

**SUMMONS
(CITACION JUDICIAL)**

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

MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES, a Nevada corporation; CPM, LTD., a Nevada corporation; C.L.M.P., LTD., a California corporation; EQUUS WORKFORCE SOLUTIONS, a Kentucky limited liability company; and DOES 1-50, Inclusive

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/05/2022 at 10:09:00 AM
Clerk of the Superior Court
By Taylor Crandall, Deputy Clerk

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

PRISCILLA ESTRADA, an individual, on behalf of herself and on behalf of all persons similarly situated,

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

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

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

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

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

CASE NUMBER:
(Número del Caso): 37-2022-00030943-CU-OE-CTL

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: (858) 599-8291
JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

T Crandall
T. Crandall

DATE: 08/12/2022
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

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

NOTICE TO THE PERSON SERVED: You are served

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



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08/04/2022 at 09:54:52 AM
Clerk of the Superior Court
By Gabriel Lopez, Deputy Clerk

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Attorneys for Plaintiff PRISCILLA ESTRADA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

PRISCILLA ESTRADA, an individual, on behalf of herself and on behalf of all persons similarly situated,

Plaintiff,

v.

MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES, a Nevada corporation; CPM, LTD., a Nevada corporation; C.L.M.P., LTD., a California corporation; EQUUS WORKFORCE SOLUTIONS, a Kentucky limited liability company; and DOES 1-50, Inclusive,

Defendants.

Case No: 37-2022-00030943-CU-OE-CTL

CLASS ACTION COMPLAINT FOR:

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

ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CALIFORNIA LABOR CODE §2802;
9) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
10) RETALIATION IN VIOLATION OF CAL. LAB. CODE §§ 6310 AND 1102.5; and
11) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ.

DEMAND FOR A JURY TRIAL

Plaintiff PRISCILLA ESTRADA (“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 MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES (“Defendant Manpower”) is a Nevada corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant CPM, LTD. (“Defendant CPM”) is a Nevada corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant C.L.M.P., LTD. (“Defendant CLMP”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

4. Defendant EQUUS WORKFORCE SOLUTIONS (“Defendant Equus”) is a Kentucky limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

5. Defendant Manpower, Defendant CPM, Defendant CLMP and Defendant Equus were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company

1 PLAINTIFF performed work for respectively and are therefore jointly responsible as employers
2 for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

3 6. DEFENDANTS own, operate, and/or manage workforce staffing service
4 companies throughout the state of California, including the county of San Diego, where
5 PLAINTIFF worked.

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

16 8. The agents, servants, and/or employees of the DEFENDANT and each of them
17 acting on behalf of the DEFENDANT acted within the course and scope of his, her or its authority
18 as the agent, servant and/or employee of the Defendant, and personally participated in the conduct
19 alleged herein on behalf of the DEFENDANT with respect to the conduct alleged herein.
20 Consequently, the acts of each Defendant are legally attributable to the other DEFENDANT and
21 all DEFENDANT are jointly and severally liable to PLAINTIFF and the other members of the
22 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
23 Defendant’s agents, servants and/or employees.

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

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

6 11. PLAINTIFF was employed by DEFENDANT in California from November of
7 2021 to March of 2022 and at all times was classified by DEFENDANT as a non-exempt
8 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
9 payment of minimum and overtime wages due for all time worked.

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

17 13. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
18 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
19 the CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed to
20 lawfully compensate these employees. DEFENDANT’s uniform policy and practice alleged
21 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained
22 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA
23 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
24 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the
25 other members of the CALIFORNIA CLASS who have been economically injured by
26 DEFENDANT’s past and current unlawful conduct, and all other appropriate legal and equitable
27 relief.
28

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

10 **A. Meal Period Violations**

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

25 20. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
26 requirements and DEFENDANT's inadequate staffing practices, PLAINTIFF and other
27 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute off-
28 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and

1 other CALIFORNIA CLASS Members were required from time to time to perform work as
2 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a
3 meal break. Further, DEFENDANT from time to time failed to provide PLAINTIFF and
4 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in which
5 DEFENDANT required these employees to work ten (10) hours of work from time to time. The
6 nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS Members does
7 not qualify for limited and narrowly construed “on-duty” meal period exception. When they were
8 provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from
9 time to time, required to remain on duty and on call. PLAINTIFF and other CALIFORNIA
10 CLASS Members therefore forfeited meal breaks without additional compensation and in
11 accordance with DEFENDANT’s strict corporate policy and practice.

12 **B. Rest Period Violations**

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

27
28 ///

1 **C. Unreimbursed Business Expenses**

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

13 23. In the course of their employment, DEFENDANT required PLAINTIFF and other
14 CALIFORNIA CLASS Members to use their personal cell phones as a result of and in furtherance
15 of their job duties as employees for DEFENDANT. But for the use of their own personal cell
16 phones, PLAINTIFF and the CALIFORNIA CLASS Members could not complete their essential
17 job duties. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF and other
18 CALIFORNIA CLASS Members for their use of their personal cell phones. As a result, in the
19 course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA
20 CLASS Members incurred unreimbursed business expenses, but were not limited to, costs related
21 to the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANT.

22 **D. Wage Statement Violations**

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

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

3 25. From time to time during the CLASS PERIOD, when PLAINTIFF and other
4 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
5 meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also failed
6 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate
7 wage statements which failed to show, among other things, the total hours worked and all
8 applicable hourly rates in effect during the pay period and the corresponding amount of time
9 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
10 periods. Further, from time to time, DEFENDANT failed to list the accurate name and address of
11 the legal entity that was PLAINTIFF'S and other CALIFORNIA CLASS Members' employer.

12 26. In addition, DEFENDANT, from time to time, failed to provide PLAINTIFF and
13 the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code §
14 226.

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

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

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

23 29. During the CLASS PERIOD, from time-to-time DEFENDANT required
24 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift and post-shift
25 work all while off-the-clock. This resulted in PLAINTIFF and other members of the
26 CALIFORNIA CLASS to have to work while off-the-clock.

27 30. DEFENDANT directed and directly benefited from the uncompensated off-the-
28 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

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

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

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

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

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

17 36. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
18 forfeited wages due them for all hours worked at DEFENDANT's direction, control and benefit
19 for the time spent working while off-the-clock. DEFENDANT's uniform policy and practice to
20 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked
21 in accordance with applicable law is evidenced by DEFENDANT's business records.

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

24 37. From time-to-time during the CLASS PERIOD, DEFENDANT failed and
25 continue to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
26 members for their overtime and double time hours worked, meal and rest period premiums, and
27 sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS members forfeited wages
28 due them for working overtime without compensation at the correct overtime and double time

1 rates, meal and rest period premiums, and sick pay rates. DEFENDANT’s uniform policy and
2 practice to not pay the CALIFORNIA CLASS members the correct rate for all overtime and
3 double time worked, meal and rest period premiums, and sick pay in accordance with applicable
4 law is evidenced by DEFENDANT’s business records.

