

**SUMMONS  
(CITACION JUDICIAL)**

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

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

THE RESOLVE GROUP, LLC, a Limited Liability Company;  
and DOES 1 through 50, inclusive,

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

CURTIS EDWARDS, 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): San Francisco Superior Court  
400 McAllister Street  
San Francisco, California 94102

CASE NUMBER:  
(Número del Caso):

**600-19-57909**

**BY FAX**  
ONE LEGAL LLC

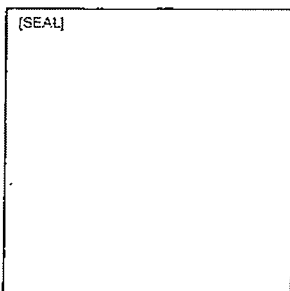
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Shani O. Zakay, Esq., 3990 Old Town Avenue, Ste C204 San Diego, California 92110 Telephone: (619) 255-9047

DATE: **SEP 09 2019**  
(Fecha)

CLERK OF THE COURT by  
(Secretario)

**KALENE APOLONIO**, Deputy  
(Adjunto)

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



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

- 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):

1 ZAKAY LAW GROUP, APLC  
2 Shani O. Zakay (State Bar #277924)  
3 3990 Old Town Ave. Suite C204  
4 San Diego, CA 92110  
5 Telephone: (619) 255-9047  
6 Facsimile: (858) 404-9203

ENDORSED  
FILED  
San Francisco County Superior Court

SEP 09 2019

CLERK OF THE COURT  
BY: KALENE APOLONIO  
Deputy Clerk

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

5 Norman B. Blumenthal (State Bar #068687)  
6 2255 Calle Clara  
7 La Jolla, CA 92037  
8 Telephone: (858)551-1223  
9 Facsimile: (858) 551-1232

Attorneys for Plaintiff

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-19-579095

12 CURTIS EDWARDS, an individual, on behalf  
13 of himself and on behalf of all persons  
14 similarly situated,

Case No:

CLASS ACTION COMPLAINT FOR:

Plaintiff,

v.

15 THE RESOLVE GROUP, LLC., a Limited  
16 Liability Company; and DOES 1-50, Inclusive,

Defendants.

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1191, & 1997.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and
- 9) FAILURE TO PROVIDE PERSONNEL FILES IN VIOLATION OF CAL. LAB. CODE 1198.5

DEMAND FOR A JURY TRIAL

BY FAX  
ONE LEGAL LLC

1  
2 Plaintiff Curtis Edwards (“PLAINTIFF”), an individual, on behalf of himself and  
3 all other similarly situated current and former employees, alleges on information and  
4 belief, except for his own acts and knowledge which are based on personal knowledge, the  
5 following:

6 **PRELIMINARY ALLEGATIONS**

7 1. Defendant The Resolve Group, LLC (“DEFENDANT”) is an Indiana Limited  
8 Liability Company that at all relevant times mentioned herein conducted and continues to  
9 conduct substantial and regular business throughout California.

10 2. DEFENDANT operates a staffing agency.

11 3. PLAINTIFF was employed by DEFENDANT in California from October 2018  
12 to December 2018 as a Banquet Server, and was at all times classified by DEFENDANT as a  
13 non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest  
14 periods and payment of minimum and overtime wages due for all time worked.

15 4. PLAINTIFF brings this Class Action on behalf of himself and a California class,  
16 defined as all persons who are or previously were employed by DEFENDANT in California and  
17 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
18 period beginning four (4) years prior to the filing of this Complaint and ending on the date as  
19 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy  
20 for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars  
21 (\$5,000,000.00).

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

1 economically injured by DEFENDANT's past and current unlawful conduct, and all other  
2 appropriate legal and equitable relief.

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

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

### 20 **THE CONDUCT**

21 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT  
22 was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time  
23 worked, meaning the time during which an employee is subject to the control of an employer,  
24 including all the time the employee is suffered or permitted to work. DEFENDANT required  
25 PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all the time  
26 they were under DEFENDANT's control. Specifically, DEFENDANT required PLAINTIFF to  
27 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break.  
28 PLAINTIFF was often interrupted by work assignments. Indeed there were many days where  
PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other

1 CALIFORNIA CLASS Members forfeited minimum wage and overtime compensation by  
2 regularly working without their time being accurately recorded and without compensation at the  
3 applicable minimum wage and overtime rates. DEFENDANT's uniform policy and practice not  
4 to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is evidenced  
5 by DEFENDANT's business records.

