

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

AUG 05 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Kristina Vargas, Deputy

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

INTEGRATED PROTECTION CORP., a California Corporation (see attached)

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

JOHN ICABALCETA, an individual, on behalf of himself, 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): Los Angeles - Spring Street Courthouse
312 N. Spring Street
Los Angeles, CA 90012

CASE NUMBER:
(Número de caso)
218TCV28920

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Shani O. Zakay, Esq. 3990 Old Town Ave. Suite C204 San Diego, California 92110 Telephone: 615-255-9047

DATE: **AUG 05 2021**
(Fecha)

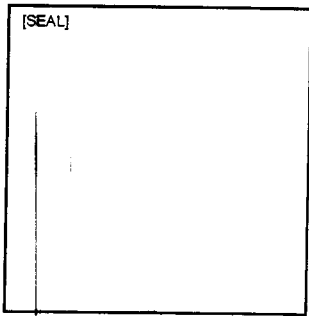
SHERRI R. CARTER

Clerk, by
(Secretario)

Kristina Vargas

, Deputy
(Adjunto)

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



NOTICE TO THE PERSON SERVED: You are served

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

VIA FAX

SHORT TITLE: John Icabalceta v. Integrated Protection Corp.	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

SPECIAL SERVICES TACTICAL GROUP, a California corporation; and DOES 1 through 30, Inclusive

Page _____ of _____

Page 1 of 1

1 **JCL LAW FIRM, APC**

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6 **ZAKAY LAW GROUP, APLC**

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

218TCV28920

13 JOHN ICABALCETA, an individual, on behalf
14 of himself, and on behalf of all persons similarly
15 situated,

Case No.

15 Plaintiff,

CLASS ACTION COMPLAINT FOR:

16 vs.

17 INTEGRATED PROTECTION CORP., a
18 California Corporation; SPECIAL SERVICES
19 TACTICAL GROUP, a California corporation;
20 and DOES 1 through 30, Inclusive;

20 Defendants.

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§ 226 and 226.2;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
9. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*]

DEMAND FOR JURY TRIAL

1 Plaintiff JOHN ICABALCETA ("PLAINTIFF"), an individual, on behalf of himself and all
2 other similarly situated current and former independent contractors and employees alleges on
3 information and belief, except his own acts and knowledge which are based on personal knowledge,
4 the following:

5 **INTRODUCTION**

6 1. PLAINTIFF is an individual who worked as a security guard in California for
7 defendants INTEGRATED PROTECTION CORP. and SPECIAL SERVICES TACTICAL GROUP
8 (hereinafter collectively "DEFENDANTS"). Plaintiff alleges that DEFENDANTS have violated and
9 continue to violate the California Labor Code protections applicable to California employees because
10 DEFENDANTS have misclassified its California employees as independent contractors. In order to
11 provide services to their customers, DEFENDANTS hire California workers to aid DEFENDANTS
12 in providing security services in the usual course of DEFENDANTS' business to their clients. The
13 costs, as proscribed by law, of the personnel hired to work for DEFENDANTS, includes not only the
14 pay of these employees but the cost of the employer's share of tax payments to the federal and state
15 governments for income taxes, social security taxes, Medicare insurance, unemployment insurance
16 and payments for workers' compensation insurance. To avoid the payment of these legally proscribed
17 expenses to the fullest extent possible, DEFENDANTS devised a scheme to place the responsibility
18 for the payment of these costs and expenses of DEFENDANTS on the shoulders of PLAINTIFF and
19 other similarly situated California employees. As employer, DEFENDANTS are legally responsible
20 for the payment of all these expenses. This lawsuit is brought in order to collect the wages due to
21 PLAINTIFF and all those similarly situated misclassified independent contractors, and those
22 classified as DEFENDANTS' employees, the cost of the employer's share of payments to the federal
23 and state governments for income taxes, social security taxes, Medicare insurance, unemployment
24 insurance and payments for workers' compensation insurance, plus penalties and interest.

25 **THE PARTIES**

26 2. Defendant INTEGRATED PROTECTION CORP, ("IPC") is a California
27 Corporation, that at all relevant times mentioned herein conducted and continues to conduct
28 substantial business in the State of California, County of Los Angeles.



1 3. Defendant SPECIAL SERVICES TACTICAL GROUP. (“SSTG”), is an California
2 corporation, that is registered to do business in the State of California and at all relevant times
3 mentioned herein conducted and continues to conduct substantial business in the State of California,
4 County of Los Angeles.

5 4. DEFENDANTS provide, among other services, patrol services, security guards,
6 executive protection, armed guards, unarmed guards and virtual guards throughout California.

7 5. DEFENDANTS were the joint employers of PLAINTIFF as evidenced by Wage
8 Statements, Employee Handbooks, Independent Contractor Agreements, and other employment
9 documents and by the company PLAINTIFF performed work for respectively and are therefore joint
10 responsible as employers for the conduct alleged herein.

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

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

28 8. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of

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

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

10 10. PLAINTIFF worked for DEFENDANTS as an independent contractor security guard in
11 Los Angeles, California between February 2020 and July 2020.

12 11. PLAINTIFF brings this Class Action on behalf of himself and on behalf of all of
13 individuals that worked for Defendant IPC and/or Defendant SSTG in California as independent
14 contractors and/or as employees (“CALIFORNIA CLASS”) at any time during the period beginning
15 four (4) years prior to the filing of the Complaint and ending on the date as determined by the Court
16 (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA
17 CLASS members is under five million dollars (\$5,000,000.00).

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

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

25 **THE CONDUCT**

26 **A. Misclassification**

27 14. California Labor Code Section 226.8 provides that “[i]t is unlawful for any person or
28 employer to engage in ...[w]illful misclassification of an individual as an independent contractor.” The

1 penalty for willful misclassification of employees is a “civil penalty of not less than five thousand
2 dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to
3 any other penalties or fines permitted by law.” It is further provided that, in the event that an employer
4 is found to have engaged in “a pattern or practice of these violations,” the penalties increase to “not
5 less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for
6 each violation, in addition to any other penalties or fines permitted by law.” Cal. Labor Code § 226.8.

7 15. Here, DEFENDANTS willfully misclassified PLAINTIFF and other similarly situated
8 California workers who provided DEFENDANTS with security services for DEFENDANTS’ clients.
9 In other words, PLAINTIFF and other similarly situated California workers provided DEFENDANTS
10 with work and services within the usual course of DEFENDANTS’ business. DEFENDANTS
11 controlled and directed the work performed by PLAINTIFF and the other similarly situated
12 misclassified California workers by, among other things, assigning events, scheduling hours of work,
13 providing equipment, issuing written policies and procedures for the performance of work and conduct
14 in the workplace. Finally, PLAINTIFF and the other similarly situated misclassified California workers
15 are not and were not engaged in a customarily independently established trade, occupation or business
16 as the same nature of the work performed. DEFENDANTS engaged in a pattern and practice of
17 misclassifying California workers as independent contractors, hired to perform work and services core
18 to DEFENDANTS’ businesses, in violation of California Labor Code Section 226.8.

19 16. Upon hire, the position was represented by DEFENDANTS to PLAINTIFF and the
20 other workers as an independent contractor position in exchange for an hourly rate of pay for the time
21 they spend providing labor and services to DEFENDANTS’ third party customers. In many instances,
22 PLAINTIFF and the members of the CALIFORNIA CLASS were not compensated at least the
23 applicable minimum wage for time spent providing labor and services to DEFENDANTS’ third party
24 customers. Similarly, PLAINTIFF and other members of the CALIFORNIA CLASS were not
25 compensated overtime wages for any of their time spent working in excess of eight (8) hours in a
26 workday, twelve (12) hours in a workday, and/or forty (40) hours in a workweek. PLAINTIFF and
27 other members of the CALIFORNIA CLASS were paid the hourly rate to perform labor services on
28 DEFENDANTS’ behalf. PLAINTIFF and other workers were not compensated any other wages

1 besides the non-negotiable hourly rate, and they were not allowed to record their time for all the time
2 they spent under DEFENDANTS’ control. DEFENDANTS did not pay PLAINTIFF and other
3 CALIFORNIA CLASS members for all the time they spent working for DEFENDANTS outside of the
4 job assignment they were placed at with DEFENDANTS’ third party customers. The finite set of tasks
5 required to be performed by the workers is to provide security guard services in accordance with
6 DEFENDANTS’ business practices and policies.

7 17. To perform their job duties, PLAINTIFF and the other members of the CALIFORNIA
8 CLASS perform work subject to the control of DEFENDANTS in that DEFENDANTS had the
9 authority to exercise complete control over the work performed and the manner and means in which
10 the work was performed. DEFENDANTS provided the customers and DEFENDANTS provided the
11 instructions as to how to perform their work.

12 18. California Labor Code § 3357 defines “employee” as “every person in the service of an
13 employer under any appointment or contract of hire or apprenticeship, express or implied, oral or
14 written, whether lawfully or unlawfully employed.” Additionally, to the California Labor Code’s
15 presumption that workers are employees, the California Supreme Court has determined the most
16 significant factor to be considered in distinguishing an independent contractor from an employee is
17 whether the *employer or principal has control or the right to control the work both as to the work*
18 *performed and the manner and means in which the work is performed.* DEFENDANTS heavily
19 controlled both the work performed and the manner and means in which the PLAINTIFF and other
20 workers performed their work in that:

21 (a) PLAINTIFF and other members of the CALIFORNIA CLASS were not
22 involved in a distinct business, but instead were provided with instructions as to how to perform their
23 work and the manner and means in which the work was to be performed by means of DEFENDANTS’
24 and DEFENDANTS’ customers manuals and written instructions;

25 (b) PLAINTIFF and other members of the CALIFORNIA CLASS were continuously
26 provided with training and supervision, including following DEFENDANTS’ company documents,
27 and received training from DEFENDANTS as to how and in what way to perform the services;

28 (c) DEFENDANTS set the requirements as to what policies and procedures all of

1 the workers were to follow, including but not limited to, hourly rates, location of assignment, where to
2 park, and what to wear;

3 (d) PLAINTIFF and other members of the CALIFORNIA CLASS had no
4 opportunity for profit or loss because DEFENDANTS only paid these workers an hourly rate.
5 DEFENDANTS controlled and assigned the workers which tasks were to be performed;

6 (e) PLAINTIFF and other members of the CALIFORNIA CLASS performed
7 services and labor which are part of the core of DEFENDANTS' principal business and is closely
8 integrated with and essential to the employer's business of services and labor to their customers;

9 (f) PLAINTIFF and other members of the CALIFORNIA CLASS performed the
10 work themselves and did not hire others to perform their work for them;

11 (g) PLAINTIFF and other members of the CALIFORNIA CLASS did not have the
12 authority to make employment-related personnel decisions;

13 (h) PLAINTIFF and other members of the CALIFORNIA CLASS performed their
14 work in a particular order and sequence in accordance with DEFENDANTS and DEFENDANTS
15 customers company policies; and,

16 (i) DEFENDANTS had the "right" to control every critical aspect of
17 DEFENDANTS labor operation in that DEFENDANTS provided the customer, assigned where
18 PLAINTIFF and other members of the CALIFORNIA CLASS were to go, assigned the hourly rate,
19 and step by step instructions to PLAINTIFF and other members of the CALIFORNIA CLASS as to the
20 entire process of working at their assigned locations. PLAINTIFF and other workers provided services
21 and labor for DEFENDANTS customers and were not actually in business for themselves.

22 19. As a result, stripped of all the legal fictions and artificial barriers to an honest
23 classification of the relationship between PLAINTIFF and all the other members of the CALIFORNIA
24 CLASS on the one hand, and DEFENDANTS on the other hand, PLAINTIFF and all the other members
25 of the CALIFORNIA CLASS are and were employees of DEFENDANTS and not independent
26 contractors of DEFENDANTS and should therefore be properly classified as non-exempt, hourly
27 employees.

28 20. The finite set of tasks required of PLAINTIFF and the other CALIFORNIA CLASS

1 members as defined by DEFENDANTS was executed by them through the performance of non-exempt
2 labor.

3 21. Although PLAINTIFF and the other CALIFORNIA CLASS members performed non-
4 exempt labor subject to DEFENDANTS' complete control over the manner and means of performance,
5 DEFENDANTS instituted a blanket classification policy, practice and procedure by which all of these
6 CALIFORNIA CLASS Members were classified as "independent contractors" exempt from
7 compensation for overtime worked, meal breaks and rest breaks, and reimbursement for business related
8 expenses. By reason of this uniform misclassification, the CALIFORNIA CLASS Members were also
9 required to pay DEFENDANTS 's share of payroll taxes and mandatory insurance premiums. As a result
10 of this uniform misclassification practice, policy and procedure applicable to PLAINTIFF and the other
11 CALIFORNIA CLASS Members who performed this work for DEFENDANTS, DEFENDANTS
12 committed acts of unfair competition in violation of the California Unfair Competition law, Cal. Bus. &
13 Prof. Code §§ 17200, *et seq.* (the "UCL"), by engaging in a company-wide policy, practice and
14 procedure which failed to properly classify PLAINTIFF and the other CALIFORNIA CLASS members
15 as employees and thereby failed to pay them wages for all time worked, reimbursement of business
16 related expenses, failed to provide them with meal and rest breaks, and failed to reimburse these
17 employees for the employer's share of payroll taxes and mandatory insurance.

18 22. DEFENDANTS, as a matter of law, has the burden of proving that employees are
19 properly classified and that DEFENDANTS otherwise complies with applicable laws. DEFENDANTS,
20 as a matter of corporate policy, erroneously and unilaterally classified all the CALIFORNIA CLASS
21 Members as independent contractors in violation of the California Labor Code and regulations
22 promulgated thereunder.

23 **B. Meal Period Violations**

24 23. In California, an employer may not employ an employee for a work period of more than
25 five hours per day without providing the employee with a duty-free meal period of not less than thirty
26 minutes, except that if the total work period per day of the employee is no more than six hours, the
27 meal period may be waived by mutual consent of both the employer and employee. A second duty-free
28 meal period of not less than thirty minutes is required if an employee works more than ten hours per

1 day, except that if the total hours worked is no more than 12 hours, the second duty-free meal period
2 may be waived by mutual consent of the employer and employee only if the first meal period was not
3 waived. Labor Code Section 512.