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

9 39. The second component of PLAINTIFF’s and other CALIFORNIA CLASS
10 Members’ compensation was DEFENDANT’s non-discretionary incentive program that paid
11 PLAINTIFF and other CLASS Members incentive wages based on their performance for
12 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
13 basis with bonus compensation when the employees met the various performance goals set by
14 DEFENDANTS.

15 40. However, from time-to-time, when calculating the regular rate of pay, in those pay
16 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double
17 time, paid meal and rest period premium payments, and/or sick pay, and earned this non-
18 discretionary bonus or incentive, DEFENDANTS failed to accurately include the non-
19 discretionary bonus compensation and/or incentive and/or shift differential paid as part of the
20 employees’ “regular rate of pay” and/or calculated all hours worked rather than just all non-
21 overtime hours worked. Management and supervisors described the incentive/bonus program to
22 potential and new employees as part of the compensation package. As a matter of law, the
23 incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS Members
24 must be included in the “regular rate of pay.” The failure to do so has resulting in a systematic
25 underpayment of overtime and double time compensation, meal and rest period premiums, and
26 redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS Members by
27 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
28 for non-employees shall be calculated in the same manner as the regular rate of pay for the

1 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
2 actually works overtime in that workweek. DEFENDANT's conduct, as articulated herein, by
3 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
4 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
5 recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

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

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

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

23 **H. Unlawful Rounding Violations**

24 43. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in place
25 an immutable timekeeping system to accurately record and pay PLAINTIFF and other
26 CALIFORNIA CLASS Members for the actual time these employees worked each day, including
27 overtime hours. Specifically, DEFENDANT had in place an unlawful rounding policy and
28 practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being

1 undercompensated for all of their time worked. As a result, DEFENDANT was able to and did in
2 fact unlawfully, and unilaterally round the time recorded in DEFENDANT’S timekeeping system
3 for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these
4 employees for all their time worked, including the applicable overtime compensation for overtime
5 worked. As a result, PLAINTIFF, and other CALIFORNIA CLASS Members, from time to time,
6 forfeited compensation for their time worked by working without their time being accurately
7 recorded and without compensation at the applicable overtime rates.

8 44. Further, the mutability of DEFENDANT’S timekeeping system and unlawful
9 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members’ time
10 being inaccurately recorded. As a result, from time to time, DEFENDANT’S unlawful rounding
11 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work
12 as ordered by DEFENDANT for more than five (5) hours during a shift without receiving an off-
13 duty meal break. Additionally, DEFENDANT’S unlawful rounding policy and practice caused
14 PLAINTIFF and CALIFORNIA CLASS Members to perform work as ordered by DEFENDANT
15 for more than ten (10) hours during a shift without receiving a second off-duty meal break.

16 45. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
17 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
18 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
19 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
20 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
21 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
22 with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-call, for
23 the rest break. DEFENDANTS’ policy caused PLAINTIFF to remain on-call and on-duty during
24 what was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest
25 breaks without additional compensation and in accordance with DEFENDANTS’ strict corporate
26 policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with a paystub that
27 failed to comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed to reimburse
28 PLAINTIFF for required business expenses related to the use of her personal cell phone, on behalf
of and in furtherance of her employment with DEFENDANTS. To date, DEFENDANTS have

1 not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to
2 her, or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy
3 for PLAINTIFF individually does not exceed the sum or value of \$75,000.

4 **I. Plaintiff's Individual Claims**

5 46. PLAINTIFF was employed by DEFENDANT in California from November of
6 2021 to March of 2022.

7 47. In or around February of 2022, PLAINTIFF complained to DEFENDANT about
8 dangerous and unsafe work conditions related to DEFENDANT'S refusal to allow PLAINTIFF
9 to not show up for work when one of DEFENDANT'S supervisors contracted Covid-19. More
10 specifically, DEFENDANT told PLAINTIFF that if she did not show up for work, despite her
11 manager having Covid-19, she would not receive any paid leave. As a result, PLAINTIFF was
12 forced to work and contracted Covid-19 from her supervisor. Thus, DEFENDANT failed to
13 address PLAINTIFF'S complaints or correct the unsafe work conditions such that PLAINTIFF
14 could have avoided contracting Covid-19.

15 48. Thereafter, between February and March of 2022, PLAINTIFF complained to
16 DEFENDANT about the dangerous and unsafe work conditions related to DEFENDANT forcing
17 PLAINTIFF to work while DEFENDANT knew PLAINTIFF'S supervisor had Covid-19.

18 49. In or around March 7, 2022, following PLAINTIFF'S complaints to
19 DEFENDANT about dangerous and unsafe work conditions, and in retaliation for making such
20 complaints, DEFENDANT terminated PLAINTIFF'S employment.

21 50. Further, PLAINTIFF is informed and believes, and upon such information and
22 belief alleges, that, during PLAINTIFF'S employment with DEFENDANT and at the time of her
23 termination, PLAINTIFF raised complaints of dangerous and unsafe work conditions while she
24 worked for DEFENDANT, and DEFENDANT retaliated against her by taking adverse
25 employment actions including terminating PLAINTIFF'S employment with DEFENDANT.

26 **J. CLASS ACTION ALLEGATIONS**

27 51. PLAINTIFF brings the First through Eight Causes of Action as a class action
28 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or
previously were employed by Defendant Manpower and/or Defendant CPM and/or Defendant

1 CLMP and/or Defendant Equus in California and classified as non-exempt employees
2 (“CALIFORNIA CLASS”) during the period beginning four years prior to the filing of the
3 Complaint and ending on a date determined by the Court (“CLASS PERIOD”).

4 52. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
5 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
6 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
7 illegal meal and rest period policies, failed to reimburse for business expenses, failed compensate
8 for off-the-clock work, failure to provide accurate itemized wage statements, failure to maintain
9 required records, and interest, statutory and civil penalties, attorney’s fees, costs, and expenses.

10 53. The members of the class are so numerous that joinder of all class members is
11 impractical.

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

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

- 1 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
- 2 Members at least minimum wage for all hours worked;
- 3 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
- 4 CLASS Members for required business expenses;
- 5 g. Whether DEFENDANT issued legally compliant wage statements;
- 6 h. Whether DEFENDANT committed an act of unfair competition by systematically
- 7 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
- 8 CLASS for all time worked;
- 9 i. Whether DEFENDANT committed an act of unfair competition by systematically
- 10 failing to record all meal and rest breaks missed by PLAINTIFF and other
- 11 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
- 12 of this work, required employees to perform this work and permits or suffers to
- 13 permit this work;
- 14 j. Whether DEFENDANT committed an act of unfair competition in violation of the
- 15 UCL, by failing to provide the PLAINTIFF and the other members of the
- 16 CALIFORNIA CLASS with the legally required meal and rest periods.