6 9. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in  
7 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
8 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
9 including overtime hours. As a result DEFENDANT was able to and did in fact systematically,  
10 unlawfully, and unilaterally alter the time recorded in DEFENDANT's timekeeping system for  
11 PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying these  
12 employees the applicable overtime compensation for overtime worked and to avoid paying these  
13 employees for missed meal breaks. As a result, PLAINTIFF and other CALIFORNIA CLASS  
14 Members forfeited time worked by regularly working without their time being accurately  
15 recorded and without compensation at the applicable overtime rates.

16 10. The mutability of the timekeeping system also allowed DEFENDANT to alter  
17 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANT's  
18 timekeeping system so as to create the appearance that PLAINTIFF and other CALIFORNIA  
19 CLASS Members clocked out for a thirty (30) minute meal break when in fact the employees  
20 were not at all times provided an off-duty meal break. This practice is a direct result of  
21 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)  
22 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks. As  
23 a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS  
24 Members were also from time to time unable to take thirty (30) minute off duty meal breaks and  
25 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA  
26 CLASS Members were required to perform work as ordered by DEFENDANT for more than  
27 five (5) hours during some shifts without receiving a meal break. Further, DEFENDANT failed  
28 to provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal

1 period for some workdays in which these employees were required by DEFENDANT to work  
2 ten (10) hours of work. PLAINTIFF and other members of the CALIFORNIA CLASS therefore  
3 forfeited meal breaks without additional compensation and in accordance with DEFENDANT's  
4 strict corporate policy and practice.

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

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

27 13. In the course of their employment, PLAINTIFF and other CALIFORNIA  
28 CLASS Members as a business expense, were required by DEFENDANT to use their own

1 personal cellular phones as a result of and in furtherance of their job duties as employees for  
2 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost  
3 associated with the use of their personal cellular phones for DEFENDANT's benefit.  
4 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by  
5 DEFENDANT to use their personal cell phones to clock in and out for work, as well as for other  
6 work-related issues. As a result, in the course of their employment with DEFENDANT the  
7 PLAINTIFF and other members of the CALIFORNIA CLASS incurred unreimbursed business  
8 expenses which included, but were not limited to, costs related to the use of their personal  
9 cellular phones all on behalf of and for the benefit of DEFENDANT.

10       14. When PLAINTIFF and other CALIFORNIA CLASS Members were required to  
11 miss meal and rest breaks, DEFENDANT also failed to provide PLAINTIFF and the other  
12 members of the CALIFORNIA CLASS with complete and accurate wage statements which  
13 failed to show, among other things, the correct wages paid for missed meal and rest breaks. Cal.  
14 Lab. Code § 226 provides that every employer shall furnish each of his or her employees with  
15 an accurate itemized wage statement in writing showing, among other things, gross wages  
16 earned and all applicable hourly rates in effect during the pay period and the corresponding  
17 amount of time worked at each hourly rate. Additionally, the wage statements DEFENDANT  
18 issued to PLAINTIFF and other CALIFORNIA CLASS Members violated Cal. Lab. Code  
19 Section 226(a) in that DEFENDANT failed to correctly list the correct name of the legal entity  
20 that was the employer of PLAINTIFF and the CALIFORNIA CLASS Members. Aside, from  
21 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an  
22 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*  
23 As a result, DEFENDANT from time to time provided PLAINTIFF and the other members of  
24 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

25       15. 17. In violation of the applicable sections of the California Labor Code and the  
26 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a  
27 matter of company policy, practice and procedure, intentionally, knowingly and systematically  
28 failed to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for

1 missed meal and rest periods. This uniform policy and practice of DEFENDANT is intended to  
2 purposefully avoid the payment for all time worked as required by California law which allows  
3 DEFENDANT to illegally profit and gain an unfair advantage over competitors who complied  
4 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
5 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
6 accordingly.