4 24. If an employer fails to provide an employee a duty-free meal period in accordance with
5 an applicable IWC Order, the employer must pay one additional hour of pay at the employee's regular
6 rate of pay for each workday that the meal period is not provided. IWC Orders and Labor Code Section
7 226.7. This additional hour is not counted as hours worked for purposes of overtime calculations.

8 25. From time-to-time during the CLASS PERIOD, as a result of their misclassification as
9 independent contractors and/or their rigorous work schedules, PLAINTIFF and other CALIFORNIA
10 CLASS members were not provided with a thirty (30) minute duty-free meal period and were not fully
11 relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS members were
12 required from time-to-time to perform work as ordered by DEFENDANTS for more than five (5) hours
13 during some shifts without receiving a meal break. Further, DEFENDANTS from time to time failed
14 to provide PLAINTIFF and CALIFORNIA CLASS members with a second duty-free meal period for
15 some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of
16 work. PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks
17 without additional compensation and in accordance with DEFENDANTS' strict corporate policy and
18 practice. Moreover, PLAINTIFF and other members of the CALIFORNIA CLASS were not provided
19 with one-hour wages in lieu of their legally mandated duty-free meal and rest periods.

20 26. Furthermore, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
21 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to work while clocked
22 out during what was supposed to be their off-duty meal break as a result of their overburdened work
23 requirements, inadequate staffing and not being relived of cordless communication devices during his
24 work shifts. Further, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS,
25 were from time-to-time interrupted by work assignments while clocked out for what should have been
26 their off-duty meal break as a result of, among other things, not being relieved of their cordless
27 communication devices during what should have been off-the-clock, duty free meal periods.

28 ///

1 **C. Rest Period Violations**

2 27. The applicable IWC Wage Order requires that employers must authorize and permit
3 nonexempt employees to take a rest period that must, insofar as practicable, be taken in the middle of
4 each work period. The rest period is based on the total hours worked daily and must be at the minimum
5 rate of a net ten consecutive minutes for each four-hour work period, or major fraction thereof. The
6 Division of Labor Standards Enforcement (DLSE) considers anything more than two hours to be a
7 “major fraction” of four. A rest period is not required for employees whose total daily work time is less
8 than three and one-half hours. The rest period is counted as time worked and therefore, the employer
9 must pay for such periods.

10 28. If an employer fails to provide an employee a rest period in accordance with an applicable
11 IWC Order, the employer shall pay the employee one additional hour of pay at the employee’s regular
12 rate of pay for each workday that the rest period is not provided. Labor Code Section 226.7. Thus, if
13 an employer does not provide all of the rest periods required in a workday, the employee is entitled to
14 one additional hour of pay for that workday, not one additional hour of pay for each rest period that
15 was not provided during that workday.

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

27 30. Furthermore, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
28 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to work during what

1 was supposed to be their off-duty rest break as a result of their overburdened work requirements,
2 inadequate staffing and not being relieved of cordless communication devices during his work shifts.
3 Further, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were from time-
4 to-time interrupted by work assignments during what should have been their off-duty rest break as a
5 result of, among other things, not being relieved of their cordless communication devices during what
6 should have been off-the-clock, duty free rest periods.

7 31. Finally, In violation of the applicable sections of the California Labor Code and the
8 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter
9 of company policy, practice and procedure, intentionally, knowingly and systematically failed to
10 compensate PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an
11 additional hour of premium pay for missed rest periods. This uniform policy and practice of
12 DEFENDANTS is intended to purposefully avoid the payment for all time worked as required by
13 California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
14 competitors who complied with the law.

15 **D. Failure to Pay Minimum, Regular and Overtime Wages**

16 32. From time-to-time during the CLASS PERIOD, DEFENDANTS failed to accurately
17 record and pay PLAINTIFF and other CALIFORNIA CLASS members for the actual amount of time
18 these employees work. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
19 are required to pay PLAINTIFF and other CALIFORNIA CLASS members for all time worked,
20 meaning the time during which an employee was subject to the control of an employer, including all
21 the time the employee was permitted or suffered to permit this work. DEFENDANTS required
22 PLAINTIFF and CALIFORNIA CLASS members to work off the clock without paying them for all
23 the time they were under DEFENDANTS' control. PLAINTIFF and other CALIFORNIA CLASS
24 Members also worked more than eight hours in a workday and/or forty hours in a workweek, but
25 DEFENDANTS failed to pay these employees overtime pay as DEFENDANTS only paid a flat rate or
26 a flat hourly rate for all time worked. Consequently, PLAINTIFF and other CALIFORNIA CLASS
27 members forfeited minimum wages and overtime wage compensation by working without their time
28 being correctly recorded and without compensation at the applicable rates. DEFENDANTS' policy and

1 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is
2 evidenced by DEFENDANTS' business records. As a result, DEFENDANTS failed to compensate
3 PLAINTIFF and the members of the CALIFORNIA CLASS all minimum, regular and overtime wages
4 for all hours worked in violation of Labor Code §§ 1194, 1197, 1197.1, 1198 and 510.

5 **E. Failure to Reimburse Necessary and Required Business Expenses**

6 33. Under California Labor Code Section 2802, employers are required to indemnify
7 employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code §
8 2802 expressly states that "an employer shall indemnify his or her employee for all necessary
9 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her
10 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the
11 employee, at the time of obeying the directions, believed them to be unlawful."

12 34. From time-to-time during the CLASS PERIOD, DEFENDANTS as a matter of corporate
13 policy, practice and procedure, intentionally, knowingly and systematically failed to reimburse and
14 indemnify PLAINTIFF and the other CLASS MEMBERS for required business expenses incurred by
15 PLAINTIFF and other the CLASS MEMBERS in direct consequence of discharging their duties on
16 behalf of DEFENDANTS.

17 35. From time-to-time during the CLASS PERIOD, in the course of their employment
18 PLAINTIFF and other CALIFORNIA CLASS members as a business expense, were required by
19 DEFENDANTS to use personal cellular phones and use their personal vehicles as a result of and in
20 furtherance of their job duties as employees for DEFENDANTS but were not reimbursed or
21 indemnified by DEFENDANTS for the cost associated with the use of the personal cellular phones and
22 personal vehicles for DEFENDANTS' benefit. In order to work for DEFENDANTS, PLAINTIFF and
23 other CALIFORNIA CLASS Members were required to use their personal vehicles to travel to different
24 locations each work shift and were also required to use their personal cell phones to review, receive
25 and accept job assignments and as such it is mandatory to have a cell phone. As a result, in the course
26 of their employment with DEFENDANTS, PLAINTIFF and other members of the CALIFORNIA
27 CLASS incurred unreimbursed business expenses which included, but were not limited to, costs related
28 to the use of their personal cellular phones on behalf of and for the benefit of DEFENDANTS. Further,

1 PLAINTIFF and other CALIFORNIA CLASS members were also not reimbursed or indemnified by
2 DEFENDANTS for the cost associated with using their personal vehicles while performing for
3 DEFENDANTS. Moreover, PLAINTIFF and other CALIFORNIA CLASS members were also
4 required from time to time to pay for parking costs at certain live entertainment venues and were not
5 reimbursed for those costs. As a result, in the course of their employment with DEFENDANTS,
6 PLAINTIFF and other members of the CALIFORNIA CLASS incurred unreimbursed business
7 expenses which included, but were not limited to, costs related to travel all on behalf of and for the
8 benefit of DEFENDANTS.

9 **F. Rounding**

10 36. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
11 required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time worked,
12 meaning the time during which an employee is subject to the control of an employer, including all the
13 time the employee is suffered or permitted to work. From time to time, DEFENDANTS required
14 PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they
15 were under DEFENDANTS' control. Specifically, PLAINTIFF performed work before and after the
16 beginning of her shift, spending time under the DEFENDANTS' control for which she was not
17 compensated. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited
18 minimum wage and overtime compensation by regularly working without their time being accurately
19 recorded and without compensation at the applicable minimum wage and overtime rates.
20 DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS
21 Members for all time worked is evidenced by DEFENDANTS' business records.

22 37. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in place an
23 immutable timekeeping system to accurately record and pay PLAINTIFF and other CALIFORNIA
24 CLASS Members for the actual time these employees worked each day, including overtime hours.
25 Specifically, DEFENDANTS had in place an unlawful rounding policy and practice that resulted in
26 PLAINTIFF and CALIFORNIA CLASS Members being undercompensated for all of their time
27 worked. As a result, DEFENDANTS were able to and did in fact unlawfully, and unilaterally round the
28 time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and the members of the

1 CALIFORNIA CLASS in order to avoid paying these employees for all their time worked, including
2 the applicable overtime compensation for overtime worked. As a result, PLAINTIFF and other
3 CALIFORNIA CLASS Members, from time to time, forfeited compensation for their time worked by
4 working without their time being accurately recorded and without compensation at the applicable
5 overtime rates.

6 38. Further, the mutability of DEFENDANTS' timekeeping system and unlawful rounding
7 policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time being
8 inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding policy and
9 practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by
10 DEFENDANTS for more than five (5) hours during a shift without receiving an off-duty meal break.

11 **39. Wage Statement Violations**

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

20 41. From time-to-time during the CLASS PERIOD, as a result of, *inter alia*, of
21 DEFENDANTS' intentional and willful misclassification of PLAINTIFF and the members of the
22 CALIFORNIA CLASS as independent contractors rather than employees, DEFENDANTS issued
23 inaccurate itemized wages statements to PLAINTIFF and the members of the CALIFORNIA CLASS
24 that failed to accurately showing (1) gross wages earned, (2) total hours worked, (3) the number of
25 piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the
26 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
27 last four digits of the employee's social security number or an employee identification number other
28 than a social security number, (8) the name and address of the legal entity that is the employer and, (9)

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

3 42. Aside, from the violations listed above in this paragraph, DEFENDANTS also failed to
4 issue to PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an itemized
5 wage statement that lists all the requirements under California Labor Code 226 *et seq*, including the
6 correct name of the entity that was the employer of PLAINTIFF.

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

11 **G. Unfair Competition**

12 44. By reason of this conduct applicable to PLAINTIFF and all the CALIFORNIA CLASS
13 members, DEFENDANTS committed acts of unfair competition in violation of the California Unfair
14 Competition law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL"), by engaging in a company-
15 wide policy, practice and procedure which failed to correctly classify PLAINTIFF and the
16 CALIFORNIA CLASS members as employees. The proper classification of these employees is
17 DEFENDANTS' burden. As a result of DEFENDANTS' intentional disregard of the obligation to meet
18 this burden, DEFENDANTS failed to pay all required wages for work performed by PLAINTIFF and
19 other CALIFORNIA CLASS Members and violated the California Labor Code and regulations
20 promulgated thereunder as herein alleged.

21 45. PLAINTIFF as a worker for DEFENDANTS, was classified by DEFENDANTS as an
22 independent contractor and thus did not receive pay for all time worked, including minimum and
23 overtime wages. During the CALIFORNIA CLASS PERIOD, PLAINTIFF was also required to
24 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without
25 receiving a meal or rest break as evidenced by daily time reports for PLAINTIFF. PLAINTIFF
26 therefore forfeited meal and rest breaks without additional compensation and in accordance with
27 DEFENDANTS' strict corporate policy and practice which did not provide for mandatory meal and
28 rest breaks. To date, DEFENDANTS has not fully paid PLAINTIFF all wages still owed to him or any

1 penalty wages owed to him under California Labor Code § 203. The amount in controversy for
2 PLAINTIFF individually does not exceed the sum or value of \$75,000.

3 4 THE CALIFORNIA CLASS

5 46. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
6 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action,
7 pursuant to Cal. Code of Civ. Proc. § 382, for violations during the CLASS PERIOD on behalf of the
8 CALIFORNIA CLASS. The amount in controversy for the aggregate claim of CALIFORNIA CLASS
9 Members is under five million dollars (\$5,000,000.00).

10 47. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
11 against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

12 48. All CALIFORNIA CLASS members who performed and continue to perform this work
13 for DEFENDANTS during the CLASS PERIOD are similarly situated in that they are subject to
14 DEFENDANTS' policy and practice that required them to perform work without compensation as
15 required by law.

16 49. During the CLASS PERIOD, DEFENDANTS violated the rights of the PLAINTIFF and
17 the CALIFORNIA CLASS members under California law, without limitation, in the following
18 manners:

19 (a) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
20 17200, *et seq.* the ("UCL"), in that DEFENDANTS, while acting as employer, devised and implemented
21 a scheme whereby PLAINTIFF and the CALIFORNIA CLASS members are forced to unlawfully,
22 unfairly and deceptively shoulder the cost of DEFENDANTS' wages for all unpaid wages, business
23 related expenses, and DEFENDANTS' share of employment taxes, social security taxes, unemployment
24 insurance and workers' compensation insurance;

25 (b) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
26 17200, *et seq.* the ("UCL"), by unlawfully, unfairly and/or deceptively having in place company policies,
27 practices and procedures that uniformly misclassified PLAINTIFF and the CALIFORNIA CLASS
28 members as independent contractors;

1 (c) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
2 17200, *et seq.* the ("UCL"), by unlawfully, unfairly and/or deceptively failing to have in place a company
3 policy, practice and procedure that accurately determined the amount of working time spent by
4 PLAINTIFF and the CALIFORNIA CLASS members performing non-exempt employee labor;

5 (d) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
6 17200, *et seq.* the ("UCL"), by failing to provide PLAINTIFF and the other members of the
7 CALIFORNIA CLASS with all legally required meal and rest breaks;

8 (e) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
9 17200, *et seq.* the ("UCL") by violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and
10 the CALIFORNIA CLASS members with necessary expenses incurred in the discharge of their job
11 duties; and,

12 (f) Committing an act of unfair competition in violation of the UCL, by violating
13 Cal. Lab. Code §§ 510, *et seq.*, by failing to pay the correct overtime pay to PLAINTIFF and the
14 members of the CALIFORNIA CLASS who were improperly classified as exempt, and retaining the
15 unpaid overtime to the benefit of DEFENDANTS.

