

**SUMMONS
(CITACION JUDICIAL)**

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

VENI-EXPRESS, INC. a California Corporation; and DOES 1-50, Inclusive,

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

YESENIA MEDINA, an individual, on behalf of herself and on behalf of all persons similarly situated,

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

11/28/2022 at 09:46:48 AM

Clerk of the Superior Court
By Elizabeth Reyes, Deputy Clerk

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

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

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

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

The name and address of the court is:

(El nombre y dirección de la corte es):

San Diego Superior Court - Hall of Justice Courthouse
330 West Broadway
San Diego, CA 92101

CASE NUMBER: 37-2022-00047732-CU-0E-CTL
(Número del Caso):


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

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

Shani O. Zakay, Esq. SBN:277924 Tel: (619) 255-9047 Fax: (858) 404-9203
Zakay Law Group, APLC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

DATE: 11/29/2022

(Fecha)

Clerk, by  E. Reyes, 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)).***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)*:

[SEAL]



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Attorneys for Plaintiff YESENIA MEDINA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

YESENIA MEDINA, an individual, on behalf
of herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

VENI-EXPRESS, INC. a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No: 37-2022-00047732-CU-OE-CTL

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;

- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.
- 8) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ

DEMAND FOR A JURY TRIAL

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

THE PARTIES

1. Defendant VENI-EXPRESS, INC. (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business in the state of California. DEFENDANT offers mobile phlebotomy, specimen collection, onsite drug testing and DNA collection services in California, including in San Diego County where PLAINTIFF worked.

2. PLAINTIFF was employed by DEFENDANT in California from January of 2022 to June of 2022 as a Mobile Phlebotomist, and was at times classified by DEFENDANT as a non-exempt employee, paid on a piece-rate basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. When PLAINTIFF was paid piece-rate by DEFENDANT, PLAINTIFF was paid by piece-rate only while she was performing visits for DEFENDANT in accordance with DEFENDANT’s compensation package. Importantly, PLAINTIFF was not provided with minimum wages for her non-production work time. PLAINTIFF also did not receive paid rest breaks as required by California law. DEFENDANT failed to pay PLAINTIFF the correct amount of compensation because DEFENDANT established an illegal pay practice of paying PLAINTIFF on a piece rate basis when conducting visits with patients assigned by DEFENDANT. DEFENDANT however failed to pay minimum wages for compensable time worked, including time spent traveling

1 between visits, time spent for filling out charts before/after visits, and time spent being on-call.
2 DEFENDANT also failed to pay PLAINTIFF any overtime wages for all overtime worked,
3 thereby uniformly resulting in PLAINTIFF being underpaid for all time worked during her
4 employment, including overtime worked. To date, DEFENDANT has not fully and timely paid
5 the PLAINTIFF for all her wages still owed to her or any penalty wages owed to her under
6 California Labor Code § 203.

7 3. PLAINTIFF brings this Class Action on behalf of herself and a California class,
8 defined as all persons who are or previously were employed by DEFENDANT in California who
9 were paid in whole or in part on a piece-rate basis (the "CALIFORNIA CLASS") at any time
10 during the period beginning four years from the date of filing of this Complaint and ending on the
11 date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in
12 controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million
13 dollars (\$5,000,000.00).

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

25 5. The true names and capacities, whether individual, corporate, subsidiary,
26 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
27 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
28 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the

1 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time worked
2 is evidenced by DEFENDANT's business records.

3 8. As a result of their rigorous work schedules and DEFENDANT's understaffing,
4 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time unable to take
5 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
6 other CALIFORNIA CLASS Members were required to perform work as ordered by
7 DEFENDANT for more than five (5) hours during some shifts without receiving an off-duty meal
8 break as evidenced by DEFENDANT's business records. PLAINTIFF and other members of the
9 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
10 accordance with DEFENDANT's strict corporate policy and practice.

11 9. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
12 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
13 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
14 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours
15 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked
16 of between six (6) and eight (8) hours from time to time, and a first, second and third rest period
17 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
18 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
19 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
20 CALIFORNIA CLASS Members were from time to time denied their proper rest periods by
21 DEFENDANT and DEFENDANT's managers. In addition, because of DEFENDANT's pay plan
22 for PLAINTIFF and CALIFORNIA CLASS Members (being paid a flat rate per-visit only),
23 DEFENDANT failed to compensate PLAINTIFF and CALIFORNIA CLASS Members for their
24 rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
25 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other
26 CALIFORNIA CLASS Members when they were paid piece rate pay only. As a result,
27 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
28 all the legally required paid rest periods is evidenced by DEFENDANT's business records.

1 10. When PLAINTIFF and other CALIFORNIA CLASS Members were required to
2 miss meal and rest breaks, and/or were not paid all minimum and overtime wages owed to them,
3 DEFENDANT also failed to provide PLAINTIFF and the other members of the CALIFORNIA
4 CLASS with complete and accurate wage statements which failed to show, among other things,
5 the correct wages paid, including the wages paid for missed meal and rest breaks. Cal. Lab. Code
6 § 226 provides that every employer shall furnish each of his or her employees with an accurate
7 itemized wage statement in writing showing, among other things, gross wages earned and all
8 applicable hourly rates in effect during the pay period and the corresponding amount of time
9 worked at each hourly rate. Specifically, DEFENDANT failed to provide wage statements to
10 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members that provided the number
11 of piece-rate units earned and any applicable piece rate for employees paid on a piece-rate basis,
12 in violation of Cal. Lab. Code § 226(a)(3). Further, from time to time, DEFENDANT failed to
13 provide wage statements to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
14 Members that provided the corresponding number of hours worked for the “Breaks,” “Non-Prod”
15 and “Tasks” categories of compensation, in violation of Cal. Lab. Code § 226(a)(9). Aside from
16 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
17 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
18 As a result, DEFENDANT from time to time provided PLAINTIFF and the other members of the
19 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

20 11. In violation of the applicable sections of the California Labor Code and the
21 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
22 matter of company policy, practice and procedure, intentionally, knowingly and systematically
23 failed to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for
24 missed meal and rest periods. This uniform policy and practice of DEFENDANT is intended to
25 purposefully avoid the payment for all time worked as required by California law which allows
26 DEFENDANT to illegally profit and gain an unfair advantage over competitors who complied
27 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
28 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

1 12. From time-to-time during the CALIFORNIA CLASS PERIOD, PLAINTIFF and
2 the CALIFORNIA CLASS were paid in part on a piece-rate basis. In those instances where
3 PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis, PLAINTIFF
4 and the CALIFORNIA CLASS were entitled to be separately compensated for all non-productive
5 time at an hourly rate that is no less than the applicable minimum wage. Notwithstanding, in
6 those instances where PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-
7 rate basis, DEFENDANT failed to separately compensate PLAINTIFF and the CALIFORNIA
8 CLASS for all non-productive time, including but not limited to, paid rest periods, at an hourly
9 rate that is no less than the applicable minimum wage. As a result, PLAINTIFF and the
10 CALIFORNIA CLASS forfeited minimum wages and overtime wages by DEFENDANT'S
11 failure to separately compensate their non-productive time at an hourly rate that is no less than
12 the applicable minimum wage.