7         16. DEFENDANT also violated Cal. Lab. Code Section 1198.5 by failing to respond  
8 and provide Plaintiff Edwards with his employment file. Section 1198.5 states that employees  
9 (and former employees) have the right to inspect personnel records maintained by the employer  
10 “related to the employee’s performance or to any grievance concerning the employee.”  
11 Employers must allow inspection or copying within thirty (30) days of the request. Plaintiff  
12 Edwards requested his employment file via certified mail twice and DEFENDANT failed to  
13 respond each time. As a result, Plaintiff Edwards is now entitled to a statutory penalty of \$750  
14 and an award of attorneys’ fees and costs for bringing this action.

15         17. By reason of this uniform conduct applicable to PLAINTIFF and the other  
16 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in  
17 violation of the California Unfair Competition law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*  
18 (the "UCL"), by engaging in a uniform company-wide policy, practice and procedure which  
19 failed to accurately calculate and record all missed meal and rest periods by PLAINTIFF and  
20 other CALIFORNIA CLASS Members. The proper recording of these employees’ missed meal  
21 and rest breaks is the DEFENDANT’s burden. As a result of DEFENDANT’s intentional  
22 disregard of the obligation to meet this burden, DEFENDANT failed to properly calculate  
23 and/or pay all required compensation for work performed by the members of the CALIFORNIA  
24 CLASS and violated the California Labor Code and regulations promulgated thereunder as  
25 herein alleged.

26         18. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the  
27 legally required off-duty meal and rest breaks to him as required by the applicable Wage Order  
28 and Labor Code and failed to pay him all minimum and overtime wages due to him.



1 DEFENDANT did not have a policy or practice which provided timely off-duty meal and rest  
2 breaks to PLAINTIFF and also failed to compensate PLAINTIFF for his missed meal and rest  
3 breaks. The nature of the work performed by the PLAINTIFF did not prevent him from being  
4 relieved of all of his duties for the legally required off-duty meal periods. As a result,  
5 DEFENDANT's failure to provide PLAINTIFF with the legally required meal periods is  
6 evidenced by DEFENDANT's business records. As a result of DEFENDANT not accurately  
7 recording all missed meal and rest periods and/or minimum and overtime wages due, the wage  
8 statements issued to PLAINTIFF by DEFENDANT violated California law, and in particular,  
9 Labor Code Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF all of his wages  
10 due to him and DEFENDANT has failed to pay any penalty wages owed to him under  
11 California Labor Code Section 203. The amount in controversy for PLAINTIFF individually  
12 does not exceed the sum or value of \$75,000.

13  
14 **JURISDICTION AND VENUE**

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

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

25 **THE CALIFORNIA CLASS**

26 21. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive  
27 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class  
28 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all

1 individuals who are or previously were employed by DEFENDANT in California as non-  
2 exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning four  
3 (4) years prior to the filing of this Complaint and ending on the date as determined by the Court  
4 (the “CALIFORNIA CLASS PERIOD”) The amount in controversy for the aggregate claim of  
5 the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

9 23. DEFENDANT, as a matter of company policy, practice and procedure, and in  
10 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order  
11 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
12 willfully, engaged in a practice whereby DEFENDANT systematically failed to record all meal  
13 and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though  
14 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and  
15 permits or suffers to permit this work.

16 24. DEFENDANT has the burden of proof to make sure that each and every  
17 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as  
18 required by California laws. The DEFENDANT, however, as a matter of uniform and  
19 systematic policy and procedure failed to have in place during the CALIFORNIA CLASS  
20 PERIOD and still fails to have in place a policy or practice to ensure that each and every  
21 CALIFORNIA CLASS Member is paid as required by law. This common business practice is  
22 applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-  
23 wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§  
24 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not elements of this claim.

25 25. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA  
26 CLASS Members is impracticable.

