

**SUMMONS  
(CITACION JUDICIAL)**

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

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

PARENTING NETWORK, INC., a California Corporation, a California Corporation; and DOES 1-50, Inclusive,

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

AMANDA HERNANDEZ, KIMBERLY CONLEY, GRAVIELA VALENCIA, and SERENA VELASQUEZ, individuals, on behalf of themselves 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](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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

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

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

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Tulare Superior Court, Visalia Courthouse  
221 S. Mooney Blvd.  
Visalia, CA 93291

CASE NUMBER:  
(Número del Caso): VCU287027

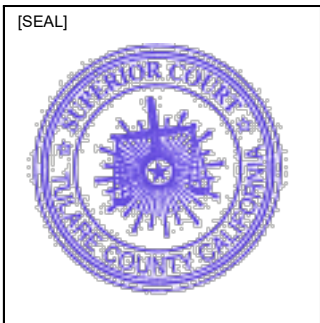
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-8291  
JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DATE: 05/19/2021 Clerk, by Stephanie Cameron, Deputy (Adjunto)  
(Fecha) (Secretario) *Stephanie Cameron*

(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):



05/19/2021

STEPHANIE CAMERON, CLERK  
April Mathews, Deputy

Assigned to Judicial Officer

Bret Hillman

For All Purposes

**Case Management Conference**

09/20/2021 08:30 AM - Department 07

1 **ZAKAY LAW GROUP, APLC**  
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8 Attorneys for Plaintiffs

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF TULARE**

11 AMANDA HERNANDEZ, KIMBERLY  
12 CONLEY, GRAVIELA VALENCIA, and  
13 SERENA VELASQUEZ, individuals, on  
behalf of themselves and on behalf of all  
14 persons similarly situated,

15 Plaintiffs,

16 v.

17 PARENTING NETWORK, INC., a  
California Corporation, a California  
18 Corporation; and DOES 1-50, Inclusive,

19 DEFENDANT.

Case No: VCU287027

**CLASS ACTION COMPLAINT FOR:**

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

**DEMAND FOR A JURY TRIAL**

1 Plaintiffs Amanda Hernandez, Kimberly Conley, Graviela Valencia, and Serena Velasquez,  
2 individuals, (“PLAINTIFFS”), on behalf of themselves and all other similarly situated current and  
3 former employees, allege on information and belief, except for their own acts and knowledge which  
4 are based on personal knowledge, the following:

5 **PRELIMINARY ALLEGATIONS**

6 1. Defendant PARENTING NETWORK, INC. (“DEFENDANT”) is a California  
7 corporation and at all relevant times mentioned herein conducted and continues to conduct  
8 substantial and regular business throughout California.

9 2. DEFENDANT, owns and operates a company that provides child care services  
10 throughout California, including in Tulare County where PLAINTIFFS worked.

11 3. PLAINTIFF Amanda Hernandez was employed by DEFENDANT in California  
12 as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods  
13 from January of 2019 to November of 2020.

14 4. PLAINTIFF Kimberly Conley was employed by DEFENDANT in California as a  
15 non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
16 March of 2019 to November of 2020.

17 5. PLAINTIFF Graviela Valencia was employed by DEFENDANT in California as  
18 a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
19 March of 2019 to November of 2020.

20 6. PLAINTIFF Serena Velasquez was employed by DEFENDANT in California as  
21 a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
22 December of 2016 to November of 2020.

23 7. PLAINTIFFS bring this Class Action on behalf of themselves and a California  
24 class, defined as all individuals who are or previously were employed by DEFENDANT in  
25 California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time  
26 during the period beginning four (4) years prior to the filing of the Complaint and ending on the  
27 date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in  
28

1 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million  
2 dollars (\$5,000,000.00).

3 8. PLAINTIFFS bring this Class Action on behalf of themselves and a  
4 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
5 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT'S uniform policy  
6 and practice which failed to lawfully compensate these employees for all their time worked.  
7 DEFENDANT'S uniform policy and practice alleged herein is an unlawful, unfair and deceptive  
8 business practice whereby DEFENDANT retained and continues to retain wages due to  
9 PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other  
10 members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by  
11 DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the  
12 CALIFORNIA CLASS who have been economically injured by DEFENDANT'S past and  
13 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

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

3 **THE CONDUCT**

4 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
5 required to pay PLAINTIFFS and the CALIFORNIA CLASS Members for all their time worked,  
6 meaning the time during which an employee is subject to the control of an employer, including  
7 all the time the employee is suffered or permitted to work. From time to time, DEFENDANT  
8 required PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all  
9 the time they were under DEFENDANT'S control. Moreover, PLAINTIFFS and other  
10 CALIFORNIA CLASS Members were not compensated for work they performed while "on-call"  
11 for DEFENDANT. As a result, the PLAINTIFFS and other CALIFORNIA CLASS Members  
12 forfeited minimum wage and overtime compensation by regularly working without their time  
13 being accurately recorded and without compensation at the applicable minimum wage and  
14 overtime rates. DEFENDANT'S uniform policy and practice not to pay PLAINTIFFS and other  
15 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
16 records.

17 12. As a result of their rigorous work schedules, PLAINTIFFS and other  
18 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal breaks  
19 and were not fully relieved of duty for meal periods. Specifically, PLAINTIFFS and  
20 CALIFORNIA CLASS Members were from time to time interrupted during their off-duty meal  
21 breaks to complete tasks for DEFENDANT. PLAINTIFFS and other CALIFORNIA CLASS  
22 Members were required to perform work as ordered by DEFENDANT for more than five (5)  
23 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
24 provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty meal period  
25 each workday in which these employees were required by DEFENDANT to work ten (10) hours  
26 of work. PLAINTIFFS and the other CALIFORNIA CLASS Members therefore forfeited meal  
27 breaks without additional compensation and in accordance with DEFENDANT's strict corporate  
28 policy and practice.

1           13.     During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFFS and  
2 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
3 without being provided ten (10) minute rest periods. Further, these employees were denied their  
4 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
5 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between  
6 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
7 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
8 rest breaks, PLAINTIFFS and the CALIFORNIA CLASS Members were often interrupted and  
9 required by DEFENDANT to work during their rest breaks. PLAINTIFFS and other  
10 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof. As  
11 a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA CLASS  
12 Members were periodically denied their proper rest periods by DEFENDANT and  
13 DEFENDANT’S managers.

14           14.     Under California law, every employer shall pay to each employee, on the  
15 established payday for the period involved, not less than the applicable minimum wage for all  
16 hours worked in the payroll period, whether the remuneration is measured by time, piece,  
17 commission, or otherwise. Hours worked is defined in the applicable Wage Order as “the time  
18 during which an employee is subject to the control of an employer and includes all the time the  
19 employee is suffered or permitted to work, whether or not required to do so.” PLAINTIFFS and  
20 other CALIFORNIA CLASS Members were from time to time required to perform work for  
21 DEFENANT before and after their scheduled shifts, as well as during their off-duty meal breaks.  
22 Further, PLAINTIFF and other CALIFORNIA CLASS Members were required to complete work  
23 related tasks during their off-duty meal breaks. DEFENDANT failed to compensate PLAINTIFF  
24 and other CALIFORNIA CLASS Members for any of the time spent under DEFENDANT’S  
25 control while working off-the-clock. As such, DEFENDANT failed to pay PLAINTIFFS and  
26 other CALIFORNIA CLASS Members the applicable minimum wage for all hours worked in a  
27 payroll period.  
28

1           15.     In addition, DEFENDANT from time to time required PLAINTIFFS and members  
2 of the CALIFORNIA CLASS to report to work without furnishing its employees with half of their  
3 usual scheduled day’s work. In such a circumstance of reporting for work, DEFENDANT failed  
4 to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040.  
5 Subdivision 5(A), which states: “Each workday an employee is required to report for work and  
6 does report, but is not put to work or is furnished less than half said employee's usual or scheduled  
7 day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event  
8 for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay,  
9 which shall not be less than the minimum wage.” Cal. Code Regs., tit. 8, § 11040, subd. 5(A).

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

19           17.     From time to time, when PLAINTIFFS and other CALIFORNIA CLASS  
20 Members worked during what was supposed to be their meal breaks or otherwise off the clock,  
21 DEFENDANT also failed to provide PLAINTIFFS and the other members of the CALIFORNIA  
22 CLASS with complete and accurate wage statements which failed to show, among other things,  
23 the correct time worked, including, work performed in excess of eight (8) hours in a workday  
24 and/or forty (40) hours in any workweek, and the gross wages paid for those periods during the  
25 pay period, and the correct penalty payments or missed meal and rest periods in violation of  
26 California Labor Code Sections 226 and 226.2.

27           18.     California Labor Code Section 226 requires an employer to furnish its employees  
28 an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked,

1 (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions, (5) net  
2 wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name  
3 of the employee and only the last four digits of the employee's social security number or an  
4 employee identification number other than a social security number, (8) the name and address of  
5 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay  
6 period and the corresponding number of hours worked at each hourly rate by the employee.