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

23 14. Specifically, as to PLAINTIFF, DEFENDANT failed to provide all the legally
24 required off-duty meal and rest breaks to her as required by the applicable Wage Order and Labor
25 Code and failed to pay her all minimum and overtime wages due to her. DEFENDANT did not
26 have a policy or practice which provided timely off-duty meal and rest breaks to PLAINTIFF and
27 also failed to compensate PLAINTIFF for her missed meal and rest breaks. The nature of the work
28 performed by the PLAINTIFF did not prevent her from being relieved of all of her duties for the

1 legally required off-duty meal periods. As a result, DEFENDANT's failure to provide
2 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business
3 records. As a result of DEFENDANT not accurately recording all missed meal and rest periods
4 and/or the correct overtime rate, and/or separately compensated rest breaks, the wage statements
5 issued to PLAINTIFF by DEFENDANT violated California law, and in particular, Labor Code
6 Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF all of her overtime wages due
7 to her and DEFENDANT has failed to pay any penalty wages owed to her under California Labor
8 Code Section 203 and/or 204. The amount in controversy for PLAINTIFF individually does not
9 exceed the sum or value of \$75,000.

10 **JURISDICTION AND VENUE**

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

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

20 **THE CALIFORNIA CLASS**

21 17. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
22 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
23 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
24 persons who are or previously were employed by DEFENDANT in California who were paid in
25 whole or in part on a piece rate basis (the "CALIFORNIA CLASS") at any time during the period
26 beginning four years from the date of the filing of this Complaint and ending on the date as
27 determined by the Court (the "CALIFORNIA CLASS PERIOD") The amount in controversy for
28

1 the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars
2 (\$5,000,000.00).

3 18. To the extent equitable tolling operates to toll claims by the CALIFORNIA
4 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
5 accordingly.

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

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

22 21. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA
23 CLASS Members is impracticable.

24 22. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
25 California law by:

- 26 a. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
27 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having
28 in place company policies, practices and procedures that uniformly and

1 systematically failed to record and pay PLAINTIFF and the other members of the
2 CALIFORNIA CLASS for all time worked, including minimum wages owed and
3 overtime wages owed for work performed by these employees;

4 b. Committing an act of unfair competition in violation of the UCL, by failing to
5 provide mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA
6 CLASS members; and

7 c. Committing an act of unfair competition in violation of the UCL, by failing to
8 separately compensate PLAINTIFF and the CALIFORNIA CLASS Members for
9 their rest breaks.

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

12 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
13 joinder of all such persons is impracticable and the disposition of their claims as a
14 class will benefit the parties and the Court;

15 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
16 raised in this Complaint are common to the CALIFORNIA CLASS will apply
17 uniformly to every member of the CALIFORNIA CLASS;

18 c. The claims of the representative PLAINTIFF are typical of the claims of each
19 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of
20 the CALIFORNIA CLASS, was classified as a non-exempt employee paid on a
21 piece-rate basis who was subjected to the DEFENDANT's deceptive practice and
22 policy which failed to provide the legally required meal and rest periods to the
23 CALIFORNIA CLASS and thereby systematically underpaid compensation to
24 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury
25 as a result of DEFENDANT's employment practices. PLAINTIFF and the
26 members of the CALIFORNIA CLASS were and are similarly or identically
27 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
28 misconduct engaged in by DEFENDANT; and

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

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

10 a. Without class certification and determination of declaratory, injunctive, statutory
11 and other legal questions within the class format, prosecution of separate actions
12 by individual members of the CALIFORNIA CLASS will create the risk of:

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

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

21 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on
22 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
23 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
24 DEFENDANT uniformly failed to pay all wages due to members of the
25 CALIFORNIA CLASS as required by law;

26 i. With respect to the First Cause of Action, the final relief on behalf of the
27 CALIFORNIA CLASS sought does not relate exclusively to restitution
28 because through this claim PLAINTIFF seeks declaratory relief holding

1 that the DEFENDANT's policy and practices constitute unfair
2 competition, along with declaratory relief, injunctive relief, and incidental
3 equitable relief as may be necessary to prevent and remedy the conduct
4 declared to constitute unfair competition;

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

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

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

19 1. Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA CLASS, which would establish
21 incompatible standards of conduct for the DEFENDANT; and/or;

22 2. Adjudications with respect to individual members of the
23 CALIFORNIA CLASS would as a practical matter be dispositive
24 of the interests of the other members not parties to the adjudication
25 or substantially impair or impede their ability to protect their
26 interests;

27 iii. In the context of wage litigation, because a substantial number of
28 individual CALIFORNIA CLASS Members will avoid asserting their legal

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rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual’s job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and

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

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

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT’s employment practices were uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and

1 in obtaining adequate compensation for the damages and injuries which
2 DEFENDANT's actions have inflicted upon the CALIFORNIA CLASS;

- 3 f. There is a community of interest in ensuring that the combined assets of
4 DEFENDANT are sufficient to adequately compensate the members of the
5 CALIFORNIA CLASS for the injuries sustained;
- 6 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
7 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
8 respect to the CALIFORNIA CLASS as a whole;
- 9 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
10 business records of DEFENDANT; and
- 11 i. Class treatment provides manageable judicial treatment calculated to bring an
12 efficient and rapid conclusion to all litigation of all wage and hour related claims
13 arising out of the conduct of DEFENDANT as to the members of the
14 CALIFORNIA CLASS.

15 26. DEFENDANT maintains records from which the Court can ascertain and identify
16 by job title each of DEFENDANT's employees who as have been systematically, intentionally
17 and uniformly subjected to DEFENDANT's company policy, practices and procedures as herein
18 alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles
19 of similarly situated employees when they have been identified.

20 **THE CALIFORNIA LABOR SUB-CLASS**

21 27. PLAINTIFF further brings the Second, Third, Fourth Fifth, Sixth, and Seventh
22 causes of Action on behalf of a California sub-class, defined as all members of the CALIFORNIA
23 CLASS who were employed by DEFENDANT in California (the "CALIFORNIA LABOR SUB-
24 CLASS") at any time during the period beginning three years from the date of the filing of this
25 Complaint and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-
26 CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the
27 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
28 (\$5,000,000.00).

1 28. DEFENDANT, as a matter of company policy, practice and procedure, and in
2 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
3 requirements, and the applicable provisions of California law, intentionally, knowingly, willfully,
4 and systematically willfully, engaged in a practice whereby DEFENDANT failed to correctly
5 calculate compensation for the time worked by PLAINTIFF and the other members of the
6 CALIFORNIA LABOR SUB-CLASS and separately compensated rest breaks owed to these
7 employees, even though DEFENDANT enjoyed the benefit of this work, required employees to
8 perform this work and permitted or suffered to permit this work. DEFENDANT has uniformly
9 denied these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees
10 are entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable
11 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against
12 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted
13 accordingly.