27 26. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
28 California law by:

- 1 a. Committing an act of unfair competition in violation of , Cal. Bus. & Prof. Code
- 2 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having
- 3 in place company policies, practices and procedures that uniformly and
- 4 systematically failed to record and pay PLAINTIFF and the other members of the
- 5 CALIFORNIA CLASS for all time worked, including minimum wages owed and
- 6 overtime wages owed for work performed by these employees;
- 7 b. Committing an act of unfair competition in violation of the UCL, by failing to
- 8 provide the PLAINTIFF and the other members of the CALIFORNIA CLASS
- 9 with the legally required meal and rest periods; and,
- 10 c. Committing an act of unfair competition in violation of the California Unfair
- 11 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal.
- 12 Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA
- 13 CLASS members with necessary expenses incurred in the discharge of their job
- 14 duties.

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

- 17 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
- 18 joinder of all such persons is impracticable and the disposition of their claims as
- 19 a class will benefit the parties and the Court;
- 20 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
- 21 raised in this Complaint are common to the CALIFORNIA CLASS will apply
- 22 uniformly to every member of the CALIFORNIA CLASS;
- 23 c. The claims of the representative PLAINTIFF are typical of the claims of each
- 24 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members
- 25 of the CALIFORNIA CLASS, was a non-exempt employee paid on an hourly
- 26 basis who was subjected to the DEFENDANT's deceptive practice and policy
- 27 which failed to provide the legally required meal and rest periods to the
- 28 CALIFORNIA CLASS and thereby systematically underpaid compensation to

1 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury  
2 as a result of DEFENDANT's employment practices. PLAINTIFF and the  
3 members of the CALIFORNIA CLASS were and are similarly or identically  
4 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
5 misconduct engaged in by DEFENDANT; and

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

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

- 15 a. Without class certification and determination of declaratory, injunctive, statutory  
16 and other legal questions within the class format, prosecution of separate actions  
17 by individual members of the CALIFORNIA CLASS will create the risk of:
- 18 i. Inconsistent or varying adjudications with respect to individual members  
19 of the CALIFORNIA CLASS which would establish incompatible  
20 standards of conduct for the parties opposing the CALIFORNIA CLASS;  
21 and/or;
  - 22 ii. Adjudication with respect to individual members of the CALIFORNIA  
23 CLASS which would as a practical matter be dispositive of interests of  
24 the other members not party to the adjudication or substantially impair or  
25 impede their ability to protect their interests.
- 26 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on  
27 grounds generally applicable to the CALIFORNIA CLASS, making appropriate  
28 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that

1 DEFENDANT uniformly failed to pay all wages due to members of the  
2 CALIFORNIA CLASS as required by law;

3 i. With respect to the First Cause of Action, the final relief on behalf of the  
4 CALIFORNIA CLASS sought does not relate exclusively to restitution  
5 because through this claim PLAINTIFF seeks declaratory relief holding  
6 that the DEFENDANT's policy and practices constitute unfair  
7 competition, along with declaratory relief, injunctive relief, and incidental  
8 equitable relief as may be necessary to prevent and remedy the conduct  
9 declared to constitute unfair competition;

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

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

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

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

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual’s job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and

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

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

a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT’s employment practices were uniform and systematically applied with respect to the CALIFORNIA CLASS.

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

- 1 c. The members of the CALIFORNIA CLASS are so numerous that it is
- 2 impractical to bring all members of the CALIFORNIA CLASS before the Court;
- 3 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to
- 4 obtain effective and economic legal redress unless the action is maintained as a
- 5 Class Action;
- 6 e. There is a community of interest in obtaining appropriate legal and equitable
- 7 relief for the acts of unfair competition, statutory violations and other
- 8 improprieties, and in obtaining adequate compensation for the damages and
- 9 injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA
- 10 CLASS;
- 11 f. There is a community of interest in ensuring that the combined assets of
- 12 DEFENDANT are sufficient to adequately compensate the members of the
- 13 CALIFORNIA CLASS for the injuries sustained;
- 14 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
- 15 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
- 16 respect to the CALIFORNIA CLASS as a whole;
- 17 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
- 18 business records of DEFENDANT; and
- 19 i. Class treatment provides manageable judicial treatment calculated to bring an
- 20 efficient and rapid conclusion to all litigation of all wage and hour related claims
- 21 arising out of the conduct of DEFENDANT as to the members of the
- 22 CALIFORNIA CLASS.