7 19. Aside from the violations listed herein, DEFENDANT failed to issue to  
8 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor  
9 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the  
10 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.  
11 Code § 226.

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

23 21. In the course of their employment, PLAINTIFFS and other CALIFORNIA CLASS  
24 Members as a business expense, were required by DEFENDANT to use their own personal  
25 cellular phones as a result of and in furtherance of their job duties as employees for DEFENDANT  
26 but were not reimbursed or indemnified by DEFENDANT for the cost associated with the use of  
27 their personal cellular phones for DEFENDANT'S benefit. Specifically, PLAINTIFFS and other  
28 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell



1 phones for work related issues. As a result, in the course of their employment with DEFENDANT  
2 the PLAINTIFFS and other members of the CALIFORNIA CLASS incurred unreimbursed  
3 business expenses which included, but were not limited to, costs related to the use of their personal  
4 cellular phones all on behalf of and for the benefit of DEFENDANT.

5 22. By reason of this uniform conduct applicable to PLAINTIFFS and all  
6 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in  
7 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
8 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
9 calculate and record all missed meal and rest periods by PLAINTIFFS and other CALIFORNIA  
10 CLASS Members, and failed to pay PLAINTIFFS and other CALIFORNIA CLASS Members  
11 the correct overtime rate. The proper recording of these employees’ missed meal and rest breaks,  
12 and proper payment of minimum wages and overtime, is the DEFENDANT’S burden. As a result  
13 of DEFENDANT’S intentional disregard of the obligation to meet this burden, DEFENDANT  
14 failed to properly pay all required compensation for work performed by the members of the  
15 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
16 thereunder as herein alleged.

17 23. Specifically, as to PLAINTIFFS’ pay, they were from time to time unable to take  
18 off duty meal and rest breaks and were not fully relieved of duty for their rest and meal periods.  
19 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)  
20 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
21 provide PLAINTIFFS with a second off-duty meal period each workday in which they were  
22 required by DEFENDANT to work ten (10) hours of work. PLAINTIFFS therefore forfeited meal  
23 and rest breaks without additional compensation and in accordance with DEFENDANT’S strict  
24 corporate policy and practice. Moreover, DEFENDANT also provided PLAINTIFFS with a  
25 paystub that failed to accurately display PLAINTIFFS’ correct time worked and wages, as well  
26 as payments for missed meal and rest periods for certain pay periods in violation of Cal. Lab.  
27 Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFFS the overtime  
28 compensation still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203.

1 The amount in controversy for PLAINTIFFS individually do not exceed the sum or value of  
2 \$75,000.

3 **JURISDICTION AND VENUE**

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

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

13 **THE CALIFORNIA CLASS**

14 26. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive  
15 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class  
16 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all  
17 individuals who are or previously were employed by DEFENDANT in California and classified  
18 as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning  
19 four (4) years prior to the filing of the original complaint and ending on the date as determined by  
20 the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate  
21 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

22 27. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
23 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
24 accordingly.

25 28. DEFENDANT, as a matter of company policy, practice and procedure, and in  
26 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
27 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
28 willfully, engaged in a practice whereby DEFENDANT systematically failed to record all meal

1 and rest breaks missed by PLAINTIFFS and the other members of the CALIFORNIA CLASS,  
2 even though DEFENDANT enjoyed the benefit of this work, required employees to perform this  
3 work and permitted or suffered to permit this work.

4 29. DEFENDANT has the legal burden to establish that each and every CALIFORNIA  
5 CLASS Member was paid accurately and was provided all meal and rest breaks missed as required  
6 by California laws. DEFENDANT, however, as a matter of uniform and systematic policy and  
7 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to  
8 have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member  
9 is paid as required by law, so as to satisfy its burden. This common business practice applicable  
10 to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as  
11 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the  
12 “UCL”) as causation, damages, and reliance are not elements of this claim.

13 30. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
14 CLASS Members is impracticable.

15 31. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
16 California law by:

- 17 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
18 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
19 policies, practices and procedures that failed to pay all minimum and overtime  
20 wages due the CALIFORNIA CLASS for all time worked;
- 21 b. Committing an act of unfair competition in violation of the California Unfair  
22 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
23 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA  
24 CLASS members;
- 25 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
26 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
27 company policies, practices and procedures that uniformly and systematically  
28 failed to record and pay PLAINTIFFS and other members of the CALIFORNIA

1 CLASS for all time worked, including minimum wages owed and overtime wages  
2 owed for work performed by these employees; and

3 d. Committing an act of unfair competition in violation of the California Unfair  
4 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.  
5 Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS  
6 members with necessary expenses incurred in the discharge of their job duties.

7 32. The Class Action meets the statutory prerequisites for the maintenance of a Class  
8 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

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

12 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
13 raised in this Complaint are common to the CALIFORNIA CLASS will apply  
14 uniformly to every member of the CALIFORNIA CLASS;

15 c. The claims of the representative PLAINTIFFS are typical of the claims of each  
16 member of the CALIFORNIA CLASS. PLAINTIFFS, like all the other members  
17 of the CALIFORNIA CLASS, were classified as a non- exempt employee paid on  
18 an hourly basis who was subjected to the DEFENDANT’S deceptive practice and  
19 policy which failed to provide the legally required meal and rest periods to the  
20 CALIFORNIA CLASS and thereby systematically underpaid compensation to  
21 PLAINTIFFS and CALIFORNIA CLASS. PLAINTIFFS sustained economic  
22 injury as a result of DEFENDANT’S employment practices. PLAINTIFFS and the  
23 members of the CALIFORNIA CLASS were and are similarly or identically  
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
25 misconduct engaged in by DEFENDANT; and

26 d. The representative PLAINTIFFS will fairly and adequately represent and protect  
27 the interest of the CALIFORNIA CLASS, and has retained counsel who are  
28 competent and experienced in Class Action litigation. There are no material

1 conflicts between the claims of the representative PLAINTIFFS and the members  
2 of the CALIFORNIA CLASS that would make class certification inappropriate.  
3 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all  
4 CALIFORNIA CLASS Members.

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

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

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

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

18 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on  
19 grounds generally applicable to the CALIFORNIA CLASS, making appropriate  
20 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that  
21 DEFENDANT uniformly failed to pay all wages due for all time worked by the  
22 members of the CALIFORNIA CLASS as required by law;

23 i. With respect to the First Cause of Action, the final relief on behalf of the  
24 CALIFORNIA CLASS sought does not relate exclusively to restitution  
25 because through this claim PLAINTIFFS seek declaratory relief holding  
26 that the DEFENDANT'S policy and practices constitute unfair  
27 competition, along with declaratory relief, injunctive relief, and incidental  
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equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

- 1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or;
- 2. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent

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employer, the Class Action is the only means to assert their claims through a representative; and

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

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

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT’S employment practices are uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA CLASS;

- 1 f. There is a community of interest in ensuring that the combined assets of  
2 DEFENDANT are sufficient to adequately compensate the members of the  
3 CALIFORNIA CLASS for the injuries sustained;
- 4 g. DEFENDANT has acted or refused to act on grounds generally applicable to the  
5 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with  
6 respect to the CALIFORNIA CLASS as a whole;
- 7 h. The members of the CALIFORNIA CLASS are readily ascertainable from the  
8 business records of DEFENDANT; and
- 9 i. Class treatment provides manageable judicial treatment calculated to bring an  
10 efficient and rapid conclusion to all litigation of all wage and hour related claims  
11 arising out of the conduct of DEFENDANT as to the members of the  
12 CALIFORNIA CLASS.

13 35. DEFENDANT maintain records from which the Court can ascertain and identify  
14 by job title each of DEFENDANT’S employees who as have been systematically, intentionally  
15 and uniformly subjected to DEFENDANT’S company policy, practices and procedures as herein  
16 alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles  
17 of similarly situated employees when they have been identified.

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 36. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, and  
20 Eighth causes of Action on behalf of a California sub-class, defined as all members of the  
21 CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA LABOR SUB-  
22 CLASS”) at any time during the period three (3) years prior to the filing of the original complaint  
23 and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS  
24 PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the  
25 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars  
26 (\$5,000,000.00).

27 37. DEFENDANT, as a matter of company policy, practice and procedure, and in  
28 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order



1 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly pay for the time  
3 worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS,  
4 and other wages and premiums owed to these employees, even though DEFENDANT enjoyed  
5 the benefit of this work, required employees to perform this work and permitted or suffered to  
6 permit this overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR  
7 SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
8 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
9 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
10 CLASS PERIOD should be adjusted accordingly.