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

19 30. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 23 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
24 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for
25 minimum wages, overtime wages, missed meal and rest breaks in violation of the
26 California Labor Code and California regulations and the applicable California
27 Wage Order;

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- 1 b. Whether DEFENDANT failed to provide the PLAINTIFF and the other members
- 2 of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
- 3 statements;
- 4 c. Whether DEFENDANT has engaged in unfair competition by the above-listed
- 5 conduct;
- 6 d. The proper measure of damages and penalties owed to the members of the
- 7 CALIFORNIA LABOR SUB-CLASS; and
- 8 e. Whether DEFENDANT's conduct was willful.

9 32. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
10 under California law by:

- 11 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
- 12 PLAINTIFF and the members of the CALIFORNIA LABOR SUB- CLASS all
- 13 wages due for overtime worked, for which DEFENDANT is liable pursuant to Cal.
- 14 Lab. Code § 1194;
- 15 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
- 16 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS
- 17 the correct minimum wage pay for which DEFENDANT is liable pursuant to Cal.
- 18 Lab. Code §§ 1194 and 1197;
- 19 c. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
- 20 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
- 21 statement in writing showing the corresponding correct amount of wages earned
- 22 by the employee;
- 23 d. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
- 24 the other members of the CALIFORNIA CLASS with all legally required off-duty,
- 25 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks,
- 26 and to separately compensate PLAINTIFF and the other members of the
- 27 CALIFORNIA CLASS for rest breaks;
- 28

1 e. Violating Cal. Lab. Code §201, 202 and/or 203, which provides that when an
2 employee is discharged or quits from employment, the employer must pay the
3 employee all wages due without abatement, by failing to tender full payment
4 and/or restitution of wages owed or in the manner required by California law to
5 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
6 their employment.

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

9 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
10 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
11 is impracticable and the disposition of their claims as a class will benefit the parties
12 and the Court;

13 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
14 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS
15 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-
16 CLASS;

17 c. The claims of the representative PLAINTIFF are typical of the claims of each
18 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the
19 other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt
20 employee paid on a piece-rate basis who was subjected to the DEFENDANT's
21 practice and policy which failed to pay the correct amount of wages due to the
22 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as
23 a result of DEFENDANT's employment practices. PLAINTIFF and the members
24 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically
25 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
26 misconduct engaged in by DEFENDANT; and

27 d. The representative PLAINTIFF will fairly and adequately represent and protect
28 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel

1 who are competent and experienced in Class Action litigation. There are no
2 material conflicts between the claims of the representative PLAINTIFF and the
3 members of the CALIFORNIALABOR SUB-CLASS that would make class
4 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
5 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS
6 Members.

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

9 a. Without class certification and determination of declaratory, injunctive, statutory
10 and other legal questions within the class format, prosecution of separate actions
11 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
12 the risk of:

13 i. Inconsistent or varying adjudications with respect to individual members
14 of the CALIFORNIA LABOR SUB-CLASS which would establish
15 incompatible standards of conduct for the parties opposing the
16 CALIFORNIA LABOR SUB-CLASS; or

17 ii. Adjudication with respect to individual members of the CALIFORNIA
18 LABOR SUB-CLASS which would as a practical matter be dispositive of
19 interests of the other members not party to the adjudication or substantially
20 impair or impede their ability to protect their interests.

21 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
22 refused to act on grounds generally applicable to the CALIFORNIA LABOR
23 SUB-CLASS, making appropriate class-wide relief with respect to the
24 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly
25 fails to pay all wages due. Including the correct wages for all time worked by the
26 members of the CALIFORNIA LABOR SUB-CLASS as required by law;

27 c. Common questions of law and fact predominate as to the members of the
28 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations

1 of California Law as listed above, and predominate over any question affecting
2 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class
3 Action is superior to other available methods for the fair and efficient adjudication
4 of the controversy, including consideration of:

5 i. The interests of the members of the CALIFORNIA LABOR SUB-CLASS
6 in individually controlling the prosecution or defense of separate actions in
7 that the substantial expense of individual actions will be avoided to recover
8 the relatively small amount of economic losses sustained by the individual
9 CALIFORNIA LABOR SUB-CLASS Members when compared to the
10 substantial expense and burden of individual prosecution of this litigation;

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

13 1. Inconsistent or varying adjudications with respect to individual
14 members of the CALIFORNIA LABOR SUB-CLASS, which
15 would establish incompatible standards of conduct for the
16 DEFENDANT; and/or,

17 2. Adjudications with respect to individual members of the
18 CALIFORNIA LABOR SUB-CLASS would as a practical matter
19 be dispositive of the interests of the other members not parties to
20 the adjudication or substantially impair or impede their ability to
21 protect their interests;

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

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

- a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

- 1 f. There is a community of interest in ensuring that the combined assets of
2 DEFENDANT are sufficient to adequately compensate the members of the
3 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 4 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
5 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
6 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 7 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily
8 ascertainable from the business records of DEFENDANT. The CALIFORNIA
9 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who were
10 employed by DEFENDANT in California during the CALIFORNIA LABOR
11 SUB-CLASS PERIOD; and
- 12 i. Class treatment provides manageable judicial treatment calculated to bring an
13 efficient and rapid conclusion to all litigation of all wage and hour related claims
14 arising out of the conduct of DEFENDANT as to the members of the
15 CALIFORNIA LABOR SUB-CLASS.

16 **FIRST CAUSE OF ACTION**

17 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

23 37. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
24 Code § 17021.

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

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

8 39. By the conduct alleged herein, DEFENDANT has engaged and continues to
9 engage in a business practice which violates California law, including but not limited to, the
10 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
11 including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,
12 and 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
13 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
14 constitute unfair competition, including restitution of wages wrongfully withheld.

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

20 41. By the conduct alleged herein, DEFENDANT's practices were deceptive and
21 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
22 mandated meal and rest periods and the required amount of compensation for missed meal and
23 rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
24 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
25 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
26 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

27 42. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
28 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the

1 other members of the CALIFORNIA CLASS to be underpaid during their employment with
2 DEFENDANT.

3 43. By the conduct alleged herein, DEFENDANT's practices were also unfair and
4 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
5 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
6 as required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

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

26 48. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
27 and do, seek such relief as may be necessary to restore to them the money and property which
28 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the

1 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
2 business practices, including earned but unpaid wages for all time worked.

3 49. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
4 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
5 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
6 engaging in any unlawful and unfair business practices in the future.

7 50. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
8 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
9 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
10 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
11 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
12 and economic harm unless DEFENDANT is restrained from continuing to engage in these
13 unlawful and unfair business practices.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

22 52. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
23 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code
24 and the Industrial Welfare Commission requirements for DEFENDANT'S failure to accurately
25 calculate and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

26 53. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
27 policy, an employer must timely pay its employees for all hours worked.
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1 54. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
2 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
3 the minimum so fixed is unlawful.

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

6 56. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
7 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount
8 of time they worked, and instead paying PLAINTIFF and other members of the CALIFORNIA
9 LABOR SUB-CLASS on a piece-rate per-visit basis. As set forth herein, DEFENDANT'S
10 uniform policy and practice was to unlawfully and intentionally deny timely payment of wages
11 due to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS.

