

**SUMMONS
(CITACION JUDICIAL)**

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

RCSH OPERATIONS, INC. a California Corporation; and Does 1 through 50, Inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

AMANDA M. PATTERSON, an individual, on behalf of herself, and on behalf of all persons similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
2021 OCT 20 A 12:25
KATE BINKER
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA
BY: [Signature] CLERK

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

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

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

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

VIA FAX

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of Contra Costa
725 Court Street
Martinez, CA 94553

CASE NUMBER:
(Número del Caso):

C21-02077-

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 Tel: (619) 255-9047 Fax: (858) 404-9203
Zakay Law Group, APLC - 5440 Morehouse Drive, Ste 3600, San Diego, CA 92121.

C. A. JACALA

DATE:

(Fecha)

OCT 19 2021

Clerk, by _____

(Secretario)

, 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)).

[SEAL]

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):

JCL LAW FIRM, APC

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

ZAKAY LAW GROUP, APLC

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

Attorneys for Plaintiff AMANDA M. PATTERSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

CS21-02077

AMANDA M. PATTERSON, an individual, on behalf of herself, and on behalf of all persons similarly situated,

PLAINTIFF,

vs.

RCSH OPERATIONS, INC. a California Corporation; and Does 1 through 50, Inclusive,

DEFENDANTS.

Case No.: _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE § 17200, et seq.;
2. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
3. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
4. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1182.12, 1194, 1197 & 1197.1;
5. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, et seq.;

FILED
2021 OCT 20 11:25
KITE BIKER
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA
BY: [Signature] COURT CLERK

PER LOCAL RULE, THIS CASE IS ASSIGNED TO DEPT 27 FOR ALL PURPOSES

VIA FAX

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.]

[JURY TRIAL DEMANDED]

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

THE PARTIES

1. Defendant RCSH OPERATIONS, INC., (“DEFENDANT”) is a California Corporation that at all relevant times relevant mentioned herein conducted and continues to conduct substantial business in the State of California, including but not limited to, County of Contra Costa, and owns, operates and/or manages Ruth’s Chris Steak House restaurants.

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

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

1 Consequently, the acts of each of the DEFENDANTS are legally attributable to the other and all
2 DEFENDANTS are jointly and severally liable to PLAINTIFF and those similarly situated, for
3 the loss sustained as a proximate result of the conduct of the DEFENDANTS' agents, servants
4 and/or employees.

5 4. Plaintiff worked for DEFENDANTS from approximately February of 2020 to
6 April of 2021, as a non-exempt employee, paid on an hourly basis entitled to legally mandated
7 meal and rest periods, minimum wages and overtime compensation.

8 5. PLAINTIFF brings this class action under California Code of Civil Procedure §
9 382 on behalf of herself and a California class, defined as all of DEFENDANTS' current and
10 former non-exempt employees, employed in California (the "CALIFORNIA CLASS") at any time
11 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
12 by the Court ("CLASS PERIOD"). The members of the classes are so numerous that joinder of
13 all class members is impractical. PLAINTIFF reserves the right to amend the following class
14 definitions before the Court determines whether class certification is appropriate, or thereafter
15 upon leave of Court:

16 6. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
17 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
18 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice
19 which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant
20 meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu*
21 thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable
22 Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the
23 CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code
24 Sections 510, 1194, 1197, and 1197.1, and (3) failed to provide accurate itemized wage statements
25 in violation of California Labor Code Sections 226 and 226.3.

1 PERIOD, DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS members to work
2 without paying them for all the time they were under DEFENDANTS' control. Specifically, as
3 a result of PLAINTIFF's demanding work requirements and DEFENDANTS' under staffing,
4 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
5 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time-to-time interrupted by work
6 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
7 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a
8 result, the PLAINTIFF and other CALIFORNIA CLASS members forfeited minimum wage and
9 overtime wages by regularly working without their time being accurately recorded and without
10 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
11 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS members for all
12 time worked is evidenced by DEFENDANTS' business records.

13 10. From time-to-time during the CLASS PERIOD, because of their rigorous work
14 schedules, DEFENDANTS' inadequate staffing practices, PLAINTIFF and the CALIFORNIA
15 CLASS members were from time-to-time unable to take thirty (30) minutes duty free meal
16 periods and were not fully relieved of duty for their meal periods. PLAINTIFF and other
17 CALIFORNIA CLASS members were required from time-to-time to perform work as ordered
18 by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal
19 break. DEFENDANTS instructed PLAINTIFF and the CALIFORNIA CLASS members from
20 time-to-time to take their meal break after the end of the 5th hour and to wait until
21 DEFENDANTS' restaurant became less busy. Further, DEFENDANTS from time-to-time
22 failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal
23 period for some workdays in which these employees were required by DEFENDANTS to work
24 ten (10) hours of work from time-to-time. The nature of the work performed by the PLAINTIFF
25 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly
26 construed "on-duty" meal period exception. PLAINTIFF and other members of the
27 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
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1 accordance with DEFENDANTS' strict corporate policy and practice. DEFENDANTS failed
2 to maintain adequate staffing levels while increasing the production levels for each employee.