11 38. DEFENDANT maintains records from which the Court can ascertain and identify  
12 by name and job title, each of DEFENDANT'S employees who have been systematically,  
13 intentionally and uniformly subjected to DEFENDANT'S company policy, practices and  
14 procedures as herein alleged. PLAINTIFFS will seek leave to amend the Complaint to include  
15 any additional job titles of similarly situated employees when they have been identified.

16 39. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
17 CALIFORNIA LABOR SUB-CLASS Members is impracticable

18 40. Common questions of law and fact exist as to members of the CALIFORNIA  
19 LABOR SUB-CLASS, including, but not limited, to the following:

- 20 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
21 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
22 missed meal and rest breaks in violation of the California Labor Code and  
23 California regulations and the applicable California Wage Order;
- 24 b. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of  
25 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
26 thirty (30) minute meal breaks and rest periods;

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- c. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- d. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to compensation for time worked, including overtime worked, under the overtime pay requirements of California law;
- e. Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;
- f. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- g. Whether DEFENDANT’s conduct was willful.

41. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California law by:

- a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANT are liable pursuant to Cal. Lab. Code § 1194;
- b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANT are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized

- 1 statement in writing showing all accurate rates in effect during the pay period and  
2 the corresponding amount of time worked at each overtime rate by the employee;
- 3 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the  
4 CALIFORNIA CLASS members with necessary expenses incurred in the  
5 discharge of their job duties; and,
- 6 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an  
7 employee is discharged or quits from employment, the employer must pay the  
8 employee all wages due without abatement, by failing to tender full payment  
9 and/or restitution of wages owed or in the manner required by California law to  
10 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated  
11 their employment.

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

- 14 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so  
15 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members  
16 is impracticable and the disposition of their claims as a class will benefit the parties  
17 and the Court;
- 18 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
19 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS  
20 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-  
21 CLASS;
- 22 c. The claims of the representative PLAINTIFFS are typical of the claims of each  
23 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the  
24 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
25 employee paid on an hourly basis who was subjected to the DEFENDANT'S  
26 practice and policy which failed to pay the correct amount of wages due to the  
27 CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury  
28 as a result of DEFENDANT'S employment practices. PLAINTIFFS and the

1 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or  
2 identically harmed by the same unlawful, deceptive, unfair and pervasive pattern  
3 of misconduct engaged in by DEFENDANT; and

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

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

14 a. Without class certification and determination of declaratory, injunctive, statutory  
15 and other legal questions within the class format, prosecution of separate actions  
16 by individual members of the CALIFORNIA LABOR SUB-CLASS will create  
17 the risk of:

18 i. Inconsistent or varying adjudications with respect to individual members  
19 of the CALIFORNIA LABOR SUB-CLASS which would establish  
20 incompatible standards of conduct for the parties opposing the  
21 CALIFORNIA LABOR SUB-CLASS; or

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

26 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or  
27 refused to act on grounds generally applicable to the CALIFORNIA LABOR  
28 SUB-CLASS, making appropriate class-wide relief with respect to the

1 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly  
2 failed to pay all wages due for all time worked by the members of the  
3 CALIFORNIA LABOR SUB-CLASS as required by law;

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

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

16 ii. Class certification will obviate the need for unduly duplicative litigation  
17 that would create the risk of:

18 1. Inconsistent or varying adjudications with respect to individual  
19 members of the CALIFORNIA LABOR SUB-CLASS, which  
20 would establish incompatible standards of conduct for the  
21 DEFENDANT; and/or,

22 2. Adjudications with respect to individual members of the  
23 CALIFORNIA LABOR SUB-CLASS would as a practical matter  
24 be dispositive of the interests of the other members not parties to  
25 the adjudication or substantially impair or impede their ability to  
26 protect their interests;

27 iii. In the context of wage litigation because a substantial number of individual  
28 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their

1 legal rights out of fear of retaliation by DEFENDANT, which may  
2 adversely affect an individual's job with DEFENDANT or with a  
3 subsequent employer, the Class Action is the only means to assert their  
4 claims through a representative; and,

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

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

- 12 a. The questions of law and fact common to the CALIFORNIA LABOR SUB-  
13 CLASS predominate over any question affecting only individual CALIFORNIA  
14 LABOR SUB-CLASS Members;
- 15 b. A Class Action is superior to any other available method for the fair and efficient  
16 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-  
17 CLASS because in the context of employment litigation a substantial number of  
18 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting  
19 their rights individually out of fear of retaliation or adverse impact on their  
20 employment;
- 21 c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that  
22 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS  
23 before the Court;
- 24 d. PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will  
25 not be able to obtain effective and economic legal redress unless the action is  
26 maintained as a Class Action;
- 27 e. There is a community of interest in obtaining appropriate legal and equitable relief  
28 for the acts of unfair competition, statutory violations and other improprieties, and

1 in obtaining adequate compensation for the damages and injuries which  
2 DEFENDANT’S actions have inflicted upon the CALIFORNIA LABOR SUB-  
3 CLASS;

- 4 f. There is a community of interest in ensuring that the combined assets of  
5 DEFENDANT are sufficient to adequately compensate the members of the  
6 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 7 g. DEFENDANT has acted or refused to act on grounds generally applicable to the  
8 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief  
9 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 10 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily  
11 ascertainable from the business records of DEFENDANT. The CALIFORNIA  
12 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified  
13 as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS  
14 PERIOD; and
- 15 i. Class treatment provides manageable judicial treatment calculated to bring an  
16 efficient and rapid conclusion to all litigation of all wage and hour related claims  
17 arising out of the conduct of DEFENDANT as to the members of the  
18 CALIFORNIA LABOR SUB-CLASS.

19 **FIRST CAUSE OF ACTION**

20 **UNLAWFUL BUSINESS PRACTICES**

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

22 **(Alleged By PLAINTIFFS and the CALIFORNIA CLASS against all DEFENDANT)**

23 45. PLAINTIFFS, 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 46. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
27 Code § 17021.

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

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

12           48. By the conduct alleged herein, DEFENDANT has engaged and continues to  
13 engage in a business practice which violates California law, including but not limited to, the  
14 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
15 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1,  
16 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant  
17 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held  
18 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

25           50. By the conduct alleged herein, DEFENDANT’S practices were deceptive and  
26 fraudulent in that DEFENDANT’S uniform policy and practice failed to pay PLAINTIFFS, and  
27 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time  
28 worked, and failed to reimburse for expenses due to a systematic practice that cannot be justified,



1 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in  
2 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive  
3 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages  
4 wrongfully withheld.

5 51. By the conduct alleged herein, DEFENDANT’S practices were also unlawful,  
6 unfair and deceptive in that DEFENDANT’S employment practices caused PLAINTIFFS and the  
7 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
8 DEFENDANT.

9 52. By the conduct alleged herein, DEFENDANT’S practices were also unfair and  
10 deceptive in that DEFENDANT’S uniform policies, practices and procedures failed to provide  
11 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members.

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

17 54. PLAINTIFFS further demand on behalf of themselves and on behalf of each  
18 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was  
19 not timely provided as required by law.

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

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

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 57. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled  
4 to, 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 PLAINTIFFS 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.

8 58. PLAINTIFFS 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 59. PLAINTIFFS 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, PLAINTIFFS and the other  
16 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
17 and economic harm unless DEFENDANT are 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 PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**  
23 **DEFENDANT)**

24 60. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
25 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of  
26 this Complaint.

27 61. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS  
28 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code

1 and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately  
2 calculate and pay minimum wages to PLAINTIFFS and CALIFORNIA CLASS Members.

3 62. 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 63. 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 wage less than  
7 the minimum so fixed is unlawful.

8 64. 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 65. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and  
11 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
12 amount of time they work. As set forth herein, DEFENDANT'S uniform policy and practice was  
13 to unlawfully and intentionally deny timely payment of wages due to PLAINTIFFS and the other  
14 members of the CALIFORNIA LABOR SUB-CLASS.

15 66. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,  
16 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
17 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFFS  
18 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
19 pay.

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

26 68. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,  
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
28 the correct minimum wage compensation for their time worked for DEFENDANT.

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

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

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

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

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

1 who have terminated their employment, DEFENDANT’S conduct also violates Labor Code §§  
2 201 and/or 202, and therefore these individuals are also entitled to waiting time penalties under  
3 Cal. Lab. Code §203, which penalties are sought herein on behalf of these CALIFORNIA LABOR  
4 SUB-CLASS Members. DEFENDANT’S conduct as alleged herein was willful, intentional and  
5 not in good faith. Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS  
6 Members are entitled to seek and 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 PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**  
11 **DEFENDANT)**

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

15 75. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS  
16 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code  
17 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately  
18 calculate the applicable rates for all overtime worked by PLAINTIFFS and other members of the  
19 CALIFORNIA LABOR SUB-CLASS and DEFENDAN’S failure to properly compensate the  
20 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work  
21 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

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

5           79. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and  
6 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
7 amount of overtime worked and correct applicable overtime rate for the amount of overtime they  
8 worked. As set forth herein, DEFENDANT'S uniform policy and practice was to unlawfully and  
9 intentionally deny timely payment of wages due for the overtime worked by PLAINTIFFS and  
10 the other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANT in fact failed  
11 to pay these employees the correct applicable overtime wages for all overtime worked.