12 57. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,
13 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
14 of implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
15 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage
16 pay.

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

23 59. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
25 the minimum wage compensation for all their time worked for DEFENDANT.

26 60. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
27 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
28 they were entitled to, constituting a failure to pay all earned wages.

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

6 62. DEFENDANT knew or should have known that PLAINTIFF and the other
7 members of the CALIFORNIA LABOR SUB-CLASS are under-compensated for their time
8 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
9 nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice
10 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
11 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the correct
12 minimum wages for their time worked.

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

21 64. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
22 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as
23 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by
24 the California Labor Code and/or other applicable statutes. To the extent minimum wage
25 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members
26 who have terminated their employment, DEFENDANT’S conduct also violates Labor Code §§
27 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under
28 Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA

1 LABOR SUB-CLASS Members. DEFENDANT’S conduct as alleged herein was willful,
2 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-
3 CLASS Members are entitled to seek and recover statutory costs.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME COMPENSATION**

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

7 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against all**
8 **Defendants)**

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

12 66. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
13 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code
14 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to pay these
15 employees for all overtime worked, including, work performed in excess of eight (8) hours in a
16 workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

23 69. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,
24 including minimum wage and overtime compensation and interest thereon, together with the costs
25 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
26 than those fixed by the Industrial Welfare Commission is unlawful.

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1 70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
2 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
3 DEFENDANT and were not paid for all the time they worked, including overtime work.

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

12 72. In committing these violations of the California Labor Code, DEFENDANT
13 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
14 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in
15 an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
16 California Labor Code, the Industrial Welfare Commission requirements and other applicable
17 laws and regulations.

18 73. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
19 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
20 receive full compensation for overtime worked.

21 74. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
22 from the overtime requirements of the law. None of these exemptions are applicable to the
23 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject
25 to a valid collective bargaining agreement that would preclude the causes of action contained
26 herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself and the
27 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non- negotiable,
28 non-waivable rights provided by the State of California.

1 75. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
2 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
3 worked that they are entitled to, constituting a failure to pay all earned wages.

4 76. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of
5 the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
6 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
7 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
8 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed
9 to accurately record and pay as evidenced by DEFENDANT’S business records and witnessed by
10 employees.

11 77. By virtue of DEFENDANT’S unlawful failure to accurately pay all earned
12 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
13 CLASS for all overtime worked by these employees, PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
15 injury in amounts which are presently unknown to them and which will be ascertained according
16 to proof at trial.

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

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

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

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

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

24 82. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all
25 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR
26 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of
27 the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did
28 not prevent these employees from being relieved of all of their duties for the legally required off-

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

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

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

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

21 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

27 86. From time to time, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
28 Members were required to work in excess of four (4) hours without being provided ten (10) minute

1 rest periods. Further, these employees were denied their first rest periods of at least ten (10)
2 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period
3 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a
4 first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
5 hours or more. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also
6 not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
7 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied
8 their proper rest periods by DEFENDANT and DEFENDANT's managers. In addition, because
9 of DEFENDANT's pay plan for PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
10 Members (being paid a flat rate only), DEFENDANT failed to compensate PLAINTIFF and
11 CALIFORNIA LABOR SUB- CLASS Members for their rest periods as required by the
12 applicable Wage Order and Labor Code. DEFENDANT did not have a policy or practice which
13 paid for off-duty rest periods to PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS
14 Members when they were paid piece rate pay only. As a result, DEFENDANT's failure to provide
15 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with all the legally required
16 paid rest periods is evidenced by DEFENDANT's business records.

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

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

25 **SIXTH CAUSE OF ACTION**

26 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

27 **(Cal. Lab. Code § 226)**

28

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

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

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

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

26 91. When DEFENDANT did not accurately record PLAINTIFF’s and other
27 CALIFORNIA LABOR SUB-CLASS Members’ wages, and missed meal and rest breaks, and
28 separately compensated rest periods, DEFENDANT violated Cal. Lab. Code § 226 in that

1 DEFENDANT failed to provide an accurate wage statement in writing that properly and
2 accurately itemizes all wages, and missed meal and rest periods and reporting time wages owed
3 to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS and thereby
4 also failed to set forth the correct wages earned by the employees. Specifically, DEFENDANT
5 failed to provide wage statements to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
6 Members that provided the number of piece-rate units earned and any applicable piece rate for
7 employees paid on a piece-rate basis, in violation of Cal. Lab. Code § 226(a)(3). Further, from
8 time to time, DEFENDANT failed to provide wage statements to PLAINTIFF and other
9 CALIFORNIA LABOR SUB-CLASS Members that provided the corresponding number of hours
10 worked for the “Breaks,” “Non-Prod” and “Tasks” categories of compensation, in violation of
11 Cal. Lab. Code § 226(a)(9). Aside from the violations listed above in this paragraph,
12 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the
13 requirements under California Labor Code 226 *et seq.*

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

25 **SEVENTH CAUSE OF ACTION**
26 **FAILURE TO PAY WAGES WHEN DUE**
27 **(Cal. Lab. Code § 203)**
28

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

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

6 94. Cal. Lab. Code § 200 provides that:

7 As used in this article:

8 (d) "Wages" includes all amounts for labor performed by employees of every
9 description, whether the amount is fixed or ascertained by the standard of time,
10 task, piece, Commission basis, or other method of calculation.

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

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

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

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

27 97. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-
28 CLASS Members' employment contract.

1 98. Cal. Lab. Code § 203 provides:
2 If an employer willfully fails to pay, without abatement or reduction, in accordance with
3 Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who
4 quits, the wages of the employee shall continue as a penalty from the due date thereof at
5 the same rate until paid or until an action therefor is commenced; but the wages shall not
6 continue for more than 30 days.

7 99. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS
8 Members terminated and DEFENDANT has not tendered payment of wages to these employees
9 who were underpaid for minimum wage and/or overtime wage, and/or missed meal and rest
10 breaks, as required by law.

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

17 **EIGHTH CAUSE OF ACTION**
18 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**
19 **(Cal. Lab. Code §§2698 et seq.)**
20 **(Alleged by PLAINTIFF against all Defendants)**

21 101. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
22 herein, the prior paragraphs of this Complaint.

23 102. PAGA is a mechanism by which the State of California itself can enforce state
24 labor laws through the employee suing under the PAGA who does so as the proxy or agent of
25 the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
26 fundamentally a law enforcement action designed to protect the public and not to benefit private
27 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means
28 of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting

1 PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved
2 employees, acting as private attorneys general to recover civil penalties for Labor Code
3 violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be subject to
4 arbitration.

5 103. PLAINTIFF, and such persons that may be added from time to time who satisfy
6 the requirements and exhaust the administrative procedures under the Private Attorney General
7 Act, bring this Representative Action on behalf of the State of California with respect to himself
8 and all employees who worked for Defendant in California during the time period of September
9 21, 2021 until the present (the "AGGRIEVED EMPLOYEES").

10 104. On September 21, 2022, PLAINTIFF gave written notice by certified mail to the
11 Labor and Workforce Development Agency (the "Agency") and the employer of the specific
12 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
13 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
14 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant
15 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA
16 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
17 EMPLOYEES as herein defined.

