

**SUMMONS  
(CITACION JUDICIAL)**

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

LAKEPORT POST ACUTE, LLC, a California limited liability company; and DOES 1 through 50, Inclusive;

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

LYDIA WEDAN, an individual, on behalf of herself, and on behalf of all persons similarly situated,

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

**FILED**  
SUPERIOR COURT  
COUNTY OF LAKE

OCT 01 2021

Krista D. LeVier  
BY Ashley Dunlap  
Deputy Clerk

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](http://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](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

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

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

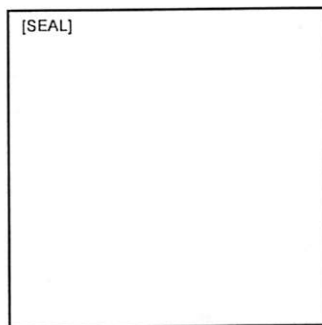
The name and address of the court is:  
(El nombre y dirección de la corte es):  
Superior Court of California - County of Lake  
255 N. Forbes Street, 4th Floor  
Lakeport, CA 95453

CASE NUMBER: **CV 422113**  
(Número del Caso):

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

DATE: **OCT 01 2021** Clerk, by Krista D. LeVier Ashley Dunlap Deputy  
(Fecha) (Secretario) (Adjunto)

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



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

**FILED**  
SUPERIOR COURT  
COUNTY OF LAKE

OCT 01 2021

BY Krista D. LeVier  
Ashley Dunlap  
Deputy Clerk

BY FAX

**ZAKAY LAW GROUP, APLC**  
Shani O. Zakay (State Bar #277924)  
Jackland K. Hom (State Bar #327243)  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
Telephone: (619)255-9047  
Facsimile: (858) 404-9203  
[shani@zakaylaw.com](mailto:shani@zakaylaw.com)  
[jackland@zakaylaw.com](mailto:jackland@zakaylaw.com)

**JCL LAW FIRM, APC**  
Jean-Claude Lapuyade (State Bar #248676)  
Eduardo Garcia (State Bar #290572)  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
Telephone: (619) 599-8292  
Facsimile: (619) 599-8291  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)  
[egarcia@jcl-lawfirm.com](mailto:egarcia@jcl-lawfirm.com)

Attorneys for Plaintiff LYDIA WEDAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LAKE**

LYDIA WEDAN, an individual, on behalf of herself, and on behalf of all persons similarly situated,

Plaintiffs,

vs.

LAKEPORT POST ACUTE, LLC, a California limited liability company; and DOES 1 through 50, Inclusive;

Defendants.

Case No. CV 422113

**CLASS ACTION COMPLAINT FOR:**

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



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- VIOLETION OF CAL. LAB. CODE § 2802;
- 7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 8. FAILURE TO PAY SICK PAY AT THE CORRECT RATE OF PAY IN VIOLATION OF CAL. LAB. CODE § 246;
- 9. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203.
- 10. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *ET SEQ.*]

**DEMAND FOR JURY TRIAL**

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

**THE PARTIES**

1. Defendant LAKEPORT POST ACUTE, LLC (“DEFENDANT” and/or “DEFENDANTS”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Lake, and operates a skilled nursing facility.

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

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

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

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

18           6.       PLAINTIFF was employed by DEFENDANTS as a non-exempt admission coordinator,  
19 paid on an hourly basis and entitled to certain bonuses, overtime pay and legally compliant meal and  
20 rest periods from January 2020 to February 2021.

21           7.       PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of  
22 DEFENDANTS' current and former non-exempt California employees (the "CALIFORNIA CLASS")  
23 at any time during the period beginning four years from the date of the filing of this Complaint and  
24 ending on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the  
25 aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).  
26 PLAINTIFF reserves the right to amend the following class definitions before the Court determines  
27 whether class certification is appropriate, or thereafter upon leave of Court:  
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1 **THE CONDUCT**

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

15 **A. Meal Period Violations**

16 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were  
17 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning  
18 the time during which an employee is subject to the control of an employer, including all the time the  
19 employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD,  
20 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without paying  
21 them for all the time they were under DEFENDANTS' control. Specifically, as a result of  
22 PLAINTIFF's demanding work requirements and DEFENDANTS' understaffing, DEFENDANTS  
23 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-  
24 duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked  
25 out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were rarely days where  
26 PLAINTIFF and other CALIFORNIA CLASS Members would even receive a partial lunch. Further,  
27 DEFENDANTS falsely deducted meal breaks for PLAINTIFF and other CALIFORNIA CLASS  
28 Members despite the fact that PLAINTIFF and other CALIFORNIA CLASS Members from time to

1 time worked through their off-duty meal breaks. As a result, the PLAINTIFF and other CALIFORNIA  
2 CLASS Members forfeited minimum wage and overtime wages by regularly working without their  
3 time being accurately recorded and without compensation at the applicable minimum wage and  
4 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
5 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
6 records.

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

20 **B. Rest Period Violations**

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

1 provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were required to  
2 remain on the premises, on duty, and on call. PLAINTIFF and other CALIFORNIA CLASS Members  
3 were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work  
4 schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time denied their  
5 proper rest periods by DEFENDANTS and DEFENDANTS' managers.