23 30. DEFENDANT maintains records from which the Court can ascertain and  
24 identify by job title each of DEFENDANT's employees who as have been systematically,  
25 intentionally and uniformly subjected to DEFENDANT's company policy, practices and  
26 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include  
27 any additional job titles of similarly situated employees when they have been identified.  
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**THE CALIFORNIA LABOR SUB-CLASS**

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2           31. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, and  
3 Eighth causes of Action on behalf of a California sub-class, defined as all members of the  
4 CALIFORNIA CLASS who were employed by DEFENDANT in California (the  
5 “CALIFORNIA LABOR SUB-CLASS”) at any time during the period three (3) years prior to  
6 the filing of the complaint and ending on the date as determined by the Court (the  
7 “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382.  
8 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS  
9 Members is under five million dollars (\$5,000,000.00).

10           32.   34. DEFENDANT, as a matter of company policy, practice and procedure, and  
11 in violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order  
12 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
13 willfully, engaged in a practice whereby DEFENDANT failed to correctly calculate  
14 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA  
15 LABOR SUB-CLASS and reporting time wages owed to these employees, even though  
16 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and  
17 permitted or suffered to permit this work. DEFENDANT has uniformly denied these  
18 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in  
19 order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling  
20 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the  
21 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

22           33. DEFENDANT maintains records from which the Court can ascertain and  
23 identify by name and job title, each of DEFENDANT’s employees who have been  
24 systematically, intentionally and uniformly subjected to DEFENDANT’s company policy,  
25 practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint  
26 to include these additional job titles when they have been identified.

27           34. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
28 CALIFORNIA LABOR SUB-CLASS Members is impracticable



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

- 3           a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
4 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
5 missed meal and rest breaks in violation of the California Labor Code and  
6 California regulations and the applicable California Wage Order;
- 7           b. Whether DEFENDANT failed to provide the PLAINTIFF and the other members  
8 of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage  
9 statements;
- 10          c. Whether DEFENDANT has engaged in unfair competition by the above-listed  
11 conduct;
- 12          d. The proper measure of damages and penalties owed to the members of the  
13 CALIFORNIA LABOR SUB-CLASS; and
- 14          e. Whether DEFENDANT's conduct was willful.

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

- 17          a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay  
18 PLAINTIFF and the members of the CALIFORNIA LABOR SUB- CLASS the  
19 correct overtime wage pay for which DEFENDANT is liable pursuant to Cal.  
20 Lab. Code § 1194;
- 21          b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to  
22 accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR  
23 SUB-CLASS the correct minimum wage pay for which DEFENDANT is liable  
24 pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 25          c. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the  
26 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized  
27 statement in writing showing the corresponding correct amount of wages earned  
28 by the employee

- 1 d. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF  
2 and the other members of the CALIFORNIA CLASS with all legally required  
3 off-duty, uninterrupted thirty (30) minute meal breaks and the legally required  
4 rest breaks;
- 5 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the  
6 CALIFORNIA CLASS members with necessary expenses incurred in the  
7 discharge of their job duties; and,
- 8 f. Violating Cal. Lab. Code §201, 202 and/or 203, which provides that when an  
9 employee is discharged or quits from employment, the employer must pay the  
10 employee all wages due without abatement, by failing to tender full payment  
11 and/or restitution of wages owed or in the manner required by California law to  
12 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated  
13 their employment.

