

# SUMMONS (CITACION JUDICIAL)

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

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

REAL TIME STAFFING SERVICES, LLC. dba SELECT STAFFING, a California limited liability company; EMPLOYBRIDGE, LLC, a California limited liability company; (see attachment)

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

YEFRI ZELAYA, an individual, on behalf of himself and on behalf of all persons similarly situated,

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

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](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. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

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

The name and address of the court is:  
(El nombre y dirección de la corte es): Stanley Mosk Courthouse  
111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:  
(Número del Caso):  
23STCV01037

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Shani O. Zakay, Esq. (SBN: 277924) 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121; T: (619) 255-9047

DATE: 01/18/2023  
(Fecha) Clerk, by David W. Slayton, Executive Officer/Clerk of Court, Deputy  
(Secretario) J. Covarrubias (Adjunto)

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



**NOTICE TO THE PERSON SERVED:** You are served

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

SHORT TITLE: Zelaya v. Real Time Staffing Services, LLC, et al.	CASE NUMBER: 23STCV01037
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**INSTRUCTIONS FOR USE**

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
  Defendant
  Cross-Complainant
  Cross-Defendant

LAKESHORE LEARNING MATERIALS, LLC, a California limited liability company; and DOES 1-50, Inclusive

**JCL LAW FIRM, APC**

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Attorneys for Plaintiff YEFRI ZELAYA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

YEFRI ZELAYA, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

REAL TIME STAFFING SERVICES, LLC, dba SELECT STAFFING, a California limited liability company; EMPLOYBRIDGE, LLC, a California limited liability company; LAKESHORE LEARNING MATERIALS, LLC, a California limited liability company; and DOES 1-50, Inclusive,

Defendants.

Case No: **23STCV01037**

**CLASS ACTION COMPLAINT FOR:**

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

VIOLATION OF CAL. LAB. CODE § 226;  
7) FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB.  
CODE §§ 201, 202 AND 203;  
8) VIOLATION OF THE PRIVATE  
ATTORNEYS GENERAL ACT [LABOR  
CODE §§ 2698 ET SEQ

**DEMAND FOR A JURY TRIAL**

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

**THE PARTIES**

1. Defendant REAL TIME STAFFING SERVICES, LLC. dba SELECT STAFFING (“Defendant Real Time”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

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

3. Defendant LAKESHORE LEARNING MATERIALS, LLC (“Defendant Lakeshore Learning”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California

4. Defendant Real Time, Defendant Employbridge and Defendant Lakeshore Learning were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.” Defendant Real Time and Defendant Employbridge own and operate various staffing agencies throughout the United States and staff many companies in California. Defendant Lakeshore Learning is a developer and retailer of educational materials in the state of California.

5. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of DEFENDANT DOES 1 through 50, inclusive, are

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

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

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

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

28           9.       PLAINTIFF was employed by DEFENDANT in California from March of 2022  
to May of 2022 and at all times was classified by DEFENDANT as a non-exempt employee, paid  
on an hourly basis, and entitled to the legally required meal and rest periods and payment of

1 minimum and overtime wages due for all time worked, and assigned to work at a Defendant  
2 Lakeshore Learning facility.

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

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

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

24 13. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an  
25 injunction enjoining such conduct by DEFENDANT in the future, relief for the named  
26 PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically  
27 injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
28 equitable relief.

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1 **JURISDICTION AND VENUE**

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

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

10 **THE CONDUCT**

11 16. In violation of the applicable sections of the California Labor Code and the  
12 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a  
13 matter of company policy, practice and procedure, intentionally, knowingly and systematically  
14 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
15 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
16 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
17 time worked, failed compensate PLAINTIFF for off-the-clock work, failed to pay PLAINTIFF  
18 and the other members of the CALIFORNIA CLASS overtime at the correct regular rate of pay,  
19 failed to compensate PLAINTIFF and other members of the CALIFORNIA CLASS meal rest  
20 premiums at the regular rate, and failed to issue to PLAINTIFF and the members of the  
21 CALIFORNIA CLASS with accurate itemized wage statements showing, among other things, all  
22 applicable hourly rates in effect during the pay periods and the corresponding amount of time  
23 worked at each hourly rate. DEFENDANT's uniform policies and practices are intended to  
24 purposefully avoid the accurate and full payment for all time worked as required by California  
25 law which allows DEFENDANT to illegally profit and gain an unfair advantage over competitors  
26 who comply with the law. To the extent equitable tolling operates to toll claims by the  
27 CALIFORNIA CLASS against DEFENDANT, the CLASS PERIOD should be adjusted  
28 accordingly.