6 **C. Unreimbursed Business Expenses**

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

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

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1 **D. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**  
2 **Sick Pay**

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

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

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

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



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

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

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

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



1           25.     During the CLASS PERIOD, from time-to-time DEFENDANTS required PLAINTIFF  
2 and other members of the CALIFORNIA CLASS to perform post-shift work, including but not limited  
3 to, electronically preparing paperwork for new residents, and answering work calls on weekends.

4           26.     During the CLASS PERIOD, from time-to-time DEFENDANTS required PLAINTIFF  
5 and other members of the CALIFORNIA CLASS to remain available for work calls and emails while  
6 off-the-clock.

7           27.     DEFENDANTS directed and directly benefited from the uncompensated off-the-clock  
8 work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

9           28.     DEFENDANTS controlled the work schedules, duties, protocols, applications,  
10 assignments and employment conditions of PLAINTIFF and the other members of the CALIFORNIA  
11 CLASS.

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

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

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

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

25          33.     As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited  
26 wages due them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent  
27 attending required meetings and sales trainings. DEFENDANTS' uniform policy and practice to not pay  
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1 PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked in accordance  
2 with applicable law is evidenced by DEFENDANTS' business records.

3 **F. Wage Statement Violations**

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

12 35. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
13 CALIFORNIA CLASS Members missed meal and rest breaks, were paid inaccurate missed meal and  
14 rest period premiums, were paid overtime in the same pay period where they earned a bonus, or were  
15 not paid for all hours worked, DEFENDANTS also failed to provide PLAINTIFF and the other  
16 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to  
17 show, among other things, all applicable hourly rates in effect during the pay period and the  
18 corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or  
19 missed meal and rest periods.

20 36. In addition to the violations described above, DEFENDANTS, from time to time, failed  
21 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply  
22 with Cal. Lab. Code § 226, and specifically DEFENDANTS failed to include the correct total number  
23 of hours worked on the wage statements.

24 37. 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.

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1 **G. Cal. Lab. Code §§ 551 and 552 Violations**

2 38. California Labor Code Section 551 states that “every person employed in any  
3 occupation of labor is entitled to one day’s rest therefrom in seven.” California Labor Code Section  
4 552 states “no employer of labor shall cause his employees to work more than six days in seven.” From  
5 time to time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA  
6 CLASS Members to work seven (7) consecutive days without a day of rest. Specifically, beginning in  
7 or around December of 2020, DEFENDANTS required PLAINTIFF to work seven (7) days a week.  
8 As a result, DEFENDANTS violations Cal. Lab. Code §§ 551 and 552 by requiring PLAINTIFF and  
9 CALIFORNIA CLASS Members to work seven (7) days a week without a day of rest.

10 **H. CLASS ACTION ALLEGATIONS**

11 39. PLAINTIFF brings the First through Ninth Causes of Action as a class action pursuant to  
12 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS’ current and former non-  
13 exempt California employees (“CALIFORNIA CLASS”) during the period beginning four years prior  
14 to the filing of the Complaint and ending on a date determined by the Court (“CLASS PERIOD”).

15 40. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been  
16 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid  
17 minimum wages, unpaid overtime and double time compensation, unpaid meal and rest period  
18 premiums, illegal meal and rest period policies, failure to separately compensate rest periods, failure to  
19 separately compensate for all non-productive time, failure to reimburse business expenses, failure to  
20 provide accurate itemized wage statements, failure to maintain required records, and interest, statutory  
21 and civil penalties, attorney’s fees, costs, and expenses.

22 41. The members of the class are so numerous that joinder of all class members is impractical.

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

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

3 a. Whether DEFENDANTS maintained legally compliant meal period  
4 policies and practices;

5 b. Whether DEFENDANTS maintained legally compliant rest period  
6 policies and practices;

7 c. Whether DEFENDANTS failed to pay PLAINTIFF and the  
8 CALIFORNIA CLASS Members accurate premium payments for missed  
9 meal and rest periods;

10 d. Whether DEFENDANTS failed to pay PLAINTIFF and the  
11 CALIFORNIA CLASS Members accurate overtime and double time  
12 wages;

13 e. Whether DEFENDANTS failed to pay PLAINTIFF and the  
14 CALIFORNIA CLASS Members accurate sick pay;

15 f. Whether DEFENDANTS failed to reimburse PLAINTIFF and the  
16 CALIFORNIA CLASS Members for required business expenses;

17 g. Whether DEFENDANTS failed to pay PLAINTIFF and the  
18 CALIFORNIA CLASS Members at least minimum wage for all hours  
19 worked;

20 h. Whether DEFENDANTS issued legally compliant wage statements;

21 i. Whether DEFENDANTS committed an act of unfair competition by  
22 systematically failing to record and pay PLAINTIFF and the other members  
23 of the CALIFORNIA CLASS for all time worked;

24 j. Whether DEFENDANTS committed an act of unfair competition by  
25 systematically failing to record all meal and rest breaks missed by  
26 PLAINTIFF and other CALIFORNIA CLASS Members, even though  
27 DEFENDANTS enjoyed the benefit of this work, required employees to  
28 perform this work and permits or suffers to permit this work; and

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

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

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

9 45. PLAINTIFF will fairly and adequately represent and protect the interests of the  
10 CALIFORNIA CLASS Members.

11 46. PLAINTIFF retained able class counsel with extensive experience in class action  
12 litigation.

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

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

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

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

28 a. Inconsistent or varying adjudications with respect to individual members of the



1 CALIFORNIA CLASS which would establish incompatible standards of conduct for the  
2 parties opposing the CALIFORNIA CLASS; and/or,

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

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

10 **FIRST CAUSE OF ACTION**

11 **For Unlawful Business Practices**

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

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

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

16 53. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
17 17021.