3 **B. Rest Period Violations**

4 11. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
5 CALIFORNIA CLASS members were also required from time-to-time to work more than four
6 (4) hours without being provided ten (10) minute rest periods because of their rigorous work
7 schedule and DEFENDANTS' inadequate staffing. Further, for the same reasons these employees
8 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least
9 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 a
11 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. PLAINTIFF and other CALIFORNIA CLASS members were
13 also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules
14 and DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS
15 members were from time-to-time denied their proper rest periods by DEFENDANTS and
16 DEFENDANTS' managers.

17 **C. Wage Statement Violation**

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

26 13. From time-to-time during the CLASS PERIOD, predicated on the conduct
27 described herein, DEFENDANTS issued inaccurate itemized wage statements to PLAINTIFF
28 and the CALIFORNIA CLASS that failed to accurately show (1) gross wages earned, (2) total

1 hours worked, (4) all deductions, (5) net wages earned, (8) the name and address of the legal
2 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and
3 the corresponding number of hours worked at each hourly rate by the employee. Aside from the
4 foregoing violations, DEFENDANTS from time to time issued wage statements that failed to
5 comply with all requirements of Cal. Lab. Code § 226.

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

10 **E. Class Action Allegations**

11 15. PLAINTIFF brings the First through Seventh Causes of Action as a class action
12 pursuant to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS,
13 defined *supra*, that worked for DEFENDANT in California at any time beginning four (4) years
14 prior to the filing of this Complaint and ending on the date as determined by the Court (“CLASS
15 PERIOD”).

16 16. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been
17 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
18 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
19 illegal meal and rest period policies, failure to provide accurate itemized wage statements, failure
20 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
21 expenses.

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

24 18. Common questions of law and fact regarding DEFENDANTS' conduct, including
25 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to provide
26 legally compliant meal and rest periods, failure to provide accurate itemized wage statements
27 accurate, and failure ensure they are paid at least minimum wage and overtime, exist as to all
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1 members of the class and predominate over any questions affecting solely any individual members
2 of the class. Among the questions of law and fact common to the class are:

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

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

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

1 21. PLAINTIFF will fairly and adequately represent and protect the interests of the
2 CALIFORNIA CLASS members.

3 22. PLAINTIFF retained able class counsel with extensive experience in class action
4 litigation.

5 23. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the
6 interests of the other CALIFORNIA CLASS members.

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

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

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

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

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

1 including the appointment of a receiver, as may be necessary to
2 prevent the use or employment by any person of any practice which
3 constitutes unfair competition, as defined in this chapter, or as may
4 be necessary to restore to any person in interest any money or
5 property, real or personal, which may have been acquired by means
6 of such unfair competition. Cal. Bus. & Prof. Code § 17203.

7 33. By the conduct alleged herein, DEFENDANTS have engaged and continues to
8 engage in a business practice which violates California law, including but not limited to, the
9 applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor
10 Code including Sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 515, 558, 1194, 1197,
11 1197.1, 1198, and 1198.5 for which this Court should issue declaratory and other equitable relief
12 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the
13 conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

14 34. By the conduct alleged herein, DEFENDANTS' practices were unlawful and unfair
15 in that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous
16 or substantially injurious to employees, and were without valid justification or utility for which
17 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
18 Business & Professions Code, including restitution of wages wrongfully withheld.

19 35. By the conduct alleged herein, DEFENDANTS' practices were deceptive and
20 fraudulent in that DEFENDANTS' uniform policy and practice failed to pay PLAINTIFF, and
21 other members of the CALIFORNIA CLASS, all wages due to them for all hours worked, and
22 premiums for their missed meal and rest periods, pursuant to the applicable Cal. Lab. Code, and
23 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*,
24 and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof.
25 Code § 17203, including restitution of wages wrongfully withheld.

26 36. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
27 unfair and deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the
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1 other members of the CALIFORNIA CLASS to be underpaid during their employment with
2 DEFENDANTS.