12           80. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,  
13 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
14 of implementing a uniform policy and practice that denied accurate compensation to  
15 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for all  
16 overtime worked, including, the work performed in excess of eight (8) hours in a workday and/or  
17 forty (40) hours in any workweek.

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

24           82. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,  
25 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
26 full compensation for all overtime worked.

27           83. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from  
28 the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFFS

1 and the other members of the CALIFORNIA LABOR SUB-CLASS. Further PLAINTIFFS and  
2 the other members of the CALIFORNIA LABOR SUB-CLASS are not subject to a valid  
3 collective bargaining agreement that would preclude the causes of action contained herein this  
4 Complaint. Rather, PLAINTIFFS bring this Action on behalf of themselves and the  
5 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT’S violations of non-negotiable,  
6 non-waivable rights provided by the State of California.

7 84. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the  
8 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than  
9 they were entitled to, constituting a failure to pay all earned wages.

10 85. DEFENDANT failed to accurately pay PLAINTIFFS and the other members of the  
11 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in  
12 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &  
13 1198, even though PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
14 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed  
15 to accurately record and pay using the applicable overtime rate as evidenced by DEFENDANT’S  
16 business records and witnessed by employees.

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

22 87. DEFENDANT knew or should have known that PLAINTIFFS and the other  
23 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
24 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross  
25 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
26 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
28 overtime rate.





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

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

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

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

4 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
5 **DEFENDANT)**

6 94. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
8 paragraphs of this Complaint.

9 95. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were  
10 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
11 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
12 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
13 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
14 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
15 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were also not provided  
16 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS  
17 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper  
18 rest periods by DEFENDANT and DEFENDANT’S managers. When DEFENDANT provided  
19 PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they  
20 required PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members to stay on  
21 DEFENDANT’S premises for those rest breaks.

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

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

4 **SIXTH CAUSE OF ACTION**

5 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES**

6 **(Cal. Lab. Code §§ 2802)**

7 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
8 **DEFENDANT)**

9 98. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
10 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
11 paragraphs of this Complaint.

12 99. Cal. Lab. Code § 2802 provides, in relevant part, that:

13  
14 An employer shall indemnify his or her employee for all necessary expenditures  
15 or losses incurred by the employee in direct consequence of the discharge of his  
16 or her duties, or of his or her obedience to the directions of the employer, even  
17 though unlawful, unless the employee, at the time of obeying the directions,  
18 believed them to be unlawful.

19 100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by  
20 failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS  
21 members for required expenses incurred in the discharge of their job duties for DEFENDANT’s  
22 benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-  
23 CLASS members for expenses which included, but were not limited to, costs related to using their  
24 personal cellular phones all on behalf of and for the benefit of DEFENDANT. Specifically,  
25 PLAINTIFFS and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
26 their personal cell phones to respond to work related issues. DEFENDANT’S uniform policy,  
27 practice and procedure was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-  
28 CLASS members for expenses resulting from using their personal cellular phones for

1 DEFENDANT within the course and scope of their employment for DEFENDANT. These  
2 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by  
3 DEFENDANT’S conduct to assert any waiver of this expectation. Although these expenses were  
4 necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS  
5 members, DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the  
6 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to  
7 do under the laws and regulations of California.

8 101. PLAINTIFFS therefore demand reimbursement for expenditures or losses  
9 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their  
10 job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest  
11 at the statutory rate and costs under Cal. Lab. Code § 2802.

12 **SEVENTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

14 **(Cal. Lab. Code §§ 226 and 226.2)**

15 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
16 **DEFENDANT)**

17 102. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

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

- 22 a. Gross wages earned;
- 23 b. Total hours worked by the employee, except for any employee whose  
24 compensation is solely based on a salary and who is exempt from payment of  
25 overtime under subdivision (a) of Section 515 or any applicable order of the  
26 Industrial Welfare Commission;
- 27 c. The number of piece rate units earned and any applicable piece rate if the employee  
28 is paid on a piece-rate basis;

- 1 d. All deductions, provided that all deductions made on written orders of the
- 2 employee may be aggregated and shown as one item;
- 3 e. Net wages earned;
- 4 f. The inclusive dates of the period for which the employee is paid;
- 5 g. The name of the employee and his or her social security number, except that by
- 6 January 1, 2008, only the last four digits of his or her social security number or an
- 7 employee identification number other than a social security number may be shown
- 8 on the itemized statement;
- 9 h. The name and address of the legal entity that is the employer; and
- 10 i. All applicable hourly rates in effect during the pay period and the corresponding
- 11 number of hours worked at each hourly rate by the employee.

12 104. Cal. Labor Code § 226.2 provides that an employer must furnish piece-rate  
13 employees with an “accurate itemized” statement in writing showing:

- 14 a. The total hours of compensable rest and recovery periods, the rate of
- 15 compensation, and the gross wages paid for those periods during the
- 16 pay period; and
- 17 b. The total hours of other nonproductive time, the rate of
- 18 compensation, and the gross wages paid for that time during the pay
- 19 period.

20 105. When DEFENDANT did not accurately record PLAINTIFFS’ and other  
21 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANT also  
22 failed to provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with  
23 complete and accurate wage statements which failed to show, among other things, the correct  
24 overtime rate, the correct number of hours worked, missed meal and rest periods, owed to  
25 PLAINTIFFS and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that  
26 every employer shall furnish each of his or her employees with an accurate itemized wage  
27 statement in writing showing, among other things, gross wages earned and all applicable hourly  
28 rates in effect during the pay period and the corresponding amount of time worked at each hourly

1 rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to  
2 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor  
3 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the  
4 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.  
5 Code § 226.

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

17 **EIGHTH CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES WHEN DUE**

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

20 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**

21 **DEFENDANT)**

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

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

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

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

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

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

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

19 111. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR SUB-  
20 CLASS Members' employment contract.

21 112. Cal. Lab. Code § 203 provides:

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

28

1 113. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-  
2 CLASS Members terminated and DEFENDANT has not tendered payment of wages, to these  
3 employees who missed meal and rest breaks, as required by law.

4 114. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the  
5 members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFFS  
6 demand up to thirty days of pay as penalty for not paying all wages due at time of termination for  
7 all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS  
8 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory  
9 costs as allowed by law.

10 **TWELVTH CAUSE OF ACTION**

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

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

13 **(Alleged by PLAINTIFF against all Defendants)**

14 115. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth  
15 herein, the prior paragraphs of this Complaint.

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

25 117. PLAINTIFFS, and such persons that may be added from time to time who satisfy  
26 the requirements and exhaust the administrative procedures under the Private Attorney General  
27 Act, bring this Representative Action on behalf of the State of California with respect to  
28 themselves and all individuals who are or previously were employed by DEFENDANT and



1 classified as non-exempt employees in California during the time period of February 19, 2020  
2 until the present (the "AGGRIEVED EMPLOYEES").

3 118. On February 19, 2021, PLAINTIFFS gave written notice by certified mail to the  
4 Labor and Workforce Development Agency (the "Agency") and the employer of the  
5 specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3.  
6 See Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting  
7 period for PLAINTIFFS to add these allegations to the Complaint has expired. As a result,  
8 pursuant to Section 2699.3, PLAINTIFFS may now commence a representative civil action under  
9 PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all  
10 AGGRIEVED EMPLOYEES as herein defined.