18 105. The policies, acts and practices heretofore described were and are an unlawful
19 business act or practice because DEFENDANTS (a) failed to pay AGGRIEVED EMPLOYEES
20 minimum wages and overtime wages, (b) failed to provide AGGRIEVED EMPLOYEES legally
21 required meal and rest breaks, (c) failed to pay AGGRIEVED EMPLOYEES at the correct
22 regular rate of pay, (d) failed to pay AGGRIEVED EMPLOYEES for all time worked, and (e)
23 failed to timely pay wages, all in violation of the applicable Labor Code sections listed in Labor
24 Code §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5,
25 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1,
26 1197.14, 1198, 1199, 2802, 2804, and the applicable Industrial Wage Order(s), and thereby gives
27 rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
28 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the

1 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
2 the other AGGRIEVED EMPLOYEES.

3
4 **PRAYER FOR RELIEF**

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

7 1. On behalf of the CALIFORNIA CLASS:

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

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

- 19 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes
20 of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
21 pursuant to Cal. Code of Civ. Proc. § 382;
- 22 b. Compensatory damages, according to proof at trial, including compensatory
23 damages for minimum wages, overtime compensation, unreimbursed expenses, and
24 separately owed rest periods, due to PLAINTIFF and the other members of the
25 CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA
26 LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 27 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
28 the applicable IWC Wage Order;

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- 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 LABOR SUB-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 LABOR SUB-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.
3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES: Recovery of civil penalties as prescribe by the Labor Code Private Attorneys General Act of 2004;
4. 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.

DATED: November 28, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: November 28, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

EXHIBIT 1

September 21, 2022

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

VENI-EXPRESS, INC.

c/o Janet Alice Segedi
909 Richland Rd SPC141
San Marcos, CA 92069

Sent via Certified Mail and Return Receipt 7021 1970 0001 8870 1200

Re: Notice of Violations of California Labor Code Sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1198.5, 1199, 2802, 2804, and Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant to California Labor Code Section 2699.5

Dear Sir/Madam:

Our offices represent Plaintiff YESENIA MEDINA (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendant VENI-EXPRESS, INC. (“Defendant”). Plaintiff was employed by Defendant in California from January of 2022 to June of 2022 as a non-exempt employee, paid in part by piece-rate based compensation, and entitled to payment of all wages and the legally required meal and rest breaks and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other aggrieved employees for all of their time worked, and for all of their meal breaks and rest breaks. Plaintiff also worked at times for Defendant as a piece-rate based employee entitled to be separately compensated for her non-productive time, including rest periods. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence, Plaintiff contend that Defendant failed to fully compensate her and other similarly situated and aggrieved employees, for all earned wages and failed to provide California-compliant meal and rest breaks and accurate wage statements. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and applicable wage orders, and is therefore actionable pursuant to section 2698 *et seq.*

Plaintiff seeks to represent a group of aggrieved employees defined as all non-exempt, commission-based and/or piece-rate based employees who worked for Defendant in California during the relevant claim period.

A true and correct copy of the proposed Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

To the extent that entities and/or individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code Sections including, but not limited to 558, 558.1, and 1197.1—Plaintiff reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue.

Any further amendments and changes to this notice shall relate back to the date of this notice. Consequently, Defendant is on notice that Plaintiff continues her investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of any of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein.

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

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

Very truly yours,
JCL LAW FIRM, APC



Jean-Claude Lapuyade, Esq.

ZAKAY LAW GROUP, APLC

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Attorneys for Plaintiff YESENIA MEDINA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

YESENIA MEDINA, an individual, on behalf
of herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

VENI-EXPRESS, INC. a California
Corporation; and DOES 1-50, Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY 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;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;

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

DEMAND FOR A JURY TRIAL

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

8 **THE PARTIES**

9 1. Defendant VENI-EXPRESS, INC. (“DEFENDANT”) is a California corporation
10 that at all relevant times mentioned herein conducted and continues to conduct substantial and
11 regular business in the state of California. DEFENDANT offers mobile phlebotomy, specimen
12 collection, onsite drug testing and DNA collection services in California, including in San Diego
13 County where PLAINTIFF worked.

14 2. PLAINTIFF was employed by DEFENDANT in California from January of 2022
15 to June of 2022 as a Mobile Phlebotomist, and was at times classified by DEFENDANT as a non-
16 exempt employee, paid on a piece-rate basis, and entitled to the legally required meal and rest
17 periods and payment of minimum and overtime wages due for all time worked. When
18 PLAINTIFF was paid piece-rate by DEFENDANT, PLAINTIFF was paid by piece-rate only
19 while she was performing visits for DEFENDANT in accordance with DEFENDANT’s
20 compensation package. Importantly, PLAINTIFF was not provided with minimum wages for her
21 non-production work time. PLAINTIFF also did not receive paid rest breaks as required by
22 California law. DEFENDANT failed to pay PLAINTIFF the correct amount of compensation
23 because DEFENDANT established an illegal pay practice of paying PLAINTIFF on a piece rate
24 basis when conducting visits with patients assigned by DEFENDANT. DEFENDANT however
25 failed to pay minimum wages for compensable time worked, including time spent traveling
26 between visits, time spent for filling out charts before/after visits, and time spent being on-call.
27 DEFENDANT also failed to pay PLAINTIFF any overtime wages for all overtime worked,
28 thereby uniformly resulting in PLAINTIFF being underpaid for all time worked during her

1 employment, including overtime worked. To date, DEFENDANT has not fully and timely paid
2 the PLAINTIFF for all her wages still owed to her or any penalty wages owed to her under
3 California Labor Code § 203.

4 3. PLAINTIFF brings this Class Action on behalf of herself and a California class,
5 defined as all persons who are or previously were employed by DEFENDANT in California who
6 were paid in whole or in part on a piece-rate basis (the “CALIFORNIA CLASS”) at any time
7 during the period beginning four years from the date of filing of this Complaint and ending on the
8 date as determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in
9 controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million
10 dollars (\$5,000,000.00).

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

22 5. The true names and capacities, whether individual, corporate, subsidiary,
23 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
24 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
25 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the
26 true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF
27 is informed and believes, and based upon that information and belief alleges, that the Defendants
28 named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some

1 8. As a result of their rigorous work schedules and DEFENDANT's understaffing,
2 PLAINTIFF and other CALIFORNIA CLASS Members were from time to time unable to take
3 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and
4 other CALIFORNIA CLASS Members were required to perform work as ordered by
5 DEFENDANT for more than five (5) hours during some shifts without receiving an off-duty meal
6 break as evidenced by DEFENDANT's business records. PLAINTIFF and other members of the
7 CALIFORNIA CLASS therefore forfeited meal breaks without additional compensation and in
8 accordance with DEFENDANT's strict corporate policy and practice.