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

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

Cal. Bus. & Prof. Code § 17203.

55. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA  
CLASS Members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in



1 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
2 “UCL”), by engaging and continuing to engage in business practices which violates California law,  
3 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations  
4 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,  
5 551, 552, 1194, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other  
6 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy  
7 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

24 59. By the conduct alleged herein, DEFENDANTS’ practices were also unlawful, unfair and  
25 deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to, *inter alia*,  
26 provide the legally mandated meal and rest periods, the required accurate amount of compensation for  
27 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage  
28 statements, reimburse employees for required business expenses, to PLAINTIFF and the other members



1 of the CALIFORNIA CLASS as required by Cal. Labor Code.

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

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

9 62. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
10 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
11 calculated overtime and double time and missed meal and rest periods premiums.

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

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

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

28 66. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,

1 and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and  
2 that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful and  
3 unfair business practices in the future.

4 67. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy  
5 and/or adequate remedy at law that will end the unlawful and unfair business practices of  
6 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result  
7 of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of  
8 the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic  
9 harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair  
10 business practices.

11 **SECOND CAUSE OF ACTION**

12 **For Failure to Pay Overtime Compensation**

13 **[Cal. Lab. Code §§ 510, *et seq.*]**

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

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

17 69. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period  
18 beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”)   
19 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and  
20 the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees  
21 for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or  
22 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

28 72. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages, including

1 overtime compensation and interest thereon, together with the costs of suit. Cal. Lab. Code § 1198  
2 further states that the employment of an employee for longer hours than those fixed by the Industrial  
3 Welfare Commission is unlawful.

4 73. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
5 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they  
6 worked or were not accurately compensated for all overtime hours worked.

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

14 75. In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
15 calculated the amount of overtime worked and the applicable overtime rates and consequently underpaid  
16 the actual time worked by PLAINTIFF and other members of the CALIFORNIA CLASS.  
17 DEFENDANTS acted in an illegal attempt to avoid the payment of all earned wages, and other benefits  
18 in violation of the California Labor Code, the Industrial Welfare Commission requirements and other  
19 applicable laws and regulations.

20 76. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
21 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
22 all overtime worked.

23 77. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the  
24 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other  
25 members of the CALIFORNIA CLASS. Further, PLAINTIFF and the other members of the  
26 CALIFORNIA CLASS are not subject to a valid collective bargaining agreement that would preclude  
27 the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings this Action on  
28 behalf of herself and the CALIFORNIA CLASS based on DEFENDANTS' violations of non-

1 negotiable, non-waivable rights provided by the State of California.

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

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

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

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

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



1           89.     DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other  
2 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For  
3 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to  
4 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without  
5 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to  
6 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members  
7 of the CALIFORNIA CLASS.

8           90.     DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
9 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
10 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members  
11 of the CALIFORNIA CLASS in regard to minimum wage pay.

12           91.     In committing these violations of the California Labor Code, DEFENDANTS inaccurately  
13 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF  
14 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid  
15 the payment of all earned wages, and other benefits in violation of the California Labor Code, the  
16 Industrial Welfare Commission requirements and other applicable laws and regulations.

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

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

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

28           95.     DEFENDANTS knew or should have known that PLAINTIFF and the other members of

1 the CALIFORNIA CLASS were under compensated for their time worked. DEFENDANTS  
2 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay  
3 employees for their labor as a matter of uniform company policy, practice and procedure, and  
4 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other  
5 members of the CALIFORNIA CLASS the correct minimum wages for their time worked.

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

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

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 CLASS and Against All DEFENDANTS)**

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









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of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

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

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

**SEVENTH CAUSE OF ACTION**

**For Failure to Provide Accurate Itemized Statements**

**[Cal. Lab. Code §§ 226 and 226.2]**

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

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

1           111. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
2 “accurate itemized” statement in writing showing:

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

21           112. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF  
22 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements  
23 which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages  
24 earned, (3) gross wages earned and (4) all applicable hourly rates in effect during the pay period and  
25 the corresponding number of hours worked at each hourly rate by the employee in violation of  
26 California Labor Code Section 226. Specifically, DEFENDANTS from time to time included  
27 remunerations for, including but not limited to, meal break penalties and sick pay into the computation  
28 of total hours worked, on wage statements issued to PLAINTIFF and the members of the

1 CALIFORNIA CLASS. DEFENDANTS' inclusion of meal break penalties and sick pay into the total  
2 hours worked violates Cal. Lab. Code § 226(a)(2), as the foregoing items are not considered hours  
3 worked.

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

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO PAY SICK PAY AT THE CORRECT RATE OF PAY**

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

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

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

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

25 116. From time-to-time, during the PLAINTIFF and other members of the CALIFORNIA  
26 CLASS were compensated at an hourly rate plus bonuses. As a matter of law, the bonus compensation  
27 received by PLAINTIFF and other members of the CALIFORNIA CLASS must be included in the  
28 “regular rate of pay.”

1 117. From time-to-time during the CLASS PERIOD, in those pay periods where PLAINTIFF  
2 and other members of the CALIFORNIA LABOR SUB-CLASS earned hourly compensation and non-  
3 discretionary incentive compensation, and took paid sick time, DEFENDANT failed to properly  
4 calculate the regular rate of pay for purposes of compensating paid sick time by omitting non-  
5 discretionary incentive pay from the regular rate of pay.