17 55. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
18 a result of DEFENDANT's conduct and actions alleged herein.

19 56. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has
20 the same interests as the other members of the class.

21 57. PLAINTIFF will fairly and adequately represent and protect the interests of the
22 CALIFORNIA CLASS Members.

23 58. PLAINTIFF retained able class counsel with extensive experience in class action
24 litigation.

25 59. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
26 interests of the other CALIFORNIA CLASS Members.

27 60. There is a strong community of interest among PLAINTIFF and the members of
28 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are

1 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
2 sustained.

3 61. The questions of law and fact common to the CALIFORNIA CLASS Members
4 predominate over any questions affecting only individual members, including legal and factual
5 issues relating to liability and damages.

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

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

21 63. Class treatment provides manageable judicial treatment calculated to bring an
22 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
23 the conduct of DEFENDANT.

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1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

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

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

8 65. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
9 Code § 17021.

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

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

22 67. By the conduct alleged herein, DEFENDANT has engaged and continues to
23 engage in a business practice which violates California law, including but not limited to, the
24 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
25 including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,
26 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
27 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
28 constitute unfair competition, including restitution of wages wrongfully withheld.

68. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

10 70. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
11 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the
12 other members of the CALIFORNIA CLASS to be underpaid during their employment with
13 DEFENDANT.

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

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

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

26 74. By and through the unlawful and unfair business practices described herein,
27 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
28 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and

1 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
2 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
3 to unfairly compete against competitors who comply with the law.

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

2 **Failure To Pay Minimum Wages**

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

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

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

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

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

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

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

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

24 85. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,
25 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
26 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
27 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.
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1 86. In committing these violations of the California Labor Code, DEFENDANT
2 inaccurately calculated the amount of time worked and consequently underpaid the actual time
3 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted
4 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
5 the California Labor Code, the Industrial Welfare Commission requirements and other applicable
6 laws and regulations.

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

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

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

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

25 91. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked
27 and provide them with the requisite compensation, DEFENDANT acted and continues to act
28 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the

1 CALIFORNIA CLASS with a conscious and utter disregard for their legal rights, or the
2 consequences to them, and with the despicable intent of depriving them of their property and legal
3 rights, and otherwise causing them injury in order to increase company profits at the expense of
4 these employees.

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

16 **THIRD CAUSE OF ACTION**

17 **Failure To Pay Overtime Compensation**

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

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

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

23 94. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
24 for DEFENDANT's willful and intentional violations of the California Labor Code and the
25 Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
26 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
27 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.
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1 95. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
2 public policy, an employer must timely pay its employees for all hours worked.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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FOURTH CAUSE OF ACTION

Failure To Provide Required Meal Periods

(Cal. Lab. Code §§ 226.7 & 512)

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

109. 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.

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

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

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

4 **FIFTH CAUSE OF ACTION**

5 **Failure To Provide Required Rest Periods**

6 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

11 114. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were
12 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
13 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
14 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)
15 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and
16 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.
17 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
18 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
19 CALIFORNIA CLASS Members were periodically denied their proper rest periods by
20 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate
21 PLAINTIFF and CALIFORNIA CLASS Members for their rest periods as required by the
22 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide
23 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest
24 periods is evidenced by DEFENDANT's business records.

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

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Provide Accurate Itemized Statements**

8 **(Cal. Lab. Code §§ 226)**

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

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

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

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

- 1 h. the name and address of the legal entity that is the employer, and
- 2 i. all applicable hourly rates in effect during the pay period and the corresponding
- 3 number of hours worked at each hourly rate by the employee.

4 119. From time to time during the CLASS PERIOD, when PLAINTIFF and other
5 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
6 meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also failed
7 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate
8 wage statements which failed to show, among other things, the total hours worked and all
9 applicable hourly rates in effect during the pay period and the corresponding amount of time
10 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
11 periods. Further, from time to time, DEFENDANT failed to list the accurate name and address of
12 the legal entity that was PLAINTIFF’S and other CALIFORNIA CLASS Members’ employer. In
13 addition, DEFENDANT, from time to time, failed to provide PLAINTIFF and the CALIFORNIA
14 CLASS Members with wage statements that comply with Cal. Lab. Code § 226. DEFENDANT
15 knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and
16 damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages
17 include, but are not limited to, costs expended calculating the correct wages for all missed meal
18 and rest breaks and the amount of employment taxes which were not properly paid to state and
19 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the
20 other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty
21 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars
22 (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an
23 amount according to proof at the time of trial (but in no event more than four thousand dollars
24 (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein).

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code §§ 203)**

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

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

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

9 As used in this article:

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

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

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

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

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

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

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

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

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

10 **EIGHTH CAUSE OF ACTION**

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

12 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

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

1 the members of the CALIFORNIA CLASS for expenses resulting from using their personal cell
2 phones for DEFENDANT within the course and scope of their employment for DEFENDANT.
3 These expenses were necessary to complete their principal job duties. DEFENDANT is estopped
4 by DEFENDANT's conduct to assert any waiver of their expectation. Although these expenses
5 were necessary expenses incurred by PLAINTIFF and the members of the CALIFORNIA
6 CLASS, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the members of the
7 CALIFORNIA CLASS for these expenses as an employer is required to do under the laws and
8 regulations of California.

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

13 **NINTH CAUSE OF ACTION**

14 **(Retaliation in Violation of Cal. Lab. Code §§1102.5 and 6310, and Government Code §**
15 **12900, *et seq.*)**

16 **(Alleged By PLAINTIFF and against all Defendants)**

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

19 133. At all relevant times, Labor Code section 1102.5 was in effect and was binding on
20 DEFENDANTS. This statute prohibits DEFENDANTS from retaliating against any employee,
21 including PLAINTIFF, for raising complaints of illegality and/or belief that the employee may
22 disclose illegality.

23 134. At all relevant times, Labor Code Code section 6310 was in effect and was binding
24 on DEFENDANTS. This statute prohibits DEFENDANTS from retaliating against any employee,
25 including PLAINTIFF, for raising complaints of employee safety or health, including but not
26 limited to complaints related to DEFENDANTS' dangerous and unsafe work conditions.

27 135. At all relevant times, Government Code section 12900 was in effect and was
28 binding on DEFENDANTS. This statute prohibits DEFENDANTS from committing unlawful

1 employment practices, including retaliating against PLAINTIFF for seeking to exercise rights
2 guaranteed under FEHA, participating in protected activities, reporting violations of applicable
3 state and/or federal law, and/or opposing DEFENDANTS' failure to provide such rights.