16 50. As a result of DEFENDANTS' policies, practices and procedures, there are numerous
17 questions of law and fact common to all CALIFORNIA CLASS members who worked for during the
18 CLASS PERIOD. These questions include, but are not limited, to the following:

19 (a) Whether PLAINTIFF and other CALIFORNIA CLASS members were
20 misclassified as independent contractors by DEFENDANTS;

21 (b) Whether the PLAINTIFF and the CALIFORNIA CLASS members all afforded
22 all the protections of the California Labor Code that apply when properly classified as non-exempt
23 employees;

24 (c) Whether DEFENDANTS' policies, practices and pattern of conduct described in
25 this Complaint was and is unlawful;

26 (d) Whether DEFENDANTS unlawfully failed to pay their share of state and federal
27 employment taxes as required by state and federal tax laws;

28 (e) Whether DEFENDANTS' policy, practice and procedure of classifying the

1 CALIFORNIA CLASS members as independent contractors exempt from hourly wages laws for all
2 time worked and failing to pay the CALIFORNIA CLASS members all amounts due violates applicable
3 provisions of California State law;

4 (f) Whether DEFENDANTS unlawfully failed to keep and furnish the
5 CALIFORNIA CLASS members with accurate records of all time worked;

6 (g) Whether DEFENDANTS have engaged in unfair competition by the above-listed
7 conduct; and,

8 (h) Whether DEFENDANTS' conduct was willful.

9 51. This Class Action meets the statutory prerequisites for the maintenance of a Class Action
10 as set forth in Cal. Code of Civ. Proc. § 382, in that:

11 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the
12 joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the
13 parties and the Court;

14 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
15 raised in this Complaint are common to the CALIFORNIA CLASS and will apply to every
16 CALIFORNIA CLASS member;

17 (c) The claims of the representative PLAINTIFF are typical of the claims of each
18 member of the CALIFORNIA CLASS. PLAINTIFF, like all the CALIFORNIA CLASS members, was
19 classified as an independent contractor upon hiring based on the defined corporate policies and practices
20 and labors under DEFENDANTS' procedure that failed to properly classify the PLAINTIFF and the
21 CALIFORNIA CLASS members. PLAINTIFF sustained economic injury as a result of
22 DEFENDANTS' employment practices. PLAINTIFF and the CALIFORNIA CLASS members were
23 and are similarly or identically harmed by the same unlawful, unfair, deceptive and persuasive pattern
24 of misconduct engaged in by DEFENDANTS by deceptively telling all the CALIFORNIA CLASS
25 members that they were not entitled to minimum wages, the employer's share of payment of payroll
26 taxes and mandatory insurance, and reimbursement for business expenses based on the defined corporate
27 policies and practices, and unfairly failed to pay these employees who were improperly classified as
28 independent contractors; and,

1 (d) The representative PLAINTIFF will fairly and adequately represent and protect
2 the interest of the CALIFORNIA CLASS, and has retained counsel who is competent and experienced
3 in Class Action litigation. There are no material conflicts between the claims of the representative
4 PLAINTIFF and the CALIFORNIA CLASS members that would make class certification inappropriate.
5 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all employees in the
6 CALIFORNIA CLASS.

7 52. In addition to meeting the statutory prerequisites to a Class Action, this Action is properly
8 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

9 (a) Without class certification and determination of declaratory, injunctive, statutory
10 and other legal questions within the class format, prosecution of separate actions by individual members
11 of the CALIFORNIA CLASS will create the risk of:

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

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

18 (b) The parties opposing the CALIFORNIA CLASS have acted on grounds generally
19 applicable to the CALIFORNIA CLASS making appropriate class-wide relief with respect to the
20 CALIFORNIA CLASS as a whole in that DEFENDANTS uniformly classified and treated the
21 CALIFORNIA CLASS Members as independent contractors and, thereafter, uniformly failed to take
22 proper steps to determine whether the CALIFORNIA CLASS members were properly classified as
23 independent contractors, and thereby denied these employees' wages and payments for business
24 expenses and the employer's share of payroll taxes and mandatory insurance as required by law.

25 (i) With respect to the First Cause of Action, the final relief on behalf of the
26 CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim the
27 PLAINTIFF seeks declaratory relief holding that DEFENDANTS' policies and practices constitute
28 unfair competition, along with incidental equitable relief as may be necessary to remedy the conduct

1 declared to constitute unfair competition.

2 (c) Common questions of law and fact exist as to members of the CALIFORNIA
3 CLASS with respect to the practices and violations of California and federal law as listed above, and
4 predominate over any question affecting only individual members, and a Class Action is superior to
5 other available methods for the fair and efficient adjudication of the controversy, including consideration
6 of:

7 (i) The interest of the CALIFORNIA CLASS members in individually
8 controlling the prosecution or defense of separate actions;

9 (ii) The extent and nature of any litigation concerning the controversy already
10 commenced by or against members of the CALIFORNIA CLASS;

11 (iii) In the context of wage litigation because as a practical matter a substantial
12 number of individual CALIFORNIA CLASS members will avoid asserting their legal rights out of fear
13 of retaliation by DEFENDANTS, which may adversely affect an individual's job with DEFENDANTS
14 or with a subsequent employer, the Class Action is the only means to assert their claims through a
15 representative;

16 (iv) The desirability or undesirability of concentration the litigation of the
17 claims in the particular forum;

18 (v) The difficulties likely to be encountered in the management of a Class
19 Action; and,

20 (vi) The basis of DEFENDANTS' policies and practices applied to all the
21 CALIFORNIA CLASS members.

22 53. The Court should permit this Action to be maintained as a Class Action pursuant to Cal.
23 Code of Civ. Proc. § 382 because:

24 (a) The questions of law and fact common to the CALIFORNIA CLASS
25 predominate over any question affecting only individual members;

26 (b) A Class Action is superior to any other available method for the fair and efficient
27 adjudication of the claims of the members of the CALIFORNIA CLASS;

28 (c) The CALIFORNIA CLASS members are so numerous that it is impractical to

1 bring all CALIFORNIA CLASS members before the Court;

2 (d) PLAINTIFF, and the CALIFORNIA CLASS Members, will not be able to obtain
3 effective and economic legal redress unless the action is maintained as a Class Action;

4 (e) There is a community of interest in obtaining appropriate legal and equitable
5 relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining
6 adequate compensation for the damages and injuries which DEFENDANTS' actions have inflicted upon
7 the CALIFORNIA CLASS;

8 (f) There is a community of interest in ensuring that the combined assets and
9 available insurance of DEFENDANTS are sufficient to adequately compensate the CALIFORNIA
10 CLASS members for any injuries sustained;

11 (g) DEFENDANTS has acted or has refused to act on grounds generally applicable
12 to the CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the
13 CLASS as a whole;

14 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the
15 business records of DEFENDANTS; and,

16 (i) 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 DEFENDANTS' conduct as to the CALIFORNIA CLASS Members.

19 54. DEFENDANTS maintain records from which the Court can ascertain and identify by
20 name and job title, each of DEFENDANTS' employees who have been intentionally subjected to
21 DEFENDANTS' corporate policies, practices and procedures as herein alleged. PLAINTIFF will seek
22 leave to amend the complaint to include any additional job titles of similarly situated employees when
23 they have been identified.

24 **THE CALIFORNIA LABOR SUB-CLASS**

25 55. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
26 Causes of Action on behalf of a California sub-class, defined as all members of the CALIFORNIA
27 CLASS who are or previously were employed by Defendant IPS and/or Defendant SSTG in California
28 (the "CALIFORNIA LABOR SUB-CLASS) at any time during the period three (3) years prior to the

1 filing of the Complaint and ending on the date as determined by the Court (the “CALIFORNIA
2 LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc § 382. The amount in
3 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five
4 million dollars (\$5,000,000.00).

5 56. DEFENDANTS, as a matter of corporate policy, practice and procedure, and in
6 violation of the applicable California Labor Code (“Labor Code”), and Industrial Welfare Commission
7 (“IWC”) Wage Order requirements intentionally, knowingly, and willfully, on the basis of job title
8 alone and without regard to the actual overall requirements of the job, systematically classified
9 PLAINTIFF and the other members of the CALIFORNIA LABOR SUBCLASS as independent
10 contractors in order to avoid the payment of all wages, and in order to avoid the obligations under the
11 applicable California Labor Code provisions. To the extent equitable tolling operates to toll claims by
12 the CALIFORNIA LABOR SUB-CLASS against DEFENDANTS, the CALIFORNIA LABOR SUB-
13 CLASS PERIOD should be adjusted accordingly.

14 57. DEFENDANTS maintain records from which the Court can ascertain and identify by
15 job title each of DEFENDANTS’ employees who as CALIFORNIA LABOR SUB-CLASS Members
16 have been systematically, intentionally and uniformly misclassified as independent contractors as a
17 matter of DEFENDANTS’ corporate policy, practices and procedures. PLAINTIFF will seek leave to
18 amend the complaint to include these additional job titles when they have been identified.

19 58. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

21 59. DEFENDANTS violated the rights of the CALIFORNIA LABOR SUB-CLASS under
22 California law by:

23 (a) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by misclassifying and
24 failing to pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct
25 minimum wages for which DEFENDANTS is liable;

26 (b) Violating Cal. Lab. Code §§ 510, *et seq.*, by misclassifying and failing to pay
27 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct overtime pay
28 for a workday longer than eight (8) hours and/or a workweek longer than forty (40) hours for which

1 DEFENDANTS is liable pursuant to Cal. Lab. Code § 1194;

2 (c) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
3 and the other members of the CALIFORNIA LABOR SUBCLASS with all legally required off-duty,
4 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;

5 (d) Violating Cal. Lab. Code § 226 by failing to provide PLAINTIFF and the
6 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing
7 showing the name of the employer, gross wages earned, the net wages earned, all applicable hourly
8 rates in effect during the pay period and the corresponding amount of time worked at each hourly rate
9 by the employee;

10 (e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
11 CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the discharge of
12 their job duties; and,

13 (f) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
14 employee is discharged or quits from employment, the employer must pay the employee all wages due
15 without abatement, by failing to tender full payment and/or restitution of wages owed or in the manner
16 required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have
17 terminated their employment.

18 60. This Class Action meets the statutory prerequisites for the maintenance of a Class
19 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

20 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
21 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and
22 the disposition of their claims as a class will benefit the parties and the Court;

23 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
24 are raised in this Complaint are common to the CALIFORNIA LABOR 19 SUB-CLASS and will apply
25 to every member of the CALIFORNIA LABOR SUB-CLASS;

26 (c) The claims of the representative PLAINTIFF are typical of the claims of each
27 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all other members of the
28 CALIFORNIA LABOR SUB-CLASS was improperly classified as an independent contractor and was

1 thus denied minimum wage pay and meal and rest breaks, among other things, as a result of
2 DEFENDANTS' systematic classification practices. PLAINTIFF and all other members of the
3 CALIFORNIA LABOR SUB-CLASS sustained economic injuries arising from DEFENDANTS'
4 violations of the laws of California; and,

5 (d) The representative PLAINTIFF will fairly and adequately represent and protect
6 the interest of the CALIFORNIA LABOR SUB-CLASS and has retained counsel who are competent
7 and experienced in Class Action litigation. There are no material conflicts between the claims of the
8 representative PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS that would
9 make class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will
10 vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

11 61. In addition to meeting the statutory prerequisites to a Class Action, this action is
12 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

13 (a) Without class certification and determination of declaratory, injunctive,
14 statutory and other legal questions within the class format, prosecution of separate actions by individual
15 members of the CALIFORNIA LABOR SUBCLASS will create the risk of: 1) Inconsistent or varying
16 adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS which
17 would establish incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR
18 SUB-CLASS; or, 2) Adjudication with respect to individual members of the CALIFORNIA LABOR
19 SUB-CLASS which would as a practical matter be dispositive of interests of the other members not
20 party to the adjudication or substantially impair or impede their ability to protect their interests.

21 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
22 refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making
23 appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a whole in
24 that the DEFENDANTS uniformly classified and treated the members of the CALIFORNIA LABOR
25 SUB-CLASS as independent contractors and, thereafter, uniformly failed to take proper steps to
26 determine whether the CALIFORNIA LABOR SUBCLASS Members were properly classified as
27 independent contractors, and thereby denied these employees the protections afforded to them under
28 the California Labor Code;

1 (c) Common questions of law and fact predominate as to the members of the
2 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations of California law as
3 listed above, and predominate over any question affecting only individual CALIFORNIA LABOR
4 SUB-CLASS Members, and a Class Action is superior to other available methods for the fair and
5 efficient adjudication of the controversy, including consideration of:

6 i) The interests of the members of the CALIFORNIA LABOR SUB-
7 CLASS in individually controlling the prosecution or defense of separate actions in that the substantial
8 expense of individual actions will be avoided to recover the relatively small amount of economic losses
9 sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the
10 substantial expense and burden of individual prosecution of this litigation;

11 ii) Class certification will obviate the need for unduly duplicative litigation
12 that would create the risk of:

13 A. Inconsistent or varying adjudications with respect to individual
14 members of the CALIFORNIA LABOR SUBCLASS, which would establish incompatible standards
15 of conduct for the DEFENDANTS; and/or,

16 B. Adjudications with respect to individual members of the
17 CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the
18 other members not parties to the adjudication or substantially impair or impede their ability to protect
19 their interests;

20 iii) In the context of wage litigation because a substantial number of
21 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of
22 fear of retaliation by DEFENDANTS, which may adversely affect an individual's job with
23 DEFENDANTS or with a subsequent employer, the Class Action is the only means to assert their
24 claims through a representative; and,

25 iv) A class action is superior to other available methods for the fair and
26 efficient adjudication of this litigation because class treatment will obviate the need for unduly and
27 unnecessary duplicative litigation that is likely to result in the absence of certification of this action
28 pursuant to Cal. Code of Civ. Proc. § 382.

1 62. This Court should permit this action to be maintained as a Class Action pursuant to Cal.
2 Code of Civ. Proc. § 382 because:

3 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-
4 CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS
5 Members;

6 b) A Class Action is superior to any other available method for the fair and efficient
7 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the
8 context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-
9 CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse
10 impact on their employment;

11 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
12 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;

13 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members,
14 will not be able to obtain effective and economic legal redress unless the action is maintained as a Class
15 Action;

16 (e) There is a community of interest in obtaining appropriate legal and equitable
17 relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining
18 adequate compensation for the damages and injuries which DEFENDANTS' actions have inflicted
19 upon the CALIFORNIA LABOR SUB-CLASS;

20 (f) There is a community of interest in ensuring that the combined assets of
21 DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR
22 SUB-CLASS for the injuries sustained;

23 (g) DEFENDANTS has acted or refused to act on grounds generally applicable to
24 the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with
25 respect to the CALIFORNIA LABOR SUB-CLASS as a whole;

26 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
27 ascertainable from the business records of DEFENDANTS; and,

28 (i) Class treatment provides manageable judicial treatment calculated to bring a

1 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the
2 conduct of DEFENDANTS.