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

19 **NINTH CAUSE OF ACTION**

20 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

25 119. Cal. Lab. Code § 200 provides that:

26 As used in this article:(a) "Wages" includes all amounts for labor  
27 performed by employees of every description, whether the amount  
28 is fixed or ascertained by the standard of time, task, piece,

1 Commission basis, or other method of calculation. (b) "Labor"  
2 includes labor, work, or service whether rendered or performed  
3 under contract, subcontract, partnership, station plan, or other  
4 agreement if the labor to be paid for is performed personally by the  
5 person demanding payment.

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

8 121. Cal. Lab. Code § 202 provides, in relevant part, that:

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

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

22 123. Cal. Lab. Code § 203 provides:

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





1 employees in California during the time period of July 26, 2020 until the present (the "AGGRIEVED  
2 EMPLOYEES").

3 129. On July 26, 2021, PLAINTIFF gave written notice by certified mail to the Labor and  
4 Workforce Development Agency (the "Agency") and the employer of the specific provisions of  
5 this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached  
6 hereto and incorporated by this reference herein. The statutory waiting period for Plaintiff to add these  
7 allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, Plaintiff may now  
8 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of the State  
9 of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

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

22 **PRAYER FOR RELIEF**

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

25 1. On behalf of the CALIFORNIA CLASS:

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

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

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

5 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for  
6 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to the other  
7 members of the CALIFORNIA CLASS;

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

11 1. Compensatory damages, according to proof at trial, including compensatory  
12 damages for overtime compensation due PLAINTIFF and the other members of the  
13 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus  
14 interest thereon at the statutory rate;

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

20 3. Meal and rest period compensation pursuant to California Labor Code Sections  
21 226.7 and 512 and the applicable IWC Wage Order;

22 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and  
23 1197; and,

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

25 a. Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General  
26 Act of 2004;


27 3. On all claims:

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

- 1 B) Such other and further relief as the Court deems just and equitable; and,  
2 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,  
3 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.  
4

5 Dated: September 30, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.


7 By:   
8 Jean-Claude Lapuyade  
9 Attorneys for PLAINTIFF

10 **DEMAND FOR JURY TRIAL**

11 PLAINTIFF demands a jury trial on all issues triable to a jury.  
12

13 Dated: September 30, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

16 By:   
17 Jean-Claude Lapuyade  
18 Attorneys for PLAINTIFF

# **EXHIBIT 1**



ZAKAY LAW GROUP  
A PROFESSIONAL LAW CORPORATION

Client # 40201

July 26, 2021

**Via Online Filing to LWDA and Certified Mail to Defendants**

**Labor and Workforce Development Agency**

Online Filing

<p>Labor &amp; Workforce Development Agency Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, CA 94612 PAGA@dir.ca.gov <i>Via Online Submission</i></p>	<p><b>LAKEPORT POST ACUTE, LLC</b> c/o CSC – LAWYERS INCORPORATING SERVICE 2710 GATEWAY OAKS DRIVE SUITE 150N SACRAMENTO, CA 95833 <i>Via Certified Mail with Return Receipt</i> <i>No. 7019 1640 0000 6893 9249</i></p>
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**Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiff LYDIA WEDAN (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against LAKEPORT POST ACUTE, LLC, a California limited liability company (“Defendant”). Plaintiff was employed by Defendant in California between January of 2020 to February of 2021 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 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, violates the applicable

Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant during the relevant claim period.**

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a long horizontal flourish extending to the right.

Shani O. Zakay  
Attorney for Plaintiff

**ZAKAY LAW GROUP, APLC**  
Shani O. Zakay (State Bar #277924)  
Jackland K. Hom (State Bar #327243)  
3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
Telephone: (619) 255-9047  
Facsimile: (858) 404-9203  
[shani@zakaylaw.com](mailto:shani@zakaylaw.com)  
[jackland@zakaylaw.com](mailto:jackland@zakaylaw.com)

**JCL LAW FIRM, APC**  
Jean-Claude Lapuyade (State Bar #248676)  
Eduardo Garcia (State Bar #290572)  
3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
Telephone: (619) 599-8292  
Facsimile: (619) 599-8291  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)  
[egarcia@jcl-lawfirm.com](mailto:egarcia@jcl-lawfirm.com)

ATTORNEYS FOR PLAINTIFF

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LAKE**

LYDIA WEDAN, an individual, on behalf of  
herself, and on behalf of all persons similarly  
situated,

Plaintiffs,

vs.

LAKEPORT POST ACUTE, LLC, a California  
limited liability company; and DOES 1 through  
50, Inclusive;

DEFENDANTS.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO REIMBURSE PLAINTIFF FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;

- 1
- 2
- 3
- 4
- 5
8. FAILURE TO PAY SICK PAY AT THE CORRECT RATE OF PAY IN VIOLATION OF CAL. LAB. CODE § 246;
9. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203.

6

7

**DEMAND FOR JURY TRIAL**

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

11

12

**THE PARTIES**

13 1. Defendant LAKEPORT POST ACUTE, LLC (“DEFENDANT” and/or  
14 “DEFENDANTS”) is a California limited liability company that at all relevant times mentioned herein  
15 conducted and continues to conduct substantial business in the state of California, county of Lake, and  
16 operates a skilled nursing facility.