4 136. PLAINTIFF raised complaints of dangerous and unsafe work conditions while she
5 worked for DEFENDANTS, and DEFENDANTS retaliated against her by taking adverse
6 employment actions including terminating PLAINTIFF'S employment with DEFENDANT.

7 137. As a proximate result of DEFENDANT's willful, knowing, and intentional
8 violation(s) of Labor Code sections 6310 and 1102.5, and Government Code section 12900,
9 PLAINTIFF has suffered and continues to suffer humiliation, emotional distress, and mental and
10 physical pain and anguish, all to his damage in a sum according to proof.

11 138. As a result of DEFENDANT's adverse employment actions against PLAINTIFF,
12 PLAINTIFF has suffered general and special damages in sums according to proof.

13 139. DEFENDANT's misconduct was committed intentionally, in a malicious,
14 oppressive manner, and fraudulent manner, entitling PLAINTIFF to punitive damages against
15 DEFENDANT.

16 **TENTH CAUSE OF ACTION**

17 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

18 **(Alleged By PLAINTIFF and against all Defendants)**

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

21 141. PLAINTIFF's wrongful termination on or about March 7, 2022 was for a
22 pretextual reason(s) to disguise DEFENDANTS' unlawful employment practices directed at
23 PLAINTIFF.

24 142. Within the State of California there exists a substantial and fundamental public
25 policy, set forth in the California Labor Code § 6310 et seq., which forbids an employer from
26 retaliation and/or terminating an employee for making complaints about employee safety or
27 health, including dangerous or unsafe work conditions. This public policy of the state is one that
28

1 benefits the public at large and guarantees the rights of an employee to perform their work free
2 from retaliation for making such complaints.

3 143. The motivating reason(s) for PLAINTIFF's termination was PLAINTIFF'S
4 complaints to DEFENDANTS regarding DEFENDANTS' dangerous and unsafe work
5 conditions. PLAINTIFF's discharge from her position of employment was in violation of the
6 public policies of the State of California.

7 144. As a result of DEFENDANTS' actions, PLAINTIFF has suffered substantial
8 losses in earnings and employment benefits and emotional distress in an amount to be determined
9 according to proof at trial.

10 145. In doing the acts herein alleged, DEFENDANTS acted with malice and
11 oppression, and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled
12 to exemplary and punitive damages from DEFENDANT in an amount to be determined to punish
13 DEFENDANT and to deter such wrongful conduct in the future.

14 146. PLAINTIFF was harmed by DEFENDANT'S wrongful and illegal termination of
15 her employment.

16 147. The wrongful termination of the employment of PLAINTIFF was and is a
17 substantial factor causing harm to PLAINTIFF.

18 **ELEVENTH CAUSE OF ACTION**

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

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

21 **(Alleged by PLAINTIFFS against all Defendants)**

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

24 149. PAGA is a mechanism by which the State of California itself can enforce state
25 labor laws through the employee suing under the PAGA who does so as the proxy or agent of the
26 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
27 fundamentally a law enforcement action designed to protect the public and not to benefit private
28 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means

1 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting
2 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved
3 employees, acting as private attorneys general to recover civil penalties for Labor Code violations
4 ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to arbitration.

5 150. PLAINTIFF, and such persons that may be added from time to time who satisfy
6 the requirements and exhaust the administrative procedures under the Private Attorney General
7 Act, bring this Representative Action on behalf of the State of California with respect to herself
8 and all non-exempt and exempt employees who worked for Defendant in California during the
9 time period of May 31, 2021 until the present (the "AGGRIEVED EMPLOYEES").

10 151. On May 31, 2022, PLAINTIFF gave written notice by certified mail to the Labor
11 and Workforce Development Agency (the "Agency") and the employer of the specific
12 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
13 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
14 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant to
15 Section 2699.3, Plaintiff may now commence a representative civil action under PAGA pursuant
16 to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
17 EMPLOYEES as herein defined.

18 152. The policies, acts and practices heretofore described were and are an unlawful
19 business act or practice because DEFENDANTS (a) failed to pay PLAINTIFF and other
20 AGGRIEVED EMPLOYEES minimum wages and overtime wages, (b) failed to provide
21 PLAINTIFF and other AGGRIEVED EMPLOYEES legally required meal and rest breaks, (c)
22 failed to pay PLAINTIFF and other AGGRIEVED EMPLOYEES at the correct regular rate of
23 pay, (d) failed to pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for all time
24 worked, and (e) failed to timely pay wages, all in violation of the applicable Labor Code sections
25 listed in Labor Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203,
26 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194,
27 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, and 2804, Cal. Bus. & Prof. Code §§17200 and
28 17203, and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties
as a result of such conduct. PLAINTIFF hereby seek recovery of civil penalties as prescribed by
the Labor Code Private Attorney General Act of 2004 as the representative of the State of

1 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
2 EMPLOYEES.

3 **PRAYER FOR RELIEF**

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

6 1. On behalf of the CALIFORNIA CLASS:

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

17 2. On behalf of the CALIFORNIA CLASS:

- 18 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth
19 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
20 to Cal. Code of Civ. Proc. § 382;
- 21 b. Compensatory damages, according to proof at trial, including compensatory
22 damages for overtime compensation and separately owed rest periods, due to
23 PLAINTIFF and the other members of the CALIFORNIA CLASS, during the
24 applicable CLASS PERIOD plus interest thereon at the statutory rate;
- 25 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
26 the applicable IWC Wage Order;
- 27 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
28 which a violation occurs and one hundred dollars (\$100) per each member of the

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CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226

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

3. On Plaintiff’s Ninth and Tenth Causes of Action:

a. For all special damages which were sustained as a result of DEFENDANTS’ conduct, including but not limited to, back pay, front pay, lost compensation and job benefits that PLAINTIFF would have received but for the practices of DEFENDANTS;

b. For all exemplary damages, according to proof, which were sustained as a result of DEFENDANTS’ conduct;

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

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

e. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.

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

5. On all claims:

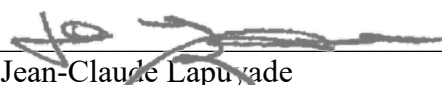
a. An award of interest, including prejudgment interest at the legal rate;

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

c. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.

