

SUMMONS (CITACION JUDICIAL)

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

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

SAGAR HOLDING CORPORATION, a California corporation; and DOES 1 through 50, Inclusive

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

JULIANNE R. GARCIA, an individual, on behalf of herself, and on behalf of all persons similarly situated

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):

Superior Court of Los Angeles
111 North Hill Street
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

21STCV38872

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.

DATE:
(Fecha) 10/21/2021

Clerk, by S. Drew, Deputy
(Secretaría) Sherri R. Carter Executive Officer / Clerk of Court (Adjunto)

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

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. by personal delivery on (date):



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Attorneys for Plaintiff JULIANNE R. GARCIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JULIANNE R. GARCIA, an individual, on behalf of herself, and on behalf of all persons similarly situated,

Plaintiffs,

vs.

SAGAR HOLDING CORPORATION, a California corporation; and DOES 1 through 50, Inclusive;

Defendants.

Case No. 21STCV38872

CLASS ACTION COMPLAINT FOR:

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

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6. FAILURE TO REIMBURSE FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;
9. VIOLATION OF CALIFORNIA LABOR CODE § 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1 1070(14) (FAILURE TO PROVIDE SEATING);
10. FAILURE TO TIMELY PAY EARNED WAGES IN VIOLATION OF CAL. LAB. CODE § 204;
11. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*].

DEMAND FOR JURY TRIAL

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

THE PARTIES

1. Defendant SAGAR HOLDING CORPORATION (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Los Angeles, and owns, manages and operates Wingstop 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

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

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

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

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

23 6. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on an
24 hourly basis and entitled to overtime pay and legally compliant meal and rest periods from November
25 2020 to March 2021.

26 7. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of
27 DEFENDANTS’ current and former non-exempt California employees (the “CALIFORNIA CLASS”)
28 at any time during the period beginning four years from the date of the filing of this Complaint and



1 ending on a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the
2 aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).
3 PLAINTIFF reserves the right to amend the following class definitions before the Court determines
4 whether class certification is appropriate, or thereafter upon leave of Court:

5 8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
6 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
7 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which
8 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest
9 periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of
10 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission
11 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in
12 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, (3) failed to
13 reimburse PLAINTIFF and the CALIFORNIA CLASS for required expenses in violation of California
14 Labor Code Section 2802, and (4) failed to provide accurate itemized wage statements in violation of
15 California Labor Code Sections 226 and 226.3.

16 9. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and
17 deceptive business practices whereby DEFENDANTS retained and continues to retain wages due
18 PLAINTIFF and the other members of the CALIFORNIA CLASS.

19 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
20 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other
21 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS' past
22 and current unlawful conduct, and all other appropriate legal and equitable relief.

23 **JURISDICTION AND VENUE**

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



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

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

24 **B. Rest Period Violations**

25 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
26 CLASS Members were also required from time to time to work in excess of four (4) hours without
27 being provided ten (10) minute rest periods as a result of their rigorous work schedules and
28 DEFENDANTS' inadequate staffing. Further, for the same reasons these employees were denied their



1 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours
2 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of
3 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least
4 ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were
5 provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to
6 time, required to remain on the premises, on duty and/or on call. PLAINTIFF and other CALIFORNIA
7 CLASS Members were also not provided with one-hour wages in lieu thereof. As a result of their
8 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to
9 time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

10 **C. Unreimbursed Business Expenses**

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

21 18. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the
22 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones as
23 a result of and in furtherance of their job duties as employees for DEFENDANTS. But for the use of
24 their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not
25 complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify
26 PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their
27 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment
28 with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred



1 unreimbursed business expenses which included, but were not limited to, costs related to the use of
2 their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

3 **D. Wage Statement Violations**

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

12 35. From time to time during the CLASS PERIOD, when PLAINTIFF and other
13 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurate missed meal
14 and rest period premiums, or were not paid for all the time they spent working under DEFENDANT's
15 control, DEFENDANTS also failed to provide PLAINTIFF and the other members of the
16 CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other
17 things, all hours worked and the penalty payments for missed meal and rest periods. In addition to the
18 foregoing violations, DEFENDANTS from time to time also issued PLAINTIFF and the other members
19 of the CALIFORNIA CLASS with wage statements that failed to comply with all the requirements of
20 Cal. Lab. Code § 226.

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

25 **E. Suitable Seating Violations**

26 37. PLAINTIFF further alleges that the station counters in DEFENDANT's restaurants
27 provide ample space behind each counter area to allow for the presence and use of a stool or seat by
28 DEFENDANT's employees' during the performance of their work duties. DEFENDANT's employees'



1 working at DEFENDANT's restaurants spend a very substantial portion, and, in many workdays, the
2 vast majority of their working time behind these counters. The nature of the position can reasonably be
3 accomplished while using a seat/stool.

4 38. In violation of the applicable sections of the California Labor Code and the requirements
5 of the applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of
6 company policy, practice and procedure, intentionally, knowingly and systematically failed to provide
7 PLAINTIFF and the other CLASS MEMBERS suitable seating when the nature of these employees'
8 work reasonably permitted sitting.

9 39. DEFENDANT knew or should have known that PLAINTIFF and other CLASS
10 MEMBERS were entitled to suitable seating and/or were entitled to sit when it did not interfere with
11 the performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not
12 allow them to sit when it did not interfere with the performance of their duties. By reason of this conduct
13 applicable to PLAINTIFF and all CLASS MEMBERS, DEFENDANT violated California Labor Code
14 Section 1198 and Wage Order 4-2001, Section 14 by failing to provide suitable seats.

15 **F. Failure to Timely Pay Earned Wages**

16 40. California Labor Code Section 204 requires an employer, who has in place a pay period
17 schedule different than that provide in Cal. Lab. Code § 204(a), to pay wages within seven calendar days
18 from the close of the payroll period. DEFENDANT as a matter of corporate policy, practice and
19 procedure, failed to pay PLAINTIFFS and the other CALIFORNIA CLASS Members within seven
20 calendar days from the close of DEFENDANT'S payroll period from time to time. DEFENDANT'S
21 failure to pay PLAINTIFFS and other CALIFORNIA CLASS members within seven days from the
22 close of the payroll period is evidenced by the itemized wage statements issued to PLAINTIFFS and
23 other CALIFORNIA CLASS members

24 **G. CLASS ACTION ALLEGATIONS**

25 37. PLAINTIFF brings the First through Eleventh Causes of Action as a class action pursuant
26 to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former
27 non-exempt California employees ("CALIFORNIA CLASS") during the period beginning four years
28 prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

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

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

8 40. Common questions of law and fact regarding DEFENDANTS' conduct, including but not
9 limited to, unpaid minimum wages, unpaid meal and rest period premiums, illegal meal and rest period
10 policies, failure to separately compensate rest periods, failure to reimburse business expenses, failure to
11 provide accurate itemized wage statements accurately, and failure to ensure they are paid at least
12 minimum wage and overtime, exist as to all members of the class and predominate over any questions
13 affecting solely any individual members of the class. Among the questions of law and fact common to
14 the class are:

- 15 a. Whether DEFENDANTS maintained legally compliant meal period
16 policies and practices;
- 17 b. Whether DEFENDANTS maintained legally compliant rest period
18 policies and practices;
- 19 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
20 CALIFORNIA CLASS Members accurate premium payments for missed
21 meal and rest periods;
- 22 d. Whether DEFENDANTS failed to pay PLAINTIFF and the
23 CALIFORNIA CLASS Members accurate overtime;
- 24 e. Whether DEFENDANTS failed to timely pay earned wages to
25 PLAINTIFFS and other members of the CALIFORNIA CLASS;
- 26 f. Whether DEFENDANTS failed to reimburse PLAINTIFF and the
27 CALIFORNIA CLASS Members for required business expenses;
- 28 g. Whether DEFENDANTS failed to pay PLAINTIFF and the

1 CALIFORNIA CLASS Members at least minimum wage for all hours
2 worked;

3 h. Whether DEFENDANTS issued legally compliant wage statements;

4 i. Whether DEFENDANTS failed to provide suitable seating to
5 PLAINTIFF and the CALIFORNIA CLASS Members;

6 j. Whether DEFENDANTS committed an act of unfair competition by
7 systematically failing to record and pay PLAINTIFF and the other members
8 of the CALIFORNIA CLASS for all time worked;

9 k. Whether DEFENDANTS committed an act of unfair competition by
10 systematically failing to record all meal and rest breaks missed by
11 PLAINTIFF and other CALIFORNIA CLASS Members, even though
12 DEFENDANTS enjoyed the benefit of this work, required employees to
13 perform this work and permits or suffers to permit this work; and

14 l. Whether DEFENDANTS committed an act of unfair competition in
15 violation of the UCL, by failing to provide the PLAINTIFF and the other
16 members of the CALIFORNIA CLASS with the legally required meal and
17 rest periods.

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

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

22 43. PLAINTIFF will fairly and adequately represent and protect the interests of the
23 CALIFORNIA CLASS Members.

24 44. PLAINTIFF retained able class counsel with extensive experience in class action
25 litigation.

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

28 46. There is a strong community of interest among PLAINTIFF and the members of the

1 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient
2 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

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

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

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

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

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

23 **FIRST CAUSE OF ACTION**

24 **For Unlawful Business Practices**

25 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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



1 51. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
2 17021.

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

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

14 Cal. Bus. & Prof. Code § 17203.

15 53. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
16 CLASS Members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
17 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
18 “UCL”), by engaging and continuing to engage in business practices which violates California law,
19 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
20 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,
21 551, 552, 1194, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other
22 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
23 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

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

12 57. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and
13 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,
14 provide the legally mandated meal and rest periods, the required accurate amount of compensation for
15 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage
16 statements, reimburse employees for required business expenses, to PLAINTIFF and the other members
17 of the CALIFORNIA CLASS as required by Cal. Labor Code.

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

22 59. PLAINTIFF further demands on behalf of herself and on behalf of each CALIFORNIA
23 CLASS Member, one (1) hour of pay for each workday in which an off duty paid rest period was not
24 timely provided as required by law.

25 60. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the
26 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
27 calculated overtime and double time and missed meal and rest periods premiums.

28 61. By and through the unlawful and unfair business practices described herein,



1 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other
2 members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has
3 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of
4 these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly
5 compete against competitors who comply with the law.

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

2 **For Failure to Pay Overtime Compensation**

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

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

7 67. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period
8 beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”) bring a
9 claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the
10 Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for
11 all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve
12 (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

22 71. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members were
23 required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked
24 or were not accurately compensated for all overtime hours worked.

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



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

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

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

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

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

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

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

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

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

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

1 **THIRD CAUSE OF ACTION**

2 **For Failure to Pay Minimum Wages**

3 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

7 83. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
8 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
9 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay
10 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members during the CLASS PERIOD.

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

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

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

18 87. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other
19 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For
20 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to
21 work without a ten (10) minute rest break after 4 hours of working. Further, as set forth herein,
22 DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny timely payment
23 of wages due to PLAINTIFF and the other members of the CALIFORNIA CLASS.

24 88. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
25 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
26 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members
27 of the CALIFORNIA CLASS in regard to minimum wage pay.

28 89. In committing these violations of the California Labor Code, DEFENDANTS inaccurately

1 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF
2 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid
3 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
4 Industrial Welfare Commission requirements and other applicable laws and regulations.

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

8 91. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
9 CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned
10 wages.

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

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

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

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

11 **FOURTH CAUSE OF ACTION**

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

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

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

15 96. 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 Complaint.

17 97. During the CLASS PERIOD, from time to time, DEFENDANTS failed to provide all the
18 legally 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 CALIFORNIA CLASS Members did not prevent these employees from being relieved
21 of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work
22 schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time not fully
23 relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to
24 provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal breaks prior
25 to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from time to time.
26 Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
27 second off-duty meal period in some workdays in which these employees were required by
28 DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members of the

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

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

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

11 **FIFTH 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)**

15 102. 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 Complaint.

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

27 104. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC
28 Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not

1 provided a rest period, in accordance with the applicable Wage Order, one additional hour of
2 compensation at each employee's regular rate of compensation for each workday that rest period was
3 not provided.

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

7 **SIXTH CAUSE OF ACTION**

8 **For Failure to Reimburse Employees for Required Expenses**

9 **[Cal. Lab. Code § 2802]**

10 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

13 107. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

19 108. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code
20 § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA
21 CLASS for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit.
22 DEFENDANTS failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for
23 expenses which included, but were not limited to, costs related to using their personal cellular phone all
24 on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and the members of the
25 CALIFORNIA CLASS were required by DEFENDANTS to use their personal cell phones to execute
26 their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy, practice and
27 procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for
28 expenses resulting from using their personal cellular phones for DEFENDANTS within the course and

1 scope of their employment for DEFENDANTS. These expenses were necessary to complete their
2 principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of
3 their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
4 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
5 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is
6 required to do under the laws and regulations of California.

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

11 **SEVENTH CAUSE OF ACTION**

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

13 **[Cal. Lab. Code §§ 226 and 226.2]**

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

15 110. 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 Complaint.

17 111. Cal. Labor Code § 226 provides that an employer must furnish employees with an
18 “accurate itemized” statement in writing showing:

- 19 1. Gross wages earned;
- 20 2. Total hours worked by the employee, except for any employee
21 whose compensation is solely based on a salary and who is exempt from
22 payment of overtime under subdivision (a) of Section 515 or any applicable
23 order of the Industrial Welfare Commission;
- 24 3. The number of piece-rate units earned and any applicable piece rate
25 if the employee is paid on a piece-rate basis;
- 26 4. All deductions, provided that all deductions made on written orders
27 of the employee may be aggregated and shown as one item;
- 28 5. Net wages earned;

- 1 6. The inclusive dates of the period for which the employee is paid,
- 2 7. The name of the employee and his or her social security number,
- 3 except that by January 1, 2008, only the last four digits of his or her social
- 4 security number or an employee identification number other than a social
- 5 security number may be shown on the itemized statement;
- 6 8. The name and address of the legal entity that is the employer; and
- 7 9. All applicable hourly rates in effect during the pay period and the
- 8 corresponding number of hours worked at each hourly rate by the employee.

9 112. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the
10 other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed
11 to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3)
12 gross wages earned and (4) all applicable hourly rates in effect during the pay period and the
13 corresponding number of hours worked at each hourly rate by the employee in violation of California
14 Labor Code Section 226..

15 113. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code §
16 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA
17 CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for
18 the overtime worked and the amount of employment taxes which were not properly paid to state and
19 federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other
20 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
21 for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each
22 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and
23 penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time
24 of trial, but in no event more than four thousand dollars (\$4,000.00), for PLAINTIFF and each respective
25 member of the CALIFORNIA CLASS herein.

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

3 **(Cal Lab. Code §§201, 202, 203)**

4 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

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

7 115. Cal. Lab. Code § 200 provides that:

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

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

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

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

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

5 119. Cal. Lab. Code § 203 provides:

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

12 120. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated
13 and DEFENDANTS has not tendered payment of wages, to these employees who missed meal and rest
14 breaks, as required by law.

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

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE SUITABLE SEATING**

22 **(Cal. Lab. Code §§1198 et seq. & California Code of Regulations, Title 8, Section 11070(14))**

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

24 122. PLAINTIFF, and the other CLASS MEMBERS, reallege and incorporate by this
25 reference, as though fully set forth herein, all paragraphs of this Complaint.

26 123. California Labor Code section 1198 makes it illegal to employ an employee under
27 conditions of labor that are prohibited by the applicable wage order.

1 124. California Labor Code section 1198 requires that “. . . the standard conditions of labor
2 fixed by the commission shall be the . . . standard conditions of labor for employees. The employment
3 of any employee . . . under conditions of labor prohibited by the order is unlawful. California Code of
4 Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided
5 with suitable seats when the nature of the work reasonably permits the use of seats.”

6 125. California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen
7 employees are not engaged in the active duties of their employment and the nature of the work requires
8 standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area
9 and employees shall be permitted to use such seats when it does not interfere with the performance of
10 their duties.”

11 126. DEFENDANT violated California Labor Code section 1198 and California Code of
12 Regulations, Title 8, section 11070(14) because PLAINTIFF and CLASS MEMBERS were not permitted
13 to sit, even if they were not engaged in active duties. They were not permitted to sit, even when it would
14 not interfere with the performance of their duties, nor were they provided with suitable seats.

15 127. PLAINTIFF and CLASS MEMBERS are entitled to recover all remedies available for
16 violations of California Labor Code section 1198 and California Code of Regulations, Title 8, section
17 11070(14)

18 120. Pursuant to the civil penalties provided for in California Labor Code sections
19 2699 (f) and (g), the State of California, PLAINTIFF and other CLASS MEMBERS are entitled to
20 recover civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay period for
21 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
22 each subsequent violation, plus costs and attorneys' fees for violation of California Labor Code section
23 1198.

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1 **TENTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY EARNED WAGES**

3 **(Cal. Lab. Code § 204)**

4 **(Alleged by PLAINTIFFS and the CLASS MEMBERS and against all DEFENDANT)**

5 121. PLAINTIFFS, and the other members of the CLASS MEMBERS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First Amended
7 Complaint.

8 122. Cal. Lab. Code § 204(a) provides in relevant part, that:

9 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
10 by any person in any employment are due and payable twice during each calendar month,
11 on days designated in advance by the employer as the regular paydays. Labor performed
12 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
13 the 16th and the 26th day of the month during which the labor was performed, and labor
14 performed between the 16th and the last day, inclusive, of any calendar month, shall be
15 paid for between the 1st and 10th day of the following month.

16 123. DEFENDANT did not have in place a pay period schedule of the 1st and 15th, and 16th
17 and the last day of the month. Rather, DEFENDANT had in place a pay period schedule different than
18 that provide in Cal. Lab. Code § 204(a).

19 124. As such, Cal. Lab. Code § 204(d) provides that:

20 The requirements of this section shall be deemed satisfied by the payment of wages for
21 weekly, biweekly, or semimonthly payroll if the wages are paid not more than *seven*
22 *calendar days* following the close of the payroll period.

23 125. PLAINTIFFS and other members of the CLASS MEMBERS were from time to time
24 paid more than seven days after the close of DEFENDANT's payroll period.

25 126. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
26 § 204, causing injury and damages to the PLAINTIFFS and the other members of the CLASS
27 MEMBERS. Therefore, PLAINTIFFS and the other members of the CLASS MEMBERS may elect to
28 recover liquidated damages pursuant to Cal. Lab. Code § 210 of one hundred dollars (\$100.00) for the

1 initial violation for each failure to pay each employee, and two hundred dollars (\$200.00) for each
2 subsequent violation, plus 25 percent (25%) of the amount unlawfully withheld, in an amount according
3 to proof at the time of trial.

4 **ELEVENTH CAUSE OF ACTION**

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

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

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

8 127. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
9 the prior paragraphs of this Complaint.

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

19 129. PLAINTIFF, and such persons that may be added from time to time who satisfy the
20 requirements and exhaust the administrative procedures under the Private Attorney General Act, bring
21 this Representative Action on behalf of the State of California with respect to themselves and all
22 individuals who are or previously were employed by DEFENDANT and classified as non-exempt
23 employees in California during the time period of August 16, 2020 until the present (the "AGGRIEVED
24 EMPLOYEES").

25 130. On August 16, 2021, PLAINTIFF gave written notice by certified mail to the Labor and
26 Workforce Development Agency (the "Agency") and the employer of the specific provisions of
27 this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached
28 hereto and incorporated by this reference herein. The statutory waiting period for PLAINTIFF to add

1 these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF
2 may now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
3 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

4 131. The policies, acts and practices heretofore described were and are an unlawful business
5 act or practice because Defendant (a) failed to properly record and pay PLAINTIFF and the other
6 AGGRIEVED EMPLOYEES for all of the hours they worked, including minimum wage and overtime
7 wages in violation of the Wage Order, (b) failed to provide meal and rest breaks, (c) failed to provide
8 accurate itemized wage statements, and (d) failed to timely pay wages, all in violation of the applicable
9 Labor Code sections listed in Labor Code §2699.5, including but not limited to Labor Code §§ 201,
10 202, 203, 204, 218.5, 218.6, 226(a), 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
11 1198, 1198.5, 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to
12 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as
13 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State
14 of California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
15 EMPLOYEES

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and
18 severally, as follows:

19 1. On behalf of the CALIFORNIA CLASS:

20 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
21 as a class action pursuant to Cal. Code of Civ. Proc. § 382;

22 B) An order temporarily, preliminarily and permanently enjoining and restraining
23 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

24 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld
25 from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS;

26 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for
27 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to the other
28 members of the CALIFORNIA CLASS;

1 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth,
2 Tenth, and Eleventh Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
3 to Cal. Code of Civ. Proc. § 382;

4 1. Compensatory damages, according to proof at trial, including compensatory
5 damages for overtime compensation due PLAINTIFF and the other members of the
6 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus
7 interest thereon at the statutory rate;

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

13 3. Meal and rest period compensation pursuant to California Labor Code Sections
14 226.7 and 512 and the applicable IWC Wage Order;

15 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
16 1197; and,

17 2. On all claims:


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

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

20 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
21 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

22
23 Dated: _____

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


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

DEMAND FOR JURY TRIAL

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

Dated: October 21, 2021

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

By: 
Jean-Claude Lapuyade
Attorneys for PLAINTIFF



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EXHIBIT 1



ZAKAY LAW GROUP
A PROFESSIONAL LAW CORPORATION

shani@zakaylw.com

Client # 40801

August 16, 2021

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

SAGAR HOLDING CORPORATION

c/o Sagar S Patel
18359 Tytris Way
Yorba Linda, CA 92886

Via Certified Mail with Return Receipt

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, and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff JULIANNE R. GARCIA (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against SAGAR HOLDING CORPORATION, a California Corporation (“Defendant”). Plaintiff was employed by Defendant in California between November of 2020 to March of 2021 as a non-exempt employee, entitled to payment of all wages and the legally required meal and rest breaks. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages. Further, Defendant failed to provide suitable seating for Plaintiff and other aggrieved employees.

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, California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), violates the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt and exempt employees who worked for Defendant 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

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Attorneys for Plaintiff JULIANNE R. GARCIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JULIANNE R. GARCIA, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

SAGAR HOLDING CORPORATION, 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 PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;

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6. FAILURE TO REIMBURSE FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
7. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
8. FAILURE TO PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;
9. VIOLATION OF CALIFORNIA LABOR CODE § 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1 1070(14) (FAILURE TO PROVIDE SEATING);
10. FAILURE TO TIMELY PAY EARNED WAGES IN VIOLATION OF CAL. LAB. CODE § 204;
11. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*].

DEMAND FOR JURY TRIAL

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

THE PARTIES

1. Defendant SAGAR HOLDING CORPORATION (“DEFENDANT” and/or “DEFENDANTS”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial business in the state of California, county of Los Angeles, and owns, manages and operates Wingstop 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

1 believes, and based upon that information and belief allege, that the Defendants named in this
2 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively (“DEFENDANTS” and/or
3 “DEFENDANT”), are responsible in some manner for one or more of the events and happenings that
4 proximately caused the injuries and damages hereinafter alleged.

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

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

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

22 6. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee, paid on an
23 hourly basis and entitled to overtime pay and legally compliant meal and rest periods from November
24 2020 to March 2021.

25 7. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all of
26 DEFENDANTS’ current and former non-exempt California employees (the “CALIFORNIA CLASS”)
27 at any time during the period beginning four years from the date of the filing of this Complaint and
28 ending on a date determined by the Court (the “CLASS PERIOD”). The amount in controversy for the

1 aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).
2 PLAINTIFF reserves the right to amend the following class definitions before the Court determines
3 whether class certification is appropriate, or thereafter upon leave of Court:

4 8. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
5 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
6 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which
7 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest
8 periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of
9 California Labor Code Sections 226.7(c), 512(a) and the applicable Industrial Welfare Commission
10 Wage Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in
11 violation of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, (3) failed to
12 reimburse PLAINTIFF and the CALIFORNIA CLASS for required expenses in violation of California
13 Labor Code Section 2802, and (4) failed to provide accurate itemized wage statements in violation of
14 California Labor Code Sections 226 and 226.3.

15 9. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair and
16 deceptive business practices whereby DEFENDANTS retained and continues to retain wages due
17 PLAINTIFF and the other members of the CALIFORNIA CLASS.

18 10. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
19 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other
20 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANTS' past
21 and current unlawful conduct, and all other appropriate legal and equitable relief.

22 **JURISDICTION AND VENUE**

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

27 12. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
28 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS and DEFENDANTS

1 (i) currently maintain and at all relevant times, maintained offices and facilities in this County and/or
2 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged
3 in this County against members of the CALIFORNIA CLASS.

4 **THE CONDUCT**

5 13. In violation of the applicable sections of the California Labor Code and the requirements
6 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company
7 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally
8 compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members
9 of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other
10 members of the CALIFORNIA CLASS for all time worked, and failed to issue to PLAINTIFF and the
11 members of the CALIFORNIA CLASS with accurate itemized wage statements showing, among other
12 things, all requirements pursuant to Cal. Lab. Code § 226, *et seq.* DEFENDANTS' uniform policies
13 and practices are intended to purposefully avoid the accurate and full payment for all time worked as
14 required by California law which allows DEFENDANTS to illegally profit and gain an unfair
15 advantage over competitors who comply with the law. To the extent equitable tolling operates to toll
16 claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted
17 accordingly.

18 **A. Meal Period Violations**

19 14. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
20 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning
21 the time during which an employee is subject to the control of an employer, including all the time the
22 employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD,
23 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without paying
24 them for all the time they were under DEFENDANTS' control. Specifically, as a result of
25 PLAINTIFF's demanding work requirements and DEFENDANTS' understaffing, DEFENDANTS
26 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-
27 duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked
28 out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were days where

1 PLAINTIFF and other CALIFORNIA CLASS Members would even receive a partial lunch. As a
2 result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and
3 overtime wages by regularly working without their time being accurately recorded and without
4 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform policy
5 and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked is
6 evidenced by DEFENDANTS' business records.

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

22 **B. Rest Period Violations**

23 16. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
24 CLASS Members were also required from time to time to work in excess of four (4) hours without
25 being provided ten (10) minute rest periods as a result of their rigorous work schedules and
26 DEFENDANTS' inadequate staffing. Further, for the same reasons these employees were denied their
27 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours
28 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of

1 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at least
2 ten (10) minutes for some shifts worked of ten (10) hours or more from time to time. When they were
3 provided with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to
4 time, required to remain on the premises, on duty and/or on call. PLAINTIFF and other CALIFORNIA
5 CLASS Members were also not provided with one-hour wages in lieu thereof. As a result of their
6 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to
7 time denied their proper rest periods by DEFENDANTS and DEFENDANTS' managers.

8 **C. Unreimbursed Business Expenses**

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

19 18. From time-to-time during the CLASS PERIOD, PLAINTIFF and the members of the
20 CALIFORNIA CLASS were required by DEFENDANTS to use their own personal cellular phones as
21 a result of and in furtherance of their job duties as employees for DEFENDANTS. But for the use of
22 their personal cell phones, PLAINTIFF and the members of the CALIFORNIA CLASS could not
23 complete their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify
24 PLAINTIFF or the members of the CALIFORNIA CLASS for the cost associated with the use of their
25 personal cellular phones for DEFENDANTS' benefit. As a result, in the course of their employment
26 with DEFENDANTS, PLAINTIFF and the members of the CALIFORNIA CLASS incurred
27 unreimbursed business expenses which included, but were not limited to, costs related to the use of
28 their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.

1 **D. Wage Statement Violations**

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

10 35. From time to time during the CLASS PERIOD, when PLAINTIFF and other
11 CALIFORNIA CLASS members missed meal and rest breaks, or were paid inaccurate missed meal
12 and rest period premiums, or were not paid for all the time they spent working under DEFENDANT's
13 control, DEFENDANTS also failed to provide PLAINTIFF and the other members of the
14 CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other
15 things, all hours worked and the penalty payments for missed meal and rest periods. In addition to the
16 foregoing violations, DEFENDANTS from time to time also issued PLAINTIFF and the other members
17 of the CALIFORNIA CLASS with wage statements that failed to comply with all the requirements of
18 Cal. Lab. Code § 226.

19 36. As a result, DEFENDANTS issued PLAINTIFF and the other members of the
20 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
21 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an unintentional
22 payroll error due to clerical or inadvertent mistake.

23 **E. Suitable Seating Violations**

24 37. PLAINTIFF further alleges that the station counters in DEFENDANT's restaurants
25 provide ample space behind each counter area to allow for the presence and use of a stool or seat by
26 DEFENDANT's employees' during the performance of their work duties. DEFENDANT's employees'
27 working at DEFENDANT's restaurants spend a very substantial portion, and, in many workdays, the
28

1 vast majority of their working time behind these counters. The nature of the position can reasonably be
2 accomplished while using a seat/stool.

3 38. In violation of the applicable sections of the California Labor Code and the requirements
4 of the applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a matter of
5 company policy, practice and procedure, intentionally, knowingly and systematically failed to provide
6 PLAINTIFF and the other CLASS MEMBERS suitable seating when the nature of these employees'
7 work reasonably permitted sitting.

8 39. DEFENDANT knew or should have known that PLAINTIFF and other CLASS
9 MEMBERS were entitled to suitable seating and/or were entitled to sit when it did not interfere with
10 the performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not
11 allow them to sit when it did not interfere with the performance of their duties. By reason of this conduct
12 applicable to PLAINTIFF and all CLASS MEMBERS, DEFENDANT violated California Labor Code
13 Section 1198 and Wage Order 4-2001, Section 14 by failing to provide suitable seats.

14 **F. Failure to Timely Pay Earned Wages**

15 40. California Labor Code Section 204 requires an employer, who has in place a pay period
16 schedule different than that provide in Cal. Lab. Code § 204(a), to pay wages within seven calendar days
17 from the close of the payroll period. DEFENDANT as a matter of corporate policy, practice and
18 procedure, failed to pay PLAINTIFFS and the other CALIFORNIA CLASS Members within seven
19 calendar days from the close of DEFENDANT'S payroll period from time to time. DEFENDANT'S
20 failure to pay PLAINTIFFS and other CALIFORNIA CLASS members within seven days from the
21 close of the payroll period is evidenced by the itemized wage statements issued to PLAINTIFFS and
22 other CALIFORNIA CLASS members

23 **G. CLASS ACTION ALLEGATIONS**

24 37. PLAINTIFF brings the First through Eleventh Causes of Action as a class action pursuant
25 to California Code of Civil Procedure § 382 on behalf of all of DEFENDANTS' current and former
26 non-exempt California employees ("CALIFORNIA CLASS") during the period beginning four years
27 prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

28 38. PLAINTIFF and the other CALIFORNIA CLASS Members have uniformly been

1 deprived of wages and penalties from unpaid wages earned and due, including but not limited to unpaid
2 minimum wages, unpaid meal and rest period premiums, illegal meal and rest period policies, failure
3 to separately compensate rest periods, failure to reimburse business expenses, failure to provide
4 accurate itemized wage statements, failure to maintain required records, and interest, statutory and civil
5 penalties, attorney's fees, costs, and expenses.

6 39. The members of the class are so numerous that joinder of all class members is impractical.

7 40. Common questions of law and fact regarding DEFENDANTS' conduct, including but not
8 limited to, unpaid minimum wages, unpaid meal and rest period premiums, illegal meal and rest period
9 policies, failure to separately compensate rest periods, failure to reimburse business expenses, failure to
10 provide accurate itemized wage statements accurately, and failure to ensure they are paid at least
11 minimum wage and overtime, exist as to all members of the class and predominate over any questions
12 affecting solely any individual members of the class. Among the questions of law and fact common to
13 the class are:

14 a. Whether DEFENDANTS maintained legally compliant meal period
15 policies and practices;

16 b. Whether DEFENDANTS maintained legally compliant rest period
17 policies and practices;

18 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
19 CALIFORNIA CLASS Members accurate premium payments for missed
20 meal and rest periods;

21 d. Whether DEFENDANTS failed to pay PLAINTIFF and the
22 CALIFORNIA CLASS Members accurate overtime;

23 e. Whether DEFENDANTS failed to timely pay earned wages to
24 PLAINTIFFS and other members of the CALIFORNIA CLASS;

25 f. Whether DEFENDANTS failed to reimburse PLAINTIFF and the
26 CALIFORNIA CLASS Members for required business expenses;

27 g. Whether DEFENDANTS failed to pay PLAINTIFF and the
28 CALIFORNIA CLASS Members at least minimum wage for all hours

1 worked;

2 h. Whether DEFENDANTS issued legally compliant wage statements;

3 i. Whether DEFENDANTS failed to provide suitable seating to
4 PLAINTIFF and the CALIFORNIA CLASS Members;

5 j. Whether DEFENDANTS committed an act of unfair competition by
6 systematically failing to record and pay PLAINTIFF and the other members
7 of the CALIFORNIA CLASS for all time worked;

8 k. Whether DEFENDANTS committed an act of unfair competition by
9 systematically failing to record all meal and rest breaks missed by
10 PLAINTIFF and other CALIFORNIA CLASS Members, even though
11 DEFENDANTS enjoyed the benefit of this work, required employees to
12 perform this work and permits or suffers to permit this work; and

13 l. Whether DEFENDANTS committed an act of unfair competition in
14 violation of the UCL, by failing to provide the PLAINTIFF and the other
15 members of the CALIFORNIA CLASS with the legally required meal and
16 rest periods.

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

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

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

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

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

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

1 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

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

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

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

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

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

22 **FIRST CAUSE OF ACTION**

23 **For Unlawful Business Practices**

24 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

25 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

28 51. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §

1 17021.

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

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

13 Cal. Bus. & Prof. Code § 17203.

14 53. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
15 CLASS Members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
16 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
17 “UCL”), by engaging and continuing to engage in business practices which violates California law,
18 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
19 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512,
20 551, 552, 1194, 1197, 1197.1, 1198, & 2802, for which this Court should issue declaratory and other
21 equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy
22 the conduct held to constitute unfair competition, including restitution of wages wrongfully withheld.

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

28 55. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and fraudulent

1 in that DEFENDANTS' uniform policy and practice failed to, *inter alia*, provide the legally mandated
2 meal and rest periods, the required accurate amount of compensation for missed meal and rest periods,
3 overtime, double time, and minimum wages owed, provide accurate itemized wage statements, due to a
4 systematic business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and
5 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for
6 which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code §
7 17203, including restitution of wages wrongfully withheld.

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

11 57. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair and
12 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,
13 provide the legally mandated meal and rest periods, the required accurate amount of compensation for
14 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage
15 statements, reimburse employees for required business expenses, to PLAINTIFF and the other members
16 of the CALIFORNIA CLASS as required by Cal. Labor Code.

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

21 59. PLAINTIFF further demands on behalf of herself and on behalf of each CALIFORNIA
22 CLASS Member, one (1) hour of pay for each workday in which an off duty paid rest period was not
23 timely provided as required by law.

24 60. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the
25 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
26 calculated overtime and double time and missed meal and rest periods premiums.

27 61. By and through the unlawful and unfair business practices described herein,
28 DEFENDANTS has obtained valuable property, money and services from PLAINTIFF and the other

1 members of the CALIFORNIA CLASS, including earned wages for all overtime worked, and has
2 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of
3 these employees and to the benefit of DEFENDANTS so as to allow DEFENDANTS to unfairly
4 compete against competitors who comply with the law.

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

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

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

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

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1 **SECOND CAUSE OF ACTION**

2 **For Failure to Pay Overtime Compensation**

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

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

7 67. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period
8 beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”) bring a
9 claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the
10 Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for
11 all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve
12 (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

22 71. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members were
23 required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked
24 or were not accurately compensated for all overtime hours worked.

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

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

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

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

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

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

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

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

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

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

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

1 **THIRD CAUSE OF ACTION**

2 **For Failure to Pay Minimum Wages**

3 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

7 83. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
8 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
9 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay
10 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members during the CLASS PERIOD.

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

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

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

18 87. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other
19 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For
20 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to
21 work without a ten (10) minute rest break after 4 hours of working. Further, as set forth herein,
22 DEFENDANTS' uniform policy and practice was to unlawfully and intentionally deny timely payment
23 of wages due to PLAINTIFF and the other members of the CALIFORNIA CLASS.

24 88. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
25 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
26 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members
27 of the CALIFORNIA CLASS in regard to minimum wage pay.

28 89. In committing these violations of the California Labor Code, DEFENDANTS inaccurately

1 calculated the correct time worked and consequently underpaid the actual time worked by PLAINTIFF
2 and other members of the CALIFORNIA CLASS. DEFENDANTS acted in an illegal attempt to avoid
3 the payment of all earned wages, and other benefits in violation of the California Labor Code, the
4 Industrial Welfare Commission requirements and other applicable laws and regulations.

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

8 91. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
9 CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned
10 wages.

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

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

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

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

11 **FOURTH CAUSE OF ACTION**

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

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

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

15 96. 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 Complaint.

17 97. During the CLASS PERIOD, from time to time, DEFENDANTS failed to provide all the
18 legally 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 CALIFORNIA CLASS Members did not prevent these employees from being relieved
21 of all of their duties for the legally required off-duty meal periods. As a result of their rigorous work
22 schedules, PLAINTIFF and other CALIFORNIA CLASS Members were from time to time not fully
23 relieved of duty by DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to
24 provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required meal breaks prior
25 to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records from time to time.
26 Further, DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
27 second off-duty meal period in some workdays in which these employees were required by
28 DEFENDANTS to work ten (10) hours of work. As a result, PLAINTIFF and other members of the

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

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

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

11 **FIFTH 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)**

15 102. 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 Complaint.

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

27 104. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC
28 Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not

1 provided a rest period, in accordance with the applicable Wage Order, one additional hour of
2 compensation at each employee's regular rate of compensation for each workday that rest period was
3 not provided.

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

7 **SIXTH CAUSE OF ACTION**

8 **For Failure to Reimburse Employees for Required Expenses**

9 **[Cal. Lab. Code § 2802]**

10 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

13 107. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

19 108. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code
20 § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA
21 CLASS for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit.
22 DEFENDANTS failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for
23 expenses which included, but were not limited to, costs related to using their personal cellular phone all
24 on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and the members of the
25 CALIFORNIA CLASS were required by DEFENDANTS to use their personal cell phones to execute
26 their essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy, practice and
27 procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for
28 expenses resulting from using their personal cellular phones for DEFENDANTS within the course and

1 scope of their employment for DEFENDANTS. These expenses were necessary to complete their
2 principal job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of
3 their expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
4 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
5 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is
6 required to do under the laws and regulations of California.

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

11 **SEVENTH CAUSE OF ACTION**

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

13 **[Cal. Lab. Code §§ 226 and 226.2]**

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

15 110. 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 Complaint.

17 111. Cal. Labor Code § 226 provides that an employer must furnish employees with an
18 “accurate itemized” statement in writing showing:

- 19 1. Gross wages earned;
- 20 2. Total hours worked by the employee, except for any employee
21 whose compensation is solely based on a salary and who is exempt from
22 payment of overtime under subdivision (a) of Section 515 or any applicable
23 order of the Industrial Welfare Commission;
- 24 3. The number of piece-rate units earned and any applicable piece rate
25 if the employee is paid on a piece-rate basis;
- 26 4. All deductions, provided that all deductions made on written orders
27 of the employee may be aggregated and shown as one item;
- 28 5. Net wages earned;

6. The inclusive dates of the period for which the employee is paid,
7. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
8. The name and address of the legal entity that is the employer; and
9. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

112. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3) gross wages earned and (4) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of California Labor Code Section 226..

113. DEFENDANTS knowingly and intentionally failed to comply with Cal. Labor Code § 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for the overtime worked and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, and all other damages and penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time of trial, but in no event more than four thousand dollars (\$4,000.00), for PLAINTIFF and each respective member of the CALIFORNIA CLASS herein.

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

3 **(Cal Lab. Code §§201, 202, 203)**

4 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

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

7 115. Cal. Lab. Code § 200 provides that:

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

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

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

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

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

5 119. Cal. Lab. Code § 203 provides:

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

12 120. The employment of PLAINTIFF and many CALIFORNIA CLASS Members terminated
13 and DEFENDANTS has not tendered payment of wages, to these employees who missed meal and rest
14 breaks, as required by law.

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

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE SUITABLE SEATING**

22 **(Cal. Lab. Code §§1198 et seq. & California Code of Regulations, Title 8, Section 11070(14))**

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

24 122. PLAINTIFF, and the other CLASS MEMBERS, reallege and incorporate by this
25 reference, as though fully set forth herein, all paragraphs of this Complaint.

26 123. California Labor Code section 1198 makes it illegal to employ an employee under
27 conditions of labor that are prohibited by the applicable wage order.

1 124. California Labor Code section 1198 requires that “. . . the standard conditions of labor
2 fixed by the commission shall be the . . . standard conditions of labor for employees. The employment
3 of any employee . . . under conditions of labor prohibited by the order is unlawful. California Code of
4 Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working employees shall be provided
5 with suitable seats when the nature of the work reasonably permits the use of seats.”

6 125. California Code of Regulations, Title 8, section 11070(14)(B) provides that “[w]hen
7 employees are not engaged in the active duties of their employment and the nature of the work requires
8 standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area
9 and employees shall be permitted to use such seats when it does not interfere with the performance of
10 their duties.”

11 126. DEFENDANT violated California Labor Code section 1198 and California Code of
12 Regulations, Title 8, section 11070(14) because PLAINTIFF and CLASS MEMBERS were not permitted
13 to sit, even if they were not engaged in active duties. They were not permitted to sit, even when it would
14 not interfere with the performance of their duties, nor were they provided with suitable seats.

15 127. PLAINTIFF and CLASS MEMBERS are entitled to recover all remedies available for
16 violations of California Labor Code section 1198 and California Code of Regulations, Title 8, section
17 11070(14)

18 120. Pursuant to the civil penalties provided for in California Labor Code sections
19 2699 (f) and (g), the State of California, PLAINTIFF and other CLASS MEMBERS are entitled to
20 recover civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay period for
21 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
22 each subsequent violation, plus costs and attorneys' fees for violation of California Labor Code section
23 1198.

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1 **TENTH CAUSE OF ACTION**

2 **FAILURE TO TIMELY PAY EARNED WAGES**

3 **(Cal. Lab. Code § 204)**

4 **(Alleged by PLAINTIFFS and the CLASS MEMBERS and against all DEFENDANT)**

5 121. PLAINTIFFS, and the other members of the CLASS MEMBERS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this First Amended
7 Complaint.

8 122. Cal. Lab. Code § 204(a) provides in relevant part, that:

9 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
10 by any person in any employment are due and payable twice during each calendar month,
11 on days designated in advance by the employer as the regular paydays. Labor performed
12 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
13 the 16th and the 26th day of the month during which the labor was performed, and labor
14 performed between the 16th and the last day, inclusive, of any calendar month, shall be
15 paid for between the 1st and 10th day of the following month.

16 123. DEFENDANT did not have in place a pay period schedule of the 1st and 15th, and 16th
17 and the last day of the month. Rather, DEFENDANT had in place a pay period schedule different than
18 that provide in Cal. Lab. Code § 204(a).

19 124. As such, Cal. Lab. Code § 204(d) provides that:

20 The requirements of this section shall be deemed satisfied by the payment of wages for
21 weekly, biweekly, or semimonthly payroll if the wages are paid not more than *seven*
22 *calendar days* following the close of the payroll period.

23 125. PLAINTIFFS and other members of the CLASS MEMBERS were from time to time
24 paid more than seven days after the close of DEFENDANT's payroll period.

25 126. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code
26 § 204, causing injury and damages to the PLAINTIFFS and the other members of the CLASS
27 MEMBERS. Therefore, PLAINTIFFS and the other members of the CLASS MEMBERS may elect to
28 recover liquidated damages pursuant to Cal. Lab. Code § 210 of one hundred dollars (\$100.00) for the

1 initial violation for each failure to pay each employee, and two hundred dollars (\$200.00) for each
2 subsequent violation, plus 25 percent (25%) of the amount unlawfully withheld, in an amount according
3 to proof at the time of trial.

4 **ELEVENTH CAUSE OF ACTION**

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

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

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

8 127. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
9 the prior paragraphs of this Complaint.

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

19 129. PLAINTIFF, and such persons that may be added from time to time who satisfy the
20 requirements and exhaust the administrative procedures under the Private Attorney General Act, bring
21 this Representative Action on behalf of the State of California with respect to themselves and all
22 individuals who are or previously were employed by DEFENDANT and classified as non-exempt
23 employees in California during the time period of August 16, 2021 until the present (the "AGGRIEVED
24 EMPLOYEES").

25 130. On August 16, 2021, PLAINTIFF gave written notice by certified mail to the Labor and
26 Workforce Development Agency (the "Agency") and the employer of the specific provisions of
27 this code alleged to have been violated as required by Labor Code § 2699.3. See Exhibit #1, attached
28 hereto and incorporated by this reference herein. The statutory waiting period for PLAINTIFF to add

1 these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF
2 may now commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
3 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

4 131. The policies, acts and practices heretofore described were and are an unlawful business
5 act or practice because Defendant (a) failed to properly record and pay PLAINTIFF and the other
6 AGGRIEVED EMPLOYEES for all of the hours they worked, including minimum wage and overtime
7 wages in violation of the Wage Order, (b) failed to provide meal and rest breaks, (c) failed to provide
8 accurate itemized wage statements, and (d) failed to timely pay wages, all in violation of the applicable
9 Labor Code sections listed in Labor Code §2699.5, including but not limited to Labor Code §§ 201,
10 202, 203, 204, 218.5, 218.6, 226(a), 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
11 1198, 1198.5, 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to
12 statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as
13 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the State
14 of California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
15 EMPLOYEES

16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF prays for judgment against each DEFENDANTS, jointly and
18 severally, as follows:

19 1. On behalf of the CALIFORNIA CLASS:

20 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
21 as a class action pursuant to Cal. Code of Civ. Proc. § 382;

22 B) An order temporarily, preliminarily and permanently enjoining and restraining
23 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;

24 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld
25 from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS;

26 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for
27 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to the other
28 members of the CALIFORNIA CLASS;

1 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth,
2 Tenth, and Eleventh Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant
3 to Cal. Code of Civ. Proc. § 382;

4 1. Compensatory damages, according to proof at trial, including compensatory
5 damages for overtime compensation due PLAINTIFF and the other members of the
6 CALIFORNIA CLASS, during the applicable CALIFORNIA CLASS PERIOD plus
7 interest thereon at the statutory rate;

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

13 3. Meal and rest period compensation pursuant to California Labor Code Sections
14 226.7 and 512 and the applicable IWC Wage Order;

15 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
16 1197; and,

17 2. On all claims:


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

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

20 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
21 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

22
23 Dated: August 16, 2021

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


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

DEMAND FOR JURY TRIAL

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

Dated: August 16, 2021

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

By: 
Jean-Claude Lapuyade
Attorneys for PLAINTIFF

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