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

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





1 jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a  
2 proximate result of the conduct of the DEFENDANTS' agents, servants and/or employees.

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

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

13 6. PLAINTIFF was employed by DEFENDANTS as a non-exempt admission coordinator,  
14 paid on an hourly basis and entitled to certain bonuses, overtime pay and legally compliant meal and  
15 rest periods from January 2020 to February 2021.

16 7. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of  
17 DEFENDANTS' current and former non-exempt California employees (the "CALIFORNIA CLASS")  
18 at any time during the period beginning four years from the date of the filing of this Complaint and  
19 ending on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the  
20 aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).  
21 PLAINTIFF reserves the right to amend the following class definitions before the Court determines  
22 whether class certification is appropriate, or thereafter upon leave of Court:

23 8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the  
24 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
25 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which  
26 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest  
27 periods or an additional hour of pay at the regular rate of compensation in lieu thereof in violation of  
28 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission

1 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in  
2 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, (3) failed to  
3 reimburse PLAINTIFF and the CALIFORNIA CLASS for required expenses in violation of California  
4 Labor Code Section 2802, and (4) failed to provide accurate itemized wage statements in violation of  
5 California Labor Code Sections 226 and 226.3.

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

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

13 **JURISDICTION AND VENUE**

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

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

23 **THE CONDUCT**

24 13. In violation of the applicable sections of the California Labor Code and the requirements  
25 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company  
26 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally  
27 compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members  
28 of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other



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

9 **A. Meal Period Violations**

10 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were  
11 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning  
12 the time during which an employee is subject to the control of an employer, including all the time the  
13 employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD,  
14 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without paying  
15 them for all the time they were under DEFENDANTS' control. Specifically, as a result of  
16 PLAINTIFF's demanding work requirements and DEFENDANTS' understaffing, DEFENDANTS  
17 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-  
18 duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked  
19 out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were rarely days where  
20 PLAINTIFF and other CALIFORNIA CLASS Members would even receive a partial lunch. Further,  
21 DEFENDANTS falsely deducted meal breaks for PLAINTIFF and other CALIFORNIA CLASS  
22 Members despite the fact that PLAINTIFF and other CALIFORNIA CLASS Members from time to  
23 time worked through their off-duty meal breaks. As a result, the PLAINTIFF and other CALIFORNIA  
24 CLASS Members forfeited minimum wage and overtime wages by regularly working without their  
25 time being accurately recorded and without compensation at the applicable minimum wage and  
26 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other  
27 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business  
28 records.



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

14 **B. Rest Period Violations**

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

28 **C. Unreimbursed Business Expenses**



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

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

21     **D. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**  
22     **Sick Pay**

23           19.     From time-to-time during the CLASS PERIOD, DEFENDANTS failed and continue to  
24 fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS members for  
25 their overtime and double time hours worked, meal and rest period premiums, and sick pay. As a result,  
26 PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages due them for working  
27 overtime without compensation at the correct overtime and double time rates, meal and rest period  
28 premiums, and sick pay rates. DEFENDANTS' uniform policy and practice to not pay the

1 CALIFORNIA CLASS members the correct rate for all overtime and double time worked, meal and  
2 rest period premiums, and sick pay in accordance with applicable law is evidenced by DEFENDANTS’  
3 business records.

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

7 21. The second component of PLAINTIFF’S and other CALIFORNIA CLASS members’  
8 compensation was DEFENDANTS’ non-discretionary incentive program that paid PLAINTIFF and  
9 other CLASS MEMBERS incentive wages based on their performance for DEFENDANTS. The non-  
10 discretionary bonus program provided all employees paid on an hourly basis with bonus and/or  
11 commission compensation when the employees met the various performance goals set by  
12 DEFENDANTS.

13 22. However, from-time-to-time, when calculating the regular rate of pay, in those pay periods  
14 where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double time, paid  
15 meal and rest period premium payments, and/or paid sick pay, and earned non-discretionary bonus,  
16 DEFENDANTS failed to accurately include the non-discretionary bonus compensation as part of the  
17 employees’ “regular rate of pay” and/or calculated all hours worked rather than just all non-overtime  
18 hours worked. Management and supervisors described the incentive/bonus program to potential and  
19 new employees as part of the compensation package. As a matter of law, the incentive compensation  
20 received by PLAINTIFF and other CALIFORNIA CLASS members must be included in the “regular  
21 rate of pay.” The failure to do so has resulted in a systematic underpayment of overtime and double  
22 time compensation, meal and rest period premiums, and sick pay to PLAINTIFF and other  
23 CALIFORNIA CLASS members by DEFENDANTS. Specifically, California Labor Code Section 246  
24 mandates that paid sick time for non-employees shall be calculated in the same manner as the regular  
25 rate of pay for the workweek in which the non-exempt employee uses paid sick time, whether or not  
26 the employee actually works overtime in that workweek. DEFENDANTS’ conduct, as articulated  
27 herein, by failing to include the incentive compensation as part of the “regular rate of pay” for purposes  
28 of sick pay compensation was in violation of Cal. Lab. Code § 246.



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

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

12           24. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and continue to  
13 fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all hours  
14 worked. Specifically, DEFENDANT from time-to-time required PLAINTIFF and the other members  
15 of the CALIFORNIA CLASS to perform off-the-clock work. Notwithstanding, from time-to-time  
16 DEFENDANTS failed to pay PLAINTIFF and other members of the CALIFORNIA CLASS necessary  
17 wages for attending for performing work at DEFENDANTS' direction, request and benefit, while off-  
18 the clock pre-shift, post-shift, and during meal periods.