11 119. The policies, acts and practices heretofore described were and are an unlawful  
12 business act or practice because Defendant (a) failed to properly record and pay PLAINTIFF and  
13 the other AGGRIEVED EMPLOYEES for all of the hours they worked, including minimum wage  
14 and overtime wages in violation of the Wage Order, (b) failed to provide meal and rest breaks, (c)  
15 failed to provide accurate itemized wage statements, and (d) failed to timely pay wages, all in  
16 violation of the applicable Labor Code sections listed in Labor Code §2699.5, including but not  
17 limited to Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226, 226.7, 510, 512, 558, 1194, 1197,  
18 1197.1, 1198 & 2802, and the applicable Industrial Wage Order(s), and thereby gives rise to  
19 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil  
20 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the  
21 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and  
22 the other AGGRIEVED EMPLOYEES.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, PLAINTIFFS pray for a judgment against each DEFENDANT, jointly  
25 and severally, as follows:

26 1. On behalf of the CALIFORNIA CLASS:

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

- 1           b. An order temporarily, preliminarily and permanently enjoining and restraining  
2           DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 3           c. An order requiring DEFENDANT to pay all wages and all sums unlawfully  
4           withheld from compensation due to PLAINTIFFS and the other members of the  
5           CALIFORNIA CLASS; and
- 6           d. Restitutionary disgorgement of DEFENDANT’S ill-gotten gains into a fluid fund  
7           for restitution of the sums incidental to DEFENDANT’S violations due to  
8           PLAINTIFFS and to the other members of the CALIFORNIA CLASS.
- 9           2. On behalf of the CALIFORNIA LABOR SUB-CLASS:
- 10           a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
11           Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class  
12           action pursuant to Cal. Code of Civ. Proc. § 382;
- 13           b. Compensatory damages, according to proof at trial, including compensatory  
14           damages for minimum wages, overtime wages, reporting time wages, unreimbursed  
15           expenses, and other compensation due to PLAINTIFFS and the other members of  
16           the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA  
17           LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 18           c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
19           the applicable IWC Wage Order;
- 20           d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
21           which a violation occurs and one hundred dollars (\$100) per member of the  
22           CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay  
23           period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and  
24           an award of costs for violation of Cal. Lab. Code § 226; and
- 25           e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-  
26           CLASS as a penalty from the due date thereof at the same rate until paid or until an  
27           action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- 28           3. On behalf of the State of California and with respect to all AGGRIEVED

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EMPLOYEES:

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

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, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

DATED: May 19, 2021

**ZAKAY LAW GROUP, APLC**

By:  \_\_\_\_\_

Shani O. Zakay  
Attorney for Plaintiffs

**DEMAND FOR A JURY TRIAL**

PLAINTIFFS demand a jury trial on issues triable to a jury.

DATED: May 19, 2021

**ZAKAY LAW GROUP, APLC**

By:  \_\_\_\_\_

Shani O. Zakay  
Attorney for Plaintiffs

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**EXHIBIT 1**



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

Client #35401

February 19, 2021

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

**Labor and Workforce Development Agency**

Online Filing

<b>PARENTING NETWORK, INC.</b> Santos Prado 2500 East Main Street Visalia, CA 93292	
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**Re: Notice of Violations of California Labor Code Sections 201, 202, 203, 204, 206.5, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198 & 2802, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiffs Kimberly Conley, Amanda Hernandez, Graviela Valencia, and Serena Velasquez (“Plaintiffs”), and other aggrieved employees in a proposed lawsuit against Parenting Network, Inc. (“Defendant”). Plaintiff Conley was employed by Defendant in California from March of 2019 to November of 2020 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Plaintiff Hernandez was employed by Defendant in California from January of 2019 to November of 2020 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Plaintiff Valencia was employed by Defendant in California from March of 2019 to November of 2020 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Plaintiff Velasquez was employed by Defendant in California from December of 2016 to November of 2020 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiffs and other aggrieved employees for all of their time worked, including but not limited to, reporting time and for all of their meal breaks and rest breaks. Defendant also failed to reimburse Plaintiffs and other aggrieved employees for business-related expenses. As a consequence of the aforementioned violations, Plaintiffs further contend that Defendant failed to provide accurate wage statements to them, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing, violates Labor Code §§ 201, 202, 203, 204, 206.5, 210, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198 & 2802, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

This notice is provided to enable Plaintiffs to proceed with the Complaint against Defendant as authorized by California Labor Code section 2695, *et seq.* The filing fee of \$75 is being mailed to the Department of Industrial Relations Accounting unit with an identification of the Plaintiffs, the Defendant and the notice. 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 Statue of 2004 on behalf of Plaintiffs and all aggrieved California employees.

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

Sincerely,

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

Shani O. Zakay  
Attorney for Plaintiffs

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8 Attorneys for Plaintiffs

9  
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF TULARE**

11 KIMBERLY CONLEY, AMANDA  
12 HERNANDEZ, GRAVIELA VALENCIA,  
and SERENA VELASQUEZ, individuals, on  
13 behalf of themselves and on behalf of all  
14 persons similarly situated,

15 Plaintiffs,

16 v.

17 PARENTING NETWORK, INC., a  
California Corporation, a California  
18 Corporation; and DOES 1-50, Inclusive,

19 DEFENDANT.

Case No:

**CLASS ACTION COMPLAINT FOR:**

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

**DEMAND FOR A JURY TRIAL**

1 Plaintiffs Kimberly Conley, Amanda Hernandez, Graviela Valencia, and Serena Velasquez,  
2 individuals, (“PLAINTIFFS”), on behalf of themselves and all other similarly situated current  
3 and former employees, allege on information and belief, except for their own acts and knowledge  
4 which are based on personal knowledge, the following:

5 **PRELIMINARY ALLEGATIONS**

6 1. Defendant PARENTING NETWORK, INC. (“DEFENDANT”) is a California  
7 corporation and at all relevant times mentioned herein conducted and continues to conduct  
8 substantial and regular business throughout California.

9 2. DEFENDANT, owns and operates a company that provides child care services  
10 throughout California, including in Tulare County where PLAINTIFFS worked.

11 3. PLAINTIFF Kimberly Conley was employed by DEFENDANT in California as a  
12 non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
13 March of 2019 to November of 2020.

14 4. PLAINTIFF Amanda Hernandez was employed by DEFENDANT in California  
15 as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods  
16 from January of 2019 to November of 2020.

17 5. PLAINTIFF Graviela Valencia was employed by DEFENDANT in California as  
18 a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
19 March of 2019 to November of 2020.

20 6. PLAINTIFF Serena Velasquez was employed by DEFENDANT in California as  
21 a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from  
22 December of 2016 to November of 2020.

23 7. PLAINTIFFS bring this Class Action on behalf of themselves and a California  
24 class, defined as all individuals who are or previously were employed by DEFENDANT in  
25 California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time  
26 during the period beginning four (4) years prior to the filing of the Complaint and ending on the  
27 date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in  
28 controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million  
dollars (\$5,000,000.00).



1           8.     PLAINTIFFS bring this Class Action on behalf of themselves and a  
2 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses  
3 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy  
4 and practice which failed to lawfully compensate these employees for all their time worked.  
5 DEFENDANT’S uniform policy and practice alleged herein is an unlawful, unfair and deceptive  
6 business practice whereby DEFENDANT retained and continues to retain wages due to  
7 PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other  
8 members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by  
9 DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the  
10 CALIFORNIA CLASS who have been economically injured by DEFENDANT’S past and  
11 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

**THE CONDUCT**

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2           11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
3 required to pay PLAINTIFFS and the CALIFORNIA CLASS Members for all their time worked,  
4 meaning the time during which an employee is subject to the control of an employer, including  
5 all the time the employee is suffered or permitted to work. From time to time, DEFENDANT  
6 required PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all  
7 the time they were under DEFENDANT’S control. Moreover, PLAINTIFFS and other  
8 CALIFORNIA CLASS Members were not compensated for work they performed while “on-call”  
9 for DEFENDANT. As a result, the PLAINTIFFS and other CALIFORNIA CLASS Members  
10 forfeited minimum wage and overtime compensation by regularly working without their time  
11 being accurately recorded and without compensation at the applicable minimum wage and  
12 overtime rates. DEFENDANT’S uniform policy and practice not to pay PLAINTIFFS and other  
13 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT’s business  
14 records.

15           12. As a result of their rigorous work schedules, PLAINTIFFS and other  
16 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal breaks  
17 and were not fully relieved of duty for meal periods. Specifically, PLAINTIFFS and  
18 CALIFORNIA CLASS Members were from time to time interrupted during their off-duty meal  
19 breaks to complete tasks for DEFENDANT. PLAINTIFFS and other CALIFORNIA CLASS  
20 Members were required to perform work as ordered by DEFENDANT for more than five (5)  
21 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
22 provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-duty meal period  
23 each workday in which these employees were required by DEFENDANT to work ten (10) hours  
24 of work. PLAINTIFFS and the other CALIFORNIA CLASS Members therefore forfeited meal  
25 breaks without additional compensation and in accordance with DEFENDANT’s strict corporate  
26 policy and practice.

27           13. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFFS and  
28 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours

1 without being provided ten (10) minute rest periods. Further, these employees were denied their  
2 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
3 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between  
4 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
5 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
6 rest breaks, PLAINTIFFS and the CALIFORNIA CLASS Members were often interrupted and  
7 required by DEFENDANT to work during their rest breaks. PLAINTIFFS and other  
8 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof. As  
9 a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA CLASS  
10 Members were periodically denied their proper rest periods by DEFENDANT and  
11 DEFENDANT’S managers.