1     **A. Meal Period Violations**

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

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



1 CLASS Members therefore forfeited meal breaks without additional compensation and in  
2 accordance with DEFENDANT's strict corporate policy and practice.

3 **B. Rest Period Violations**

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

18 **C. Wage Statement Violations**

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

27 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
28 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed

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

7         22. In addition, DEFENDANT, from time to time, failed to provide PLAINTIFF and  
8 the CALIFORNIA CLASS Members with wage statements that comply with Cal. Lab. Code §  
9 226.

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

14         **D. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

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

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

22         26. DEFENDANT directed and directly benefited from the uncompensated off-the-  
23 clock work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

24         27. DEFENDANT controlled the work schedules, duties, protocols, applications,  
25 assignments, and employment conditions of PLAINTIFF and the other members of the  
26 CALIFORNIA CLASS.

27         28. DEFENDANT was able to track the amount of time PLAINTIFF and the other  
28 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to

1 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
2 wages earned and owed for all the work they performed.

3 29. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
4 exempt employees, subject to the requirements of the California Labor Code.

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

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

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

17 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums, and**  
18 **Sick Pay**

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

28

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

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

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

1 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is  
2 recoverable under Cal. Lab. Code Sections 201, 202, 203, and/or 204.

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

14 **F. Violations for Untimely Payment of Wages**

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

20 **G. Unlawful Rounding Violations**

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

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

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

13 **H. Timekeeping Manipulation**

14 41. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an  
15 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
16 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
17 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
18 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally  
19 alter the time recorded in DEFENDANTS’ timekeeping system for PLAINTIFF and other  
20 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours  
21 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed  
22 rest break.

23 42. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
24 time-to-time, forfeited time worked by working without their time being accurately recorded and  
25 without compensation at the applicable pay rates.

26 43. The mutability of the timekeeping system also allowed DEFENDANTS to alter  
27 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS’  
28 timekeeping system so as to create the appearance that PLAINTIFF and other members of the

1 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees  
2 were not at all times provided an off-duty meal break. This practice is a direct result of  
3 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)  
4 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

5 44. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
6 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit  
7 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and  
8 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
9 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business  
10 records.

11 **I. Unlawful Deductions**

12 45. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF  
13 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do  
14 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,  
15 DEFENDANTS violated Labor Code § 221.

16 46. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
17 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.  
18 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)  
19 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
20 provide PLAINTIFF with a second off-duty meal period each workday in which he was required  
21 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF  
22 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.  
23 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was  
24 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks  
25 without additional compensation and in accordance with DEFENDANT'S strict corporate policy  
26 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to  
27 comply with Cal. Lab. Code § 226. To date, DEFENDANT has not fully paid PLAINTIFF the  
28 minimum, overtime and double time compensation still owed to him or any penalty wages owed

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

3 **J. CLASS ACTION ALLEGATIONS**

4 47. PLAINTIFF brings the First through Seventh Causes of Action as a class action  
5 pursuant to California Code of Civil Procedure § 382 on behalf of as all persons who are or  
6 previously were employed by Defendant Real Time and/or Defendant Employbridge as non-  
7 exempt employees in California who performed work at Defendant Lakeshore Learning  
8 (“CALIFORNIA CLASS”) during the period beginning four years prior to the filing of the  
9 Complaint and ending on a date determined by the Court (“CLASS PERIOD”).

10 48. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been  
11 deprived of wages and penalties from unpaid wages earned and due, including but not limited to  
12 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,  
13 illegal meal and rest period policies, failed compensate for off-the-clock work, failure to provide  
14 accurate itemized wage statements, failure to maintain required records, and interest, statutory  
15 and civil penalties, attorney’s fees, costs, and expenses.

16 49. The members of the class are so numerous that joinder of all class members is  
17 impractical.

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

- 27 a. Whether DEFENDANT maintained legally compliant meal period policies and  
28 practices;



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

21           51. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as  
22 a result of DEFENDANT’s conduct and actions alleged herein.

23           52. PLAINTIFF’s claims are typical of the claims of the class, and PLAINTIFF has  
24 the same interests as the other members of the class.