3 **JURISDICTION AND VENUE**

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

8 64. Venue is proper in this Court pursuant to Cal. Code of Civ. Proc. Sections 395 and 395.5,
9 because DEFENDANTS (i) currently maintains and at all relevant times maintained its principal offices
10 and facilities in this County and/or conducts substantial business in this County, and (ii) committed the
11 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS and
12 CALIFORNIA LABOR SUB-CLASS.

13 **FIRST CAUSE OF ACTION**

14 **For Unlawful, Unfair and Deceptive Business Practices**

15 **[Cal. Bus. & Prof. Code §§ 17200, *et seq.*]**

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

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

19 66. DEFENDANTS is a "person" as that term is defined under Cal. Bus. & Prof. Code §
20 17021.

21 67. Section 17200 of the California Business & Professions Code defines unfair competition
22 as any unlawful, unfair or fraudulent business act or practice. Section 17200 applies to violations of
23 labor laws in the employment context. Section 17203 authorizes injunctive, declaratory and/or other
24 equitable relief with respect to unfair competition as follows:

25 Any person who engages, has engaged, or proposes to engage in unfair
26 competition may be enjoined in any court of competent jurisdiction. The
27 court may take such orders or judgments, including the appointment of a
28 receiver, as may be necessary to prevent the use or employment by any

1 person of any practice which constitutes unfair competition, as defined in
2 this chapter, or as may be necessary to restore to any person in interest any
3 money or property, real or personal, which may have been acquired by
4 means of such unfair competition.

5 California Business & Professions Code § 17203.

6 68. By the conduct alleged herein, DEFENDANTS has engaged and continues to engage in
7 a business practice which violates California law, including but not limited to the applicable Industrial
8 Wage Orders, the California Labor Code including Sections 204, 210, 221, 226.7, 226.8, 510, 512,
9 1194, 1197, 1197.1, 1198, & 2802, and California Code of Regulations § 11090, for which this Court
10 should issue declaratory, injunctive, and other equitable relief, pursuant to Cal. Bus. & Prof § 17203,
11 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including
12 restitution of wages wrongfully withheld, business expenses wrongfully withheld and for the payment
13 of the employer's share of income taxes, social security taxes, unemployment insurance and workers'
14 compensation insurance.

15 69. By the conduct alleged herein DEFENDANTS has obtained valuable property, money,
16 and services from PLAINTIFF, and the other members of the CALIFORNIA CLASS, and has deprived
17 them of valuable rights and benefits guaranteed by law, all to their detriment and to the benefit of
18 DEFENDANTS so as to allow DEFENDANTS to unfairly compete. Declaratory and injunctive relief
19 is necessary to prevent and remedy this unfair competition, and pecuniary compensation alone would
20 not afford adequate and complete relief.

21 70. All the acts described herein as violations of, among other things, the California Labor
22 Code, California Code of Regulations and the Industrial Welfare Commission Wage Orders, were
23 unlawful, were in violation of public policy, were immoral, unethical, oppressive, and unscrupulous,
24 and were likely to deceive employees, and thereby constitute deceptive, unfair and unlawful business
25 practices in violation of Cal. Bus. and Prof. Code §§ 17200, *et seq.*

26 71. By the conduct alleged herein, DEFENDANTS' practices were deceptive and fraudulent
27 in that DEFENDANTS' policy and practice was to represent to the CALIFORNIA CLASS Members
28 that they were not entitled to overtime and minimum wages, payment for payroll taxes or mandatory

1 insurance and other benefits as required by California law, when in fact these representations were false
2 and likely to deceive and for which this Court should issue injunctive and equitable relief, pursuant to
3 Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

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

12 74. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,
13 and do, seek a declaration that the described business practices were unlawful, unfair and deceptive,
14 and that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful
15 and unfair business practices in the future.

16 75. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and
17 deceptive in that DEFENDANTS' policies, practices and procedures failed to provide all legally
18 required meal and rest breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as
19 required by Cal. Lab. Code §§ 226.7 and 512.

20 76. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
21 CALIFORNIA CLASS member, minimum wages, payment for the employer's share of payroll taxes
22 and mandatory insurance, and one (1) hour of pay for each workday in which an off-duty meal period
23 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday
24 in which a second off-duty meal period was not timely provided for each ten (10) hours of work.

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

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

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

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

11 80. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and
12 do, seek such relief as may be necessary to restore to them the money and property which
13 DEFENDANTS has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA
14 CLASS have been deprived, by means of the above described unlawful and unfair business practices.

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

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

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SECOND CAUSE OF ACTION

For Failure to Pay Minimum Wages

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

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)

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

84. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members.

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

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

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

88. DEFENDANTS maintained a wage practice of paying PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they worked. As set forth herein, DEFENDANTS’ policy and practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS.

89. DEFENDANTS’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and practice that denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS regarding minimum wage pay.

90. In committing these violations of the California Labor Code, DEFENDANTS

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

6 91. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
7 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS do not receive the
8 correct minimum wage compensation for their time worked for DEFENDANTS.

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

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

17 94. DEFENDANTS knew or should have known that PLAINTIFF and the other members of
18 the CALIFORNIA LABOR SUB-CLASS are under compensated for their time worked.
19 DEFENDANTS elected, either through intentional malfeasance or gross nonfeasance, to not pay
20 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members for their labor and
21 DEFENDANTS perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the
22 CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

23 95. In performing the acts and practices herein alleged in violation of California labor laws,
24 and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all time
25 worked and provide them with the requisite compensation, DEFENDANTS acted and continues to act
26 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
27 CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or
28 the 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 these
2 employees.

3 96. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
4 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as
5 the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
6 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation is
7 determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated
8 their employment, DEFENDANTS' 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 on behalf of these CALIFORNIA LABOR SUB-CLASS Members.
11 DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further,
12 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
13 statutory costs.

14 **THIRD CAUSE OF ACTION**

15 **For Failure to Pay Overtime Wages**

16 **[Cal. Lab. Code §§ 510, 1194, & 1198]**

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

18 97. PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members reallege and
19 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

20 98. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANTS failed to
21 pay PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members overtime wages for the time
22 they worked in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510
23 & 1198, even though PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members were
24 regularly required to work, and did in fact work, overtime that DEFENDANTS never recorded as
25 evidenced by DEFENDANTS' business records and witnessed by DEFENDANTS' employees.

26 99. By virtue of DEFENDANTS' unlawful failure to pay compensation to PLAINTIFF and
27 the CALIFORNIA CLASS Members for all overtime worked by these employees, PLAINTIFF and
28 CALIFORNIA LABOR SUB-CLASS Members have suffered, and will continue to suffer, an

1 economic in amounts which are presently unknown to them and which can be ascertained according to
2 proof at trial.

3 100. DEFENDANTS knew or should have known that PLAINTIFF and the CALIFORNIA
4 CLASS Members were misclassified as independent contractors and DEFENDANTS elected, either
5 through intentional malfeasance or gross nonfeasance, not to pay them for their labor as a matter of
6 corporate policy, practice and procedure.

7 101. PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members therefore request
8 recovery of all compensation according to proof, interest, costs, as well as the assessment of any
9 statutory penalties against DEFENDANTS in a sum as provided by the California Labor Code and/or
10 other statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA
11 LABOR SUB-CLASS Members who have terminated their employment, these employees would also
12 be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein.
13 Further, PLAINTIFF and the CALIFORNIA LABOR SUBCLASS Members are entitled to seek and
14 recover statutory costs.

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

23 **FOURTH CAUSE OF ACTION**

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

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

26 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
27 **DEFENDANTS)**

28 103. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,

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

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

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

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

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FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)

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

108. From time to time, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA LABOR SUBCLASS Members were also not provided with one-hour wages in lieu thereof. When rest breaks were provided, they were restricted to on-duty and on-premises. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

109. 88. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who were not provided a rest 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 rest period was not provided.

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

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1 **SIXTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 226]**

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

5 111. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
6 reallege and incorporate by this reference, as though fully set forth herein, the prior of this Complaint.

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

15 113. From time-to-time during the CALIFORNIA LABOR SUB-CLASS PERIOD,
16 DEFENDANTS issued inaccurate itemized wages statements to PLAINTIFF and the members of the
17 CALIFORNIA LABOR SUB-CLASS that failed to accurately showing (1) gross wages earned, (2)
18 total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all
19 deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid,
20 (7) the name of the employee and only the last four digits of the employee’s social security number or
21 an employee identification number other than a social security number, (8) the name and address of the
22 legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and
23 the corresponding number of hours worked at each hourly rate by the employee.

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

28 115. DEFENDANTS knowingly and intentionally failed to comply with Labor Code § 226,



1 causing damages to PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS.
 2 These damages include, but are not limited to, costs expended calculating the true amount of time
 3 worked and the amount of employment taxes which were not properly paid to state and federal tax
 4 authorities. These damages are difficult to estimate. Therefore, PLAINTIFF, and the other members
 5 of the CALIFORNIA LABOR SUB-CLASS elect to recover liquidated damages of \$50.00 for the
 6 initial pay period in which the violation occurred, and \$100.00 for each violation in subsequent pay
 7 period pursuant to Labor Code § 226, in an amount according to proof at the time of trial (but in no
 8 event more than \$4,000.00 for PLAINTIFF and each respective member of the CALIFORNIA LABOR
 9 SUB-CLASS herein).

10 **SEVENTH CAUSE OF ACTION**

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

12 **[Cal. Lab. Code § 2802]**

13 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)**

14 116. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members reallege and
 15 incorporate by this reference, as though fully set forth herein, paragraphs 1 through 79 of this Complaint.

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

22 118. At all relevant times herein, DEFENDANTS violated Cal. Lab. Code § 2802, by failing
 23 to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
 24 required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit. Specifically,
 25 DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
 26 members for expenses which included, but were not limited to, the cost associated with the use of their
 27 personal cellular phones and personal vehicles for DEFENDANTS' benefit. In order to work for
 28 DEFENDANTS, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required

1 to use their personal vehicles to travel and to use DEFENDANTS' mobile application and as such it is
2 mandatory to have a cell phone that is compatible with DEFENDANTS' mobile application. As a result,
3 in the course of their employment with DEFENDANTS, PLAINTIFF and other members of the
4 CALIFORNIA LABOR SUB-CLASS incurred unreimbursed business expenses which included, but
5 were not limited to, the costs related to the use of their personal cellular phones and personal vehicles
6 all on behalf of and for the benefit of DEFENDANTS. Further, PLAINTIFF and other CALIFORNIA
7 LABOR SUB-CLASS Members are also not reimbursed or indemnified by DEFENDANTS for the cost
8 associated with using their personal vehicles while driving for DEFENDANTS. Moreover, PLAINTIFF
9 and other CALIFORNIA LABOR SUB-CLASS Members were also required from time to time to pay
10 for parking costs at certain places. As a result, in the course of their employment with DEFENDANTS,
11 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS incurred unreimbursed
12 business expenses which included, but were not limited to, costs related to travel all on behalf of and
13 for the benefit of DEFENDANTS. These expenses are necessary to complete their principal job duties.
14 DEFENDANTS is estopped by DEFENDANTS' conduct to assert any waiver of this expectation.
15 Although these expenses are necessary expenses incurred by PLAINTIFF and the CALIFORNIA
16 LABOR SUB-CLASS members, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and
17 the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do
18 under the laws and regulations of California.

19 119. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by
20 them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for
21 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the statutory
22 rate and costs under Cal. Lab. Code § 2802.

23 **EIGHTH CAUSE OF ACTION**

24 **For Failure to Pay Wages When Due**

25 **[Cal. Lab. Code §§ 201, 202 and 203]**

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

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

1 Complaint.

2 121. Cal. Lab. Code § 200 states that:

3 As used in this article:

4 (a) "Wages" includes all amounts for labor performed by
5 employees of every description, whether the amount is fixed or ascertained
6 by the standard of time, task, piece, Commission basis, or other method of
7 calculation.

8 (b) "Labor" includes labor, work, or service whether rendered or
9 performed under contract, subcontract, partnership, station plan, or other
10 agreement if the labor to be paid for is performed personally by the person
11 demanding payment.

12 122. Cal. Lab. Code § 201 states, in relevant part, that "If an employer discharges an
13 employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

14 123. Cal. Lab. Code § 202 states, in relevant part, that:

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

25 124. There was no definite term in PLAINTIFF's or any other CALIFORNIA LABOR SUB-
26 CLASS Members' employment contract.

27 125. Cal. Lab. Code § 203 states:

28 If an employer willfully fails to pay, without abatement or reduction, in

1 3. PLAINTIFF, and such persons that may be added from time to time who satisfy the
2 requirements and exhaust the administrative procedures under the Private Attorney General Act, bring
3 this Representative Action on behalf of the State of California with respect to themselves and all
4 individuals who are or previously were employed by DEFENDANT and classified as non-exempt
5 employees in California during the time period of May 28, 2020 until the present (the "AGGRIEVED
6 EMPLOYEES").

7 4. On May 28, 2021, PLAINTIFF gave written notice by certified mail to the Labor and
8 Workforce Development Agency (the "Agency") and the employer of the specific provisions of
9 this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached
10 hereto and incorporated by this reference herein. The statutory waiting period for Plaintiff to add
11 these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, Plaintiff may
12 now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of
13 the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

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

26 //

27

28 //



1 **PRAYER FOR RELIEF**

2 WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and
3 severally, as follows:

4 1. On behalf of the CALIFORNIA CLASS:

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

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

9 C) An order requiring DEFENDANTS to pay minimum and overtime wages and all
10 sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the
11 CALIFORNIA CLASS; and,

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

15 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

16 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
17 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to
18 Cal. Code of Civ. Proc. § 382;

19 B) Compensatory damages, according to proof at trial, including compensation due
20 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
21 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;

22 C) The wages of all terminated individuals in the CALIFORNIA LABOR SUB-
23 CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is
24 commenced, in accordance with Cal. Lab. Code § 203;

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



1 E) Meal and rest period compensation pursuant to California Labor Code Section
2 226.7 and the applicable IWC Wage Order;

3 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
4 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit; and,

5 G) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197.

6 2. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

7 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General
8 Act of 2004

9 3. On all claims:

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

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

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

14

15 Dated: August 3, 2021

JCL LAW FIRM, A.P.C.

