

**SUMMONS  
(CITACION JUDICIAL)**

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

**ELECTRONICALLY FILED**  
Superior Court of California  
County of Sacramento

11/20/2024

By:           V. Bloxson           Deputy

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

SUPERIOR PLUS ENERGY SERVICES INC., a California corporation; and DOES 1-50, Inclusive,

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

MICHAEL ADAMS, an individual, on behalf of himself, and on behalf of all persons similarly situated,

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

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

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

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

Gordon D. Schaber Sacramento - 720 9th Street, Sacramento, CA 95814

CASE NUMBER:  
(Número del Caso):

**24CV023748**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

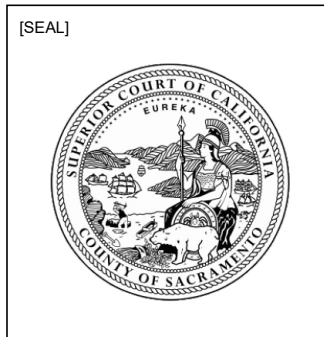
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jean-Claude Lapuyade, Esq. T: (619)599-8292 JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: Clerk, by           /s/ V. Bloxson          , Deputy  
(Fecha) 11/20/2024 (Secretario) (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:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
4.  by personal delivery on (date):



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8) FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB.  
CODE §§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant SUPERIOR PLUS ENERGY SERVICES INC. (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT’S line of business includes the retail sale of bottled or bulk liquefied petroleum gas.

3. PLAINTIFF was employed by DEFENDANT in California from October of 2021 to March of 2023 as a non-exempt employee, paid an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all persons who are or previously were employed by DEFENDANT in California and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning March 22, 2022, and ending on the date as determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed to

1 lawfully compensate these employees. DEFENDANT's uniform policy and practice alleged  
2 herein was an unlawful, unfair, and deceptive business practice whereby DEFENDANT retained  
3 and continues to retain wages due to PLAINTIFF and the other members of the CALIFORNIA  
4 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
5 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the  
6 other members of the CALIFORNIA CLASS who have been economically injured by  
7 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable  
8 relief.

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

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

26         8. DEFENDANT was PLAINTIFF'S employer or persons acting on behalf of the  
27 PLAINTIFF'S employer, within the meaning of California Labor Code § 558, who violated or  
28 caused to be violated, a section of Part 2, Chapter 1 of the California Labor Code or any provision

1 regulating hours and days of work in any order of the Industrial Welfare Commission and, as  
2 such, are subject to civil penalties for each underpaid employee, as set forth in Labor Code § 558,  
3 at all relevant times.

4 9. DEFENDANT was PLAINTIFF'S employer or persons acting on behalf of  
5 PLAINTIFF'S employer either individually or as an officer, agent, or employee of another person,  
6 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any  
7 employee a wage less than the minimum fixed by California state law, and as such, are subject to  
8 civil penalties for each underpaid employee.

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

12 11. PLAINTIFF and other members of the CALIFORNIA CLASS seek an injunction  
13 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
14 other members of the CALIFORNIA CLASS who has been economically injured by  
15 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable  
16 relief.

17 **JURISDICTION AND VENUE**

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

22 13. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
23 Sections 395 and 395.5, because DEFENDANT operates in locations across California, employs  
24 the CALIFORNIA CLASS across California, including in this County, and committed the  
25 wrongful conduct herein alleged in this County against the CALIFORNIA CLASS.

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**THE CONDUCT**

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

21           **A. Meal Period Violations**

22           15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
23 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
24 meaning the time during which an employee is subject to the control of an employer, including  
25 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
26 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
27 without paying them for all the time they were under DEFENDANT’s control. Specifically,  
28 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be

1 PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
2 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
3 Members forfeited minimum wage and overtime compensation by regularly working without their  
4 time being accurately recorded and without compensation at the applicable minimum wage and  
5 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other  
6 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
7 records.

8         16. From time to time during the CLASS PERIOD, as a result of their rigorous work  
9 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other  
10 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty  
11 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
12 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for  
13 more than five (5) hours during some shifts without receiving a meal break. Further,  
14 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second  
15 off-duty meal period for some workdays in which DEFENDANT required these employees to  
16 work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other  
17 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-  
18 duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other  
19 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.  
20 Further, DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to  
21 maintain cordless communication devices on them during meal periods in order to receive and  
22 respond to work-related communications. DEFENDANT's failure to provide PLAINTIFF and  
23 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by  
24 DEFENDANT's business records. PLAINTIFF and other members of the CALIFORNIA CLASS  
25 therefore forfeit meal breaks without additional compensation and in accordance with  
26 DEFENDANT's strict corporate policy and practice.

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1     **B. Rest Period Violations**

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

19     **C. Unreimbursed Business Expenses**

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



1 even though unlawful, unless the employee, at the time of obeying the directions, believed them  
2 to be unlawful."

3 19. In the course of their employment, DEFENDANT required PLAINTIFF and other  
4 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell  
5 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other  
6 CALIFORNIA CLASS Members were required to use their personal cell phones in order to  
7 perform work related tasks. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF  
8 and other CALIFORNIA CLASS Members for the use of their personal cell phones. As a result,  
9 in the course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA  
10 CLASS Members incurred unreimbursed business expenses that included, but were not limited  
11 to, costs related to the use of their personal cell phones all on behalf of and for the benefit of  
12 DEFENDANT.

13 **D. Wage Statement Violations**

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

22 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
23 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
24 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
25 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
26 accurate wage statements which failed to show the complete requirements under California Labor  
27 Code sections 226(a)(1)-(9), including but not limited to, all deductions, the total hours worked  
28 and all applicable hourly rates in effect during the pay period and the corresponding amount of

1 time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest  
2 periods.

3 22. Further, DEFENDANT from time to time issued wage statements to PLAINTIFF  
4 and other CALIFORNIA CLASS Members that included hours, including but not limited to,  
5 holiday pay, sick pay, and paid time off into the calculation of total hours worked for purposes of  
6 Cal. Lab. Code § 226(a)(2). However, hours for holiday pay, sick pay, and paid time off are not  
7 considered hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT  
8 from time to time issued wage statements to PLAINTIFF and other CALIFORNIA CLASS  
9 Members that violated Cal. Lab. Code § 226(a)(2).

10 23. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and the  
11 CALIFORNIA CLASS members with wage statements that accurately provided all applicable  
12 hourly rates in effect during the pay period and the corresponding number of hours worked at  
13 each hourly rate by the employee in violation of Cal. Lab. Code § 226(a)(9).

14 24. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide  
15 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
16 Cal. Lab. Code § 226(a)(1)-(9).

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

21 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

22 26. During the CLASS PERIOD, from time-to-time DEFENDANT failed and  
23 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS  
24 for all hours worked.

25 27. During the CLASS PERIOD, from time-to-time DEFENDANT required  
26 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
27 work. This resulted in PLAINTIFF and other members of the CALIFORNIA CLASS having to  
28 work while off-the-clock.

1           28.    DEFENDANT directed and directly benefited from the undercompensated off-the-  
2 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

3           29.    DEFENDANT controlled the work schedules, duties, and protocols, applications,  
4 assignments, and employment conditions of PLAINTIFF and the other members of the  
5 CALIFORNIA CLASS.

6           30.    DEFENDANT was able to track the amount of time PLAINTIFF and the other  
7 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to  
8 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
9 wages earned and owed for all the work they performed.

10          31.    PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
11 exempt employees, subject to the requirements of the California Labor Code.

12          32.    DEFENDANT's policies and practices deprived PLAINTIFF and the other  
13 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed  
14 for the off-the-clock work activities. Because PLAINTIFF and the other members of the  
15 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than  
16 eight (8) hours per day, DEFENDANT's policies and practices also deprived them of overtime  
17 pay.

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

20          34.    As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
21 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and  
22 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and  
23 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
24 hours worked in accordance with applicable law is evidenced by DEFENDANT's business  
25 records.

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1 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**  
2 **and Redeemed Sick Pay**

3 35. From time to time during the CLASS PERIOD, DEFENDANT failed and  
4 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
5 Members for their overtime and double time hours worked, meal and rest period premiums, and  
6 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
7 forfeited wages due to them for working overtime without compensation at the correct overtime  
8 and double time rates, meal and rest period premiums, and redeemed sick pay rates.  
9 DEFENDANT’s uniform policy and practice not to pay the CALIFORNIA CLASS Members at  
10 the correct rate for all overtime and double time worked, meal and rest period premiums, and  
11 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT’s business  
12 records.

13 36. State law provides that employees must be paid overtime at one-and-one-half times  
14 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were  
15 compensated at an hourly rate plus incentive pay that was tied to specific elements of an  
16 employee’s performance.

17 37. The second component of PLAINTIFF’s and other CALIFORNIA CLASS  
18 Members’ compensation was DEFENDANT’S non-discretionary incentive program that paid  
19 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for  
20 DEFENDANT. The non-discretionary bonus program provided all employees paid on an hourly  
21 basis with bonus compensation when the employees met the various performance goals set by  
22 DEFENDANT.

23 38. However, from-time-to-time, when calculating the regular rate of pay, in those pay  
24 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double  
25 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-  
26 discretionary bonus, DEFENDANT failed to accurately include the non-discretionary bonus  
27 compensation as part of the employees’ “regular rate of pay” and/or calculated all hours worked  
28 rather than just all non-overtime hours worked. Management and supervisors described the

1 incentive/bonus program to potential and new employees as part of the compensation package.  
2 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
3 CLASS members must be included in the “regular rate of pay.” The failure to do so has resulted  
4 in a systematic underpayment of overtime and double time compensation, meal and rest period  
5 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by  
6 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time  
7 for non-employees shall be calculated in the same manner as the regular rate of pay for the  
8 workweek in which the non-exempt employee uses paid sick time, whether or not the employee  
9 actually works overtime in that workweek. DEFENDANT’S conduct, as articulated herein, by  
10 failing to include the incentive compensation as part of the “regular rate of pay” for purposes of  
11 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is  
12 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

24           **G. Violations for Untimely Payment of Wages**

25           40. Pursuant to California Labor Code section 204, PLAINTIFF and the  
26 CALIFORNIA CLASS members were entitled to timely payment of wages during their  
27 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not  
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1 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,  
2 meal period premium wages, and rest period premium wages within permissible time period.

3 41. Pursuant to Cal. Lab. Code § 201, “If an employer discharges an employee, the  
4 wages earned and unpaid at the time of discharge are due and payable immediately.” Pursuant  
5 to Cal. Lab. Code § 202, if an employee quits his or her employment, “his or her wages shall  
6 become due and payable not later than 72 hours thereafter, unless the employee has given 72  
7 hours previous notice of his or her intention to quit, in which case the employee is entitled to his  
8 or her wages at the time of quitting.” PLAINTIFF and the CALIFORNIA CLASS Members  
9 were, from time to time, not timely provided the wages earned and unpaid at the time of their  
10 discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

11 42. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely  
12 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose  
13 employment ended during the CLASS PERIOD.

#### 14 **H. Unlawful Deductions**

15 43. DEFENDANT, from time-to-time unlawfully deducted wages from PLAINTIFF  
16 and CALIFORNIA CLASS Members’ pay without explanation and without authorization to do  
17 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result, DEFENDANT  
18 violated Labor Code § 221.

#### 19 **I. Timekeeping Manipulation**

20 44. During the CLASS PERIOD, DEFENDANT, from time-to-time, did not have an  
21 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
22 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
23 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
24 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and  
25 unilaterally alter the time recorded in DEFENDANT’S timekeeping system for PLAINTIFF and  
26 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all  
27 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and  
28 missed rest breaks.

1           45. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
2 time-to-time, forfeited time worked by working without their time being accurately recorded and  
3 without compensation at the applicable pay rates.

4           46. The mutability of the timekeeping system also allowed DEFENDANT to alter  
5 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANT's  
6 timekeeping system so as to create the appearance that PLAINTIFF and other members of the  
7 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees  
8 were not at all times provided an off-duty meal break. This practice is a direct result of  
9 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)  
10 minute off-duty meal breaks each day or otherwise compensating them for missed meal breaks.

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

16       **J. Unlawful Rounding Practices**

17           48. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
18 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
19 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
20 including overtime hours. Specifically, DEFENDANT had in place an unlawful rounding policy  
21 and practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being  
22 undercompensated for all of their time worked. As a result, DEFENDANT was able to and did  
23 in fact unlawfully, and unilaterally round the time recorded in DEFENDANT'S timekeeping  
24 system for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying  
25 these employees for all their time worked, including the applicable overtime compensation for  
26 overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from  
27 time to time, forfeited compensation for their time worked by working without their time being  
28 accurately recorded and without compensation at the applicable overtime rates.

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

7           **K. Sick Pay Violations**

8           50. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after  
9 July 1, 2015, works in California for the same employer for 30 or more days within a year from the  
10 commencement of employment is entitled to paid sick days as specified in this section.” Further,  
11 Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From time to  
12 time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF and other  
13 members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

14           51. California Labor Code Section 246(i) requires an employer to furnish its employees  
15 with written wage statements setting forth the amount of paid sick leave available. From time to  
16 time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF and other  
17 members of the CALIFORNIA CLASS with wage statements setting forth the amount of paid sick  
18 leave available.

19           52. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
20 off duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.  
21 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
22 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
23 provide PLAINTIFF with a second off-duty meal period each workday in which DEFENDANT  
24 required him to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF with a  
25 rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.  
26 DEFENDANT’S policy caused PLAINTIFF to remain on-call and on-duty during what was  
27 supposed to be his off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks  
28 without additional compensation and in accordance with DEFENDANT’S strict corporate policy



1 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to  
2 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF  
3 for required business expenses related to the personal expenses incurred for the use of his personal  
4 cell phone, on behalf of and in furtherance of his employment with DEFENDANT. To date,  
5 DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double time  
6 compensation still owed to him or any penalty wages owed to him under Cal. Lab. Code § 203. The  
7 amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

### 8 **CLASS ACTION ALLEGATIONS**

9 53. PLAINTIFF bring this Class Action on behalf of himself, and a California class  
10 defined as all persons who are or previously were employed by DEFENDANT in California and  
11 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period  
12 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined  
13 by the Court (the “CLASS PERIOD”).

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

20 55. The members of the class are so numerous that joinder of all class members is  
21 impractical.

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

1 affecting solely any individual members of the class. Among the questions of law and fact  
2 common to the class are:

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

27 57. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as  
28 a result of DEFENDANT's conduct and actions alleged herein.

1           58. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and  
2 PLAINTIFF have the same interests as the other members of the class.

3           59. PLAINTIFF will fairly and adequately represent and protect the interests of the  
4 CALIFORNIA CLASS Members.

5           60. PLAINTIFF retained able class counsel with extensive experience in class action  
6 litigation.

7           61. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the  
8 interest of the other CALIFORNIA CLASS Members.

9           62. There is a strong community of interest among PLAINTIFF and the members of  
10 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
11 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
12 sustained.

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

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

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

27           b. Adjudication with respect to individual members of the CALIFORNIA CLASS  
28 which would as a practical matter be dispositive of the interests of the other

1 members not party to the adjudication or substantially impair or impeded their  
2 ability to protect their interests.

3 65. Class treatment provides manageable judicial treatment calculated to bring an  
4 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of  
5 the conduct of DEFENDANT.

6 **FIRST CAUSE OF ACTION**

7 **Unlawful Business Practices**

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

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

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

13 67. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
14 Code § 17021.

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

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

26 69. By the conduct alleged herein, DEFENDANT has engaged and continues to  
27 engage in a business practice which violates California law, including but not limited to, the  
28 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,  
1198, and 2802, for which this Court should issue declaratory and other equitable relief pursuant

1 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held  
2 to constitute unfair competition, including restitution of wages wrongfully withheld.

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

8         71. By the conduct alleged herein, DEFENDANT’s practices were deceptive and  
9 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally  
10 mandated meal and rest periods and the required amount of compensation for missed meal and  
11 rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all  
12 necessary business expenses incurred, due to a systematic business practice that cannot be  
13 justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission  
14 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should  
15 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
16 restitution of wages wrongfully withheld.

17         72. By the conduct alleged herein, DEFENDANT’s practices were also unlawful,  
18 unfair, and deceptive in that DEFENDANT’s employment practices caused PLAINTIFF and the  
19 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
20 DEFENDANT.

21         73. By the conduct alleged herein, DEFENDANT’s practices were also unfair and  
22 deceptive in that DEFENDANT’s uniform policies, practices and procedures failed to provide  
23 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
24 required by Cal. Lab. Code §§ 226.7 and 512.

25         74. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each  
26 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty meal  
27 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for  
28

1 each workday in which a second off-duty meal period was not timely provided for each ten (10)  
2 hours of work.

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

6 76. By and through the unlawful and unfair business practices described herein,  
7 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
8 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
9 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
10 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
11 to unfairly compete against competitors who comply with the law.

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

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

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

26 80. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
27 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of  
28 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a

1 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
2 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
3 and economic harm unless DEFENDANT is restrained from continuing to engage in these  
4 unlawful and unfair business practices.

5 **SECOND CAUSE OF ACTION**

6 **Failure To Pay Minimum Wages**

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

8 **Alleged by PLAINTIFF and the CALIFORNIA CLASS against ALL Defendants)**

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

12 82. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
13 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial  
14 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay  
15 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

23 86. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
24 other members of the CALIFORNIA CLASS without regard to the correct amount of time they  
25 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and  
26 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS.

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

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

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

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

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

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





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

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

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

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

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

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

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

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

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

12           105. During the CLASS PERIOD, PLAINTIFF and the other members of the  
13 CALIFORNIA CLASS were paid less for overtime worked than they were entitled to, constituting  
14 a failure to pay all earned wages.

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

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

27           108. DEFENDANT knew or should have known that PLAINTIFF and the other  
28 members of the CALIFORNIA CLASS were undercompensated for their time worked.

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

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

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

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

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Reimburse Employees for Required Expenses**

8 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

17 121. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.  
18 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
19 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
20 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members  
21 for expenses which included, but were not limited to, personal expenses incurred for the use of  
22 their personal cell phones, all on behalf of and for the benefit of DEFENDANT. Specifically,  
23 DEFENDANT required PLAINTIFF and other CALIFORNIA CLASS Members to use their  
24 personal cell phones to execute their essential job duties on behalf of DEFENDANT.  
25 DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and  
26 the CALIFORNIA CLASS members for expenses resulting from the use of their personal cell  
27 phones for DEFENDANT within the course and scope of their employment for DEFENDANT.  
28 These expenses were necessary to complete their principal job duties. DEFENDANT is estopped

1 by DEFENDANT’s conduct to assert any waiver of this expectation. Although these expenses  
2 were necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,  
3 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
4 members for these expenses as an employer is required to do under the laws and regulations of  
5 California.

6 122. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred  
7 by him and the CALIFORNIA CLASS members in the discharge of their job duties for  
8 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory  
9 rate and costs under Cal. Lab. Code § 2802.

10 **SEVENTH CAUSE OF ACTION**

11 **Failure To Provide Accurate Itemized Statements**

12 **(Cal. Lab. Code § 226)**

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

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

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

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



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

9 125. When DEFENDANT did not accurately record PLAINTIFF'S and other  
10 CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurately for  
11 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
12 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
13 accurate wage statements which failed to show the complete requirements under California Labor  
14 Code sections 226(a)(1)-(9), including but not limited to, all deductions, the total hours worked  
15 and all applicable hourly rates in effect during the pay period and the corresponding amount of  
16 time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and  
17 rest periods. Further, DEFENDANT from time to time issued wage statements to PLAINTIFF  
18 and other CALIFORNIA CLASS Members that included hours, including but not limited to,  
19 holiday pay, sick pay, and paid time off into the calculation of total hours worked for purposes of  
20 Cal. Lab. Code § 226(a)(2). However, hours for holiday pay, sick pay, and paid time off are not  
21 considered hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT  
22 from time to time issued wage statements to PLAINTIFF and other CALIFORNIA CLASS  
23 Members that violated Cal. Lab. Code § 226(a)(2).

24 126. Further, DEFENDANTS from time to time failed to provide PLAINTIFF and the  
25 CALIFORNIA CLASS members with wage statements that accurately provided all applicable  
26 hourly rates in effect during the pay period and the corresponding number of hours worked at  
27 each hourly rate by the employee in violation of Cal. Lab. Code § 226(a)(9).

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

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

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

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

10 2. On behalf of the CALIFORNIA CLASS:

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

14 b. Compensatory damages, according to proof at trial, including compensatory  
15 damages for overtime compensation due to PLAINTIFF and the other members of  
16 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest  
17 thereon at the statutory rate;

18 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
19 the applicable IWC Wage Order;

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

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

28 f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA

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CLASS incurred in the course of their job duties, plus interest, and costs of suit.

3. On all claims:

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

DATED: November 20, 2024

**JCL LAW FIRM, APC**

By: 

Jean-Claude Lapuyade, Esq.

Attorney for PLAINTIFF

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**DEMAND FOR A JURY TRIAL**

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

DATED: November 20, 2024

**JCL LAW FIRM, APC**



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

Jean-Claude Lapuyade, Esq.  
Attorney for PLAINTIFF