25           53. PLAINTIFF will fairly and adequately represent and protect the interests of the  
26 CALIFORNIA CLASS Members.

27           54. PLAINTIFF retained able class counsel with extensive experience in class action  
28 litigation.

1           55. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the  
2 interests of the other CALIFORNIA CLASS Members.

3           56. There is a strong community of interest among PLAINTIFF and the members of  
4 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
5 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
6 sustained.

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

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

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

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

28

1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**SECOND CAUSE OF ACTION**

**Failure To Pay Minimum Wages**

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

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

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

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

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

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

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

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

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

1           82.     In committing these violations of the California Labor Code, DEFENDANT  
2 inaccurately calculated the amount of time worked and consequently underpaid the actual time  
3 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted  
4 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of  
5 the California Labor Code, the Industrial Welfare Commission requirements and other applicable  
6 laws and regulations.

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

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

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

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

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

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

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

16 **THIRD CAUSE OF ACTION**

17 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**FOURTH CAUSE OF ACTION**

**Failure To Provide Required Meal Periods**

**(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

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

4 **FIFTH CAUSE OF ACTION**

5 **Failure To Provide Required Rest Periods**

6 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Provide Accurate Itemized Statements**

8 **(Cal. Lab. Code §§ 226)**

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

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

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

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

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

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

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1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code §§ 203)**

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

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

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

9 As used in this article:

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

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

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

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

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

121. Cal. Lab. Code § 203 provides:

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



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

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

10 **EIGHTH CAUSE OF ACTION**

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

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

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

14 124. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
15 herein, the prior paragraphs of this Complaint.

16 125. 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  
18 the 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  
24 violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to  
25 arbitration.

26 126. PLAINTIFF, and such persons that may be added from time to time who satisfy  
27 the requirements and exhaust the administrative procedures under the Private Attorney General  
28 Act, bring this Representative Action on behalf of the State of California with respect to himself

1 and all employees who worked for Defendant in California during the time period of November  
2 9, 2021 until the present (the "AGGRIEVED EMPLOYEES").

3 127. On November 9, 2022, PLAINTIFF gave written notice by certified mail to the  
4 Labor and Workforce Development Agency (the "Agency") and the employer of the specific  
5 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See  
6 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting  
7 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant  
8 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA  
9 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED  
10 EMPLOYEES as herein defined.

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

24 **PRAYER FOR RELIEF**

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

27 1. On behalf of the CALIFORNIA CLASS:

28 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA

1 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;

2 b. An order temporarily, preliminarily and permanently enjoining and restraining  
3 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

4 c. An order requiring DEFENDANT to pay all overtime wages and all sums  
5 unlawfully withheld from compensation due to PLAINTIFF and the other members  
6 of the CALIFORNIA CLASS; and

7 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund  
8 for restitution of the sums incidental to DEFENDANT's violations due to  
9 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

10 2. On behalf of the CALIFORNIA CLASS:

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

14 b. Compensatory damages, according to proof at trial, including compensatory  
15 damages for overtime compensation and separately owed rest periods, due to  
16 PLAINTIFF and the other members of the CALIFORNIA CLASS, during the  
17 applicable 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 each member of the  
22 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding  
23 an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for  
24 violation of Cal. Lab. Code § 226

25 e. The wages of all terminated employees from the CALIFORNIA CLASS as a  
26 penalty from the due date thereof at the same rate until paid or until an action  
27 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: 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.

DATED: January 17, 2023

**ZAKAY LAW GROUP, APLC**

By:   
\_\_\_\_\_  
Shani O. Zakay, Esq.


Attorney for PLAINTIFF

**DEMAND FOR A JURY TRIAL**

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

DATED: January 17, 2023

**ZAKAY LAW GROUP, APLC**

By:   
\_\_\_\_\_  
Shani O. Zakay, Esq.