12       14. Under California law, every employer shall pay to each employee, on the  
13 established payday for the period involved, not less than the applicable minimum wage for all  
14 hours worked in the payroll period, whether the remuneration is measured by time, piece,  
15 commission, or otherwise. Hours worked is defined in the applicable Wage Order as “the time  
16 during which an employee is subject to the control of an employer and includes all the time the  
17 employee is suffered or permitted to work, whether or not required to do so.” PLAINTIFFS and  
18 other CALIFORNIA CLASS Members were from time to time required to perform work for  
19 DEFENANT before and after their scheduled shifts, as well as during their off-duty meal breaks.  
20 Further, PLAINTIFF and other CALIFORNIA CLASS Members were required to complete work  
21 related tasks during their off-duty meal breaks. DEFENDANT failed to compensate PLAINTIFF  
22 and other CALIFORNIA CLASS Members for any of the time spent under DEFENDANT’S  
23 control while working off-the-clock. As such, DEFENDANT failed to pay PLAINTIFFS and  
24 other CALIFORNIA CLASS Members the applicable minimum wage for all hours worked in a  
25 payroll period.

26       15. In addition, DEFENDANT from time to time required PLAINTIFFS and members  
27 of the CALIFORNIA CLASS to report to work without furnishing its employees with half of their  
28 usual scheduled day’s work. In such a circumstance of reporting for work, DEFENDANT failed

1 to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040.  
2 Subdivision 5(A), which states: “Each workday an employee is required to report for work and  
3 does report, but is not put to work or is furnished less than half said employee's usual or scheduled  
4 day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event  
5 for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay,  
6 which shall not be less than the minimum wage.” Cal. Code Regs., tit. 8, § 11040, subd. 5(A).

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

16 17. From time to time, when PLAINTIFFS and other CALIFORNIA CLASS  
17 Members worked during what was supposed to be their meal breaks or otherwise off the clock,  
18 DEFENDANT also failed to provide PLAINTIFFS and the other members of the CALIFORNIA  
19 CLASS with complete and accurate wage statements which failed to show, among other things,  
20 the correct time worked, including, work performed in excess of eight (8) hours in a workday  
21 and/or forty (40) hours in any workweek, and the gross wages paid for those periods during the  
22 pay period, and the correct penalty payments or missed meal and rest periods in violation of  
23 California Labor Code Sections 226 and 226.2.

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

1 employee identification number other than a social security number, (8) the name and address of  
2 the legal entity that is the employer and, (9) all applicable hourly rates in effect during the pay  
3 period and the corresponding number of hours worked at each hourly rate by the employee.

4 19. Aside from the violations listed herein, DEFENDANT failed to issue to  
5 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor  
6 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the  
7 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.  
8 Code § 226.

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

20 21. In the course of their employment, PLAINTIFFS and other CALIFORNIA CLASS  
21 Members as a business expense, were required by DEFENDANT to use their own personal  
22 cellular phones as a result of and in furtherance of their job duties as employees for DEFENDANT  
23 but were not reimbursed or indemnified by DEFENDANT for the cost associated with the use of  
24 their personal cellular phones for DEFENDANT'S benefit. Specifically, PLAINTIFFS and other  
25 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell  
26 phones for work related issues. As a result, in the course of their employment with DEFENDANT  
27 the PLAINTIFFS and other members of the CALIFORNIA CLASS incurred unreimbursed  
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1 business expenses which included, but were not limited to, costs related to the use of their personal  
2 cellular phones all on behalf of and for the benefit of DEFENDANT.

3 22. By reason of this uniform conduct applicable to PLAINTIFFS and all  
4 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in  
5 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
6 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
7 calculate and record all missed meal and rest periods by PLAINTIFFS and other CALIFORNIA  
8 CLASS Members, and failed to pay PLAINTIFFS and other CALIFORNIA CLASS Members  
9 the correct overtime rate. The proper recording of these employees’ missed meal and rest breaks,  
10 and proper payment of minimum wages and overtime, is the DEFENDANT’S burden. As a result  
11 of DEFENDANT’S intentional disregard of the obligation to meet this burden, DEFENDANT  
12 failed to properly pay all required compensation for work performed by the members of the  
13 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated  
14 thereunder as herein alleged.

15 23. Specifically, as to PLAINTIFFS’ pay, they were from time to time unable to take  
16 off duty meal and rest breaks and were not fully relieved of duty for their rest and meal periods.  
17 PLAINTIFFS were required to perform work as ordered by DEFENDANT for more than five (5)  
18 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
19 provide PLAINTIFFS with a second off-duty meal period each workday in which they were  
20 required by DEFENDANT to work ten (10) hours of work. PLAINTIFFS therefore forfeited meal  
21 and rest breaks without additional compensation and in accordance with DEFENDANT’S strict  
22 corporate policy and practice. Moreover, DEFENDANT also provided PLAINTIFFS with a  
23 paystub that failed to accurately display PLAINTIFFS’ correct time worked and wages, as well  
24 as payments for missed meal and rest periods for certain pay periods in violation of Cal. Lab.  
25 Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFFS the overtime  
26 compensation still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203.  
27 The amount in controversy for PLAINTIFFS individually do not exceed the sum or value of  
28 \$75,000.

**JURISDICTION AND VENUE**

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

25. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

**THE CALIFORNIA CLASS**

26. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by DEFENDANT in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing of the original complaint and ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

27. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

28. DEFENDANT, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby DEFENDANT systematically failed to record all meal and rest breaks missed by PLAINTIFFS and the other members of the CALIFORNIA CLASS,

1 even though DEFENDANT enjoyed the benefit of this work, required employees to perform this  
2 work and permitted or suffered to permit this work.

3 29. DEFENDANT has the legal burden to establish that each and every CALIFORNIA  
4 CLASS Member was paid accurately and was provided all meal and rest breaks missed as required  
5 by California laws. DEFENDANT, however, as a matter of uniform and systematic policy and  
6 procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to  
7 have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member  
8 is paid as required by law, so as to satisfy its burden. This common business practice applicable  
9 to each and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as  
10 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the  
11 “UCL”) as causation, damages, and reliance are not elements of this claim.

12 30. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
13 CLASS Members is impracticable.

14 31. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
15 California law by:

- 16 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
17 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
18 policies, practices and procedures that failed to pay all minimum and overtime  
19 wages due the CALIFORNIA CLASS for all time worked;
- 20 b. Committing an act of unfair competition in violation of the California Unfair  
21 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
22 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA  
23 CLASS members;
- 24 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
25 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
26 company policies, practices and procedures that uniformly and systematically  
27 failed to record and pay PLAINTIFFS and other members of the CALIFORNIA  
28



1 CLASS for all time worked, including minimum wages owed and overtime wages  
2 owed for work performed by these employees; and

3 d. Committing an act of unfair competition in violation of the California Unfair  
4 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.  
5 Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS  
6 members with necessary expenses incurred in the discharge of their job duties.

7 32. The Class Action meets the statutory prerequisites for the maintenance of a Class  
8 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

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

12 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
13 raised in this Complaint are common to the CALIFORNIA CLASS will apply  
14 uniformly to every member of the CALIFORNIA CLASS;

15 c. The claims of the representative PLAINTIFFS are typical of the claims of each  
16 member of the CALIFORNIA CLASS. PLAINTIFFS, like all the other members  
17 of the CALIFORNIA CLASS, were classified as a non- exempt employee paid on  
18 an hourly basis who was subjected to the DEFENDANT’S deceptive practice and  
19 policy which failed to provide the legally required meal and rest periods to the  
20 CALIFORNIA CLASS and thereby systematically underpaid compensation to  
21 PLAINTIFFS and CALIFORNIA CLASS. PLAINTIFFS sustained economic  
22 injury as a result of DEFENDANT’S employment practices. PLAINTIFFS and the  
23 members of the CALIFORNIA CLASS were and are similarly or identically  
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
25 misconduct engaged in by DEFENDANT; and

26 d. The representative PLAINTIFFS will fairly and adequately represent and protect  
27 the interest of the CALIFORNIA CLASS, and has retained counsel who are  
28 competent and experienced in Class Action litigation. There are no material

1 conflicts between the claims of the representative PLAINTIFFS and the members  
2 of the CALIFORNIA CLASS that would make class certification inappropriate.  
3 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all  
4 CALIFORNIA CLASS Members.

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

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

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

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

18 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on  
19 grounds generally applicable to the CALIFORNIA CLASS, making appropriate  
20 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that  
21 DEFENDANT uniformly failed to pay all wages due for all time worked by the  
22 members of the CALIFORNIA CLASS as required by law;

23 i. With respect to the First Cause of Action, the final relief on behalf of the  
24 CALIFORNIA CLASS sought does not relate exclusively to restitution  
25 because through this claim PLAINTIFFS seek declaratory relief holding  
26 that the DEFENDANT'S policy and practices constitute unfair  
27 competition, along with declaratory relief, injunctive relief, and incidental  
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equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

1. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or;

2. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent

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employer, the Class Action is the only means to assert their claims through a representative; and

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

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

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT’S employment practices are uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA CLASS;

- 1 f. There is a community of interest in ensuring that the combined assets of  
2 DEFENDANT are sufficient to adequately compensate the members of the  
3 CALIFORNIA CLASS for the injuries sustained;
- 4 g. DEFENDANT has acted or refused to act on grounds generally applicable to the  
5 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with  
6 respect to the CALIFORNIA CLASS as a whole;
- 7 h. The members of the CALIFORNIA CLASS are readily ascertainable from the  
8 business records of DEFENDANT; and
- 9 i. Class treatment provides manageable judicial treatment calculated to bring an  
10 efficient and rapid conclusion to all litigation of all wage and hour related claims  
11 arising out of the conduct of DEFENDANT as to the members of the  
12 CALIFORNIA CLASS.