DATED: August 4, 2022

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorney for PLAINTIFF

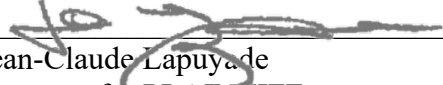
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DEMAND FOR A JURY TRIAL

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

DATED: August 4, 2022

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade
Attorney for PLAINTIFF

EXHIBIT 1



5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: 619-599-8292
Fax: 619-599-8291
Toll Free: 1-888-498-6999
www.jcl-lawfirm.com

Jean-Claude Lapuyade, Esq.
jlapuyade@jcl-lawfirm.com

May 31, 2022

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

MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD
which will be doing business in California as MANPOWER TEMPORARY SERVICES
c/o Phil Blair
1855 1st Ave., Suite 300
San Diego, CA 92101
Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 7287

CPM, LTD.
c/o Shon Pena
8170 W. Sahara Ave., Suite 207
Las Vegas, NV 89117
Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 7515

C.L.M.P., LTD.
c/o Melvyn I. Katz
1855 First Ave., Suite 300
San Diego, CA 92101
Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 7294

EQUUS WORKFORCE SOLUTIONS
c/o Corporation Service Company
421 West Main Street
Frankfort, KY 40601
Sent via Certified Mail and Return Receipt No. 7021 2720 0000 9972 7300

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 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 PRISCILLA ESTRADA (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendants MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES (“Defendant Manpower”), CPM, LTD. (“Defendant CPM”), C.L.M.P., LTD.

(“Defendant CLMP”), and EQUUS WORKFORCE SOLUTIONS (“Defendant Equus”) (collectively “Defendants”). Plaintiff was employed by Defendants in California from November of 2021 to March of 2022 as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks and payment of minimum and overtime wages due for all time worked. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendants 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, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 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 Manpower and/or Defendant CPM and/or Defendant CLMP and/or Defendant Equus in California during the relevant claim period.

A true and correct copy of the proposed Complaint by Plaintiff against Defendants, 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 Defendants, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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

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

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendants as authorized by California Labor Code section 2695, *et seq.* The lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as

alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General 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.

Very truly yours,
JCL LAW FIRM, APC

A handwritten signature in black ink, appearing to read 'Jean-Claude Lapuyade', with a long horizontal flourish extending to the right.

Jean-Claude Lapuyade, Esq.

Enclosure (1)

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
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JCL LAW FIRM, APC

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egarcia@jcl-lawfirm.com

Attorneys for Plaintiff PRISCILLA ESTRADA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

PRISCILLA ESTRADA, an individual, on behalf of herself and on behalf of all persons similarly situated,

Plaintiff,

v.

MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES, a Nevada corporation; CPM, LTD., a Nevada corporation; C.L.M.P., LTD., a California corporation; EQUUS WORKFORCE SOLUTIONS, a Kentucky limited liability company; and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

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

DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
8) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CALIFORNIA LABOR CODE §2802;
9) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
10) RETALIATION IN VIOLATION OF CAL. LAB. CODE §§ 6310 AND 1102.5.

DEMAND FOR A JURY TRIAL

Plaintiff PRISCILLA ESTRADA (“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 MANPOWER TEMPORARY SERVICES f.k.a. CPM, LTD. which will be doing business in California as MANPOWER TEMPORARY SERVICES (“Defendant Manpower”) is a Nevada corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant CPM, LTD. (“Defendant CPM”) is a Nevada corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant C.L.M.P., LTD. (“Defendant CLMP”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

4. Defendant EQUUS WORKFORCE SOLUTIONS (“Defendant Equus”) is a Kentucky limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

5. Defendant Manpower, Defendant CPM, Defendant CLMP and Defendant Equus were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

1 6. DEFENDANTS own, operate, and/or manage workforce staffing service
2 companies throughout the state of California, including the county of San Diego, where
3 PLAINTIFF worked.

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

14 8. The agents, servants, and/or employees of the DEFENDANT and each of them
15 acting on behalf of the DEFENDANT acted within the course and scope of his, her or its authority
16 as the agent, servant and/or employee of the Defendant, and personally participated in the conduct
17 alleged herein on behalf of the DEFENDANT with respect to the conduct alleged herein.
18 Consequently, the acts of each Defendant are legally attributable to the other DEFENDANT and
19 all DEFENDANT are jointly and severally liable to PLAINTIFF and the other members of the
20 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
21 Defendant’s agents, servants and/or employees.

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

28 10. DEFENDANTS were PLAINTIFF’s employers or persons acting on behalf of
PLAINTIFF’s employer either individually or as an officer, agent, or employee of another person,
within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any

1 employee a wage less than the minimum fixed by California state law, and as such, are subject to
2 civil penalties for each underpaid employee.

3 11. PLAINTIFF was employed by DEFENDANT in California from November of
4 2021 to March of 2022 and at all times was classified by DEFENDANT as a non-exempt
5 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
6 payment of minimum and overtime wages due for all time worked.

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

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

25 14. DEFENDANT's uniform policies and practices alleged herein were unlawful,
26 unfair, and deceptive business practices whereby DEFENDANT retained and continues to retain
27 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

28 15. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an
injunction enjoining such conduct by DEFENDANT in the future, relief for the named

1 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically
2 injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and
3 equitable relief.

4 **JURISDICTION AND VENUE**

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

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

13 **THE CONDUCT**

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

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

5 **A. Meal Period Violations**

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

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

1 nature of the work performed by PLAINTIFF and other CALIFORNIA CLASS Members does
2 not qualify for limited and narrowly construed “on-duty” meal period exception. When they were
3 provided with meal periods, PLAINTIFF and other CALIFORNIA CLASS Members were, from
4 time to time, required to remain on duty and on call. PLAINTIFF and other CALIFORNIA
5 CLASS Members therefore forfeited meal breaks without additional compensation and in
6 accordance with DEFENDANT’s strict corporate policy and practice.

7 **B. Rest Period Violations**

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

22 **C. Unreimbursed Business Expenses**

23 22. DEFENDANT as a matter of corporate policy, practice, and procedure,
24 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF
25 and the CALIFORNIA CLASS for required business expenses incurred by the PLAINTIFF and
26 other CALIFORNIA CLASS Members in direct consequence of discharging their duties on behalf
27 of DEFENDANT. Under California Labor Code Section 2802, employers are required to
28 indemnify employees for all expenses incurred in the course and scope of their employment. Cal.

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

6 23. In the course of their employment, DEFENDANT required PLAINTIFF and other
7 CALIFORNIA CLASS Members to use their personal cell phones as a result of and in furtherance
8 of their job duties as employees for DEFENDANT. But for the use of their own personal cell
9 phones, PLAINTIFF and the CALIFORNIA CLASS Members could not complete their essential
10 job duties. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF and other
11 CALIFORNIA CLASS Members for their use of their personal cell phones. As a result, in the
12 course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA
13 CLASS Members incurred unreimbursed business expenses, but were not limited to, costs related
14 to the use of their personal cellular phones, all on behalf of and for the benefit of DEFENDANT.