3 37. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
4 unfair and deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to
5 provide legally required uninterrupted duty-free meal breaks to PLAINTIFF and the other
6 members of the CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

7 38. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
8 CALIFORNIA CLASS member, all unpaid wages resulting from working off-the-clock, one (1)
9 hour of pay at the regular rate of compensation for each workday in which an off-duty meal period
10 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
11 workday in which a second off-duty meal period was not timely provided for each ten (10) hours
12 of work.

13 39. PLAINTIFF further demands on behalf of herself and on behalf of each
14 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
15 not timely provided and/or paid as required by law.

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

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

27 42. PLAINTIFF and the other members of the CALIFORNIA CLASS were further
28 entitled to, and do, seek a declaration that the described business practices were unlawful, unfair

1 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
2 engaging in any unlawful and unfair business practices in the future.

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

10 **SECOND CAUSE OF ACTION**

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

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

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

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

17 45. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally
18 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS members as
19 required by the applicable Wage Order and Labor Code. The nature of the work performed by
20 PLAINTIFF and the CALIFORNIA CLASS members did not prevent these employees from
21 being relieved of all of their duties for the legally required off-duty meal periods. As a result of
22 their rigorous work schedules and understaffing in the case of the CALIFORNIA CLASS
23 Members, PLAINTIFF and other CALIFORNIA CLASS members were often not fully relieved
24 of duty by DEFENDANTS during their meal periods. Additionally, DEFENDANTS' failure to
25 provide PLAINTIFF and the CALIFORNIA CLASS members with legally required meal breaks
26 prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records. As a
27 result, PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal
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1 breaks without additional compensation and in accordance with DEFENDANTS' strict corporate
2 policy and practice.

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

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

11 **THIRD CAUSE OF ACTION**

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

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

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

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

18 49. PLAINTIFF and other CALIFORNIA CLASS members were required to work in
19 excess of four (4) hours without being provided ten (10) minute rest periods. Further, these
20 employees were denied their first rest periods of at least ten (10) minutes for some shifts worked
21 of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for
22 some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period
23 of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and
24 other CALIFORNIA CLASS members were also not provided with one-hour wages in lieu
25 thereof. As a result of their rigorous work schedules and understaffing with respect to the
26 CALIFORNIA CLASS members, PLAINTIFF and other CALIFORNIA CLASS Members were
27 periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.
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1 57. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and
2 the other members of the CALIFORNIA CLASS without regard to the correct amount of time
3 they work. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully
4 and intentionally deny timely payment of wages due to PLAINTIFF and the other members of
5 the CALIFORNIA CLASS.

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

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

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

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

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

27 63. DEFENDANTS knew or should have known that PLAINTIFF and the other
28 members of the CALIFORNIA CLASS were under compensated for their time worked.

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

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

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

25 **FIFTH CAUSE OF ACTION**

26 **For Failure to Pay Overtime Compensation**

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

28 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

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

4 67. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim
5 for DEFENDANTS' willful and intentional violations of the California Labor Code and the
6 Industrial Welfare Commission requirements for DEFENDANTS' failure to pay these employees
7 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
8 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

15 70. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
16 including minimum wage and overtime compensation and interest thereon, together with the costs
17 of suit.

18 71. Cal. Lab. Code § 1198 further states that the employment of an employee for longer
19 hours than those fixed by the Industrial Welfare Commission is unlawful.

20 72. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
21 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
22 they worked, including overtime work.

23 73. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
24 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of
25 implementing a uniform policy and practice that failed to accurately record overtime worked by
26 PLAINTIFF and other CALIFORNIA CLASS members and denied accurate compensation to
27 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,
28

1 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve
2 (12) hours in a workday, and/or forty (40) hours in any workweek.

3 74. In committing these violations of the California Labor Code, DEFENDANTS
4 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
5 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANTS acted in an illegal
6 attempt to avoid the payment of all earned wages, and other benefits in violation of the California
7 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and
8 regulations.

9 75. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
10 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
11 compensation for overtime worked.

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

20 77. During the CLASS PERIOD, PLAINTIFF and the other members of the
21 CALIFORNIA CLASS have been paid less for overtime worked that they are entitled to,
22 constituting a failure to pay all earned wages.

23 78. DEFENDANTS failed to accurately pay the PLAINTIFF and the other members of
24 the CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the
25 maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
26 though PLAINTIFF and the other members of the CALIFORNIA CLASS were required to work,
27 and did in fact work, overtime as to which DEFENDANTS failed to accurately record and pay as
28 evidenced by DEFENDANTS' business records and witnessed by employees.