Attorney for PLAINTIFF

# **EXHIBIT 1**

November 9, 2022

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

**Labor and Workforce Development Agency**

Online Filing

**REAL TIME STAFFING SERVICES, LLC dba SELECT STAFFING**

c/o CSC - Lawyers Incorporating Service

2710 Gateway Oaks Dr., Ste. 150N

Sacramento, CA 95833

***Sent via Certified Mail and Return Receipt 7022 2410 0000 2184 1079***

**EMPLOYBRIDGE, LLC**

c/o CSC - Lawyers Incorporating Service

2710 Gateway Oaks Dr., Ste. 150N

Sacramento, CA 95833

***Sent via Certified Mail and Return Receipt 7022 2410 0000 2184 1086***

**LAKESHORE LEARNING MATERIALS, LLC**

c/o Jennifer Centazzo

2695 East Dominguez Street

Carson, CA 90895

***Sent via Certified Mail and Return Receipt 7022 2410 0000 2184 1093***

**Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5**

Dear Sir/Madam:

Our offices represent Plaintiff YEFRI ZELAYA (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against REAL TIME STAFFING SERVICES, LLC dba SELECT STAFFING (“Defendant Real Time”), EMPLOYBRIDGE, LLC (“Defendant Employbridge”), and LAKESHORE LEARNING MATERIALS, LLC (“Defendant Lakeshore Learning”) (hereinafter collectively “Defendants”). Plaintiff was employed by Defendants in California from March of 2022 to May of 2022 as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks and payment of minimum and overtime wages due for all time worked. Defendants, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks

and rest breaks. Further, Defendants failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence, Plaintiff contends that Defendants failed to fully compensate him and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendants' conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

**Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt employees who worked for Defendant Real Time and/or Defendant Employbridge and/or Defendant Lakeshore Learning who performed work for Defendant Lakeshore Learning in California during the relevant claim period.**

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

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

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

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

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

Very truly yours,  
JCL LAW FIRM, APC

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

Jean-Claude Lapuyade, Esq.



**ZAKAY LAW GROUP, APLC**

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Attorneys for Plaintiff YEFRI ZELAYA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

YEFRI ZELAYA, an individual, on behalf of himself and on behalf of all persons similarly situated,

Plaintiff,

v.

REAL TIME STAFFING SERVICES, LLC, dba SELECT STAFFING, a California limited liability company; EMPLOYBRIDGE, LLC, a California limited liability company; LAKESHORE LEARNING MATERIALS, LLC, a California limited liability company; and DOES 1-50, Inclusive,

Defendants.

Case No:

**CLASS ACTION COMPLAINT FOR:**

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

ITEMIZED STATEMENTS IN  
VIOLATION OF CAL. LAB. CODE § 226;  
7) FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB.  
CODE §§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

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5 Plaintiff YEFRI ZELAYA (“PLAINTIFF”), an individual, on behalf of himself and  
6 all other similarly situated current and former employees, alleges on information and belief, except  
7 for his own acts and knowledge which are based on personal knowledge, the following:

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**THE PARTIES**

1. Defendant REAL TIME STAFFING SERVICES, LLC. dba SELECT STAFFING (“Defendant Real Time”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

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

3. Defendant LAKESHORE LEARNING MATERIALS, LLC (“Defendant Lakeshore Learning”) is a California limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California

4. Defendant Real Time, Defendant Employbridge and Defendant Lakeshore Learning were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.” Defendant Real Time and Defendant Employbridge own and operate various staffing agencies throughout the United States and staff many companies in California. Defendant Lakeshore Learning is a developer and retailer of educational materials in the state of California.

5. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of DEFENDANT DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these DEFENDANT by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this

1 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are  
2 ascertained. PLAINTIFF is informed and believes, and based upon that information and belief  
3 alleges, that the DEFENDANT named in this Complaint, including DOES 1 through 50,  
4 inclusive, (hereinafter collectively “DEFENDANTS” and/or “DEFENDANT”) are responsible  
5 in some manner for one or more of the events and happenings that proximately caused the injuries  
6 and damages hereinafter alleged.

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

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

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

26 9. PLAINTIFF was employed by DEFENDANT in California from March of 2022  
27 to May of 2022 and at all times was classified by DEFENDANT as a non-exempt employee, paid  
28 on an hourly basis, and entitled to the legally required meal and rest periods and payment of  
minimum and overtime wages due for all time worked, and assigned to work at a Defendant  
Lakeshore Learning facility.