15 **D. Wage Statement Violations**

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

24 25. From time to time during the CLASS PERIOD, when PLAINTIFF and other
25 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed
26 meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also failed
27 to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate
28 wage statements which failed to show, among other things, the total hours worked and all

1 applicable hourly rates in effect during the pay period and the corresponding amount of time
2 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
3 periods. Further, from time to time, DEFENDANT failed to list the accurate name and address of
4 the legal entity that was PLAINTIFF'S and other CALIFORNIA CLASS Members' employer.

5 26. In addition, DEFENDANT, from time to time, failed to provide PLAINTIFF and
6 the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code §
7 226.

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

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

13 28. During the CLASS PERIOD, from time-to-time DEFENDANT failed and
14 continue to fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA
15 CLASS for all hours worked.

16 29. During the CLASS PERIOD, from time-to-time DEFENDANT required
17 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift and post-shift
18 work all while off-the-clock. This resulted in PLAINTIFF and other members of the
19 CALIFORNIA CLASS to have to work while off-the-clock.

20 30. DEFENDANT directed and directly benefited from the uncompensated off-the-
21 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

22 31. DEFENDANT controlled the work schedules, duties, protocols, applications,
23 assignments, and employment conditions of PLAINTIFF and the other members of the
24 CALIFORNIA CLASS.

25 32. DEFENDANT was able to track the amount of time PLAINTIFF and the other
26 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to
27 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all
28 wages earned and owed for all the work they performed.

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

3 34. DEFENDANT's policies and practices deprived PLAINTIFF and the other
4 members of the CALIFORNIA CLASS of all minimum, regular, overtime, and double time wages
5 owed for the off-the-clock work activities. Because PLAINTIFF and the other members of the
6 CALIFORNIA CLASS typically worked over 40 hours in a workweek, and more than eight (8)
7 hours per day, DEFENDANT's policies and practices also deprived them of overtime pay.

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

10 36. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS
11 forfeited wages due them for all hours worked at DEFENDANT's direction, control and benefit
12 for the time spent working while off-the-clock. DEFENDANT's uniform policy and practice to
13 not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked
14 in accordance with applicable law is evidenced by DEFENDANT's business records.

15 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**
16 **Sick Pay**

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

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

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

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

9 40. However, from time-to-time, when calculating the regular rate of pay, in those pay
10 periods where PLAINTIFF and other CALIFORNIA CLASS Members worked overtime, double
11 time, paid meal and rest period premium payments, and/or sick pay, and earned this non-
12 discretionary bonus or incentive, DEFENDANTS failed to accurately include the non-
13 discretionary bonus compensation and/or incentive and/or shift differential paid as part of the
14 employees' "regular rate of pay" and/or calculated all hours worked rather than just all non-
15 overtime hours worked. Management and supervisors described the incentive/bonus program to
16 potential and new employees as part of the compensation package. As a matter of law, the
17 incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS Members
18 must be included in the "regular rate of pay." The failure to do so has resulting in a systematic
19 underpayment of overtime and double time compensation, meal and rest period premiums, and
20 redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS Members by
21 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
22 for non-employees shall be calculated in the same manner as the regular rate of pay for the
23 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
24 actually works overtime in that workweek. DEFENDANT's conduct, as articulated herein, by
25 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
26 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
27 recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

28

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

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

13 42. Pursuant to California Labor Code section 204, PLAINTIFF and the
14 CALIFORNIA CLASS members were entitled to timely payment of wages during their
15 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not
16 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,
17 meal period premium wages, and rest period premium wages within permissible time period.

18 **H. Unlawful Rounding Violations**

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

1 forfeited compensation for their time worked by working without their time being accurately
2 recorded and without compensation at the applicable overtime rates.

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

11 45. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take
12 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.
13 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)
14 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to
15 provide PLAINTIFF with a second off-duty meal period each workday in which she was required
16 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF
17 with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-call, for
18 the rest break. DEFENDANTS’ policy caused PLAINTIFF to remain on-call and on-duty during
19 what was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest
20 breaks without additional compensation and in accordance with DEFENDANTS’ strict corporate
21 policy and practice. Moreover, DEFENDANTS also provided PLAINTIFF with a paystub that
22 failed to comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed to reimburse
23 PLAINTIFF for required business expenses related to the use of her personal cell phone, on behalf
24 of and in furtherance of her employment with DEFENDANTS. To date, DEFENDANTS have
25 not fully paid PLAINTIFF the minimum, overtime and double time compensation still owed to
26 her, or any penalty wages owed to her under Cal. Lab. Code § 203. The amount in controversy
27 for PLAINTIFF individually does not exceed the sum or value of \$75,000.

28 ///

1 **I. Plaintiff's Individual Claims**

2 46. PLAINTIFF was employed by DEFENDANT in California from November of
3 2021 to March of 2022.

4 47. In or around February of 2022, PLAINTIFF complained to DEFENDANT about
5 dangerous and unsafe work conditions related to DEFENDANT'S refusal to allow PLAINTIFF
6 to not show up for work when one of DEFENDANT'S supervisors contracted Covid-19. More
7 specifically, DEFENDANT told PLAINTIFF that if she did not show up for work, despite her
8 manager having Covid-19, she would not receive any paid leave. As a result, PLAINTIFF was
9 forced to work and contracted Covid-19 from her supervisor. Thus, DEFENDANT failed to
10 address PLAINTIFF'S complaints or correct the unsafe work conditions such that PLAINTIFF
11 could have avoided contracting Covid-19.

12 48. Thereafter, between February and March of 2022, PLAINTIFF complained to
13 DEFENDANT about the dangerous and unsafe work conditions related to DEFENDANT forcing
14 PLAINTIFF to work while DEFENDANT knew PLAINTIFF'S supervisor had Covid-19.

15 49. In or around March 7, 2022, following PLAINTIFF'S complaints to
16 DEFENDANT about dangerous and unsafe work conditions, and in retaliation for making such
17 complaints, DEFENDANT terminated PLAINTIFF'S employment.

18 50. Further, PLAINTIFF is informed and believes, and upon such information and
19 belief alleges, that, during PLAINTIFF'S employment with DEFENDANT and at the time of her
20 termination, PLAINTIFF raised complaints of dangerous and unsafe work conditions while she
21 worked for DEFENDANT, and DEFENDANT retaliated against her by taking adverse
22 employment actions including terminating PLAINTIFF'S employment with DEFENDANT.

23 **J. CLASS ACTION ALLEGATIONS**

24 51. PLAINTIFF brings the First through Eight Causes of Action as a class action
25 pursuant to California Code of Civil Procedure § 382 on behalf of all persons who are or
26 previously were employed by Defendant Manpower and/or Defendant CPM and/or Defendant
27 CLMP and/or Defendant Equus in California and classified as non-exempt employees
28 ("CALIFORNIA CLASS") during the period beginning four years prior to the filing of the
Complaint and ending on a date determined by the Court ("CLASS PERIOD").

1 52. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been
2 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
3 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
4 illegal meal and rest period policies, failed to reimburse for business expenses, failed compensate
5 for off-the-clock work, failure to provide accurate itemized wage statements, failure to maintain
6 required records, and interest, statutory and civil penalties, attorney's fees, costs, and expenses.

7 53. The members of the class are so numerous that joinder of all class members is
8 impractical.

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

- 18 a. Whether DEFENDANT maintained legally compliant meal period policies and
19 practices;
- 20 b. Whether DEFENDANT maintained legally compliant rest period policies and
21 practices;
- 22 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
23 Members accurate premium payments for missed meal and rest periods;
- 24 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
25 Members accurate overtime wages;
- 26 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
27 Members at least minimum wage for all hours worked;

- 1 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
- 2 CLASS Members for required business expenses;
- 3 g. Whether DEFENDANT issued legally compliant wage statements;
- 4 h. Whether DEFENDANT committed an act of unfair competition by systematically
- 5 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
- 6 CLASS for all time worked;
- 7 i. Whether DEFENDANT committed an act of unfair competition by systematically
- 8 failing to record all meal and rest breaks missed by PLAINTIFF and other
- 9 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
- 10 of this work, required employees to perform this work and permits or suffers to
- 11 permit this work;
- 12 j. Whether DEFENDANT committed an act of unfair competition in violation of the
- 13 UCL, by failing to provide the PLAINTIFF and the other members of the
- 14 CALIFORNIA CLASS with the legally required meal and rest periods.

15 55. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as
16 a result of DEFENDANT’s conduct and actions alleged herein.

17 56. PLAINTIFF’s claims are typical of the claims of the class, and PLAINTIFF has
18 the same interests as the other members of the class.

19 57. PLAINTIFF will fairly and adequately represent and protect the interests of the
20 CALIFORNIA CLASS Members.

21 58. PLAINTIFF retained able class counsel with extensive experience in class action
22 litigation.

23 59. Further, PLAINTIFF’s interests are coincident with, and not antagonistic to, the
24 interests of the other CALIFORNIA CLASS Members.

25 60. There is a strong community of interest among PLAINTIFF and the members of
26 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are
27 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries
28 sustained.

1 61. The questions of law and fact common to the CALIFORNIA CLASS Members
2 predominate over any questions affecting only individual members, including legal and factual
3 issues relating to liability and damages.

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

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

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

19 63. Class treatment provides manageable judicial treatment calculated to bring an
20 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of
21 the conduct of DEFENDANT.

22 **FIRST CAUSE OF ACTION**

23 **Unlawful Business Practices**

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

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

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

1 65. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
2 Code § 17021.

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

7 Any person who engages, has engaged, or proposes to engage in unfair competition
8 may be enjoined in any court of competent jurisdiction. The court may make such
9 orders or judgments, including the appointment of a receiver, as may be necessary
10 to prevent the use or employment by any person of any practice which constitutes
11 unfair competition, as defined in this chapter, or as may be necessary to restore to
12 any person in interest any money or property, real or personal, which may have
13 been acquired by means of such unfair competition. (Cal. Bus. & Prof. Code §
14 17203).

15 67. By the conduct alleged herein, DEFENDANT has engaged and continues to
16 engage in a business practice which violates California law, including but not limited to, the
17 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
18 including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,
19 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
20 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
21 constitute unfair competition, including restitution of wages wrongfully withheld.

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

27 69. By the conduct alleged herein, DEFENDANT’s practices were deceptive and
28 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally
mandated meal and rest periods and the required amount of compensation for missed meal and
rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.

1 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
2 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

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

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

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

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

25 75. All the acts described herein as violations of, among other things, the Industrial
26 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
27 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and
28

1 unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business
2 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

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

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

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

19 **SECOND CAUSE OF ACTION**

20 **Failure To Pay Minimum Wages**

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

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

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

26 80. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
27 for DEFENDANT’S willful and intentional violations of the California Labor Code and the
28

1 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate
2 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

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

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

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

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

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

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

25 87. As a direct result of DEFENDANT’s unlawful wage practices as alleged herein,
26 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct
27 minimum wage compensation for their time worked for DEFENDANT.
28

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

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

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

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

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

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

7 **THIRD CAUSE OF ACTION**

8 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

12 **FOURTH CAUSE OF ACTION**

13 **Failure To Provide Required Meal Periods**

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

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

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

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

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

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

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

14 **FIFTH CAUSE OF ACTION**

15 **Failure To Provide Required Rest Periods**

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

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

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

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

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

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

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

15 **SIXTH CAUSE OF ACTION**

16 **Failure To Provide Accurate Itemized Statements**

17 **(Cal. Lab. Code §§ 226)**

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

19 117. 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.

21 118. Cal. Labor Code § 226 provides that an employer must furnish employees with an
22 “accurate itemized” statement in writing showing:

- 23 a. Gross wages earned,
24 b. (2) total hours worked by the employee, except for any employee whose
25 compensation is solely based on a salary and who is exempt from payment of
26 overtime under subdivision (a) of Section 515 or any applicable order of the
27 Industrial Welfare Commission,
28

- c. the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
- d. all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item,
- e. net wages earned,
- f. the inclusive dates of the period for which the employee is paid,
- g. the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number of an employee identification number other than social security number may be shown on the itemized statement,
- h. the name and address of the legal entity that is the employer, and
- i. all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

119. From time to time during the CLASS PERIOD, when PLAINTIFF and other CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest periods. Further, from time to time, DEFENDANT failed to list the accurate name and address of the legal entity that was PLAINTIFF'S and other CALIFORNIA CLASS Members' employer. In addition, DEFENDANT, from time to time, failed to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code § 226. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct wages for all missed meal and rest breaks and the amount of employment taxes which were not properly paid to state and

1 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the
2 other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty
3 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars
4 (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an
5 amount according to proof at the time of trial (but in no event more than four thousand dollars
6 (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein).

7 ///

8 **SEVENTH CAUSE OF ACTION**

9 **Failure To Pay Wages When Due**

10 **(Cal. Lab. Code §§ 203)**

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

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

15 121. Cal. Lab. Code § 200 provides that:

16 As used in this article:

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

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

24 123. Cal. Lab. Code § 202 provides, in relevant part, that:

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

1 for purposes of the requirement to provide payment within 72 hours of the notice of
2 quitting.

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

5 125. Cal. Lab. Code § 203 provides:

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

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

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

20 **EIGHTH CAUSE OF ACTION**

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

22 **(Cal. Lab. Code §§ 2802)**

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

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

27 129. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

130. From time-to-time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.
Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the

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

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

20 **NINTH CAUSE OF ACTION**

21 **(Retaliation in Violation of Cal. Lab. Code §§1102.5 and 6310, and Government Code §**
22 **12900, et seq.)**

23 **(Alleged By PLAINTIFF and against all Defendants)**

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

26 133. At all relevant times, Labor Code section 1102.5 was in effect and was binding on
27 DEFENDANTS. This statute prohibits DEFENDANTS from retaliating against any employee,
28

1 including PLAINTIFF, for raising complaints of illegality and/or belief that the employee may
2 disclose illegality.

3 134. At all relevant times, Labor Code Code section 6310 was in effect and was binding
4 on DEFENDANTS. This statute prohibits DEFENDANTS from retaliating against any employee,
5 including PLAINTIFF, for raising complaints of employee safety or health, including but not
6 limited to complaints related to DEFENDANTS' dangerous and unsafe work conditions.

7 135. At all relevant times, Government Code section 12900 was in effect and was
8 binding on DEFENDANTS. This statute prohibits DEFENDANTS from committing unlawful
9 employment practices, including retaliating against PLAINTIFF for seeking to exercise rights
10 guaranteed under FEHA, participating in protected activities, reporting violations of applicable
11 state and/or federal law, and/or opposing DEFENDANTS' failure to provide such rights.

12 136. PLAINTIFF raised complaints of dangerous and unsafe work conditions while she
13 worked for DEFENDANTS, and DEFENDANTS retaliated against her by taking adverse
14 employment actions including terminating PLAINTIFF'S employment with DEFENDANT.

15 137. As a proximate result of DEFENDANT's willful, knowing, and intentional
16 violation(s) of Labor Code sections 6310 and 1102.5, and Government Code section 12900,
17 PLAINTIFF has suffered and continues to suffer humiliation, emotional distress, and mental and
18 physical pain and anguish, all to his damage in a sum according to proof.

19 138. As a result of DEFENDANT's adverse employment actions against PLAINTIFF,
20 PLAINTIFF has suffered general and special damages in sums according to proof.

21 139. DEFENDANT's misconduct was committed intentionally, in a malicious,
22 oppressive manner, and fraudulent manner, entitling PLAINTIFF to punitive damages against
23 DEFENDANT.

24 **TENTH CAUSE OF ACTION**

25 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

26 **(Alleged By PLAINTIFF and against all Defendants)**

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

1 141. PLAINTIFF's wrongful termination on or about March 7, 2022 was for a
2 pretextual reason(s) to disguise DEFENDANTS' unlawful employment practices directed at
3 PLAINTIFF.

4 142. Within the State of California there exists a substantial and fundamental public
5 policy, set forth in the California Labor Code § 6310 et seq., which forbids an employer from
6 retaliation and/or terminating an employee for making complaints about employee safety or
7 health, including dangerous or unsafe work conditions. This public policy of the state is one that
8 benefits the public at large and guarantees the rights of an employee to perform their work free
9 from retaliation for making such complaints.

10 143. The motivating reason(s) for PLAINTIFF's termination was PLAINTIFF'S
11 complaints to DEFENDANTS regarding DEFENDANTS' dangerous and unsafe work
12 conditions. PLAINTIFF's discharge from her position of employment was in violation of the
13 public policies of the State of California.

14 144. As a result of DEFENDANTS' actions, PLAINTIFF has suffered substantial
15 losses in earnings and employment benefits and emotional distress in an amount to be determined
16 according to proof at trial.

17 145. In doing the acts herein alleged, DEFENDANTS acted with malice and
18 oppression, and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled
19 to exemplary and punitive damages from DEFENDANT in an amount to be determined to punish
20 DEFENDANT and to deter such wrongful conduct in the future.

21 146. PLAINTIFF was harmed by DEFENDANT'S wrongful and illegal termination of
22 her employment.

23 147. The wrongful termination of the employment of PLAINTIFF was and is a
24 substantial factor causing harm to PLAINTIFF.

25 **PRAYER FOR RELIEF**

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

28 1. On behalf of the CALIFORNIA CLASS:

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

2. On behalf of the CALIFORNIA CLASS:

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

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3. On Plaintiff's Ninth and Tenth Causes of Action:

- a. For all special damages which were sustained as a result of DEFENDANTS' conduct, including but not limited to, back pay, front pay, lost compensation and job benefits that PLAINTIFF would have received but for the practices of DEFENDANTS;
- b. For all exemplary damages, according to proof, which were sustained as a result of DEFENDANTS' conduct;
- c. An award of interest, including prejudgment interest at the legal rate;
- d. Such other and further relief as the Court deems just and equitable; and
- e. An award of penalties, attorneys' fees and costs of suit, as allowable under the law.

4. On all claims:

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

DATED: May 31, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: May 31, 2022

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for PLAINTIFF

SENDER: COMPLETE THIS SECTION

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

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 c/o Shon Pena
 8170 W. Sahara Ave, Suite 207
 Las Vegas, CA 89117



9590 9402 7020 1225 2862 32

2. Article Number (Transfer from service label)

7021 2720 0000 9972 7515

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

Estrada 002334

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
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| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
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 \$500)

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Equus Workforce Solutions
 910 Corp. Service Company
 421 West Main Street
 Frankfort, KY 40601



9590 9402 7020 1225 2862 49

2. Article Number (Transfer from service label)

7021 2720 0000 9972 7300

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Linda R. Estrada

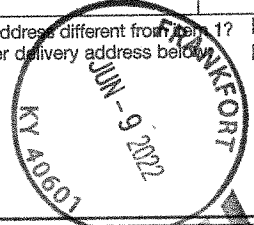
Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

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



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3. Service Type

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- Collect on Delivery Restricted Delivery

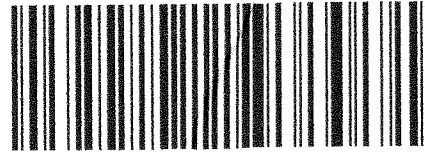
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Mail Restricted Delivery
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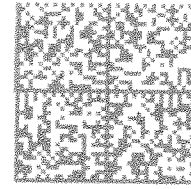
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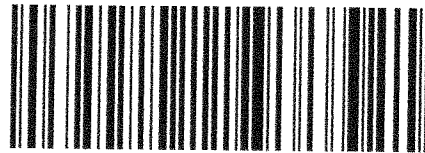
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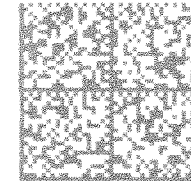
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