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

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

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

20 82. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
21 recovery of all overtime wages, according to proof, interest, statutory costs, as well as the
22 assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
23 California Labor Code and/or other applicable statutes. To the extent minimum and/or overtime
24 compensation is determined to be owed to the CALIFORNIA CLASS members who have
25 terminated their employment, DEFENDANTS' conduct also violates Labor Code §§ 201 and/or
26 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
27 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS
28 members. DEFENDANTS' conduct as alleged herein was willful, intentional and not in good

1 faith. Further, PLAINTIFF and other CALIFORNIA CLASS members are entitled to seek and
2 recover statutory costs.

3 **SIXTH CAUSE OF ACTION**

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

5 **[Cal. Lab. Code § 226]**

6 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

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

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

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

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

3 85. When PLAINTIFF and the other CALIFORNIA CLASS members were not
4 compensated for all wages due to them for their off-the-clock work, and for their missed meal
5 and rest breaks, and for overtime, DEFENDANTS also failed to provide PLAINTIFF and the
6 other members of the CALIFORNIA CLASS with complete and accurate wage statements. Cal.
7 Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an
8 accurate itemized wage statement in writing showing, among other things, gross wages earned
9 and all applicable hourly rates in effect during the pay period and the corresponding amount of
10 time worked at each hourly rate, and the name and address of the legal entity that is the employer.
11 As a result, DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA
12 CLASS with wage statements which violate Cal. Lab. Code § 226. Aside, from the violations
13 listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an itemized wage
14 statement that lists all the requirements under California Labor Code 226 *et seq.*

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

26
27
28 ///

1 employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201,
2 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of
3 the employee shall continue as a penalty from the due date thereof at the same rate until paid or
4 until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

5 92. The employment of PLAINTIFF and many CALIFORNIA CLASS members has
6 terminated and DEFENDANT has not tendered payment of all wages owed as required by law.

7 93. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
8 members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF
9 demands thirty days of pay as penalty for not paying all wages due at time of termination for all
10 employees who terminated employment during the CALIFORNIA CLASS PERIOD and
11 demands an accounting and payment of all wages due, plus interest and statutory costs as allowed
12 by law.

13 **EIGHTH CAUSE OF ACTION**

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

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

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

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

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

1 96. PLAINTIFF, and such persons that may be added from time to time who satisfy
2 the requirements and exhaust the administrative procedures under the Private Attorney General
3 Act, bring this Representative Action on behalf of the State of California with respect to
4 themselves and all individuals who are or previously were employed by DEFENDANT and
5 classified as non-exempt employees in California during the time period of August 9, 2020 until
6 the present (the "AGGRIEVED EMPLOYEES").

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

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

1
2 **PRAYER FOR RELIEF**

3 WHEREFORE, PLAINTIFF pray for judgment against each Defendant, jointly and
4 severally, as follows:

5 1. On behalf of the CALIFORNIA CLASS:

6 A) That the Court certify the First, Second, Third, Fourth, Fifth, Sixth, and Seventh Causes
7 of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code
8 of Civ. Proc. § 382;

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

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

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

17 E) Compensatory damages, according to proof at trial, including compensatory damages
18 for minimum and overtime compensation due PLAINTIFF and the other members of
19 the CALIFORNIA CLASS, during the applicable CALIFORNIA -CLASS PERIOD
20 plus interest thereon at the statutory rate;

21 F) Meal and rest period compensation pursuant to California Labor Code Section 226.7
22 and the applicable IWC Wage Order;

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

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

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

7 3. On all claims:

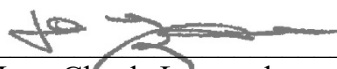
8 A) An award of interest, including prejudgment interest at the legal rate;

9 B) Such other and further relief as the Court deems just and equitable; and,

10 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
11 including, but not limited to, pursuant to Labor Code §218.5, §226, § 2699 *et seq.*, and/or
12 §1194.

13 Dated: October 18, 2021

JCL LAW FIRM, APC

15 
16 _____
17 Jean-Claude Lapuyade
18 Attorney for PLAINTIFF

19 **DEMAND FOR JURY TRIAL**

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

21 Dated: October 18, 2021

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

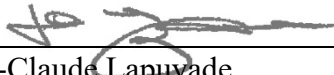
24 By: 
25 _____
26 Jean-Claude Lapuyade
27 Attorneys for PLAINTIFF
28

EXHIBIT 1



shani@zakaylaw.com

ZAKAY LAW GROUP
A PROFESSIONAL LAW CORPORATION

Client # 40601

August 9, 2021

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

RCSH OPERATIONS, INC.

c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

Via Certified Mail with Return Receipt No. 7021 0950 0001 6369 9484

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.3

Dear Sir/Madam:

Our offices represent Plaintiff AMANDA M. PATTERSON (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against RCSH OPERATIONS, INC. (“Defendant”). Plaintiff was employed by Defendant in California between February of 2020 to April of 2021 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. Defendant, however, unlawfully failed to provide legally compliant meal and rest breaks, failed to accurately compensate Plaintiff and other aggrieved employees for missed meal and rest periods, failed to pay Plaintiff and other aggrieved employees for all time worked. Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence of the aforementioned violations, Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2698 *et seq.*

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

A true and correct copy of the proposed Complaint by Plaintiff against Defendant, which (1) identifies the alleged violations, (2) details the facts and theories which support the alleged violations, (3) details the specific work performed by Plaintiff, (4) sets forth the people/entities,

dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (5) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

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

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

Sincerely,

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

Shani O. Zakay
Attorney for Plaintiff

JCL LAW FIRM, APC

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

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com

Attorneys for Plaintiff AMANDA M. PATTERSON

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

AMANDA M. PATTERSON, an individual, on behalf of herself, and on behalf of all persons similarly situated,

PLAINTIFF,

vs.

RCSH OPERATIONS, INC. a California Corporation; and Does 1 through 50, Inclusive,

DEFENDANTS.

Case No.: _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE § 17200, et seq.;
2. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
3. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
4. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1182.12, 1194, 1197 & 1197.1;
5. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, et seq.;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN

1 VIOLATION OF CAL. LAB. CODE § 226;
2 AND
3 7. FAILURE TO PROVIDE WAGES WHEN
4 DUE IN VIOLATION OF CAL. LAB.
5 CODE §§ 201, 202 AND 203.

[JURY TRIAL DEMANDED]

6 Plaintiff AMANDA M. PATTERSON (“PLAINTIFF”), an individual, on behalf of all
7 other similarly situated current and former employees alleges on information and belief, except for
8 her own acts and knowledge which are based on personal knowledge, the following:

THE PARTIES

9 1. Defendant RCSH OPERATIONS, INC., (“DEFENDANT”) is a California
10 Corporation that at all relevant times relevant mentioned herein conducted and continues to
11 conduct substantial business in the State of California, including but not limited to, County of
12 Contra Costa, and owns, operates and/or manages Ruth’s Chris Steak House restaurants.

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

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

1 the loss sustained as a proximate result of the conduct of the DEFENDANTS’ agents, servants
2 and/or employees.

3 4. Plaintiff worked for DEFENDANTS from approximately February of 2020 to
4 April of 2021, as a non-exempt employee, paid on an hourly basis entitled to legally mandated
5 meal and rest periods, minimum wages and overtime compensation.

6 5. PLAINTIFF brings this class action under California Code of Civil Procedure §
7 382 on behalf of herself and a California class, defined as all of DEFENDANTS’ current and
8 former non-exempt employees, employed in California (the “CALIFORNIA CLASS”) at any time
9 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined
10 by the Court (“CLASS PERIOD”). The members of the classes are so numerous that joinder of
11 all class members is impractical. PLAINTIFF reserves the right to amend the following class
12 definitions before the Court determines whether class certification is appropriate, or thereafter
13 upon leave of Court:

14 6. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
15 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
16 incurred during the CLASS PERIOD caused by DEFENDANTS’ uniform policy and practice
17 which (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant
18 meal and rest periods or an additional hour of pay at the regular rate of compensation in *lieu*
19 thereof in violation of California Labor Code Sections 226.7(c), 512(a) and the applicable
20 Industrial Welfare Commission Wage Order, (2) failed to pay PLAINTIFF and the
21 CALIFORNIA CLASS for all hours worked in violation of, *inter alia*, California Labor Code
22 Sections 510, 1194, 1197, and 1197.1, and (3) failed to provide accurate itemized wage statements
23 in violation of California Labor Code Sections 226 and 226.3.

24 7. DEFENDANTS’ uniform policies and practices alleged herein were unlawful,
25 unfair and deceptive business practices whereby DEFENDANTS retained and continues to retain
26 wages due PLAINTIFF and the other members of the CALIFORNIA CLASS.

1 DEFENDANTS required PLAINTIFF to work while clocked out during what was supposed to
2 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time-to-time interrupted by work
3 assignments while clocked out for what should have been PLAINTIFF's off-duty meal break.
4 Indeed, there were many days where PLAINTIFF did not even receive a partial lunch. As a
5 result, the PLAINTIFF and other CALIFORNIA CLASS members forfeited minimum wage and
6 overtime wages by regularly working without their time being accurately recorded and without
7 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform
8 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS members for all
9 time worked is evidenced by DEFENDANTS' business records.