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

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

1 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
2 a result of DEFENDANT's employment practices. PLAINTIFF and the members  
3 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
4 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
5 misconduct engaged in by DEFENDANT; and

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

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

- 16 a. Without class certification and determination of declaratory, injunctive, statutory  
17 and other legal questions within the class format, prosecution of separate actions  
18 by individual members of the CALIFORNIA LABOR SUB-CLASS will create  
19 the risk of:
- 20 i. Inconsistent or varying adjudications with respect to individual members  
21 of the CALIFORNIA LABOR SUB-CLASS which would establish  
22 incompatible standards of conduct for the parties opposing the  
23 CALIFORNIA LABOR SUB-CLASS; or
- 24 ii. Adjudication with respect to individual members of the CALIFORNIA  
25 LABOR SUB-CLASS which would as a practical matter be dispositive of  
26 interests of the other members not party to the adjudication or  
27 substantially impair or impede their ability to protect their interests.  
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1 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or  
2 refused to act on grounds generally applicable to the CALIFORNIA LABOR  
3 SUB-CLASS, making appropriate class-wide relief with respect to the  
4 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT  
5 uniformly fails to pay all wages due. Including the correct wages for all time  
6 worked by the members of the CALIFORNIA LABOR SUB-CLASS as required  
7 by law;

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

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

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

23 1. Inconsistent or varying adjudications with respect to individual  
24 members of the CALIFORNIA LABOR SUB-CLASS, which  
25 would establish incompatible standards of conduct for the  
26 DEFENDANT; and/or,

27 2. Adjudications with respect to individual members of the  
28 CALIFORNIA LABOR SUB-CLASS would as a practical matter

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be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

- iii. In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual’s job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- iv. A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

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

- a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;

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- d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
- f. There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- g. DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- h. The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who were employed by DEFENDANT in California during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
- i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

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1 **FIRST CAUSE OF ACTION**

2 **UNLAWFUL BUSINESS PRACTICES**

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

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

5 40. 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 41. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
9 Code § 17021.

10 42. 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  
13 competition as follows:

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

21 43. By the conduct alleged herein, DEFENDANT has engaged and continues to  
22 engage in a business practice which violates California law, including but not limited to, the  
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
24 including Sections 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198 1198.5 & 2802, ,  
25 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &  
26 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
27 unfair competition, including restitution of wages wrongfully withheld.

28 44. 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 this Court should issue equitable and injunctive relief pursuant to Section

1 17203 of the California Business & Professions Code, including restitution of wages wrongfully  
2 withheld.

3 45. 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, the required amount of compensation for missed meal and rest  
6 periods and overtime and minimum wages owed, and failed to reimburse all necessary business  
7 expenses incurred, due to a systematic business practice that cannot be justified, pursuant to the  
8 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.  
9 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable  
10 relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully  
11 withheld.

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

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

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

25 49. PLAINTIFF further demands on behalf of himself and on behalf of each  
26 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period  
27 was not timely provided as required by law.  
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1           50. By and through the unlawful and unfair business practices described herein,  
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
3 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
4 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
5 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
6 to unfairly compete against competitors who comply with the law.

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

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

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

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

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**SECOND CAUSE OF ACTION**

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

**(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL  
Defendants)**

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

56. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-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 CALIFORNIA CLASS Members.

57. 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.

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

59. 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.

60. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they work. 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 LABOR SUB-CLASS.

61. DEFENDANT’s uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

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

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

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

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

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

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

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

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

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME COMPENSATION**  
17 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

18 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
19 **Defendants)**

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

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

28 71. 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.

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

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

8           74. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
9 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for  
10 DEFENDANT and were not paid for all the time they worked, including overtime work.

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

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

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

27           78. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
28 from the overtime requirements of the law. None of these exemptions are applicable to  
PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,

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

6 79. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
7 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for overtime worked  
8 that they were entitled to, constituting a failure to pay all earned wages.

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

16 81. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
17 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
18 CLASS for their overtime work, PLAINTIFF and the other members of the CALIFORNIA  
19 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts  
20 which are presently unknown to them and which will be ascertained according to proof at trial.

21 82. DEFENDANT knew or should have known that PLAINTIFF and the other  
22 members of the CALIFORNIA LABOR SUB-CLASS were undercompensated for their time  
23 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross  
24 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and  
25 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay  
26 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the correct  
27 overtime wages for their overtime worked.

28 83. In performing the acts and practices herein alleged in violation of California labor  
laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
all time worked and provide them with the requisite overtime compensation, DEFENDANT

1 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
2 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter  
3 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
4 depriving them of their property and legal rights, and otherwise causing them injury in order to  
5 increase company profits at the expense of these employees.