19           25. During the CLASS PERIOD, from time-to-time DEFENDANTS required PLAINTIFF  
20 and other members of the CALIFORNIA CLASS to perform post-shift work, including but not limited  
21 to, electronically preparing paperwork for new residents, and answering work calls on weekends.

22           26. During the CLASS PERIOD, from time-to-time DEFENDANTS required PLAINTIFF  
23 and other members of the CALIFORNIA CLASS to remain available for work calls and emails while  
24 off-the-clock.

25           27. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock  
26 work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.



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

4           29.     DEFENDANTS were able to track the amount of time PLAINTIFF and the other members  
5 of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to document, track, or  
6 pay PLAINTIFF and the other members of the CALIFORNIA CLASS all wages earned and owed for  
7 all the work they performed, including off-the-clock work.

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

10          31.     DEFENDANTS' policies and practices deprived PLAINTIFF and the other members of  
11 the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages owed for the off-  
12 the-clock work activities and their required meal periods. Because PLAINTIFF and the other members  
13 of the CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)  
14 hours per day, DEFENDANTS' policies and practices also deprived them of overtime pay.

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

17          33.     As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited  
18 wages due them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent  
19 attending required meetings and sales trainings. DEFENDANTS' uniform policy and practice to not pay  
20 PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked in accordance  
21 with applicable law is evidenced by DEFENDANTS' business records.

22     **F.    Wage Statement Violations**

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



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

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

11 36. In addition to the violations described above, DEFENDANTS, from time to time, failed  
12 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply  
13 with Cal. Lab. Code § 226, and specifically DEFENDANTS failed to include the correct total number  
14 of hours worked on the wage statements.

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

19 **G. Cal. Lab. Code §§ 551 and 552 Violations**

20 38. California Labor Code Section 551 states that "every person employed in any  
21 occupation of labor is entitled to one day's rest therefrom in seven." California Labor Code Section  
22 552 states "no employer of labor shall cause his employees to work more than six days in seven." From  
23 time to time during the CLASS PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA  
24 CLASS Members to work seven (7) consecutive days without a day of rest. Specifically, beginning in  
25 or around December of 2020, DEFENDANTS required PLAINTIFF to work seven (7) days a week.  
26 As a result, DEFENDANTS violations Cal. Lab. Code §§ 551 and 552 by requiring PLAINTIFF and  
27 CALIFORNIA CLASS Members to work seven (7) days a week without a day of rest.

28 ///



1 **H. CLASS ACTION ALLEGATIONS**

2 39. PLAINTIFF brings the First through Ninth Causes of Action as a class action pursuant to  
3 California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS’ current and former non-  
4 exempt California employees (“CALIFORNIA CLASS”) during the period beginning four years prior  
5 to the filing of the Complaint and ending on a date determined by the Court (“CLASS PERIOD”).

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

13 41. The members of the class are so numerous that joinder of all class members is impractical.

14 42. Common questions of law and fact regarding DEFENDANTS’ conduct, including but not  
15 limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate  
16 the regular rate of pay for overtime and double time compensation, failure to accurately calculate the  
17 regular rate of compensation for missed meal and rest period premiums, failing to provide legally  
18 compliant meal and rest periods, failure to reimburse business expenses, failure to provide accurate  
19 itemized wage statements accurately, and failure to ensure they are paid at least minimum wage and  
20 overtime, exist as to all members of the class and predominate over any questions affecting solely any  
21 individual members of the class. Among the questions of law and fact common to the class are:

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

1 d. Whether DEFENDANTS failed to pay PLAINTIFF and the  
2 CALIFORNIA CLASS Members accurate overtime and double time  
3 wages;

4 e. Whether DEFENDANTS failed to pay PLAINTIFF and the  
5 CALIFORNIA CLASS Members accurate sick pay;

6 f. Whether DEFENDANTS failed to reimburse PLAINTIFF and the  
7 CALIFORNIA CLASS Members for required business expenses;

8 g. Whether DEFENDANTS failed to pay PLAINTIFF and the  
9 CALIFORNIA CLASS Members at least minimum wage for all hours  
10 worked;

11 h. Whether DEFENDANTS issued legally compliant wage statements;

12 i. Whether DEFENDANTS committed an act of unfair competition by  
13 systematically failing to record and pay PLAINTIFF and the other members  
14 of the CALIFORNIA CLASS for all time worked;

15 j. Whether DEFENDANTS committed an act of unfair competition by  
16 systematically failing to record all meal and rest breaks missed by  
17 PLAINTIFF and other CALIFORNIA CLASS Members, even though  
18 DEFENDANTS enjoyed the benefit of this work, required employees to  
19 perform this work and permits or suffers to permit this work; and

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

24 43. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result  
25 of DEFENDANTS' conduct and actions alleged herein.

26 44. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same  
27 interests as the other members of the class.

28 45. PLAINTIFF will fairly and adequately represent and protect the interests of the

1 CALIFORNIA CLASS Members.

2 46. PLAINTIFF retained able class counsel with extensive experience in class action  
3 litigation.

4 47. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests  
5 of the other CALIFORNIA CLASS Members.