9 9. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
10 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without
11 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
12 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours
13 from time to time, a first and second rest period of at least ten (10) minutes for some shifts worked
14 of between six (6) and eight (8) hours from time to time, and a first, second and third rest period
15 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
16 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour
17 wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other
18 CALIFORNIA CLASS Members were from time to time denied their proper rest periods by
19 DEFENDANT and DEFENDANT's managers. In addition, because of DEFENDANT's pay plan
20 for PLAINTIFF and CALIFORNIA CLASS Members (being paid a flat rate per-visit only),
21 DEFENDANT failed to compensate PLAINTIFF and CALIFORNIA CLASS Members for their
22 rest periods as required by the applicable Wage Order and Labor Code. DEFENDANT did not
23 have a policy or practice which paid for off-duty rest periods to PLAINTIFF and the other
24 CALIFORNIA CLASS Members when they were paid piece rate pay only. As a result,
25 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with
26 all the legally required paid rest periods is evidenced by DEFENDANT's business records.

27 10. When PLAINTIFF and other CALIFORNIA CLASS Members were required to
28 miss meal and rest breaks, and/or were not paid all minimum and overtime wages owed to them,

1 DEFENDANT also failed to provide PLAINTIFF and the other members of the CALIFORNIA
2 CLASS with complete and accurate wage statements which failed to show, among other things,
3 the correct wages paid, including the wages paid for missed meal and rest breaks. Cal. Lab. Code
4 § 226 provides that every employer shall furnish each of his or her employees with an accurate
5 itemized wage statement in writing showing, among other things, gross wages earned and all
6 applicable hourly rates in effect during the pay period and the corresponding amount of time
7 worked at each hourly rate. Specifically, DEFENDANT failed to provide wage statements to
8 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members that provided the number
9 of piece-rate units earned and any applicable piece rate for employees paid on a piece-rate basis,
10 in violation of Cal. Lab. Code § 226(a)(3). Further, from time to time, DEFENDANT failed to
11 provide wage statements to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
12 Members that provided the corresponding number of hours worked for the “Breaks,” “Non-Prod”
13 and “Tasks” categories of compensation, in violation of Cal. Lab. Code § 226(a)(9). Aside from
14 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
15 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
16 As a result, DEFENDANT from time to time provided PLAINTIFF and the other members of the
17 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

18 11. In violation of the applicable sections of the California Labor Code and the
19 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a
20 matter of company policy, practice and procedure, intentionally, knowingly and systematically
21 failed to compensate PLAINTIFF and the other members of the CALIFORNIA CLASS for
22 missed meal and rest periods. This uniform policy and practice of DEFENDANT is intended to
23 purposefully avoid the payment for all time worked as required by California law which allows
24 DEFENDANT to illegally profit and gain an unfair advantage over competitors who complied
25 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
26 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

27 12. From time-to-time during the CALIFORNIA CLASS PERIOD, PLAINTIFF and
28 the CALIFORNIA CLASS were paid in part on a piece-rate basis. In those instances where

1 PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-rate basis, PLAINTIFF
2 and the CALIFORNIA CLASS were entitled to be separately compensated for all non-productive
3 time at an hourly rate that is no less than the applicable minimum wage. Notwithstanding, in
4 those instances where PLAINTIFF and the CALIFORNIA CLASS were paid in part on a piece-
5 rate basis, DEFENDANT failed to separately compensate PLAINTIFF and the CALIFORNIA
6 CLASS for all non-productive time, including but not limited to, paid rest periods, at an hourly
7 rate that is no less than the applicable minimum wage. As a result, PLAINTIFF and the
8 CALIFORNIA CLASS forfeited minimum wages and overtime wages by DEFENDANT'S
9 failure to separately compensate their non-productive time at an hourly rate that is no less than
10 the applicable minimum wage.

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

21 14. Specifically, as to PLAINTIFF, DEFENDANT failed to provide all the legally
22 required off-duty meal and rest breaks to her as required by the applicable Wage Order and Labor
23 Code and failed to pay her all minimum and overtime wages due to her. DEFENDANT did not
24 have a policy or practice which provided timely off-duty meal and rest breaks to PLAINTIFF and
25 also failed to compensate PLAINTIFF for her missed meal and rest breaks. The nature of the work
26 performed by the PLAINTIFF did not prevent her from being relieved of all of her duties for the
27 legally required off-duty meal periods. As a result, DEFENDANT's failure to provide
28 PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business

1 records. As a result of DEFENDANT not accurately recording all missed meal and rest periods
2 and/or the correct overtime rate, and/or separately compensated rest breaks, the wage statements
3 issued to PLAINTIFF by DEFENDANT violated California law, and in particular, Labor Code
4 Section 226(a). To date, DEFENDANT has yet to pay PLAINTIFF all of her overtime wages due
5 to her and DEFENDANT has failed to pay any penalty wages owed to her under California Labor
6 Code Section 203 and/or 204. The amount in controversy for PLAINTIFF individually does not
7 exceed the sum or value of \$75,000.

8 **JURISDICTION AND VENUE**

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

13 16. Venue is proper in this Court pursuant to California Code of Civil Procedure,
14 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
15 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
16 in this County and/or conducts substantial business in this County, and (ii) committed the
17 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

18 **THE CALIFORNIA CLASS**

19 17. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
20 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
21 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
22 persons who are or previously were employed by DEFENDANT in California who were paid in
23 whole or in part on a piece rate basis (the "CALIFORNIA CLASS") at any time during the period
24 beginning four years from the date of the filing of this Complaint and ending on the date as
25 determined by the Court (the "CALIFORNIA CLASS PERIOD") The amount in controversy for
26 the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars
27 (\$5,000,000.00).

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

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

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

20 21. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA
21 CLASS Members is impracticable.

22 22. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
23 California law by:

- 24 a. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
25 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having
26 in place company policies, practices and procedures that uniformly and
27 systematically failed to record and pay PLAINTIFF and the other members of the
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1 CALIFORNIA CLASS for all time worked, including minimum wages owed and
2 overtime wages owed for work performed by these employees;

3 b. Committing an act of unfair competition in violation of the UCL, by failing to
4 provide mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA
5 CLASS members; and

6 c. Committing an act of unfair competition in violation of the UCL, by failing to
7 separately compensate PLAINTIFF and the CALIFORNIA CLASS Members for
8 their rest breaks.