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

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**  
19 **(Cal. Lab. Code §§ 226.7 & 512)**

20 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**  
21 **Defendants)**

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

25 86. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all  
26 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR  
27 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature  
28 of the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS

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

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

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

21  
22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE REQUIRED REST PERIODS**  
24 **(Cal. Lab. Code §§ 226.7 & 512)**

25 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**  
26 **Defendants)**

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





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

6 95. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by  
7 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
8 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
9 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
10 CLASS members for expenses which included, but were not limited to, costs related to using  
11 their personal cellular phones all on behalf of and for the benefit of DEFENDANT. Specifically,  
12 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
13 their personal cell phones to respond to work related issues. DEFENDANT's uniform policy,  
14 practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
15 CLASS members for expenses resulting from using their personal cellular phones for  
16 DEFENDANT within the course and scope of their employment for DEFENDANT. These  
17 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by  
18 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were  
19 necessary expenses incurred by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
20 members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the  
21 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to  
22 do under the laws and regulations of California.

23 96. PLAINTIFF therefore demands reimbursement for expenditures or losses  
24 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of  
25 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with  
26 interest at the statutory rate and costs under Cal. Lab. Code § 2802.

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

3 **(Cal. Lab. Code § 226)**

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

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

9 98. Cal. Labor Code § 226 provides that an employer must furnish employees with  
10 an “accurate itemized” statement in writing showing:

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

1           99.    When DEFENDANT did not accurately record PLAINTIFF’s and other  
2 CALIFORNIA CLASS Members’ missed meal and rest breaks, DEFENDANT violated Cal.  
3 Lab. Code § 226 in that DEFENDANT failed to provide an accurate wage statement in writing  
4 that properly and accurately itemizes all missed meal and rest periods and reporting time wages  
5 owed to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS and  
6 thereby also failed to set forth the correct wages earned by the employees. Additionally, the  
7 wage statements DEFENDANT issued to PLAINTIFF and other CALIFORNIA CLASS  
8 Members violated Cal. Lab. Code Section 226(a) in that DEFENDANT failed to correctly list  
9 the correct name of the legal entity that was the employer of PLAINTIFF and the  
10 CALIFORNIA CLASS Members.

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

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**EIGHTH CAUSE OF ACTION**

**FAILURE TO PAY WAGES WHEN DUE**

**(Cal. Lab. Code § 203)**

**(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all Defendants)**

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

102. Cal. Lab. Code § 200 provides that:

As used in this article:

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

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

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

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

105. There was no definite term in PLAINTIFF’s or any CALIFORNIA LABOR SUB-CLASS Members’ employment contract.

106. 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



1 112. DEFENDANT has repeatedly violated Cal. Lab. Code Section 1198.5 by failing  
2 to respond and provide PLAINTIFF with his employment file. Section 1198.5 states that  
3 employees (and former employees) have the right to inspect personnel records maintained by  
4 the employer “related to the employee’s performance or to any grievance concerning the  
5 employee.” Employers must allow inspection or copying within thirty (30) days of the request.  
6 PLAINTIFF requested his employment file via certified mail two (2) times and DEFENDANT  
7 failed to respond each time. As a result, PLAINTIFF is now entitled to and requests injunctive  
8 relief to obtain compliance with Cal. Lab. Code Section 1198.5, a statutory penalty of \$750, and  
9 an award of attorneys’ fees and costs for bringing this action.

10  
11 **PRAYER FOR RELIEF**

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

14 1. On behalf of the CALIFORNIA CLASS:

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

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

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

- 1 b. Compensatory damages, according to proof at trial, including compensatory  
2 damages for overtime compensation due to PLAINTIFF and the other members of  
3 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA  
4 LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 5 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
6 the applicable IWC Wage Order;
- 7 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
8 which a violation occurs and one hundred dollars (\$100) per each member of the  
9 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay  
10 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and  
11 an award of costs for violation of Cal. Lab. Code § 226;
- 12 e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-  
13 CLASS as a penalty from the due date thereof at the same rate until paid or until  
14 an action therefore is commenced, in accordance with Cal. Lab. Code § 203;
- 15 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA  
16 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and  
17 costs of suit.
- 18 3. On behalf of PLAINTIFF:
- 19 a. Injunctive relief to obtain compliance with Cal. Lab. Code Section 1198.5,  
20 statutory penalties, reasonable costs and attorney's fees.
- 21 4. On all claims:
- 22 a. An award of interest, including prejudgment interest at the legal rate;
- 23 b. Such other and further relief as the Court deems just and equitable; and
- 24 c. An award of penalties, attorneys' fees and costs of suit, as allowable under the  
25 law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, § 1198  
26 and/or § 1198.5.