16

17

By: _____
Jean-Claude Lapuyade
Attorneys for PLAINTIFF

18

19

20

DEMAND FOR JURY TRIAL

21

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

22

23

Dated: August 3, 2021

JCL LAW FIRM, A.P.C.

24

25

By: _____
Jean-Claude Lapuyade
Attorneys for PLAINTIFF

26

27

28

EXHIBIT 1



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Jean-Claude Lapuyade, Esq.
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May 28, 2021

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

INTEGRATED PROTECTION CORP.

c/o William Bramble
3800 E. Anaheim
Long Beach, CA 90804

Via Certified Mail with Return Receipt No.
7021 0350 0001 8165 2382

SPECIAL SERVICES TACTICAL GROUP

c/o William Bramble
3800 E. Anaheim
Long Beach, CA 90804

Via Certified Mail with Return Receipt No.
7021 0350 0001 8165 2399

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:

This office represents JOHN ICABALCETA (“Plaintiff”) and other aggrieved employees in a proposed class and representative action against INTEGRATED PROTECTION CORP. and SPECIAL SERVICES TACTICAL GROUP (“Defendants”). This office intends to file the enclosed Class Action Complaint on behalf of Plaintiff and other employees and independent contractors who worked for Defendants. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff worked for Defendants in California from February 2020 to July 2020 as an independent contractor. While working for Defendants, Plaintiff was misclassified as an independent contractor and denied, among other things, complaint meal and rest breaks, minimum wages, regular wages and overtime wages.

As a consequence, Plaintiff contends that Defendants failed to fully compensate him, and other similarly situated aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and reimburse employees for required expenses. Accordingly, Plaintiff contends that Defendants’ 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.*

Plaintiffs intends on representing the aggrieved employees, who are defined as all individuals who worked for Defendants as independent contractors and/or employees, including exempt and non-exempt positions.

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.

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.

Very truly yours,
JCL LAW FIRM, APC



Jean-Claude Lapuyade, Esq.

Enclosure (1)

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 JOHN ICABALCETA, an individual, on behalf
14 of himself, and on behalf of all persons similarly
15 situated,

16 Plaintiff,

17 vs.

18 INTEGRATED PROTECTION CORP., a
19 California Corporation; SPECIAL SERVICES
20 TACTICAL GROUP, a California corporation;
21 and DOES 1 through 30, Inclusive;

22 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 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.

DEMAND FOR JURY TRIAL

1 Plaintiff JOHN ICABALCETA ("PLAINTIFF"), an individual, on behalf of himself and all
2 other similarly situated current and former independent contractors and employees alleges on
3 information and belief, except his own acts and knowledge which are based on personal knowledge,
4 the following:

5 **INTRODUCTION**

6 1. PLAINTIFF is an individual who worked as a security guard in California for
7 defendants INTEGRATED PROTECTION CORP. and SPECIAL SERVICES TACTICAL GROUP
8 (hereinafter collectively "DEFENDANTS"). Plaintiff alleges that DEFENDANTS have violated and
9 continue to violate the California Labor Code protections applicable to California employees because
10 DEFENDANTS have misclassified its California employees as independent contractors. In order to
11 provide services to their customers, DEFENDANTS hire California workers to aid DEFENDANTS
12 in providing security services in the usual course of DEFENDANTS' business to their clients. The
13 costs, as proscribed by law, of the personnel hired to work for DEFENDANTS, includes not only the
14 pay of these employees but the cost of the employer's share of tax payments to the federal and state
15 governments for income taxes, social security taxes, Medicare insurance, unemployment insurance
16 and payments for workers' compensation insurance. To avoid the payment of these legally proscribed
17 expenses to the fullest extent possible, DEFENDANTS devised a scheme to place the responsibility
18 for the payment of these costs and expenses of DEFENDANTS on the shoulders of PLAINTIFF and
19 other similarly situated California employees. As employer, DEFENDANTS are legally responsible
20 for the payment of all these expenses. This lawsuit is brought in order to collect the wages due to
21 PLAINTIFF and all those similarly situated misclassified independent contractors, and those
22 classified as DEFENDANTS' employees, the cost of the employer's share of payments to the federal
23 and state governments for income taxes, social security taxes, Medicare insurance, unemployment
24 insurance and payments for workers' compensation insurance, plus penalties and interest.

25 **THE PARTIES**

26 2. Defendant INTEGRATED PROTECTION CORP, ("IPC") is a California
27 Corporation, that at all relevant times mentioned herein conducted and continues to conduct
28 substantial business in the State of California, County of Los Angeles.



1 3. Defendant SPECIAL SERVICES TACTICAL GROUP. (“SSTG”), is an California
2 corporation, that is registered to do business in the State of California and at all relevant times
3 mentioned herein conducted and continues to conduct substantial business in the State of California,
4 County of Los Angeles.

5 4. DEFENDANTS provide, among other services, patrol services, security guards,
6 executive protection, armed guards, unarmed guards and virtual guards throughout California.

7 5. DEFENDANTS were the joint employers of PLAINTIFF as evidenced by Wage
8 Statements, Employee Handbooks, Independent Contractor Agreements, and other employment
9 documents and by the company PLAINTIFF performed work for respectively and are therefore joint
10 responsible as employers for the conduct alleged herein.

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

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

28 8. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of

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

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

10 10. PLAINTIFF worked for DEFENDANTS as an independent contractor security guard in
11 Los Angeles, California between February 2020 and July 2020.

12 11. PLAINTIFF brings this Class Action on behalf of himself and on behalf of all of
13 individuals that worked for Defendant IPC and/or Defendant SSTG in California as independent
14 contractors and/or as employees (“CALIFORNIA CLASS”) at any time during the period beginning
15 four (4) years prior to the filing of the Complaint and ending on the date as determined by the Court
16 (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA
17 CLASS members is under five million dollars (\$5,000,000.00).

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

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

25 THE CONDUCT

26 **A. Misclassification**

27 14. California Labor Code Section 226.8 provides that “[i]t is unlawful for any person or
28 employer to engage in ...[w]illful misclassification of an individual as an independent contractor.” The

1 penalty for willful misclassification of employees is a “civil penalty of not less than five thousand
2 dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to
3 any other penalties or fines permitted by law.” It is further provided that, in the event that an employer
4 is found to have engaged in “a pattern or practice of these violations,” the penalties increase to “not
5 less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for
6 each violation, in addition to any other penalties or fines permitted by law.” Cal. Labor Code § 226.8.

7 15. Here, DEFENDANTS willfully misclassified PLAINTIFF and other similarly situated
8 California workers who provided DEFENDANTS with security services for DEFENDANTS’ clients.
9 In other words, PLAINTIFF and other similarly situated California workers provided DEFENDANTS
10 with work and services within the usual course of DEFENDANTS’ business. DEFENDANTS
11 controlled and directed the work performed by PLAINTIFF and the other similarly situated
12 misclassified California workers by, among other things, assigning events, scheduling hours of work,
13 providing equipment, issuing written policies and procedures for the performance of work and conduct
14 in the workplace. Finally, PLAINTIFF and the other similarly situated misclassified California workers
15 are not and were not engaged in a customarily independently established trade, occupation or business
16 as the same nature of the work performed. DEFENDANTS engaged in a pattern and practice of
17 misclassifying California workers as independent contractors, hired to perform work and services core
18 to DEFENDANTS’ businesses, in violation of California Labor Code Section 226.8.

19 16. Upon hire, the position was represented by DEFENDANTS to PLAINTIFF and the
20 other workers as an independent contractor position in exchange for an hourly rate of pay for the time
21 they spend providing labor and services to DEFENDANTS’ third party customers. In many instances,
22 PLAINTIFF and the members of the CALIFORNIA CLASS were not compensated at least the
23 applicable minimum wage for time spent providing labor and services to DEFENDANTS’ third party
24 customers. Similarly, PLAINTIFF and other members of the CALIFORNIA CLASS were not
25 compensated overtime wages for any of their time spent working in excess of eight (8) hours in a
26 workday, twelve (12) hours in a workday, and/or forty (40) hours in a workweek. PLAINTIFF and
27 other members of the CALIFORNIA CLASS were paid the hourly rate to perform labor services on
28 DEFENDANTS’ behalf. PLAINTIFF and other workers were not compensated any other wages

1 besides the non-negotiable hourly rate, and they were not allowed to record their time for all the time
2 they spent under DEFENDANTS' control. DEFENDANTS did not pay PLAINTIFF and other
3 CALIFORNIA CLASS members for all the time they spent working for DEFENDANTS outside of the
4 job assignment they were placed at with DEFENDANTS' third party customers. The finite set of tasks
5 required to be performed by the workers is to provide security guard services in accordance with
6 DEFENDANTS' business practices and policies.

7 17. To perform their job duties, PLAINTIFF and the other members of the CALIFORNIA
8 CLASS perform work subject to the control of DEFENDANTS in that DEFENDANTS had the
9 authority to exercise complete control over the work performed and the manner and means in which
10 the work was performed. DEFENDANTS provided the customers and DEFENDANTS provided the
11 instructions as to how to perform their work.

12 18. California Labor Code § 3357 defines "employee" as "every person in the service of an
13 employer under any appointment or contract of hire or apprenticeship, express or implied, oral or
14 written, whether lawfully or unlawfully employed." Additionally, to the California Labor Code's
15 presumption that workers are employees, the California Supreme Court has determined the most
16 significant factor to be considered in distinguishing an independent contractor from an employee is
17 whether the *employer or principal has control or the right to control the work both as to the work*
18 *performed and the manner and means in which the work is performed.* DEFENDANTS heavily
19 controlled both the work performed and the manner and means in which the PLAINTIFF and other
20 workers performed their work in that:

21 (a) PLAINTIFF and other members of the CALIFORNIA CLASS were not
22 involved in a distinct business, but instead were provided with instructions as to how to perform their
23 work and the manner and means in which the work was to be performed by means of DEFENDANTS'
24 and DEFENDANTS' customers manuals and written instructions;

25 (b) PLAINTIFF and other members of the CALIFORNIA CLASS were continuously
26 provided with training and supervision, including following DEFENDANTS' company documents,
27 and received training from DEFENDANTS as to how and in what way to perform the services;

28 (c) DEFENDANTS set the requirements as to what policies and procedures all of

1 the workers were to follow, including but not limited to, hourly rates, location of assignment, where to
2 park, and what to wear;

3 (d) PLAINTIFF and other members of the CALIFORNIA CLASS had no
4 opportunity for profit or loss because DEFENDANTS only paid these workers an hourly rate.
5 DEFENDANTS controlled and assigned the workers which tasks were to be performed;

6 (e) PLAINTIFF and other members of the CALIFORNIA CLASS performed
7 services and labor which are part of the core of DEFENDANTS' principal business and is closely
8 integrated with and essential to the employer's business of services and labor to their customers;

9 (f) PLAINTIFF and other members of the CALIFORNIA CLASS performed the
10 work themselves and did not hire others to perform their work for them;

11 (g) PLAINTIFF and other members of the CALIFORNIA CLASS did not have the
12 authority to make employment-related personnel decisions;

13 (h) PLAINTIFF and other members of the CALIFORNIA CLASS performed their
14 work in a particular order and sequence in accordance with DEFENDANTS and DEFENDANTS
15 customers company policies; and,

16 (i) DEFENDANTS had the "right" to control every critical aspect of
17 DEFENDANTS labor operation in that DEFENDANTS provided the customer, assigned where
18 PLAINTIFF and other members of the CALIFORNIA CLASS were to go, assigned the hourly rate,
19 and step by step instructions to PLAINTIFF and other members of the CALIFORNIA CLASS as to the
20 entire process of working at their assigned locations. PLAINTIFF and other workers provided services
21 and labor for DEFENDANTS customers and were not actually in business for themselves.

22 19. As a result, stripped of all the legal fictions and artificial barriers to an honest
23 classification of the relationship between PLAINTIFF and all the other members of the CALIFORNIA
24 CLASS on the one hand, and DEFENDANTS on the other hand, PLAINTIFF and all the other members
25 of the CALIFORNIA CLASS are and were employees of DEFENDANTS and not independent
26 contractors of DEFENDANTS and should therefore be properly classified as non-exempt, hourly
27 employees.

28 20. The finite set of tasks required of PLAINTIFF and the other CALIFORNIA CLASS



1 members as defined by DEFENDANTS was executed by them through the performance of non-exempt
2 labor.

3 21. Although PLAINTIFF and the other CALIFORNIA CLASS members performed non-
4 exempt labor subject to DEFENDANTS' complete control over the manner and means of performance,
5 DEFENDANTS instituted a blanket classification policy, practice and procedure by which all of these
6 CALIFORNIA CLASS Members were classified as "independent contractors" exempt from
7 compensation for overtime worked, meal breaks and rest breaks, and reimbursement for business related
8 expenses. By reason of this uniform misclassification, the CALIFORNIA CLASS Members were also
9 required to pay DEFENDANTS 's share of payroll taxes and mandatory insurance premiums. As a result
10 of this uniform misclassification practice, policy and procedure applicable to PLAINTIFF and the other
11 CALIFORNIA CLASS Members who performed this work for DEFENDANTS, DEFENDANTS
12 committed acts of unfair competition in violation of the California Unfair Competition law, Cal. Bus. &
13 Prof. Code §§ 17200, *et seq.* (the "UCL"), by engaging in a company-wide policy, practice and
14 procedure which failed to properly classify PLAINTIFF and the other CALIFORNIA CLASS members
15 as employees and thereby failed to pay them wages for all time worked, reimbursement of business
16 related expenses, failed to provide them with meal and rest breaks, and failed to reimburse these
17 employees for the employer's share of payroll taxes and mandatory insurance.

18 22. DEFENDANTS, as a matter of law, has the burden of proving that employees are
19 properly classified and that DEFENDANTS otherwise complies with applicable laws. DEFENDANTS,
20 as a matter of corporate policy, erroneously and unilaterally classified all the CALIFORNIA CLASS
21 Members as independent contractors in violation of the California Labor Code and regulations
22 promulgated thereunder.