10 10. From time-to-time during the CLASS PERIOD, because of their rigorous work
11 schedules, DEFENDANTS' inadequate staffing practices, PLAINTIFF and the CALIFORNIA
12 CLASS members were from time-to-time unable to take thirty (30) minutes duty free meal
13 periods and were not fully relieved of duty for their meal periods. PLAINTIFF and other
14 CALIFORNIA CLASS members were required from time-to-time to perform work as ordered
15 by DEFENDANTS for more than five (5) hours during some shifts without receiving a meal
16 break. DEFENDANTS instructed PLAINTIFF and the CALIFORNIA CLASS members from
17 time-to-time to take their meal break after the end of the 5th hour and to wait until
18 DEFENDANTS' restaurant became less busy. Further, DEFENDANTS from time-to-time
19 failed to provide PLAINTIFF and CALIFORNIA CLASS members with a second off-duty meal
20 period for some workdays in which these employees were required by DEFENDANTS to work
21 ten (10) hours of work from time-to-time. The nature of the work performed by the PLAINTIFF
22 and the members of the CALIFORNIA CLASS does not qualify for limited and narrowly
23 construed "on-duty" meal period exception. PLAINTIFF and other members of the
24 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
25 accordance with DEFENDANTS' strict corporate policy and practice. DEFENDANTS failed
26 to maintain adequate staffing levels while increasing the production levels for each employee.

27 **B. Rest Period Violations**

1 11. From time-to-time during the CLASS PERIOD, PLAINTIFF and other
2 CALIFORNIA CLASS members were also required from time-to-time to work more than four
3 (4) hours without being provided ten (10) minute rest periods because of their rigorous work
4 schedule and DEFENDANTS' inadequate staffing Further, for the same reasons these employees
5 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least
6 two (2) to four (4) hours from time-to-time, a first and second rest period of at least ten (10)
7 minutes for some shifts worked of between six (6) and eight (8) hours from time-to-time, and a
8 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. PLAINTIFF and other CALIFORNIA CLASS members were
10 also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules
11 and DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS
12 members were from time-to-time denied their proper rest periods by DEFENDANTS and
13 DEFENDANTS' managers.

14 **C. Wage Statement Violation**

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

23 13. From time-to-time during the CLASS PERIOD, predicated on the conduct
24 described herein, DEFENDANTS issued inaccurate itemized wage statements to PLAINTIFF
25 and the CALIFORNIA CLASS that failed to accurately show (1) gross wages earned, (2) total
26 hours worked, (4) all deductions, (5) net wages earned, (8) the name and address of the legal
27 entity that is the employer and, (9) all applicable hourly rates in effect during the pay period and
28 the corresponding number of hours worked at each hourly rate by the employee. Aside from the

1 foregoing violations, DEFENDANTS from time to time issued wage statements that failed to
2 comply with all requirements of Cal. Lab. Code § 226.

3 14. As a result, DEFENDANTS issued PLAINTIFF and the CALIFORNIA CLASS
4 with wage statements that violate Cal. Lab. Code § 226. Further, DEFENDANTS' violations are
5 knowing and intentional, were not isolated or due to an unintentional payroll error due to clerical
6 or inadvertent mistake.

7 **E. Class Action Allegations**

8 15. PLAINTIFF brings the First through Seventh Causes of Action as a class action
9 pursuant to California Code of Civil Procedure § 382 on behalf the CALIFORNIA CLASS,
10 defined *supra*, that worked for DEFENDANT in California at any time beginning four (4) years
11 prior to the filing of this Complaint and ending on the date as determined by the Court ("CLASS
12 PERIOD").

13 16. PLAINTIFF and the other CALIFORNIA CLASS members have uniformly been
14 deprived of wages and penalties from unpaid wages earned and due, including but not limited to
15 unpaid minimum wages, unpaid overtime compensation, unpaid meal and rest period premiums,
16 illegal meal and rest period policies, failure to provide accurate itemized wage statements, failure
17 to maintain required records, and interest, statutory and civil penalties, attorney's fees, costs, and
18 expenses.

19 17. The members of the class are so numerous that joinder of all class members is
20 impractical.