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1 DATED: September 6, 2019

2 **ZAKAY LAW GROUP, APLC**


3  
4 By:   
5 Shani O. Zakay  
6 Attorney for PLAINTIFF

7 **DEMAND FOR A JURY TRIAL**

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

9  
10 DATED: September 6, 2019

11 **ZAKAY LAW GROUP, APLC**

12  
13 By:   
14 Shani O. Zakay  
15 Attorney for PLAINTIFF

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**EXHIBIT 1**

**AUTHORIZATION FOR RELEASE OF EMPLOYMENT RECORDS**

I, Curtis Edwards ("Client"), do hereby authorize Resolve Group Llc ("Employer"), to release my entire employment file, including all pay statements, time cards issued to me, arbitration agreements signed by me, background check disclosure and authorization forms signed by me, and all other documents signed by me from the date of my hire, to my attorneys at Blumenthal, Nordrehaug & Bhowmik located at 2255 Calle Clara, La Jolla, California 92037. Thank you.

Respectfully,

  
Curtis Edwards (Dec 12, 2018)

Client

FACSIMILE  
(858) 551-1232

**BLUMENTHAL NORDREHAUG BHOWMIK DE BLOWW**  
2255 CALLE CLARA  
LA JOLLA, CALIFORNIA 92037  
Web Site: [www.bamlawca.com](http://www.bamlawca.com)

TELEPHONE  
(877) 852-3912

WRITERS E-MAIL: [Nick@bamlawca.com](mailto:Nick@bamlawca.com)

WRITERS EXT: 5

March 29, 2019

CA1780

**VIA CERTIFIED MAIL**

The Resolve Group, LLC  
3037 45<sup>th</sup> Street, Suite 5  
Highland, IN 46322  
Certified Mail # 70172620000111324102

**Re: Employee Curtis Edwards – Request for Employment Records**

Dear Human Resource Director:

Please be advised we have been retained by Curtis Edwards to investigate employment law violations. Mr. Edwards worked for your company in California. Please direct all future communication regarding this matter to our office.

This letter is written to request copies of all paystubs issued to Mr. Edwards during his tenure of employment with you. Additionally, we would like a copy of Mr. Edwards' complete employment file, including all documents and arbitration agreements signed by Mr. Edwards and all background check disclosure and authorization forms.

Under California Labor Code Section 1198.5, an employer is required to allow an employee to inspect and receive a copy of his or her personnel records which relate to the employee's performance or to any grievance concerning the employee. The failure of an employer to permit an employee to review his or her personnel file is a misdemeanor per Labor Code Section 1199. Labor Code Section 432 also entitles an employee to receive copies of any signed documents related to the obtaining or holding of employment.

Additionally, California Labor Code Section 226(b) requires employers to make payroll records available to employees upon reasonable request. Labor Code Section 226(c) further requires that the employer comply with the request for records as soon as practicable, but no later than thirty (30) calendar days from the date of request. Finally Labor Code Section 226(f) entitles employees to recover civil penalties of \$750.00 against an employer who violates these requirements.

This request is made on behalf of Curtis Edwards in accordance with California Labor Code §§ 226, 1198.5, as well as the applicable Industrial Welfare Commission Wage Order, § 7(c). Please provide the records within thirty (30) days from the date of this correspondence. We would be pleased to pay for any reasonable copy charges.

Respectfully,

*/s/ Nicholas De Blouw*

Nicholas J. De Blouw, Esq

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 Calle Clara  
La Jolla, California 92037

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BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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La Jolla, California 92037

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