5 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest
6 periods is evidenced by DEFENDANT's business records.

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

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

15 **SIXTH CAUSE OF ACTION**

16 **Failure To Reimburse Employees for Required Expenses**

17 **(Cal. Lab. Code §§ 2802)**

18 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

22 110. Cal. Lab. Code § 2802 provides, in relevant part, that:

23 An employer shall indemnify his or her employee for all necessary
24 expenditures or losses incurred by the employee in direct consequence of the
25 discharge of his or her duties, or of his or her obedience to the directions of the
26 employer, even though unlawful, unless the employee, at the time of obeying the
27 directions, believed them to be unlawful.

26 111. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
27 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS
28 members for required expenses incurred in the discharge of their job duties for DEFENDANT's

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

15 112. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred
16 by her and the CALIFORNIA CLASS members in the discharge of their job duties for
17 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory
18 rate and costs under Cal. Lab. Code § 2802.

19 **SEVENTH CAUSE OF ACTION**

20 **Failure To Provide Accurate Itemized Statements**

21 **(Cal. Lab. Code § 226)**

22 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

26 114. Cal. Labor Code § 226 provides that an employer must furnish employees with an
27 "accurate itemized" statement in writing showing:

28 a. Gross wages earned,

- b. (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission,
- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

115. When DEFENDANT did not accurately record PLAINTIFF'S and other CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods.

116. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA

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

10 **EIGHTH CAUSE OF ACTION**

11 **Failure To Pay Wages When Due**

12 **(Cal. Lab. Code § 203)**

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

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

17 118. Cal. Lab. Code § 200 provides that:

18 As used in this article:

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

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

28 120. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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

7 122. Cal. Lab. Code § 203 provides:

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

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

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

21 **PRAYER FOR RELIEF**

22 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and
23 severally, as follows:

24 1. On behalf of the CALIFORNIA CLASS:

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

1 for restitution of the sums incidental to DEFENDANT's violations due to
2 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

3 2. On behalf of the CALIFORNIA CLASS:

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

7 b. Compensatory damages, according to proof at trial, including compensatory
8 damages for overtime compensation due to PLAINTIFF and the other members of
9 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest
10 thereon at the statutory rate;

11 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
12 the applicable IWC Wage Order;

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

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

21 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
22 CLASS incurred in the course of their job duties, plus interest, and costs of suit.

23 3. On all claims:

24 a. An award of interest, including prejudgment interest at the legal rate;

25 b. Such other and further relief as the Court deems just and equitable; and

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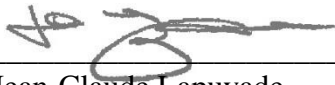
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c. An award of penalties, attorneys’ fees, and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

DATED: July 19, 2024

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade
Attorney for PLAINTIFF


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DEMAND FOR A JURY TRIAL

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

DATED: July 19, 2024

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade
Attorney for PLAINTIFF