23 **B. Meal Period Violations**

24 23. In California, an employer may not employ an employee for a work period of more than
25 five hours per day without providing the employee with a duty-free meal period of not less than thirty
26 minutes, except that if the total work period per day of the employee is no more than six hours, the
27 meal period may be waived by mutual consent of both the employer and employee. A second duty-free
28 meal period of not less than thirty minutes is required if an employee works more than ten hours per

1 day, except that if the total hours worked is no more than 12 hours, the second duty-free meal period
2 may be waived by mutual consent of the employer and employee only if the first meal period was not
3 waived. Labor Code Section 512.

4 24. If an employer fails to provide an employee a duty-free meal period in accordance with
5 an applicable IWC Order, the employer must pay one additional hour of pay at the employee's regular
6 rate of pay for each workday that the meal period is not provided. IWC Orders and Labor Code Section
7 226.7. This additional hour is not counted as hours worked for purposes of overtime calculations.

8 25. From time-to-time during the CLASS PERIOD, as a result of their misclassification as
9 independent contractors and/or their rigorous work schedules, PLAINTIFF and other CALIFORNIA
10 CLASS members were not provided with a thirty (30) minute duty-free meal period and were not fully
11 relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS members were
12 required from time-to-time to perform work as ordered by DEFENDANTS for more than five (5) hours
13 during some shifts without receiving a meal break. Further, DEFENDANTS from time to time failed
14 to provide PLAINTIFF and CALIFORNIA CLASS members with a second duty-free meal period for
15 some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of
16 work. PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal breaks
17 without additional compensation and in accordance with DEFENDANTS' strict corporate policy and
18 practice. Moreover, PLAINTIFF and other members of the CALIFORNIA CLASS were not provided
19 with one-hour wages in lieu of their legally mandated duty-free meal and rest periods.

20 26. Furthermore, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
21 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to work while clocked
22 out during what was supposed to be their off-duty meal break as a result of their overburdened work
23 requirements, inadequate staffing and not being relived of cordless communication devices during his
24 work shifts. Further, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS,
25 were from time-to-time interrupted by work assignments while clocked out for what should have been
26 their off-duty meal break as a result of, among other things, not being relieved of their cordless
27 communication devices during what should have been off-the-clock, duty free meal periods.

28 ///

1 **C. Rest Period Violations**

2 27. The applicable IWC Wage Order requires that employers must authorize and permit
3 nonexempt employees to take a rest period that must, insofar as practicable, be taken in the middle of
4 each work period. The rest period is based on the total hours worked daily and must be at the minimum
5 rate of a net ten consecutive minutes for each four-hour work period, or major fraction thereof. The
6 Division of Labor Standards Enforcement (DLSE) considers anything more than two hours to be a
7 “major fraction” of four. A rest period is not required for employees whose total daily work time is less
8 than three and one-half hours. The rest period is counted as time worked and therefore, the employer
9 must pay for such periods.

10 28. If an employer fails to provide an employee a rest period in accordance with an applicable
11 IWC Order, the employer shall pay the employee one additional hour of pay at the employee’s regular
12 rate of pay for each workday that the rest period is not provided. Labor Code Section 226.7. Thus, if
13 an employer does not provide all of the rest periods required in a workday, the employee is entitled to
14 one additional hour of pay for that workday, not one additional hour of pay for each rest period that
15 was not provided during that workday.

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

27 30. Furthermore, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
28 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to work during what

1 was supposed to be their off-duty rest break as a result of their overburdened work requirements,
2 inadequate staffing and not being relieved of cordless communication devices during his work shifts.
3 Further, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were from time-
4 to-time interrupted by work assignments during what should have been their off-duty rest break as a
5 result of, among other things, not being relieved of their cordless communication devices during what
6 should have been off-the-clock, duty free rest periods.

7 31. Finally, In violation of the applicable sections of the California Labor Code and the
8 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter
9 of company policy, practice and procedure, intentionally, knowingly and systematically failed to
10 compensate PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an
11 additional hour of premium pay for missed rest periods. This uniform policy and practice of
12 DEFENDANTS is intended to purposefully avoid the payment for all time worked as required by
13 California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
14 competitors who complied with the law.

15 **D. Failure to Pay Minimum, Regular and Overtime Wages**

16 32. From time-to-time during the CLASS PERIOD, DEFENDANTS failed to accurately
17 record and pay PLAINTIFF and other CALIFORNIA CLASS members for the actual amount of time
18 these employees work. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS
19 are required to pay PLAINTIFF and other CALIFORNIA CLASS members for all time worked,
20 meaning the time during which an employee was subject to the control of an employer, including all
21 the time the employee was permitted or suffered to permit this work. DEFENDANTS required
22 PLAINTIFF and CALIFORNIA CLASS members to work off the clock without paying them for all
23 the time they were under DEFENDANTS' control. PLAINTIFF and other CALIFORNIA CLASS
24 Members also worked more than eight hours in a workday and/or forty hours in a workweek, but
25 DEFENDANTS failed to pay these employees overtime pay as DEFENDANTS only paid a flat rate or
26 a flat hourly rate for all time worked. Consequently, PLAINTIFF and other CALIFORNIA CLASS
27 members forfeited minimum wages and overtime wage compensation by working without their time
28 being correctly recorded and without compensation at the applicable rates. DEFENDANTS' policy and

1 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked, is
2 evidenced by DEFENDANTS' business records. As a result, DEFENDANTS failed to compensate
3 PLAINTIFF and the members of the CALIFORNIA CLASS all minimum, regular and overtime wages
4 for all hours worked in violation of Labor Code §§ 1194, 1197, 1197.1, 1198 and 510.

5 **E. Failure to Reimburse Necessary and Required Business Expenses**

6 33. Under California Labor Code Section 2802, employers are required to indemnify
7 employees for all expenses incurred in the course and scope of their employment. Cal. Lab. Code §
8 2802 expressly states that "an employer shall indemnify his or her employee for all necessary
9 expenditures or losses incurred by the employee in direct consequence of the discharge of his or her
10 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the
11 employee, at the time of obeying the directions, believed them to be unlawful."

12 34. From time-to-time during the CLASS PERIOD, DEFENDANTS as a matter of corporate
13 policy, practice and procedure, intentionally, knowingly and systematically failed to reimburse and
14 indemnify PLAINTIFF and the other CLASS MEMBERS for required business expenses incurred by
15 PLAINTIFF and other the CLASS MEMBERS in direct consequence of discharging their duties on
16 behalf of DEFENDANTS.

17 35. From time-to-time during the CLASS PERIOD, in the course of their employment
18 PLAINTIFF and other CALIFORNIA CLASS members as a business expense, were required by
19 DEFENDANTS to use personal cellular phones and use their personal vehicles as a result of and in
20 furtherance of their job duties as employees for DEFENDANTS but were not reimbursed or
21 indemnified by DEFENDANTS for the cost associated with the use of the personal cellular phones and
22 personal vehicles for DEFENDANTS' benefit. In order to work for DEFENDANTS, PLAINTIFF and
23 other CALIFORNIA CLASS Members were required to use their personal vehicles to travel to different
24 locations each work shift and were also required to use their personal cell phones to review, receive
25 and accept job assignments and as such it is mandatory to have a cell phone. As a result, in the course
26 of their employment with DEFENDANTS, PLAINTIFF and other members of the CALIFORNIA
27 CLASS incurred unreimbursed business expenses which included, but were not limited to, costs related
28 to the use of their personal cellular phones on behalf of and for the benefit of DEFENDANTS. Further,

1 PLAINTIFF and other CALIFORNIA CLASS members were also not reimbursed or indemnified by
2 DEFENDANTS for the cost associated with using their personal vehicles while performing for
3 DEFENDANTS. Moreover, PLAINTIFF and other CALIFORNIA CLASS members were also
4 required from time to time to pay for parking costs at certain live entertainment venues and were not
5 reimbursed for those costs. As a result, in the course of their employment with DEFENDANTS,
6 PLAINTIFF and other members of the CALIFORNIA CLASS incurred unreimbursed business
7 expenses which included, but were not limited to, costs related to travel all on behalf of and for the
8 benefit of DEFENDANTS.

9 **F. Rounding**

10 36. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
11 required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time worked,
12 meaning the time during which an employee is subject to the control of an employer, including all the
13 time the employee is suffered or permitted to work. From time to time, DEFENDANTS required
14 PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time they
15 were under DEFENDANTS' control. Specifically, PLAINTIFF performed work before and after the
16 beginning of her shift, spending time under the DEFENDANTS' control for which she was not
17 compensated. As a result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited
18 minimum wage and overtime compensation by regularly working without their time being accurately
19 recorded and without compensation at the applicable minimum wage and overtime rates.
20 DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS
21 Members for all time worked is evidenced by DEFENDANTS' business records.

22 37. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in place an
23 immutable timekeeping system to accurately record and pay PLAINTIFF and other CALIFORNIA
24 CLASS Members for the actual time these employees worked each day, including overtime hours.
25 Specifically, DEFENDANTS had in place an unlawful rounding policy and practice that resulted in
26 PLAINTIFF and CALIFORNIA CLASS Members being undercompensated for all of their time
27 worked. As a result, DEFENDANTS were able to and did in fact unlawfully, and unilaterally round the
28 time recorded in DEFENDANTS' timekeeping system for PLAINTIFF and the members of the

1 CALIFORNIA CLASS in order to avoid paying these employees for all their time worked, including
2 the applicable overtime compensation for overtime worked. As a result, PLAINTIFF and other
3 CALIFORNIA CLASS Members, from time to time, forfeited compensation for their time worked by
4 working without their time being accurately recorded and without compensation at the applicable
5 overtime rates.

6 38. Further, the mutability of DEFENDANTS' timekeeping system and unlawful rounding
7 policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time being
8 inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding policy and
9 practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by
10 DEFENDANTS for more than five (5) hours during a shift without receiving an off-duty meal break.

11 39. **Wage Statement Violations**

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

20 41. From time-to-time during the CLASS PERIOD, as a result of, *inter alia*, of
21 DEFENDANTS' intentional and willful misclassification of PLAINTIFF and the members of the
22 CALIFORNIA CLASS as independent contractors rather than employees, DEFENDANTS issued
23 inaccurate itemized wages statements to PLAINTIFF and the members of the CALIFORNIA CLASS
24 that failed to accurately showing (1) gross wages earned, (2) total hours worked, (3) the number of
25 piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net wages earned, (6) the
26 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
27 last four digits of the employee's social security number or an employee identification number other
28 than a social security number, (8) the name and address of the legal entity that is the employer and, (9)

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

3 42. Aside, from the violations listed above in this paragraph, DEFENDANTS also failed to
4 issue to PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an itemized
5 wage statement that lists all the requirements under California Labor Code 226 *et seq*, including the
6 correct name of the entity that was the employer of PLAINTIFF.

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

11 **G. Unfair Competition**

12 44. By reason of this conduct applicable to PLAINTIFF and all the CALIFORNIA CLASS
13 members, DEFENDANTS committed acts of unfair competition in violation of the California Unfair
14 Competition law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL"), by engaging in a company-
15 wide policy, practice and procedure which failed to correctly classify PLAINTIFF and the
16 CALIFORNIA CLASS members as employees. The proper classification of these employees is
17 DEFENDANTS' burden. As a result of DEFENDANTS' intentional disregard of the obligation to meet
18 this burden, DEFENDANTS failed to pay all required wages for work performed by PLAINTIFF and
19 other CALIFORNIA CLASS Members and violated the California Labor Code and regulations
20 promulgated thereunder as herein alleged.

21 45. PLAINTIFF as a worker for DEFENDANTS, was classified by DEFENDANTS as an
22 independent contractor and thus did not receive pay for all time worked, including minimum and
23 overtime wages. During the CALIFORNIA CLASS PERIOD, PLAINTIFF was also required to
24 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without
25 receiving a meal or rest break as evidenced by daily time reports for PLAINTIFF. PLAINTIFF
26 therefore forfeited meal and rest breaks without additional compensation and in accordance with
27 DEFENDANTS' strict corporate policy and practice which did not provide for mandatory meal and
28 rest breaks. To date, DEFENDANTS has not fully paid PLAINTIFF all wages still owed to him or any



1 penalty wages owed to him under California Labor Code § 203. The amount in controversy for
2 PLAINTIFF individually does not exceed the sum or value of \$75,000.

3
4 **THE CALIFORNIA CLASS**

5 46. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
6 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action,
7 pursuant to Cal. Code of Civ. Proc. § 382, for violations during the CLASS PERIOD on behalf of the
8 CALIFORNIA CLASS. The amount in controversy for the aggregate claim of CALIFORNIA CLASS
9 Members is under five million dollars (\$5,000,000.00).

10 47. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
11 against DEFENDANTS, the CLASS PERIOD should be adjusted accordingly.

12 48. All CALIFORNIA CLASS members who performed and continue to perform this work
13 for DEFENDANTS during the CLASS PERIOD are similarly situated in that they are subject to
14 DEFENDANTS' policy and practice that required them to perform work without compensation as
15 required by law.

16 49. During the CLASS PERIOD, DEFENDANTS violated the rights of the PLAINTIFF and
17 the CALIFORNIA CLASS members under California law, without limitation, in the following
18 manners:

19 (a) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
20 17200, *et seq.* the ("UCL"), in that DEFENDANTS, while acting as employer, devised and implemented
21 a scheme whereby PLAINTIFF and the CALIFORNIA CLASS members are forced to unlawfully,
22 unfairly and deceptively shoulder the cost of DEFENDANTS' wages for all unpaid wages, business
23 related expenses, and DEFENDANTS' share of employment taxes, social security taxes, unemployment
24 insurance and workers' compensation insurance;

25 (b) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
26 17200, *et seq.* the ("UCL"), by unlawfully, unfairly and/or deceptively having in place company policies,
27 practices and procedures that uniformly misclassified PLAINTIFF and the CALIFORNIA CLASS
28 members as independent contractors;

1 (c) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
2 17200, *et seq.* the ("UCL"), by unlawfully, unfairly and/or deceptively failing to have in place a company
3 policy, practice and procedure that accurately determined the amount of working time spent by
4 PLAINTIFF and the CALIFORNIA CLASS members performing non-exempt employee labor;

5 (d) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
6 17200, *et seq.* the ("UCL"), by failing to provide PLAINTIFF and the other members of the
7 CALIFORNIA CLASS with all legally required meal and rest breaks;

8 (e) Violating the California Unfair Competition laws, Cal. Bus. & Prof. Code §§
9 17200, *et seq.* the ("UCL") by violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and
10 the CALIFORNIA CLASS members with necessary expenses incurred in the discharge of their job
11 duties; and,

12 (f) Committing an act of unfair competition in violation of the UCL, by violating
13 Cal. Lab. Code §§ 510, *et seq.*, by failing to pay the correct overtime pay to PLAINTIFF and the
14 members of the CALIFORNIA CLASS who were improperly classified as exempt, and retaining the
15 unpaid overtime to the benefit of DEFENDANTS.