6 48. There is a strong community of interest among PLAINTIFF and the members of the  
7 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient  
8 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

9 49. The questions of law and fact common to the CALIFORNIA CLASS Members  
10 predominate over any questions affecting only individual members, including legal and factual issues  
11 relating to liability and damages.

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

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

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

26 51. Class treatment provides manageable judicial treatment calculated to bring an efficient  
27 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of  
28 DEFENDANTS.

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

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

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

7 53. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §  
8 17021.

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

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

20 Cal. Bus. & Prof. Code § 17203.

21 55. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA  
22 CLASS Members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in  
23 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
24 “UCL”), by engaging and continuing to engage in business practices which violates California law,  
25 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations  
26 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,  
27 551, 552, 1194, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other  
28 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy

1 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

18 59. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and  
19 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,  
20 provide the legally mandated meal and rest periods, the required accurate amount of compensation for  
21 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage  
22 statements, reimburse employees for required business expenses, to PLAINTIFF and the other members  
23 of the CALIFORNIA CLASS as required by Cal. Labor Code.

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

28 61. PLAINTIFF further demands on behalf of herself and on behalf of each CALIFORNIA



1 CLASS Member, one (1) hour of pay for each workday in which an off duty paid rest period was not  
2 timely provided as required by law.

3 62. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the  
4 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately  
5 calculated overtime and double time and missed meal and rest periods premiums.

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

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

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

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

26 67. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy  
27 and/or adequate remedy at law that will end the unlawful and unfair business practices of  
28 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result

1 of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of  
2 the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic  
3 harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair  
4 business practices.

5 **SECOND CAUSE OF ACTION**

6 **For Failure to Pay Overtime Compensation**

7 **[Cal. Lab. Code §§ 510, *et seq.*]**

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

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

11 69. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period  
12 beginning four years prior to the filing of the Complaint and the present (“LABOR CLASS PERIOD”)  
13 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and  
14 the Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees  
15 for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or  
16 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

26 73. During the LABOR CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
27 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they  
28 worked or were not accurately compensated for all overtime hours worked.



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

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

14           76.     As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
15 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for  
16 all overtime worked.

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

24           78.     During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure  
26 to pay all earned wages.

27           79.     DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum

1 hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF  
2 and the other members of the CALIFORNIA CLASS were required to work, and did in fact work,  
3 overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime  
4 rate as evidenced by DEFENDANTS' business records and witnessed by employees.

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

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

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

23 83. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request  
24 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as  
25 well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the  
26 California Labor Code and/or other applicable statutes. To the extent overtime compensation is  
27 determined to be owed to the CALIFORNIA CLASS Members who have terminated their employment,  
28 DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals

1 are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought  
2 herein on behalf of these CALIFORNIA CLASS Members. DEFENDANTS' conduct as alleged herein  
3 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS  
4 Members are entitled to seek and recover statutory costs.

5 **THIRD CAUSE OF ACTION**

6 **For Failure to Pay Minimum Wages**

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

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

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

11 85. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
12 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial  
13 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay  
14 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS Members during the  
15 LABOR CLASS PERIOD.

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

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

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

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



1 of the CALIFORNIA CLASS.

2 90. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
3 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a  
4 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members  
5 of the CALIFORNIA CLASS in regard to minimum wage pay.

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

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

14 93. During the LABOR CLASS PERIOD, PLAINTIFF and the other members of the  
15 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a failure  
16 to pay all earned wages.

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

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

28 96. In performing the acts and practices herein alleged in violation of California labor laws,

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

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

17 **FOURTH CAUSE OF ACTION**

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

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

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

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

23 99. During the LABOR CLASS PERIOD, from time to time, DEFENDANTS failed to  
24 provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA  
25 CLASS Members as required by the applicable Wage Order and Labor Code. The nature of the work  
26 performed by PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from  
27 being relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
28 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to

1 time not fully relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS'  
2 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal  
3 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from  
4 time to time. Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS  
5 Members with a second off-duty meal period in some workdays in which these employees were required  
6 by DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members of the  
7 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in  
8 accordance with DEFENDANTS' strict corporate policy and practice.

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

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

17 **FIFTH CAUSE OF ACTION**

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

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

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

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

23 103. During the LABOR CLASS PERIOD, PLAINTIFF and other CALIFORNIA CLASS  
24 Members were from time to time required to work in excess of four (4) hours without being provided  
25 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at least ten  
26 (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period  
27 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,  
28 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more

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

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

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

13 **SIXTH CAUSE OF ACTION**

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

15 **[Cal. Lab. Code § 2802]**

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

17 106. 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.

19 107. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

25 108. From time-to-time during the LABOR CLASS PERIOD, DEFENDANTS violated Cal.  
26 Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the  
27 CALIFORNIA CLASS for required expenses incurred in the discharge of their job duties for  
28 DEFENDANTS' benefit. DEFENDANTS failed to reimburse PLAINTIFF and the members of the

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

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

17 **SEVENTH CAUSE OF ACTION**

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

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

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

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

23 111. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
24 "accurate itemized" statement in writing showing:

- 25 1. Gross wages earned;
- 26 2. Total hours worked by the employee, except for any employee  
27 whose compensation is solely based on a salary and who is exempt from  
28 payment of overtime under subdivision (a) of Section 515 or any applicable



1 order of the Industrial Welfare Commission;

2 3. The number of piece-rate units earned and any applicable piece rate  
3 if the employee is paid on a piece-rate basis;

4 4. All deductions, provided that all deductions made on written orders  
5 of the employee may be aggregated and shown as one item;

6 5. Net wages earned;

7 6. The inclusive dates of the period for which the employee is paid,

8 7. The name of the employee and his or her social security number,  
9 except that by January 1, 2008, only the last four digits of his or her social  
10 security number or an employee identification number other than a social  
11 security number may be shown on the itemized statement;

12 8. The name and address of the legal entity that is the employer; and

13 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.