21 18. Common questions of law and fact regarding DEFENDANTS' conduct, including
22 but not limited to, the off-the-clock work, unpaid meal and rest period premiums, failing to provide
23 legally compliant meal and rest periods, failure to provide accurate itemized wage statements
24 accurate, and failure ensure they are paid at least minimum wage and overtime, exist as to all
25 members of the class and predominate over any questions affecting solely any individual members
26 of the class. Among the questions of law and fact common to the class are:

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

- b. Whether DEFENDANTS maintained legally compliant rest period policies and practices;
- c. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members accurate premium payments for missed meal and rest periods;
- d. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members accurate overtime wages;
- e. Whether DEFENDANTS failed to pay PLAINTIFF and the CALIFORNIA CLASS members at least minimum wage for all hours worked;
- f. Whether DEFENDANTS issued legally compliant wage statements;
- g. Whether DEFENDANTS committed an act of unfair competition by systematically failing to record and pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked;
- h. Whether DEFENDANTS committed an act of unfair competition by systematically failing to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS members, even though DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work;
- i. Whether DEFENDANTS committed an act of unfair competition in violation of the UCL, by failing to provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required meal and rest periods.

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

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

21. PLAINTIFF will fairly and adequately represent and protect the interests of the CALIFORNIA CLASS members.

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

1 property, real or personal, which may have been acquired by means
2 of such unfair competition. Cal. Bus. & Prof. Code § 17203.

3 33. By the conduct alleged herein, DEFENDANTS have engaged and continues to
4 engage in a business practice which violates California law, including but not limited to, the
5 applicable Industrial Wage Order(s), the California Code of Regulations and the California Labor
6 Code including Sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 515, 558, 1194, 1197,
7 1197.1, 1198, and 1198.5 for which this Court should issue declaratory and other equitable relief
8 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the
9 conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

15 35. By the conduct alleged herein, DEFENDANTS' practices were deceptive and
16 fraudulent in that DEFENDANTS' uniform policy and practice failed to pay PLAINTIFF, and
17 other members of the CALIFORNIA CLASS, all wages due to them for all hours worked, and
18 premiums for their missed meal and rest periods, pursuant to the applicable Cal. Lab. Code, and
19 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*,
20 and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof.
21 Code § 17203, including restitution of wages wrongfully withheld.

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

26 37. By the conduct alleged herein, DEFENDANTS' practices were also unlawful,
27 unfair and deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to
28

1 provide legally required uninterrupted duty-free meal breaks to PLAINTIFF and the other
2 members of the CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

3 38. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
4 CALIFORNIA CLASS member, all unpaid wages resulting from working off-the-clock, one (1)
5 hour of pay at the regular rate of compensation for each workday in which an off-duty meal period
6 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
7 workday in which a second off-duty meal period was not timely provided for each ten (10) hours
8 of work.

9 39. PLAINTIFF further demands on behalf of herself and on behalf of each
10 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period was
11 not timely provided and/or paid as required by law.

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

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

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

27 43. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
28 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of

1 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As
2 a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
3 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
4 and economic harm unless DEFENDANTS are restrained from continuing to engage in these
5 unlawful and unfair business practices.

6 **SECOND CAUSE OF ACTION**

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

8 **[Cal. Lab. Code §§ 226.7 & 512]**

9 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

10 44. 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
12 Complaint.

13 45. During the CLASS PERIOD, DEFENDANTS failed to provide all the legally
14 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS members as
15 required by the applicable Wage Order and Labor Code. The nature of the work performed by
16 PLAINTIFF and the CALIFORNIA CLASS members did not prevent these employees from
17 being relieved of all of their duties for the legally required off-duty meal periods. As a result of
18 their rigorous work schedules and understaffing in the case of the CALIFORNIA CLASS
19 Members, PLAINTIFF and other CALIFORNIA CLASS members were often not fully relieved
20 of duty by DEFENDANTS during their meal periods. Additionally, DEFENDANTS' failure to
21 provide PLAINTIFF and the CALIFORNIA CLASS members with legally required meal breaks
22 prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records. As a
23 result, PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeited meal
24 breaks without additional compensation and in accordance with DEFENDANTS' strict corporate
25 policy and practice.

26 46. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable
27 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS members
28 who were not provided a meal period, in accordance with the applicable Wage Order, one

1 additional hour of compensation at each employee's regular rate of pay for each workday that a
2 meal period was not provided.

3 47. 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 **THIRD CAUSE OF ACTION**

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

8 **[Cal. Lab. Code §§ 226.7 & 512]**

9 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

10 48. 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
12 Complaint.

13 49. PLAINTIFF and other CALIFORNIA CLASS members were required to work in
14 excess of four (4) hours without being provided ten (10) minute rest periods. Further, these
15 employees were denied their first rest periods of at least ten (10) minutes for some shifts worked
16 of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for
17 some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period
18 of at least ten (10) minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and
19 other CALIFORNIA CLASS members were also not provided with one-hour wages in lieu
20 thereof. As a result of their rigorous work schedules and understaffing with respect to the
21 CALIFORNIA CLASS members, PLAINTIFF and other CALIFORNIA CLASS Members were
22 periodically denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

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

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

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

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

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

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

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

1 Industrial Welfare Commission requirements for DEFENDANTS' failure to pay these employees
2 for all overtime worked, including, work performed in excess of eight (8) hours in a workday,
3 and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

10 70. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
11 including minimum wage and overtime compensation and interest thereon, together with the costs
12 of suit.