1 10. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
 2 defined as all persons who are or previously were employed by Defendant Real Time and/or  
 3 Defendant Employbridge as non-exempt employees in California who performed work at  
 4 Defendant Lakeshore Learning (the "CALIFORNIA CLASS") at any time during the period  
 5 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined  
 6 by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate claim of the  
 7 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

26 **JURISDICTION AND VENUE**

27 14. This Court has jurisdiction over this Action pursuant to California Code of Civil  
 28 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This

1 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of  
2 DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

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

### 7 **THE CONDUCT**

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

#### 26 **A. Meal Period Violations**

27 17. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
28 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,

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

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

28       **B. Rest Period Violations**

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

15       **C. Wage Statement Violations**

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

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

1 applicable hourly rates in effect during the pay period and the corresponding amount of time  
2 worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest  
3 periods.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

28

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

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

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

18 **G. Unlawful Rounding Violations**

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

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

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

11 **H. Timekeeping Manipulation**

12 41. During the CLASS PERIOD, DEFENDANTS, from time-to-time, did not have an  
13 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
14 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
15 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
16 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and unilaterally  
17 alter the time recorded in DEFENDANTS’ timekeeping system for PLAINTIFF and other  
18 members of the CALIFORNIA CLASS in order to avoid paying these employees for all hours  
19 worked, applicable overtime compensation, applicable sick pay, missed meal breaks and missed  
20 rest break.

21 42. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
22 time-to-time, forfeited time worked by working without their time being accurately recorded and  
23 without compensation at the applicable pay rates.

24 43. The mutability of the timekeeping system also allowed DEFENDANTS to alter  
25 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS’  
26 timekeeping system so as to create the appearance that PLAINTIFF and other members of the  
27 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees  
28 were not at all times provided an off-duty meal break. This practice is a direct result of

1 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)  
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

3 44. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
4 forfeited wages due them for all hours worked at DEFENDANTS' direction, control and benefit  
5 for the time the timekeeping system was inoperable. DEFENDANTS' uniform policy and  
6 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
7 hours worked in accordance with applicable law is evidenced by DEFENDANTS' business  
8 records.

9 **I. Unlawful Deductions**

10 45. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF  
11 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do  
12 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,  
13 DEFENDANTS violated Labor Code § 221.

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

1 **J. CLASS ACTION ALLEGATIONS**

2 47. PLAINTIFF brings the First through Seventh Causes of Action as a class action  
3 pursuant to California Code of Civil Procedure § 382 on behalf of as all persons who are or  
4 previously were employed by Defendant Real Time and/or Defendant Employbridge as non-  
5 exempt employees in California who performed work at Defendant Lakeshore Learning  
6 (“CALIFORNIA CLASS”) during the period beginning four years prior to the filing of the  
7 Complaint and ending on a date determined by the Court (“CLASS PERIOD”).

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

14 49. The members of the class are so numerous that joinder of all class members is  
15 impractical.

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

- 25 a. Whether DEFENDANT maintained legally compliant meal period policies and  
26 practices;
- 27 b. Whether DEFENDANT maintained legally compliant rest period policies and  
28 practices;

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

19 51. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as  
20 a result of DEFENDANT’s conduct and actions alleged herein.

21 52. PLAINTIFF’s claims are typical of the claims of the class, and PLAINTIFF has  
22 the same interests as the other members of the class.

23 53. PLAINTIFF will fairly and adequately represent and protect the interests of the  
24 CALIFORNIA CLASS Members.

25 54. PLAINTIFF retained able class counsel with extensive experience in class action  
26 litigation.

27 55. Further, PLAINTIFF’s interests are coincident with, and not antagonistic to, the  
28 interests of the other CALIFORNIA CLASS Members.

1           56. There is a strong community of interest among PLAINTIFF and the members of  
2 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
3 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
4 sustained.

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

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

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

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

**FIRST CAUSE OF ACTION**

**Unlawful Business Practices**

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



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

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

5           61.     DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
6 Code § 17021.

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

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

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

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

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

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

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

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

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

24           70. By and through the unlawful and unfair business practices described herein,  
25 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
26 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
27 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
28

1 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
2 to unfairly compete against competitors who comply with the law.

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

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

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

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

24 **SECOND CAUSE OF ACTION**

25 **Failure To Pay Minimum Wages**

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

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

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

4           76.     PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim  
5 for DEFENDANT’S willful and intentional violations of the California Labor Code and the  
6 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate  
7 and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

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

10          78.     Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
11 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than  
12 the minimum so fixed is unlawful.