16 50. As a result of DEFENDANTS' policies, practices and procedures, there are numerous
17 questions of law and fact common to all CALIFORNIA CLASS members who worked for during the
18 CLASS PERIOD. These questions include, but are not limited, to the following:

19 (a) Whether PLAINTIFF and other CALIFORNIA CLASS members were
20 misclassified as independent contractors by DEFENDANTS;

21 (b) Whether the PLAINTIFF and the CALIFORNIA CLASS members all afforded
22 all the protections of the California Labor Code that apply when properly classified as non-exempt
23 employees;

24 (c) Whether DEFENDANTS' policies, practices and pattern of conduct described in
25 this Complaint was and is unlawful;

26 (d) Whether DEFENDANTS unlawfully failed to pay their share of state and federal
27 employment taxes as required by state and federal tax laws;

28 (e) Whether DEFENDANTS' policy, practice and procedure of classifying the

1 CALIFORNIA CLASS members as independent contractors exempt from hourly wages laws for all
2 time worked and failing to pay the CALIFORNIA CLASS members all amounts due violates applicable
3 provisions of California State law;

4 (f) Whether DEFENDANTS unlawfully failed to keep and furnish the
5 CALIFORNIA CLASS members with accurate records of all time worked;

6 (g) Whether DEFENDANTS have engaged in unfair competition by the above-listed
7 conduct; and,

8 (h) Whether DEFENDANTS' conduct was willful.

9 51. This Class Action meets the statutory prerequisites for the maintenance of a Class Action
10 as set forth in Cal. Code of Civ. Proc. § 382, in that:

11 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the
12 joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the
13 parties and the Court;

14 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
15 raised in this Complaint are common to the CALIFORNIA CLASS and will apply to every
16 CALIFORNIA CLASS member;

17 (c) The claims of the representative PLAINTIFF are typical of the claims of each
18 member of the CALIFORNIA CLASS. PLAINTIFF, like all the CALIFORNIA CLASS members, was
19 classified as an independent contractor upon hiring based on the defined corporate policies and practices
20 and labors under DEFENDANTS' procedure that failed to properly classify the PLAINTIFF and the
21 CALIFORNIA CLASS members. PLAINTIFF sustained economic injury as a result of
22 DEFENDANTS' employment practices. PLAINTIFF and the CALIFORNIA CLASS members were
23 and are similarly or identically harmed by the same unlawful, unfair, deceptive and persuasive pattern
24 of misconduct engaged in by DEFENDANTS by deceptively telling all the CALIFORNIA CLASS
25 members that they were not entitled to minimum wages, the employer's share of payment of payroll
26 taxes and mandatory insurance, and reimbursement for business expenses based on the defined corporate
27 policies and practices, and unfairly failed to pay these employees who were improperly classified as
28 independent contractors; and,

1 (d) The representative PLAINTIFF will fairly and adequately represent and protect
2 the interest of the CALIFORNIA CLASS, and has retained counsel who is competent and experienced
3 in Class Action litigation. There are no material conflicts between the claims of the representative
4 PLAINTIFF and the CALIFORNIA CLASS members that would make class certification inappropriate.
5 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all employees in the
6 CALIFORNIA CLASS.

7 52. In addition to meeting the statutory prerequisites to a Class Action, this Action is properly
8 maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

9 (a) Without class certification and determination of declaratory, injunctive, statutory
10 and other legal questions within the class format, prosecution of separate actions by individual members
11 of the CALIFORNIA CLASS will create the risk of:

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

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

18 (b) The parties opposing the CALIFORNIA CLASS have acted on grounds generally
19 applicable to the CALIFORNIA CLASS making appropriate class-wide relief with respect to the
20 CALIFORNIA CLASS as a whole in that DEFENDANTS uniformly classified and treated the
21 CALIFORNIA CLASS Members as independent contractors and, thereafter, uniformly failed to take
22 proper steps to determine whether the CALIFORNIA CLASS members were properly classified as
23 independent contractors, and thereby denied these employees' wages and payments for business
24 expenses and the employer's share of payroll taxes and mandatory insurance as required by law.

25 (i) With respect to the First Cause of Action, the final relief on behalf of the
26 CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim the
27 PLAINTIFF seeks declaratory relief holding that DEFENDANTS' policies and practices constitute
28 unfair competition, along with incidental equitable relief as may be necessary to remedy the conduct

1 declared to constitute unfair competition.

2 (c) Common questions of law and fact exist as to members of the CALIFORNIA
3 CLASS with respect to the practices and violations of California and federal law as listed above, and
4 predominate over any question affecting only individual members, and a Class Action is superior to
5 other available methods for the fair and efficient adjudication of the controversy, including consideration
6 of:

7 (i) The interest of the CALIFORNIA CLASS members in individually
8 controlling the prosecution or defense of separate actions;

9 (ii) The extent and nature of any litigation concerning the controversy already
10 commenced by or against members of the CALIFORNIA CLASS;

11 (iii) In the context of wage litigation because as a practical matter a substantial
12 number of individual CALIFORNIA CLASS members will avoid asserting their legal rights out of fear
13 of retaliation by DEFENDANTS, which may adversely affect an individual's job with DEFENDANTS
14 or with a subsequent employer, the Class Action is the only means to assert their claims through a
15 representative;

16 (iv) The desirability or undesirability of concentration the litigation of the
17 claims in the particular forum;

18 (v) The difficulties likely to be encountered in the management of a Class
19 Action; and,

20 (vi) The basis of DEFENDANTS' policies and practices applied to all the
21 CALIFORNIA CLASS members.

22 53. The Court should permit this Action to be maintained as a Class Action pursuant to Cal.
23 Code of Civ. Proc. § 382 because:

24 (a) The questions of law and fact common to the CALIFORNIA CLASS
25 predominate over any question affecting only individual members;

26 (b) A Class Action is superior to any other available method for the fair and efficient
27 adjudication of the claims of the members of the CALIFORNIA CLASS;

28 (c) The CALIFORNIA CLASS members are so numerous that it is impractical to

1 bring all CALIFORNIA CLASS members before the Court;

2 (d) PLAINTIFF, and the CALIFORNIA CLASS Members, will not be able to obtain
3 effective and economic legal redress unless the action is maintained as a Class Action;

4 (e) There is a community of interest in obtaining appropriate legal and equitable
5 relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining
6 adequate compensation for the damages and injuries which DEFENDANTS' actions have inflicted upon
7 the CALIFORNIA CLASS;

8 (f) There is a community of interest in ensuring that the combined assets and
9 available insurance of DEFENDANTS are sufficient to adequately compensate the CALIFORNIA
10 CLASS members for any injuries sustained;

11 (g) DEFENDANTS has acted or has refused to act on grounds generally applicable
12 to the CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the
13 CLASS as a whole;

14 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the
15 business records of DEFENDANTS; and,

16 (i) 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 DEFENDANTS' conduct as to the CALIFORNIA CLASS Members.

19 54. DEFENDANTS maintain records from which the Court can ascertain and identify by
20 name and job title, each of DEFENDANTS' employees who have been intentionally subjected to
21 DEFENDANTS' corporate policies, practices and procedures as herein alleged. PLAINTIFF will seek
22 leave to amend the complaint to include any additional job titles of similarly situated employees when
23 they have been identified.

24 **THE CALIFORNIA LABOR SUB-CLASS**

25 55. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
26 Causes of Action on behalf of a California sub-class, defined as all members of the CALIFORNIA
27 CLASS who are or previously were employed by Defendant IPS and/or Defendant SSTG in California
28 (the "CALIFORNIA LABOR SUB-CLASS) at any time during the period three (3) years prior to the

1 filing of the Complaint and ending on the date as determined by the Court (the “CALIFORNIA
2 LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc § 382. The amount in
3 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five
4 million dollars (\$5,000,000.00).

5 56. DEFENDANTS, as a matter of corporate policy, practice and procedure, and in
6 violation of the applicable California Labor Code (“Labor Code”), and Industrial Welfare Commission
7 (“IWC”) Wage Order requirements intentionally, knowingly, and willfully, on the basis of job title
8 alone and without regard to the actual overall requirements of the job, systematically classified
9 PLAINTIFF and the other members of the CALIFORNIA LABOR SUBCLASS as independent
10 contractors in order to avoid the payment of all wages, and in order to avoid the obligations under the
11 applicable California Labor Code provisions. To the extent equitable tolling operates to toll claims by
12 the CALIFORNIA LABOR SUB-CLASS against DEFENDANTS, the CALIFORNIA LABOR SUB-
13 CLASS PERIOD should be adjusted accordingly.

14 57. DEFENDANTS maintain records from which the Court can ascertain and identify by
15 job title each of DEFENDANTS’ employees who as CALIFORNIA LABOR SUB-CLASS Members
16 have been systematically, intentionally and uniformly misclassified as independent contractors as a
17 matter of DEFENDANTS’ corporate policy, practices and procedures. PLAINTIFF will seek leave to
18 amend the complaint to include these additional job titles when they have been identified.

19 58. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

21 59. DEFENDANTS violated the rights of the CALIFORNIA LABOR SUB-CLASS under
22 California law by:

23 (a) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by misclassifying and
24 failing to pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct
25 minimum wages for which DEFENDANTS is liable;

26 (b) Violating Cal. Lab. Code §§ 510, *et seq.*, by misclassifying and failing to pay
27 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct overtime pay
28 for a workday longer than eight (8) hours and/or a workweek longer than forty (40) hours for which



1 DEFENDANTS is liable pursuant to Cal. Lab. Code § 1194;

2 (c) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
3 and the other members of the CALIFORNIA LABOR SUBCLASS with all legally required off-duty,
4 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;

5 (d) Violating Cal. Lab. Code § 226 by failing to provide PLAINTIFF and the
6 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing
7 showing the name of the employer, gross wages earned, the net wages earned, all applicable hourly
8 rates in effect during the pay period and the corresponding amount of time worked at each hourly rate
9 by the employee;

10 (e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
11 CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the discharge of
12 their job duties; and,

13 (f) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
14 employee is discharged or quits from employment, the employer must pay the employee all wages due
15 without abatement, by failing to tender full payment and/or restitution of wages owed or in the manner
16 required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have
17 terminated their employment.

18 60. This Class Action meets the statutory prerequisites for the maintenance of a Class
19 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

20 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
21 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and
22 the disposition of their claims as a class will benefit the parties and the Court;

23 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
24 are raised in this Complaint are common to the CALIFORNIA LABOR 19 SUB-CLASS and will apply
25 to every member of the CALIFORNIA LABOR SUB-CLASS;

26 (c) The claims of the representative PLAINTIFF are typical of the claims of each
27 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all other members of the
28 CALIFORNIA LABOR SUB-CLASS was improperly classified as an independent contractor and was

1 thus denied minimum wage pay and meal and rest breaks, among other things, as a result of
2 DEFENDANTS' systematic classification practices. PLAINTIFF and all other members of the
3 CALIFORNIA LABOR SUB-CLASS sustained economic injuries arising from DEFENDANTS'
4 violations of the laws of California; and,

5 (d) The representative PLAINTIFF will fairly and adequately represent and protect
6 the interest of the CALIFORNIA LABOR SUB-CLASS and has retained counsel who are competent
7 and experienced in Class Action litigation. There are no material conflicts between the claims of the
8 representative PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS that would
9 make class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will
10 vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

11 61. In addition to meeting the statutory prerequisites to a Class Action, this action is
12 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

13 (a) Without class certification and determination of declaratory, injunctive,
14 statutory and other legal questions within the class format, prosecution of separate actions by individual
15 members of the CALIFORNIA LABOR SUBCLASS will create the risk of: 1) Inconsistent or varying
16 adjudications with respect to individual members of the CALIFORNIA LABOR SUB-CLASS which
17 would establish incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR
18 SUB-CLASS; or, 2) Adjudication with respect to individual members of the CALIFORNIA LABOR
19 SUB-CLASS which would as a practical matter be dispositive of interests of the other members not
20 party to the adjudication or substantially impair or impede their ability to protect their interests.

21 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
22 refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making
23 appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a whole in
24 that the DEFENDANTS uniformly classified and treated the members of the CALIFORNIA LABOR
25 SUB-CLASS as independent contractors and, thereafter, uniformly failed to take proper steps to
26 determine whether the CALIFORNIA LABOR SUBCLASS Members were properly classified as
27 independent contractors, and thereby denied these employees the protections afforded to them under
28 the California Labor Code;



1 (c) Common questions of law and fact predominate as to the members of the
2 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations of California law as
3 listed above, and predominate over any question affecting only individual CALIFORNIA LABOR
4 SUB-CLASS Members, and a Class Action is superior to other available methods for the fair and
5 efficient adjudication of the controversy, including consideration of:

6 i) The interests of the members of the CALIFORNIA LABOR SUB-
7 CLASS in individually controlling the prosecution or defense of separate actions in that the substantial
8 expense of individual actions will be avoided to recover the relatively small amount of economic losses
9 sustained by the individual CALIFORNIA LABOR SUB-CLASS Members when compared to the
10 substantial expense and burden of individual prosecution of this litigation;

11 ii) Class certification will obviate the need for unduly duplicative litigation
12 that would create the risk of:

13 A. Inconsistent or varying adjudications with respect to individual
14 members of the CALIFORNIA LABOR SUBCLASS, which would establish incompatible standards
15 of conduct for the DEFENDANTS; and/or,

16 B. Adjudications with respect to individual members of the
17 CALIFORNIA LABOR SUB-CLASS would as a practical matter be dispositive of the interests of the
18 other members not parties to the adjudication or substantially impair or impede their ability to protect
19 their interests;

20 iii) In the context of wage litigation because a substantial number of
21 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of
22 fear of retaliation by DEFENDANTS, which may adversely affect an individual's job with
23 DEFENDANTS or with a subsequent employer, the Class Action is the only means to assert their
24 claims through a representative; and,

25 iv) A class action is superior to other available methods for the fair and
26 efficient adjudication of this litigation because class treatment will obviate the need for unduly and
27 unnecessary duplicative litigation that is likely to result in the absence of certification of this action
28 pursuant to Cal. Code of Civ. Proc. § 382.

1 62. This Court should permit this action to be maintained as a Class Action pursuant to Cal.
2 Code of Civ. Proc. § 382 because:

3 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-
4 CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS
5 Members;

6 b) A Class Action is superior to any other available method for the fair and efficient
7 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the
8 context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-
9 CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse
10 impact on their employment;

11 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
12 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;

13 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members,
14 will not be able to obtain effective and economic legal redress unless the action is maintained as a Class
15 Action;

16 (e) There is a community of interest in obtaining appropriate legal and equitable
17 relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining
18 adequate compensation for the damages and injuries which DEFENDANTS' actions have inflicted
19 upon the CALIFORNIA LABOR SUB-CLASS;

20 (f) There is a community of interest in ensuring that the combined assets of
21 DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR
22 SUB-CLASS for the injuries sustained;

23 (g) DEFENDANTS has acted or refused to act on grounds generally applicable to
24 the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with
25 respect to the CALIFORNIA LABOR SUB-CLASS as a whole;

26 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
27 ascertainable from the business records of DEFENDANTS; and,

28 (i) Class treatment provides manageable judicial treatment calculated to bring a



1 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the
2 conduct of DEFENDANTS.

3 **JURISDICTION AND VENUE**

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

8 64. Venue is proper in this Court pursuant to Cal. Code of Civ. Proc. Sections 395 and 395.5,
9 because DEFENDANTS (i) currently maintains and at all relevant times maintained its principal offices
10 and facilities in this County and/or conducts substantial business in this County, and (ii) committed the
11 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS and
12 CALIFORNIA LABOR SUB-CLASS.

13 **FIRST CAUSE OF ACTION**

14 **For Unlawful, Unfair and Deceptive Business Practices**

15 **[Cal. Bus. & Prof. Code §§ 17200, et seq.]**

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

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

19 66. DEFENDANTS is a "person" as that term is defined under Cal. Bus. & Prof. Code §
20 17021.

21 67. Section 17200 of the California Business & Professions Code defines unfair competition
22 as any unlawful, unfair or fraudulent business act or practice. Section 17200 applies to violations of
23 labor laws in the employment context. Section 17203 authorizes injunctive, declaratory and/or other
24 equitable relief with respect to unfair competition as follows:

25 Any person who engages, has engaged, or proposes to engage in unfair
26 competition may be enjoined in any court of competent jurisdiction. The
27 court may take such orders or judgments, including the appointment of a
28 receiver, as may be necessary to prevent the use or employment by any

1 person of any practice which constitutes unfair competition, as defined in
2 this chapter, or as may be necessary to restore to any person in interest any
3 money or property, real or personal, which may have been acquired by
4 means of such unfair competition.

5 California Business & Professions Code § 17203.

6 68. By the conduct alleged herein, DEFENDANTS has engaged and continues to engage in
7 a business practice which violates California law, including but not limited to the applicable Industrial
8 Wage Orders, the California Labor Code including Sections 204, 210, 221, 226.7, 226.8, 510, 512,
9 1194, 1197, 1197.1, 1198, & 2802, and California Code of Regulations § 11090, for which this Court
10 should issue declaratory, injunctive, and other equitable relief, pursuant to Cal. Bus. & Prof § 17203,
11 as may be necessary to prevent and remedy the conduct held to constitute unfair competition, including
12 restitution of wages wrongfully withheld, business expenses wrongfully withheld and for the payment
13 of the employer's share of income taxes, social security taxes, unemployment insurance and workers'
14 compensation insurance.

15 69. By the conduct alleged herein DEFENDANTS has obtained valuable property, money,
16 and services from PLAINTIFF, and the other members of the CALIFORNIA CLASS, and has deprived
17 them of valuable rights and benefits guaranteed by law, all to their detriment and to the benefit of
18 DEFENDANTS so as to allow DEFENDANTS to unfairly compete. Declaratory and injunctive relief
19 is necessary to prevent and remedy this unfair competition, and pecuniary compensation alone would
20 not afford adequate and complete relief.

21 70. All the acts described herein as violations of, among other things, the California Labor
22 Code, California Code of Regulations and the Industrial Welfare Commission Wage Orders, were
23 unlawful, were in violation of public policy, were immoral, unethical, oppressive, and unscrupulous,
24 and were likely to deceive employees, and thereby constitute deceptive, unfair and unlawful business
25 practices in violation of Cal. Bus. and Prof. Code §§ 17200, *et seq.*

26 71. By the conduct alleged herein, DEFENDANTS' practices were deceptive and fraudulent
27 in that DEFENDANTS' policy and practice was to represent to the CALIFORNIA CLASS Members
28 that they were not entitled to overtime and minimum wages, payment for payroll taxes or mandatory



1 insurance and other benefits as required by California law, when in fact these representations were false
2 and likely to deceive and for which this Court should issue injunctive and equitable relief, pursuant to
3 Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

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

12 74. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,
13 and do, seek a declaration that the described business practices were unlawful, unfair and deceptive,
14 and that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful
15 and unfair business practices in the future.

16 75. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and
17 deceptive in that DEFENDANTS’ policies, practices and procedures failed to provide all legally
18 required meal and rest breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as
19 required by Cal. Lab. Code §§ 226.7 and 512.

20 76. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
21 CALIFORNIA CLASS member, minimum wages, payment for the employer’s share of payroll taxes
22 and mandatory insurance, and one (1) hour of pay for each workday in which an off-duty meal period
23 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday
24 in which a second off-duty meal period was not timely provided for each ten (10) hours of work.

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

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

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

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

11 80. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and
12 do, seek such relief as may be necessary to restore to them the money and property which
13 DEFENDANTS has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA
14 CLASS have been deprived, by means of the above described unlawful and unfair business practices.

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

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

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SECOND CAUSE OF ACTION

For Failure to Pay Minimum Wages

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

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)

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

84. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members.

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

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

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

88. DEFENDANTS maintained a wage practice of paying PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they worked. As set forth herein, DEFENDANTS’ policy and practice was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS.

89. DEFENDANTS’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a policy and practice that denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS regarding minimum wage pay.

90. In committing these violations of the California Labor Code, DEFENDANTS

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

6 91. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
7 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS do not receive the
8 correct minimum wage compensation for their time worked for DEFENDANTS.

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

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

17 94. DEFENDANTS knew or should have known that PLAINTIFF and the other members of
18 the CALIFORNIA LABOR SUB-CLASS are under compensated for their time worked.
19 DEFENDANTS elected, either through intentional malfeasance or gross nonfeasance, to not pay
20 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members for their labor and
21 DEFENDANTS perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the
22 CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

23 95. In performing the acts and practices herein alleged in violation of California labor laws,
24 and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all time
25 worked and provide them with the requisite compensation, DEFENDANTS acted and continues to act
26 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the
27 CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or
28 the 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 these
2 employees.

3 96. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
4 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as
5 the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
6 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation is
7 determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated
8 their employment, DEFENDANTS' 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 on behalf of these CALIFORNIA LABOR SUB-CLASS Members.
11 DEFENDANTS' conduct as alleged herein was willful, intentional and not in good faith. Further,
12 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
13 statutory costs.

14 **THIRD CAUSE OF ACTION**

15 **For Failure to Pay Overtime Wages**

16 **[Cal. Lab. Code §§ 510, 1194, & 1198]**

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

18 97. PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members reallege and
19 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

20 98. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANTS failed to
21 pay PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members overtime wages for the time
22 they worked in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510
23 & 1198, even though PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members were
24 regularly required to work, and did in fact work, overtime that DEFENDANTS never recorded as
25 evidenced by DEFENDANTS' business records and witnessed by DEFENDANTS' employees.

26 99. By virtue of DEFENDANTS' unlawful failure to pay compensation to PLAINTIFF and
27 the CALIFORNIA CLASS Members for all overtime worked by these employees, PLAINTIFF and
28 CALIFORNIA LABOR SUB-CLASS Members have suffered, and will continue to suffer, an

1 economic in amounts which are presently unknown to them and which can be ascertained according to
2 proof at trial.

3 100. DEFENDANTS knew or should have known that PLAINTIFF and the CALIFORNIA
4 CLASS Members were misclassified as independent contractors and DEFENDANTS elected, either
5 through intentional malfeasance or gross nonfeasance, not to pay them for their labor as a matter of
6 corporate policy, practice and procedure.

7 101. PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members therefore request
8 recovery of all compensation according to proof, interest, costs, as well as the assessment of any
9 statutory penalties against DEFENDANTS in a sum as provided by the California Labor Code and/or
10 other statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA
11 LABOR SUB-CLASS Members who have terminated their employment, these employees would also
12 be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein.
13 Further, PLAINTIFF and the CALIFORNIA LABOR SUBCLASS Members are entitled to seek and
14 recover statutory costs.

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

23 **FOURTH CAUSE OF ACTION**

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

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

26 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
27 **DEFENDANTS)**

28 103. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,

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

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

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

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

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FIFTH CAUSE OF ACTION

For Failure to Provide Required Rest Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)

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

108. From time to time, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required to work in excess of four (4) hours without being provided ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other CALIFORNIA LABOR SUBCLASS Members were also not provided with one-hour wages in lieu thereof. When rest breaks were provided, they were restricted to on-duty and on-premises. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

109. 88. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members who were not provided a rest 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 rest period was not provided.

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

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1 **SIXTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code § 226]**

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

5 111. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
6 reallege and incorporate by this reference, as though fully set forth herein, the prior of this Complaint.

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

15 113. From time-to-time during the CALIFORNIA LABOR SUB-CLASS PERIOD,
16 DEFENDANTS issued inaccurate itemized wages statements to PLAINTIFF and the members of the
17 CALIFORNIA LABOR SUB-CLASS that failed to accurately showing (1) gross wages earned, (2)
18 total hours worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all
19 deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid,
20 (7) the name of the employee and only the last four digits of the employee's social security number or
21 an employee identification number other than a social security number, (8) the name and address of the
22 legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and
23 the corresponding number of hours worked at each hourly rate by the employee.

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

28 115. DEFENDANTS knowingly and intentionally failed to comply with Labor Code § 226,



1 causing damages to PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS.
2 These damages include, but are not limited to, costs expended calculating the true amount of time
3 worked and the amount of employment taxes which were not properly paid to state and federal tax
4 authorities. These damages are difficult to estimate. Therefore, PLAINTIFF, and the other members
5 of the CALIFORNIA LABOR SUB-CLASS elect to recover liquidated damages of \$50.00 for the
6 initial pay period in which the violation occurred, and \$100.00 for each violation in subsequent pay
7 period pursuant to Labor Code § 226, in an amount according to proof at the time of trial (but in no
8 event more than \$4,000.00 for PLAINTIFF and each respective member of the CALIFORNIA LABOR
9 SUB-CLASS herein).

10 **SEVENTH CAUSE OF ACTION**

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

12 **[Cal. Lab. Code § 2802]**

13 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All DEFENDANTS)**

14 116. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members reallege and
15 incorporate by this reference, as though fully set forth herein, paragraphs 1 through 79 of this Complaint.

16 117. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

22 118. At all relevant times herein, DEFENDANTS violated Cal. Lab. Code § 2802, by failing
23 to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
24 required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit. Specifically,
25 DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
26 members for expenses which included, but were not limited to, the cost associated with the use of their
27 personal cellular phones and personal vehicles for DEFENDANTS' benefit. In order to work for
28 DEFENDANTS, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required

1 to use their personal vehicles to travel and to use DEFENDANTS' mobile application and as such it is
2 mandatory to have a cell phone that is compatible with DEFENDANTS' mobile application. As a result,
3 in the course of their employment with DEFENDANTS, PLAINTIFF and other members of the
4 CALIFORNIA LABOR SUB-CLASS incurred unreimbursed business expenses which included, but
5 were not limited to, the costs related to the use of their personal cellular phones and personal vehicles
6 all on behalf of and for the benefit of DEFENDANTS. Further, PLAINTIFF and other CALIFORNIA
7 LABOR SUB-CLASS Members are also not reimbursed or indemnified by DEFENDANTS for the cost
8 associated with using their personal vehicles while driving for DEFENDANTS. Moreover, PLAINTIFF
9 and other CALIFORNIA LABOR SUB-CLASS Members were also required from time to time to pay
10 for parking costs at certain places. As a result, in the course of their employment with DEFENDANTS,
11 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS incurred unreimbursed
12 business expenses which included, but were not limited to, costs related to travel all on behalf of and
13 for the benefit of DEFENDANTS. These expenses are necessary to complete their principal job duties.
14 DEFENDANTS is estopped by DEFENDANTS' conduct to assert any waiver of this expectation.
15 Although these expenses are necessary expenses incurred by PLAINTIFF and the CALIFORNIA
16 LABOR SUB-CLASS members, DEFENDANTS failed to indemnify and reimburse PLAINTIFF and
17 the CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do
18 under the laws and regulations of California.

19 119. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by
20 them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for
21 DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest at the statutory
22 rate and costs under Cal. Lab. Code § 2802.

23 **EIGHTH CAUSE OF ACTION**

24 **For Failure to Pay Wages When Due**

25 **[Cal. Lab. Code §§ 201, 202 and 203]**

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

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

1 Complaint.

2 121. Cal. Lab. Code § 200 states that:

3 As used in this article:

4 (a) "Wages" includes all amounts for labor performed by
5 employees of every description, whether the amount is fixed or ascertained
6 by the standard of time, task, piece, Commission basis, or other method of
7 calculation.

8 (b) "Labor" includes labor, work, or service whether rendered or
9 performed under contract, subcontract, partnership, station plan, or other
10 agreement if the labor to be paid for is performed personally by the person
11 demanding payment.

12 122. Cal. Lab. Code § 201 states, in relevant part, that "If an employer discharges an
13 employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

14 123. Cal. Lab. Code § 202 states, in relevant part, that:

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

25 124. There was no definite term in PLAINTIFF's or any other CALIFORNIA LABOR SUB-
26 CLASS Members' employment contract.

27 125. Cal. Lab. Code § 203 states:

28 If an employer willfully fails to pay, without abatement or reduction, in

1 **DEMAND FOR JURY TRIAL**

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

3
4 Dated: August 3, 2021

JCL LAW FIRM, A.P.C.

5 

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