13 71. Cal. Lab. Code § 1198 further states that the employment of an employee for longer
14 hours than those fixed by the Industrial Welfare Commission is unlawful.

15 72. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS members
16 were required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time
17 they worked, including overtime work.

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

25 74. In committing these violations of the California Labor Code, DEFENDANTS
26 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
27 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANTS acted in an illegal
28 attempt to avoid the payment of all earned wages, and other benefits in violation of the California

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

3 75. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
4 the PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full
5 compensation for overtime worked.

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

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

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

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

1 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

2 83. 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 84. Cal. Labor Code § 226 provides that an employer must furnish employees with an
6 “accurate itemized” statement in writing showing:

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

25 85. When PLAINTIFF and the other CALIFORNIA CLASS members were not
26 compensated for all wages due to them for their off-the-clock work, and for their missed meal
27 and rest breaks, and for overtime, DEFENDANTS also failed to provide PLAINTIFF and the
28 other members of the CALIFORNIA CLASS with complete and accurate wage statements. Cal.

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

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

20 **SEVENTH CAUSE OF ACTION**

21 **For Failure to Pay Wages When Due**

22 **[Cal. Lab. Code §§ 201, 202, 203]**

23 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

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

26 88. Cal. Lab. Code § 200 provides, in relevant part, that:

27 As used in this article:
28

1 (a) "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,
3 task, piece, Commission basis, or other method of calculation.

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

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

10 90. Cal. Lab. Code § 202 provides, in relevant part, that: "If an employee not having a
11 written contract for a definite period quits his or her employment, his or her wages shall become
12 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
13 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
14 wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits
15 without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so
16 requests and designates a mailing address. The date of the mailing shall constitute the date of
17 payment for purposes of the requirement to provide payment within 72 hours of the notice of
18 quitting."

19 91. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS
20 members' employment contract. Cal. Lab. Code § 203 provides, in relevant part, that: "If an
21 employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201,
22 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of
23 the employee shall continue as a penalty from the due date thereof at the same rate until paid or
24 until an action therefor is commenced; but the wages shall not continue for more than 30 days."

25 92. The employment of PLAINTIFF and many CALIFORNIA CLASS members has
26 terminated and DEFENDANT has not tendered payment of all wages owed as required by law.

27 93. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the
28 members of the CALIFORNIA CLASS whose employment has terminated, PLAINTIFF

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

5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF pray for judgment against each Defendant, jointly and
7 severally, as follows:

8 On behalf of the CALIFORNIA CLASS:

- 9 A) That the Court certify the First, Second, Third, Fourth, Fifth, Sixth, and Seventh Causes
10 of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code
11 of Civ. Proc. § 382;
- 12 B) An order temporarily, preliminarily and permanently enjoining and restraining
13 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 14 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
15 from compensation due to PLAINTIFF and the other members of the CALIFORNIA
16 CLASS; and,
- 17 D) Restitutionary disgorgement of DEFENDANT’s ill-gotten gains into a fluid fund for
18 restitution of the sums incidental to DEFENDANT’s violations due to PLAINTIFF and
19 to the other members of the CALIFORNIA CLASS.
- 20 E) Compensatory damages, according to proof at trial, including compensatory damages
21 for minimum and overtime compensation due PLAINTIFF and the other members of
22 the CALIFORNIA CLASS, during the applicable CALIFORNIA -CLASS PERIOD
23 plus interest thereon at the statutory rate;
- 24 F) Meal and rest period compensation pursuant to California Labor Code Section 226.7
25 and the applicable IWC Wage Order;
- 26 G) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
27 a violation occurs and one hundred dollars (\$100) per each member of the
28 CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an

1 aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation
2 of Cal. Lab. Code § 226;

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

6 On all claims:

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

8 B) Such other and further relief as the Court deems just and equitable; and,

9 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
10 including, but not limited to, pursuant to Labor Code §218.5, §226, § 2699 *et seq.*, and/or
11 §1194.

12 Dated: _____, 2021

JCL LAW FIRM, APC


14 
15 _____
16 Jean-Claude Lapuyade
17 Attorney for PLAINTIFF

18 **DEMAND FOR JURY TRIAL**

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

20 Dated: _____, 2021

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

23 By: 
24 _____
25 Jean-Claude Lapuyade
26 Attorneys for PLAINTIFF
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