15 112. During the LABOR CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF  
16 and the other members of the CALIFORNIA CLASS with complete and accurate wage statements  
17 which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages  
18 earned, (3) gross wages earned and (4) all applicable hourly rates in effect during the pay period and  
19 the corresponding number of hours worked at each hourly rate by the employee in violation of  
20 California Labor Code Section 226. Specifically, DEFENDANTS from time to time included  
21 remunerations for, including but not limited to, meal break penalties and sick pay into the computation  
22 of total hours worked, on wage statements issued to PLAINTIFF and the members of the  
23 CALIFORNIA CLASS. DEFENDANTS' inclusion of meal break penalties and sick pay into the total  
24 hours worked violates Cal. Lab. Code § 226(a)(2), as the foregoing items are not considered hours  
25 worked.

26 113. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §  
27 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA  
28 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for

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

9 **EIGHTH CAUSE OF ACTION**

10 **FAILURE TO PAY SICK PAY AT THE CORRECT RATE OF PAY**

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

12 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS and against all DEFENDANT)**

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

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

19 116. From time-to-time, during the PLAINTIFF and other members of the CALIFORNIA  
20 CLASS were compensated at an hourly rate plus bonuses. As a matter of law, the bonus compensation  
21 received by PLAINTIFF and other members of the CALIFORNIA CLASS must be included in the  
22 “regular rate of pay.”

23 117. From time-to-time during the CLASS PERIOD, in those pay periods where PLAINTIFF  
24 and other members of the CALIFORNIA LABOR SUB-CLASS earned hourly compensation and non-  
25 discretionary incentive compensation, and took paid sick time, DEFENDANT failed to properly  
26 calculate the regular rate of pay for purposes of compensating paid sick time by omitting non-  
27 discretionary incentive pay from the regular rate of pay.

28 DEFENDANT’s uniform policy and practice of omitting non-discretionary bonuses from the

1 regular rate of pay for purposes of paying paid sick pay, resulted in the underpayment of sick pay wages  
2 to PLAINTIFF and other members of the CALIFORNIA CLASS. PLAINTIFF and other members of  
3 the CALIFORNIA CLASS therefore request recovery of all unpaid wages, including sick pay wages,  
4 according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against  
5 DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable statutes. To  
6 the extent sick pay is determined to be owed to other members of the CALIFORNIA LABOR SUB-  
7 CLASS who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
8 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under Cal.  
9 Lab. Code § 203, which penalties are sought herein on behalf of other members of the CALIFORNIA  
10 LABOR SUB-CLASS. DEFENDANT'S conduct as alleged herein was willful, intentional and not in  
11 good faith. Further, PLAINTIFF and other members of the CALIFORNIA CLASS are entitled to seek  
12 and recover statutory costs

13 **NINTH CAUSE OF ACTION**

14 **FAILURE TO PAY WAGES WHEN DUE**

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

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

17 118. 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.

19 119. Cal. Lab. Code § 200 provides that:

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

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

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

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

15           122. There was no definite term in PLAINTIFF’s or any CALIFORNIA CLASS Members’  
16 employment contract.

17           123. Cal. Lab. Code § 203 provides:

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

24           124. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated  
25 and DEFENDANTS have not tendered payment of wages, to these employees who missed meal and  
26 rest breaks, as required by law.

27           125. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members  
28 of the CALIFORNIA CLASS whose employment has, PLAINTIFF demands up to thirty days of pay

1 as penalty for not paying all wages due at time of termination for all employees who terminated  
2 employment during the LABOR CLASS PERIOD, and demands an accounting and payment of all  
3 wages due, plus interest and statutory costs as allowed by law.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and  
6 severally, as follows:

7 1. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

20 1. Compensatory damages, according to proof at trial, including compensatory  
21 damages for overtime compensation due PLAINTIFF and the other members of the  
22 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus  
23 interest thereon at the statutory rate;

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



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

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


2. On all claims:

- A) An award of interest, including prejudgment interest at the legal rate;
- B) Such other and further relief as the Court deems just and equitable; and,
- C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,

including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

Dated: September 30, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

By:   
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF

**DEMAND FOR JURY TRIAL**

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

Dated: September 30, 2021

Respectfully Submitted,  
JCL LAW FIRM, A.P.C.

By:   
Jean-Claude Lapuyade  
Attorneys for PLAINTIFF

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

LAKEPORT POST ACUTO, LLC  
 410 CSC-LAWYERS INCORP. SERVICE  
 2710 GATEWAY OAKS DR, SUITE 150N  
 SACRAMENTO, CA 95833



9590 9402 6744 1060 3005 88

2. Article Number (Transfer from service label)

7019 1640 0000 6893 9249

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

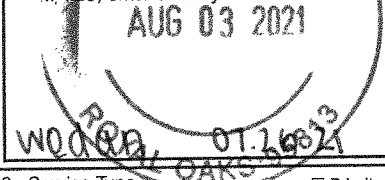
- Agent
- Addressee

B. Received By (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

- Yes
- No



3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
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