13 35. DEFENDANT maintain records from which the Court can ascertain and identify  
14 by job title each of DEFENDANT’S employees who as have been systematically, intentionally  
15 and uniformly subjected to DEFENDANT’S company policy, practices and procedures as herein  
16 alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles  
17 of similarly situated employees when they have been identified.

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 36. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, and  
20 Eighth causes of Action on behalf of a California sub-class, defined as all members of the  
21 CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA LABOR SUB-  
22 CLASS”) at any time during the period three (3) years prior to the filing of the original complaint  
23 and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS  
24 PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the  
25 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars  
26 (\$5,000,000.00).

27 37. DEFENDANT, as a matter of company policy, practice and procedure, and in  
28 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order

1 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly pay for the time  
3 worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS,  
4 and other wages and premiums owed to these employees, even though DEFENDANT enjoyed  
5 the benefit of this work, required employees to perform this work and permitted or suffered to  
6 permit this overtime work. DEFENDANT has uniformly denied these CALIFORNIA LABOR  
7 SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
8 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
9 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
10 CLASS PERIOD should be adjusted accordingly.

11 38. DEFENDANT maintains records from which the Court can ascertain and identify  
12 by name and job title, each of DEFENDANT'S employees who have been systematically,  
13 intentionally and uniformly subjected to DEFENDANT'S company policy, practices and  
14 procedures as herein alleged. PLAINTIFFS will seek leave to amend the Complaint to include  
15 any additional job titles of similarly situated employees when they have been identified.

16 39. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
17 CALIFORNIA LABOR SUB-CLASS Members is impracticable

18 40. Common questions of law and fact exist as to members of the CALIFORNIA  
19 LABOR SUB-CLASS, including, but not limited, to the following:

- 20 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
21 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
22 missed meal and rest breaks in violation of the California Labor Code and  
23 California regulations and the applicable California Wage Order;
- 24 b. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of  
25 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
26 thirty (30) minute meal breaks and rest periods;

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- c. Whether DEFENDANT failed to provide PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- d. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to compensation for time worked, including overtime worked, under the overtime pay requirements of California law;
- e. Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;
- f. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- g. Whether DEFENDANT’s conduct was willful.

41. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California law by:

- a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANT are liable pursuant to Cal. Lab. Code § 1194;
- b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANT are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized

- 1 statement in writing showing all accurate rates in effect during the pay period and  
2 the corresponding amount of time worked at each overtime rate by the employee;
- 3 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the  
4 CALIFORNIA CLASS members with necessary expenses incurred in the  
5 discharge of their job duties; and,
- 6 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an  
7 employee is discharged or quits from employment, the employer must pay the  
8 employee all wages due without abatement, by failing to tender full payment  
9 and/or restitution of wages owed or in the manner required by California law to  
10 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated  
11 their employment.

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

- 14 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so  
15 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members  
16 is impracticable and the disposition of their claims as a class will benefit the parties  
17 and the Court;
- 18 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
19 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS  
20 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-  
21 CLASS;
- 22 c. The claims of the representative PLAINTIFFS are typical of the claims of each  
23 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the  
24 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
25 employee paid on an hourly basis who was subjected to the DEFENDANT'S  
26 practice and policy which failed to pay the correct amount of wages due to the  
27 CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS sustained economic injury  
28 as a result of DEFENDANT'S employment practices. PLAINTIFFS and the



1 members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or  
2 identically harmed by the same unlawful, deceptive, unfair and pervasive pattern  
3 of misconduct engaged in by DEFENDANT; and

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

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

14 a. Without class certification and determination of declaratory, injunctive, statutory  
15 and other legal questions within the class format, prosecution of separate actions  
16 by individual members of the CALIFORNIA LABOR SUB-CLASS will create  
17 the risk of:

18 i. Inconsistent or varying adjudications with respect to individual members  
19 of the CALIFORNIA LABOR SUB-CLASS which would establish  
20 incompatible standards of conduct for the parties opposing the  
21 CALIFORNIA LABOR SUB-CLASS; or

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

26 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or  
27 refused to act on grounds generally applicable to the CALIFORNIA LABOR  
28 SUB-CLASS, making appropriate class-wide relief with respect to the

1 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly  
2 failed to pay all wages due for all time worked by the members of the  
3 CALIFORNIA LABOR SUB-CLASS as required by law;

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

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

16 ii. Class certification will obviate the need for unduly duplicative litigation  
17 that would create the risk of:

18 1. Inconsistent or varying adjudications with respect to individual  
19 members of the CALIFORNIA LABOR SUB-CLASS, which  
20 would establish incompatible standards of conduct for the  
21 DEFENDANT; and/or,

22 2. Adjudications with respect to individual members of the  
23 CALIFORNIA LABOR SUB-CLASS would as a practical matter  
24 be dispositive of the interests of the other members not parties to  
25 the adjudication or substantially impair or impede their ability to  
26 protect their interests;

27 iii. In the context of wage litigation because a substantial number of individual  
28 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their

1 legal rights out of fear of retaliation by DEFENDANT, which may  
2 adversely affect an individual's job with DEFENDANT or with a  
3 subsequent employer, the Class Action is the only means to assert their  
4 claims through a representative; and,

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

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

12 a. The questions of law and fact common to the CALIFORNIA LABOR SUB-  
13 CLASS predominate over any question affecting only individual CALIFORNIA  
14 LABOR SUB-CLASS Members;

15 b. A Class Action is superior to any other available method for the fair and efficient  
16 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-  
17 CLASS because in the context of employment litigation a substantial number of  
18 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting  
19 their rights individually out of fear of retaliation or adverse impact on their  
20 employment;

21 c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that  
22 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS  
23 before the Court;

24 d. PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will  
25 not be able to obtain effective and economic legal redress unless the action is  
26 maintained as a Class Action;

27 e. There is a community of interest in obtaining appropriate legal and equitable relief  
28 for the acts of unfair competition, statutory violations and other improprieties, and

1 in obtaining adequate compensation for the damages and injuries which  
2 DEFENDANT’S actions have inflicted upon the CALIFORNIA LABOR SUB-  
3 CLASS;

- 4 f. There is a community of interest in ensuring that the combined assets of  
5 DEFENDANT are sufficient to adequately compensate the members of the  
6 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 7 g. DEFENDANT has acted or refused to act on grounds generally applicable to the  
8 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief  
9 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 10 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily  
11 ascertainable from the business records of DEFENDANT. The CALIFORNIA  
12 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified  
13 as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS  
14 PERIOD; and
- 15 i. Class treatment provides manageable judicial treatment calculated to bring an  
16 efficient and rapid conclusion to all litigation of all wage and hour related claims  
17 arising out of the conduct of DEFENDANT as to the members of the  
18 CALIFORNIA LABOR SUB-CLASS.

19 **FIRST CAUSE OF ACTION**

20 **UNLAWFUL BUSINESS PRACTICES**

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

22 **(Alleged By PLAINTIFFS and the CALIFORNIA CLASS against all DEFENDANT)**

23 45. PLAINTIFFS, 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 46. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
27 Code § 17021.

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

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

12           48. By the conduct alleged herein, DEFENDANT has engaged and continues to  
13 engage in a business practice which violates California law, including but not limited to, the  
14 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
15 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1,  
16 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant  
17 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held  
18 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

25           50. By the conduct alleged herein, DEFENDANT’S practices were deceptive and  
26 fraudulent in that DEFENDANT’S uniform policy and practice failed to pay PLAINTIFFS, and  
27 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time  
28 worked, and failed to reimburse for expenses due to a systematic practice that cannot be justified,  
pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in  
violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive

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

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

7 52. By the conduct alleged herein, DEFENDANT’S practices were also unfair and  
8 deceptive in that DEFENDANT’S uniform policies, practices and procedures failed to provide  
9 mandatory meal and/or rest breaks to PLAINTIFFS and the CALIFORNIA CLASS members.

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

15 54. PLAINTIFFS further demand on behalf of themselves and on behalf of each  
16 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was  
17 not timely provided as required by law.

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

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

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

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

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

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY MINIMUM WAGES**  
19 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

20 **(Alleged By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**  
21 **DEFENDANT)**

22 60. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
23 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of  
24 this Complaint.

25 61. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS  
26 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code  
27 and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately  
28 calculate and pay minimum wages to PLAINTIFFS and CALIFORNIA CLASS Members.