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

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

20          81.     DEFENDANT’S uniform pattern of unlawful wage and hour practices manifested,  
21 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
22 implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF  
23 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

24          82.     In committing these violations of the California Labor Code, DEFENDANT  
25 inaccurately calculated the amount of time worked and consequently underpaid the actual time  
26 worked by PLAINTIFF and other members of the CALIFORNIA CLASS. DEFENDANT acted  
27 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of  
28

1 the California Labor Code, the Industrial Welfare Commission requirements and other applicable  
2 laws and regulations.

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

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

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

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

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

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

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15 **THIRD CAUSE OF ACTION**

16 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

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

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

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

25           97.     As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
26 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full  
27 compensation for overtime worked.  
28

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

9           99. During the CLASS PERIOD, PLAINTIFF and the other members of the  
10 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,  
11 constituting a failure to pay all earned wages.

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

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

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



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

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

20 **FOURTH CAUSE OF ACTION**

21 **Failure To Provide Required Meal Periods**

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

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

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

27 106. During the CLASS PERIOD, DEFENDANT failed to provide all the legally  
28 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as

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

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

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

21 **FIFTH CAUSE OF ACTION**

22 **Failure To Provide Required Rest Periods**

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

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

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

28

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

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

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

23 **SIXTH CAUSE OF ACTION**

24 **Failure To Provide Accurate Itemized Statements**

25 **(Cal. Lab. Code §§ 226)**

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

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

3           114. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
4 “accurate itemized” statement in writing showing:

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

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

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

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20 **SEVENTH CAUSE OF ACTION**

21 **Failure To Pay Wages When Due**

22 **(Cal. Lab. Code §§ 203)**

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

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

27 117. Cal. Lab. Code § 200 provides that:

28 As used in this article:

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

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

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

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

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

14 120. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS  
15 Members' employment contract.

16 121. Cal. Lab. Code § 203 provides:

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

20 122. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
21 terminated, and DEFENDANT has not tendered payment of wages to these employees who were  
22 underpaid for minimum wage and/or overtime wage, and/or missed meal and rest breaks, as  
23 required by law.

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

**PRAYER FOR RELIEF**

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

1. On behalf of the CALIFORNIA CLASS:

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

2. On behalf of the CALIFORNIA CLASS:

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

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violation of Cal. Lab. Code § 226

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

3. On all claims:

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

DATED: November 9, 2022

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for PLAINTIFF

**DEMAND FOR A JURY TRIAL**

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

DATED: November 9, 2022

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for PLAINTIFF



**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

Emplay Bridge, LLC  
 c/o CSC Lawyers Incorporating Service  
 2710 Gateway Oaks Dr., Ste 150N  
 Sacramento, CA 95833



9590 9402 7624 2122 8185 95

2. Article Number (Transfer from service label)

7022 2410 0000 2184 1086

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Recipient (Printed name)

Date of Delivery

D. Is delivery address different from item 1?  Yes  
 No

YES, enter delivery address below

NOV 15 2022

11/09/22 Zelaya 002-40

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Mail Restricted Delivery (00)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

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1. Article addressed to:  
 Real Time Staffing Services, LLC  
 dba Select Staffing  
 c/o CSC Lawyers Incorporating Service  
 2710 Gateway Oaks Dr, STE 10N  
 Sacramento, CA 95833



9590 9402 7624 2122 8186 01

2. Article Number (Transfer from service label)  
 7022 2410 0000 2184 1079

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *[Signature]*  Agent  Addressee

B. Received by (Printed Name) *SHAMEEL MOHAMMED* C. Date of Delivery

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

3. Service Type  
 Adult Signature  Priority Mail Express®  
 Adult Signature Restricted Delivery  Registered Mail™  
 Certified Mail®  Registered Mail Restrict Delivery  
 Certified Mail Restricted Delivery  Signature Confirmation™  
 Collect on Delivery  Signature Confirmation Restricted Delivery  
 Collect on Delivery Restricted Delivery

NOV 15 2022  
 11/09/22 Zelaya CR-407

Restricted Delivery

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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Lakeshore Learning Materials, LLC  
 c/o Jennifer Centa 220  
 2695 East Dominguez Street  
 Carson, CA 90895



9590 9402 7624 2122 8185 88

2. Article Number (Transfer from service label)

7022 2410 0000 2184 1093

PS Form 3811, July 2020 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Jorge Leal*  Agent  
 Addressee

B. Received by (Printed Name)

Jorge Leal

C. Date of Delivery

NOV 15 2022

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

11/09/22 Zelaya 007-407

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt