

**SUMMONS
(CITACION JUDICIAL)**

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

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

JBPERRY HOLDINGS, INC., a California corporation; VALLEY INVENTORY SERVICE, INC., a California corporation; and DOES 1-50, Inclusive,

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

TATIANA ARMSTRONG, an individual, on behalf of herself, 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), 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. **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), 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.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): Solano Superior Court - Hall of Justice
600 Union Avenue, Fairfield, CA 94533

CASE NUMBER:
(Número del Caso):

FCS059079

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):

DATE: **OCT 10 2022**
(Fecha)

Clerk, by K. FUENTES, Deputy
(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)).

[SEAL]

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):

1 **ZAKAY LAW GROUP, APLC**
2 Shani O. Zakay (State Bar #277924)
3 Jackland K. Hom (State Bar #327243)
4 Julieann Alvarado (State Bar #334727)
5 5440 Morehouse Drive, Suite 3600
6 San Diego, CA 92121
7 Telephone: (619)255-9047
8 Facsimile: (858) 404-9203
9 shani@zakaylaw.com
10 jackland@zakaylaw.com
11 julieann@zakaylaw.com

12 **JCL LAW FIRM, APC**
13 Jean-Claude Lapuyade (State Bar #248676)
14 Sydney Castillo-Johnson (State Bar #343881)
15 5440 Morehouse Drive, Suite 3600
16 San Diego, CA 92121
17 Telephone: (619) 599-8292
18 Facsimile: (619) 599-8291
19 jlapuyade@jcl-lawfirm.com
20 scastillo@jcl-lawfirm.com

21 Attorneys for PLAINTIFF

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **IN AND FOR THE COUNTY OF SOLANO**

24 TATIANA ARMSTRONG, an individual, on
25 behalf of herself, and on behalf of all persons
26 similarly situated,

27 Plaintiffs,

28 v.

JBPERRY HOLDINGS, INC., a California
corporation; VALLEY INVENTORY
SERVICE, INC., a California corporation; and
DOES 1-50, Inclusive,

Defendants.

Case No: **FCS059079**

CLASS ACTION COMPLAINT FOR:

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

FILED/ENDORSED
Clerk of the Superior Court

OCT 10 2022

By K. FUENTES
DEPUTY CLERK

ASSIGNED TO
JUDGE E. Bradley Nelson
FOR ALL PURPOSES

#1,435-CMFF 425723

FILED BY FAX

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

DEMAND FOR A JURY TRIAL

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

PRELIMINARY ALLEGATIONS

1. Defendant JBPERRY HOLDINGS, INC. (“Defendant JBPerry Holdings”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant VALLEY INVENTORY SERVICE, INC. (“Defendant Valley Inventory”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant JBPerry Holdings and Defendant Valley Inventory were the joint employers of PLAINTIFF as evidenced by the documents issued to PLAINTIFF and by the company PLAINTIFF performed work for respectively and are therefore jointly responsible as employers for the conduct alleged herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANT provides inventory services, including item level and financial auditing, throughout the state of California, including the county of Solano, where PLAINTIFF worked.

5. PLAINTIFF was employed by DEFENDANT in California from April of 2021 to October of 2021 as a non-exempt employee, paid in part an hourly basis and non discretionary

1 bonuses, and entitled to the legally required meal and rest periods and payment of minimum and
2 overtime wages due for all time worked.

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

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

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

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

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

17 11. 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
20 employee a wage less than the minimum fixed by California state law, and as such, are subject to
21 civil penalties for each underpaid employee.

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

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

3 **JURISDICTION AND VENUE**

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

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

12 **THE CONDUCT**

13 16. 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, knowingly, and systematically
16 failed to provide legally compliant meal and rest periods, failed to accurately compensate
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest
18 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all
19 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS
20 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA
21 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other
22 members of the CALIFORNIA CLASS meal rest premiums at the regular rate, and failed to issue
23 to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage
24 statements showing, among other things, all applicable hourly rates in effect during the pay
25 periods and the corresponding amount of time worked at each hourly rate. DEFENDANT’s
26 uniform policies and practices are intended to purposefully avoid the accurate and full payment
27 for all time worked as required by California law which allows DEFENDANT to illegally profit
28 and gain an unfair advantage over competitors who comply with the law. To the extent equitable

1 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS
2 PERIOD should be adjusted accordingly.

3 **A. Meal Period Violations**

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

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

1 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.
2 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
3 legally required meal breaks is evidenced by DEFENDANT's business records. PLAINTIFF and
4 other members of the CALIFORNIA CLASS therefore forfeit meal breaks without additional
5 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

6 **B. Rest Period Violations**

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

21 **C. Wage Statement Violations**

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

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

11 22. In addition to the foregoing, DEFENDANT, from time to time, failed to provide
12 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with
13 Cal. Lab. Code § 226.

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

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

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

22 25. During the CLASS PERIOD, from time-to-time DEFENDANT required
23 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift
24 work, including but not limited to, picking up equipment. This resulted in PLAINTIFF and other
25 members of the CALIFORNIA CLASS to have to work while off-the-clock.

26 26. DEFENDANT directed and directly benefited from the undercompensated off-the-
27 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.
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1 27. DEFENDANT controlled the work schedules, duties, and protocols, applications,
2 assignments, and employment conditions of PLAINTIFF and the other members of the
3 CALIFORNIA CLASS.

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

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

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

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

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

24 **E. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**
25 **and Redeemed Sick Pay**

26 33. From time to time during the CLASS PERIOD, DEFENDANT failed and
27 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS
28 Members for their overtime and double time hours worked, meal and rest period premiums, and

1 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members
2 forfeited wages due to them for working overtime without compensation at the correct overtime
3 and double time rates, meal and rest period premiums, and redeemed sick pay rates.
4 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at
5 the correct rate for all overtime and double time worked, meal and rest period premiums, and
6 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT's business
7 records.

8 34. State law provides that employees must be paid overtime at one-and-one-half times
9 their "regular rate of pay." PLAINTIFF and other CALIFORNIA CLASS Members were
10 compensated at an hourly rate plus incentive pay that was tied to specific elements of an
11 employee's performance.

12 35. The second component of PLAINTIFF's and other CALIFORNIA CLASS
13 Members' compensation was DEFENDANTS' non-discretionary incentive program that paid
14 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for
15 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly
16 basis with bonus compensation when the employees met the various performance goals set by
17 DEFENDANTS.

18 36. However, from-time-to-time, when calculating the regular rate of pay, in those pay
19 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double
20 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-
21 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus
22 compensation as part of the employees' "regular rate of pay" and/or calculated all hours worked
23 rather than just all non-overtime hours worked. Management and supervisors described the
24 incentive/bonus program to potential and new employees as part of the compensation package.
25 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA
26 CLASS members must be included in the "regular rate of pay." The failure to do so has resulted
27 in a systematic underpayment of overtime and double time compensation, meal and rest period
28 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by

1 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time
2 for non-employees shall be calculated in the same manner as the regular rate of pay for the
3 workweek in which the non-exempt employee uses paid sick time, whether or not the employee
4 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by
5 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of
6 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is
7 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

19 **F. Unlawful Rounding Practices**

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

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

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

10 **G. Timekeeping Manipulation**

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

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

23 42. The mutability of the timekeeping system also allowed DEFENDANTS to alter
24 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANTS'
25 timekeeping system so as to create the appearance that PLAINTIFF and other members of the
26 CALIFORNIA CLASS clocked out for thirty (30) minute meal break when in fact the employees
27 were not at all times provided an off-duty meal break. This practice is a direct result of
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1 DEFENDANT's uniform policy and practice of denying employees uninterrupted thirty (30)
2 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

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

9 **H. Violations for Untimely Payment of Wages**

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

15 **I. Unlawful Deductions**

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

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

1 without additional compensation and in accordance with DEFENDANT’S strict corporate policy
2 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to
3 comply with Cal. Lab. Code § 226. To date, DEFENDANT has not fully paid PLAINTIFF the
4 minimum, overtime and double time compensation still owed to her or any penalty wages owed
5 to her under Cal. Lab. Code § 203. The amount in controversy for PLAINTIFF individually does
6 not exceed the sum or value of \$75,000.

7 **CLASS ACTION ALLEGATIONS**

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

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

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

21 50. Common questions of law and fact regarding DEFENDANT’s conduct, including
22 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately
23 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the
24 regular rate of compensation for missed meal and rest period premiums, failing to provide legally
25 compliant meal and rest periods, failed to reimburse for business expenses, failure to provide
26 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum
27 wage and overtime, exist as to all members of the class and predominate over any questions
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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 issued legally compliant wage statements;
- 14 g. Whether DEFENDANT committed an act of unfair competition by systematically
15 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
16 CLASS for all time worked;
- 17 h. Whether DEFENDANT committed an act of unfair competition by systematically
18 failing to record all meal and rest breaks missed by PLAINTIFF and other
19 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
20 of this work, required employees to perform this work and permits or suffers to
21 permit this work;
- 22 i. Whether DEFENDANT committed an act of unfair competition in violation of the
23 UCL, by failing to provide the PLAINTIFF and the other members of the
24 CALIFORNIA CLASS with the legally required meal and rest periods.

25 51. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as
26 a result of DEFENDANT's conduct and actions alleged herein.

27 52. PLAINTIFF'S claims are typical of the claims of the CALIFORNIA CLASS, and
28 PLAINTIFF have the same interests as the other members of the class.

1 53. PLAINTIFF will fairly and adequately represent and protect the interests of the
2 CALIFORNIA CLASS Members.

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

5 55. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the
6 interest of the other CALIFORNIA CLASS Members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and economic harm unless DEFENDANT is restrained from continuing to engage in these
2 unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

4 **Failure To Pay Minimum Wages**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 87. In performing the acts and practices herein alleged in violation of California labor
28 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked

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

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

18 **THIRD CAUSE OF ACTION**

19 **Failure To Pay Overtime Compensation**

20 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

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

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

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

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

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

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

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

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

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

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1 97. 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 98. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
5 from the overtime requirements of the law. None of these exemptions are applicable to
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 bring this Action on behalf of herself, and the CALIFORNIA CLASS, based on
10 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of
11 California.

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

15 100. 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.

22 101. 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.

27 102. 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.

6 103. 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.

14 104. 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 be 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.

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

6 **SIXTH CAUSE OF ACTION**

7 **Failure To Provide Accurate Itemized Statements**

8 **(Cal. Lab. Code § 226)**

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

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

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

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

3 h. the name and address of the legal entity that is the employer, and

4 i. all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate by the employee.

6 115. When DEFENDANT did not accurately record PLAINTIFF'S and other
7 CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed
8 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal.
9 Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA
10 CLASS Members with complete and accurate wage statements which failed to show, among other
11 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked
12 and all applicable hourly rates in effect during the pay period and the corresponding amount of
13 time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal
14 and rest periods.

15 116. In addition to the foregoing, DEFENDANT failed to provide itemized wage
16 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the
17 requirements of California Labor Code Section 226.

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

1 **SEVENTH CAUSE OF ACTION**

2 **Failure To Pay Wages When Due**

3 **(Cal. Lab. Code § 203)**

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

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

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

9 As used in this article:

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

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

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

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

29 122. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS
30 Members' employment contract.

31 123. Cal. Lab. Code § 203 provides:

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

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the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;

- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226
- e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA 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: October 7, 2022

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: October 7, 2022

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade, Esq.

Attorney for PLAINTIFF