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

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

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

8           65. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and  
9 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
10 amount of time they work. As set forth herein, DEFENDANT'S uniform policy and practice was  
11 to unlawfully and intentionally deny timely payment of wages due to PLAINTIFFS and the other  
12 members of the CALIFORNIA LABOR SUB-CLASS.

13           66. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,  
14 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
15 of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFFS  
16 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
17 pay.

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

24           68. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,  
25 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
26 the correct minimum wage compensation for their time worked for DEFENDANT.

27           69. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the  
28 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than  
they were entitled to, constituting a failure to pay all earned wages.



1           70. By virtue of DEFENDANT’S unlawful failure to accurately pay all earned  
2 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
3 CLASS for the true time they worked, PLAINTIFFS and the other members of the CALIFORNIA  
4 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts  
5 which are presently unknown to them and which will be ascertained according to proof at trial.

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

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

21           73. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS  
22 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
23 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by  
24 the California Labor Code and/or other applicable statutes. To the extent minimum wage  
25 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
26 who have terminated their employment, DEFENDANT’S conduct also violates Labor Code §§  
27 201 and/or 202, and therefore these individuals are also entitled to waiting time penalties under  
28 Cal. Lab. Code §203, which penalties are sought herein on behalf of these CALIFORNIA LABOR  
SUB-CLASS Members. DEFENDANT’S conduct as alleged herein was willful, intentional and

1 not in good faith. Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS  
2 Members are entitled to seek and recover statutory costs.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME COMPENSATION**  
5 **(Cal. Lab. Code §§ 510, 1194 and 1198)**

6 **(Alleged By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS against ALL**  
7 **DEFENDANT)**

8 74. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
9 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of  
10 this Complaint.

11 75. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS  
12 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code  
13 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately  
14 calculate the applicable rates for all overtime worked by PLAINTIFFS and other members of the  
15 CALIFORNIA LABOR SUB-CLASS and DEFENDANT’S failure to properly compensate the  
16 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work  
performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

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

27 79. DEFENDANT maintained a uniform wage practice of paying PLAINTIFFS and  
28 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct

1 amount of overtime worked and correct applicable overtime rate for the amount of overtime they  
2 worked. As set forth herein, DEFENDANT’S uniform policy and practice was to unlawfully and  
3 intentionally deny timely payment of wages due for the overtime worked by PLAINTIFFS and  
4 the other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANT in fact failed  
5 to pay these employees the correct applicable overtime wages for all overtime worked.

6 80. DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,  
7 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
8 of implementing a uniform policy and practice that denied accurate compensation to  
9 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS for all  
10 overtime worked, including, the work performed in excess of eight (8) hours in a workday and/or  
11 forty (40) hours in any workweek.

12 81. In committing these violations of the California Labor Code, DEFENDANT  
13 inaccurately calculated the amount of overtime worked and the applicable overtime rates and  
14 consequently underpaid the actual time worked by PLAINTIFFS and other members of the  
15 CALIFORNIA LABOR SUB-CLASS. DEFENDANT acted in an illegal attempt to avoid the  
16 payment of all earned wages, and other benefits in violation of the California Labor Code, the  
17 Industrial Welfare Commission requirements and other applicable laws and regulations.

18 82. As a direct result of DEFENDANT’S unlawful wage practices as alleged herein,  
19 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
20 full compensation for all overtime worked.

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

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

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

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

16           87. DEFENDANT knew or should have known that PLAINTIFFS and the other  
17 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
18 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross  
19 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
20 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
21 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
22 overtime rate.

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

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

17 90. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

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

1 As a result, PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS  
2 therefore forfeited meal breaks without additional compensation and in accordance with  
3 DEFENDANT’S strict corporate policy and practice.

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

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

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

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

15 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
16 **DEFENDANT)**

17 94. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
19 paragraphs of this Complaint.

20 95. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were  
21 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
22 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
23 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
24 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
25 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
26 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were also not provided  
27 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFFS  
28 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper  
rest periods by DEFENDANT and DEFENDANT’S managers. When DEFENDANT provided  
PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they

1 required PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members to stay on  
2 DEFENDANT’S premises for those rest breaks.

3 96. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
4 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-  
5 CLASS Members who were not provided a rest period, in accordance with the applicable Wage  
6 Order, one additional hour of compensation at each employee’s regular rate of pay for each  
7 workday that rest period was not provided.

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

11 **SIXTH CAUSE OF ACTION**

12 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES**

13 **(Cal. Lab. Code §§ 2802)**

14 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
15 **DEFENDANT)**

16 98. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
17 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
18 paragraphs of this Complaint.

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

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

24 100. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by  
25 failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS  
26 members for required expenses incurred in the discharge of their job duties for DEFENDANT’S  
27 benefit. DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-  
28 CLASS members for expenses which included, but were not limited to, costs related to using their  
personal cellular phones all on behalf of and for the benefit of DEFENDANT. Specifically,

1 PLAINTIFFS and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
2 their personal cell phones to respond to work related issues. DEFENDANT’S uniform policy,  
3 practice and procedure was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-  
4 CLASS members for expenses resulting from using their personal cellular phones for  
5 DEFENDANT within the course and scope of their employment for DEFENDANT. These  
6 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by  
7 DEFENDANT’S conduct to assert any waiver of this expectation. Although these expenses were  
8 necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS  
9 members, DEFENDANT failed to indemnify and reimburse PLAINTIFFS and the  
10 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to  
11 do under the laws and regulations of California.

12 101. PLAINTIFFS therefore demand reimbursement for expenditures or losses  
13 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their  
14 job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest  
15 at the statutory rate and costs under Cal. Lab. Code § 2802.

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

18 **(Cal. Lab. Code §§ 226 and 226.2)**

19 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all  
20 DEFENDANT)**

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

24 103. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
25 “accurate itemized” statement in writing showing:

- 26 a. Gross wages earned;
- 27 b. Total hours worked by the employee, except for any employee whose  
28 compensation is solely based on a salary and who is exempt from payment of



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

16 104. Cal. Labor Code § 226.2 provides that an employer must furnish piece-rate  
17 employees with an “accurate itemized” statement in writing showing:

- 18 a. The total hours of compensable rest and recovery periods, the rate of
- 19 compensation, and the gross wages paid for those periods during the
- 20 pay period; and
- 21 b. The total hours of other nonproductive time, the rate of
- 22 compensation, and the gross wages paid for that time during the pay
- 23 period.

24 105. When DEFENDANT did not accurately record PLAINTIFFS’ and other  
25 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANT also  
26 failed to provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with  
27 complete and accurate wage statements which failed to show, among other things, the correct  
28 overtime rate, the correct number of hours worked, missed meal and rest periods, owed to

1 PLAINTIFFS and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that  
2 every employer shall furnish each of his or her employees with an accurate itemized wage  
3 statement in writing showing, among other things, gross wages earned and all applicable hourly  
4 rates in effect during the pay period and the corresponding amount of time worked at each hourly  
5 rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to  
6 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor  
7 Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFFS and the  
8 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.  
9 Code § 226.

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

21 **EIGHTH CAUSE OF ACTION**

22 **FAILURE TO PAY WAGES WHEN DUE**

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

24 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**  
25 **DEFENDANT)**

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

1 108. Cal. Lab. Code § 200 provides that:

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

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

11 110. Cal. Lab. Code § 202 provides, in relevant part, that:

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

21 111. There was no definite term in PLAINTIFFS' or any CALIFORNIA LABOR SUB-  
22 CLASS Members' employment contract.

23 112. Cal. Lab. Code § 203 provides:

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

113. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-  
CLASS Members terminated and DEFENDANT has not tendered payment of wages, to these  
employees who missed meal and rest breaks, as required by law.

114. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the  
members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFFS  
demand up to thirty days of pay as penalty for not paying all wages due at time of termination for  
all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS

1 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory  
2 costs as allowed by law.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE, PLAINTIFFS pray for a judgment against each DEFENDANT, jointly  
6 and severally, as follows:

7 1. On behalf of the CALIFORNIA CLASS:

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

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

- 19 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
20 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class  
21 action pursuant to Cal. Code of Civ. Proc. § 382;
- 22 b. Compensatory damages, according to proof at trial, including compensatory  
23 damages for minimum wages, overtime wages, reporting time wages, unreimbursed  
24 expenses, and other compensation due to PLAINTIFFS and the other members of  
25 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA  
26 LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 27 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
28 the applicable IWC Wage Order;

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

3. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
- b. Such other and further relief as the Court deems just and equitable; and
- c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

DATED: \_\_\_\_\_, 2021

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_

Shani O. Zakay  
Attorney for Plaintiffs

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**DEMAND FOR A JURY TRIAL**

PLAINTIFFS demand a jury trial on issues triable to a jury.

DATED: \_\_\_\_\_, 2021

**ZAKAY LAW GROUP, APLC**

By: \_\_\_\_\_

Shani O. Zakay  
Attorney for Plaintiffs