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

11 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
12 joinder of all such persons is impracticable and the disposition of their claims as a
13 class will benefit the parties and the Court;

14 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
15 raised in this Complaint are common to the CALIFORNIA CLASS will apply
16 uniformly to every member of the CALIFORNIA CLASS;

17 c. The claims of the representative PLAINTIFF are typical of the claims of each
18 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of
19 the CALIFORNIA CLASS, was classified as a non-exempt employee paid on a
20 piece-rate basis who was subjected to the DEFENDANT's deceptive practice and
21 policy which failed to provide the legally required meal and rest periods to the
22 CALIFORNIA CLASS and thereby systematically underpaid compensation to
23 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury
24 as a result of DEFENDANT's employment practices. PLAINTIFF and the
25 members of the CALIFORNIA CLASS were and are similarly or identically
26 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
27 misconduct engaged in by DEFENDANT; and

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

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

10 a. Without class certification and determination of declaratory, injunctive, statutory
11 and other legal questions within the class format, prosecution of separate actions
12 by individual members of the CALIFORNIA CLASS will create the risk of:

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

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

21 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on
22 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
23 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
24 DEFENDANT uniformly failed to pay all wages due to members of the
25 CALIFORNIA CLASS as required by law;

26 i. With respect to the First Cause of Action, the final relief on behalf of the
27 CALIFORNIA CLASS sought does not relate exclusively to restitution
28 because through this claim PLAINTIFF seeks declaratory relief holding

1 that the DEFENDANT's policy and practices constitute unfair
2 competition, along with declaratory relief, injunctive relief, and incidental
3 equitable relief as may be necessary to prevent and remedy the conduct
4 declared to constitute unfair competition;

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

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

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

19 1. Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA CLASS, which would establish
21 incompatible standards of conduct for the DEFENDANT; and/or;

22 2. Adjudications with respect to individual members of the
23 CALIFORNIA CLASS would as a practical matter be dispositive
24 of the interests of the other members not parties to the adjudication
25 or substantially impair or impede their ability to protect their
26 interests;

27 iii. In the context of wage litigation, because a substantial number of
28 individual CALIFORNIA CLASS Members will avoid asserting their legal

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rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual’s job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and

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

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

- a. The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT’s employment practices were uniform and systematically applied with respect to the CALIFORNIA CLASS.
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and

1 in obtaining adequate compensation for the damages and injuries which
2 DEFENDANT's actions have inflicted upon the CALIFORNIA CLASS;

- 3 f. There is a community of interest in ensuring that the combined assets of
4 DEFENDANT are sufficient to adequately compensate the members of the
5 CALIFORNIA CLASS for the injuries sustained;
- 6 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
7 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with
8 respect to the CALIFORNIA CLASS as a whole;
- 9 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
10 business records of DEFENDANT; and
- 11 i. Class treatment provides manageable judicial treatment calculated to bring an
12 efficient and rapid conclusion to all litigation of all wage and hour related claims
13 arising out of the conduct of DEFENDANT as to the members of the
14 CALIFORNIA CLASS.

15 26. DEFENDANT maintains records from which the Court can ascertain and identify
16 by job title each of DEFENDANT's employees who as have been systematically, intentionally
17 and uniformly subjected to DEFENDANT's company policy, practices and procedures as herein
18 alleged. PLAINTIFF will seek leave to amend the Complaint to include any additional job titles
19 of similarly situated employees when they have been identified.

20 **THE CALIFORNIA LABOR SUB-CLASS**

21 27. PLAINTIFF further brings the Second, Third, Fourth Fifth, Sixth, and Seventh
22 causes of Action on behalf of a California sub-class, defined as all members of the CALIFORNIA
23 CLASS who were employed by DEFENDANT in California (the "CALIFORNIA LABOR SUB-
24 CLASS") at any time during the period beginning three years from the date of the filing of this
25 Complaint and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-
26 CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the
27 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
28 (\$5,000,000.00).

1 28. DEFENDANT, as a matter of company policy, practice and procedure, and in
2 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
3 requirements, and the applicable provisions of California law, intentionally, knowingly, willfully,
4 and systematically willfully, engaged in a practice whereby DEFENDANT failed to correctly
5 calculate compensation for the time worked by PLAINTIFF and the other members of the
6 CALIFORNIA LABOR SUB-CLASS and separately compensated rest breaks owed to these
7 employees, even though DEFENDANT enjoyed the benefit of this work, required employees to
8 perform this work and permitted or suffered to permit this work. DEFENDANT has uniformly
9 denied these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees
10 are entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable
11 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against
12 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted
13 accordingly.

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

19 30. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 23 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
24 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for
25 minimum wages, overtime wages, missed meal and rest breaks in violation of the
26 California Labor Code and California regulations and the applicable California
27 Wage Order;

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- 1 b. Whether DEFENDANT failed to provide the PLAINTIFF and the other members
- 2 of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage
- 3 statements;
- 4 c. Whether DEFENDANT has engaged in unfair competition by the above-listed
- 5 conduct;
- 6 d. The proper measure of damages and penalties owed to the members of the
- 7 CALIFORNIA LABOR SUB-CLASS; and
- 8 e. Whether DEFENDANT's conduct was willful.

9 32. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
10 under California law by:

- 11 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
- 12 PLAINTIFF and the members of the CALIFORNIA LABOR SUB- CLASS all
- 13 wages due for overtime worked, for which DEFENDANT is liable pursuant to Cal.
- 14 Lab. Code § 1194;
- 15 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
- 16 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS
- 17 the correct minimum wage pay for which DEFENDANT is liable pursuant to Cal.
- 18 Lab. Code §§ 1194 and 1197;
- 19 c. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
- 20 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
- 21 statement in writing showing the corresponding correct amount of wages earned
- 22 by the employee;
- 23 d. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
- 24 the other members of the CALIFORNIA CLASS with all legally required off-duty,
- 25 uninterrupted thirty (30) minute meal breaks and the legally required rest breaks,
- 26 and to separately compensate PLAINTIFF and the other members of the
- 27 CALIFORNIA CLASS for rest breaks;
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1 e. Violating Cal. Lab. Code §201, 202 and/or 203, which provides that when an
2 employee is discharged or quits from employment, the employer must pay the
3 employee all wages due without abatement, by failing to tender full payment
4 and/or restitution of wages owed or in the manner required by California law to
5 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
6 their employment.

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

9 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
10 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
11 is impracticable and the disposition of their claims as a class will benefit the parties
12 and the Court;

13 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
14 raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS
15 and will apply uniformly to every member of the CALIFORNIA LABOR SUB-
16 CLASS;

17 c. The claims of the representative PLAINTIFF are typical of the claims of each
18 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the
19 other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt
20 employee paid on a piece-rate basis who was subjected to the DEFENDANT's
21 practice and policy which failed to pay the correct amount of wages due to the
22 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as
23 a result of DEFENDANT's employment practices. PLAINTIFF and the members
24 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically
25 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
26 misconduct engaged in by DEFENDANT; and

27 d. The representative PLAINTIFF will fairly and adequately represent and protect
28 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel

1 who are competent and experienced in Class Action litigation. There are no
2 material conflicts between the claims of the representative PLAINTIFF and the
3 members of the CALIFORNIALABOR SUB-CLASS that would make class
4 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
5 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS
6 Members.

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

9 a. Without class certification and determination of declaratory, injunctive, statutory
10 and other legal questions within the class format, prosecution of separate actions
11 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
12 the risk of:

13 i. Inconsistent or varying adjudications with respect to individual members
14 of the CALIFORNIA LABOR SUB-CLASS which would establish
15 incompatible standards of conduct for the parties opposing the
16 CALIFORNIA LABOR SUB-CLASS; or

17 ii. Adjudication with respect to individual members of the CALIFORNIA
18 LABOR SUB-CLASS which would as a practical matter be dispositive of
19 interests of the other members not party to the adjudication or substantially
20 impair or impede their ability to protect their interests.

21 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
22 refused to act on grounds generally applicable to the CALIFORNIA LABOR
23 SUB-CLASS, making appropriate class-wide relief with respect to the
24 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly
25 fails to pay all wages due. Including the correct wages for all time worked by the
26 members of the CALIFORNIA LABOR SUB-CLASS as required by law;

27 c. Common questions of law and fact predominate as to the members of the
28 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations

1 of California Law as listed above, and predominate over any question affecting
2 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class
3 Action is superior to other available methods for the fair and efficient adjudication
4 of the controversy, including consideration of:

5 i. The interests of the members of the CALIFORNIA LABOR SUB-CLASS
6 in individually controlling the prosecution or defense of separate actions in
7 that the substantial expense of individual actions will be avoided to recover
8 the relatively small amount of economic losses sustained by the individual
9 CALIFORNIA LABOR SUB-CLASS Members when compared to the
10 substantial expense and burden of individual prosecution of this litigation;

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

13 1. Inconsistent or varying adjudications with respect to individual
14 members of the CALIFORNIA LABOR SUB-CLASS, which
15 would establish incompatible standards of conduct for the
16 DEFENDANT; and/or,

17 2. Adjudications with respect to individual members of the
18 CALIFORNIA LABOR SUB-CLASS would as a practical matter
19 be dispositive of the interests of the other members not parties to
20 the adjudication or substantially impair or impede their ability to
21 protect their interests;

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

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

- a. The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS Members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;
- c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;
- d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

- 1 f. There is a community of interest in ensuring that the combined assets of
2 DEFENDANT are sufficient to adequately compensate the members of the
3 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 4 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
5 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
6 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 7 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily
8 ascertainable from the business records of DEFENDANT. The CALIFORNIA
9 LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members who were
10 employed by DEFENDANT in California during the CALIFORNIA LABOR
11 SUB-CLASS PERIOD; and
- 12 i. Class treatment provides manageable judicial treatment calculated to bring an
13 efficient and rapid conclusion to all litigation of all wage and hour related claims
14 arising out of the conduct of DEFENDANT as to the members of the
15 CALIFORNIA LABOR SUB-CLASS.

16 **FIRST CAUSE OF ACTION**

17 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

23 37. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.
24 Code § 17021.

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

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

8 39. By the conduct alleged herein, DEFENDANT has engaged and continues to
9 engage in a business practice which violates California law, including but not limited to, the
10 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
11 including Sections 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1, 1198,
12 and 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.
13 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to
14 constitute unfair competition, including restitution of wages wrongfully withheld.

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

20 41. By the conduct alleged herein, DEFENDANT's practices were deceptive and
21 fraudulent in that DEFENDANT's uniform policy and practice failed to provide the legally
22 mandated meal and rest periods and the required amount of compensation for missed meal and
23 rest periods and, due to a systematic business practice that cannot be justified, pursuant to the
24 applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in violation of Cal.
25 Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief,
26 pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

27 42. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
28 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the

1 other members of the CALIFORNIA CLASS to be underpaid during their employment with
2 DEFENDANT.

3 43. By the conduct alleged herein, DEFENDANT's practices were also unfair and
4 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
5 legally required meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members
6 as required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

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

26 48. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,
27 and do, seek such relief as may be necessary to restore to them the money and property which
28 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the

1 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair
2 business practices, including earned but unpaid wages for all time worked.

3 49. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
4 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
5 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
6 engaging in any unlawful and unfair business practices in the future.

7 50. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
8 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
9 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
10 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
11 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
12 and economic harm unless DEFENDANT is restrained from continuing to engage in these
13 unlawful and unfair business practices.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

22 52. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
23 bring a claim for DEFENDANT'S willful and intentional violations of the California Labor Code
24 and the Industrial Welfare Commission requirements for DEFENDANT'S failure to accurately
25 calculate and pay minimum wages to PLAINTIFF and the CALIFORNIA CLASS Members.

26 53. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
27 policy, an employer must timely pay its employees for all hours worked.
28

1 54. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
2 commission is the minimum wage to be paid to employees, and the payment of a lesser wage than
3 the minimum so fixed is unlawful.

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

6 56. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the
7 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount
8 of time they worked, and instead paying PLAINTIFF and other members of the CALIFORNIA
9 LABOR SUB-CLASS on a piece-rate per-visit basis. As set forth herein, DEFENDANT'S
10 uniform policy and practice was to unlawfully and intentionally deny timely payment of wages
11 due to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS.

12 57. DEFENDANT'S uniform pattern of unlawful wage and hour practices manifested,
13 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result
14 of implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF
15 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage
16 pay.

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

23 59. As a direct result of DEFENDANT'S unlawful wage practices as alleged herein,
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive
25 the minimum wage compensation for all their time worked for DEFENDANT.

26 60. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
27 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
28 they were entitled to, constituting a failure to pay all earned wages.

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

6 62. DEFENDANT knew or should have known that PLAINTIFF and the other
7 members of the CALIFORNIA LABOR SUB-CLASS are under-compensated for their time
8 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
9 nonfeasance, to not pay employees for their labor as a matter of uniform corporate policy, practice
10 and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay
11 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the correct
12 minimum wages for their time worked.

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

21 64. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
22 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as
23 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by
24 the California Labor Code and/or other applicable statutes. To the extent minimum wage
25 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members
26 who have terminated their employment, DEFENDANT’S conduct also violates Labor Code §§
27 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under
28 Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA

1 LABOR SUB-CLASS Members. DEFENDANT’S conduct as alleged herein was willful,
2 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-
3 CLASS Members are entitled to seek and recover statutory costs.

4 **THIRD CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME COMPENSATION**

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

7 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against all**
8 **Defendants)**

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

12 66. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
13 bring a claim for DEFENDANT’S willful and intentional violations of the California Labor Code
14 and the Industrial Welfare Commission requirements for DEFENDANT’S failure to pay these
15 employees for all overtime worked, including, work performed in excess of eight (8) hours in a
16 workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

23 69. Cal. Lab. Code § 1194 establishes an employee’s right to recover unpaid wages,
24 including minimum wage and overtime compensation and interest thereon, together with the costs
25 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
26 than those fixed by the Industrial Welfare Commission is unlawful.

27
28

1 70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
2 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
3 DEFENDANT and were not paid for all the time they worked, including overtime work.

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

12 72. In committing these violations of the California Labor Code, DEFENDANT
13 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
14 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in
15 an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
16 California Labor Code, the Industrial Welfare Commission requirements and other applicable
17 laws and regulations.

18 73. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
19 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
20 receive full compensation for overtime worked.

21 74. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
22 from the overtime requirements of the law. None of these exemptions are applicable to the
23 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
24 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject
25 to a valid collective bargaining agreement that would preclude the causes of action contained
26 herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself and the
27 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non- negotiable,
28 non-waivable rights provided by the State of California.

1 75. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
2 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
3 worked that they are entitled to, constituting a failure to pay all earned wages.

4 76. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of
5 the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
6 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
7 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
8 CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed
9 to accurately record and pay as evidenced by DEFENDANT’S business records and witnessed by
10 employees.

11 77. By virtue of DEFENDANT’S unlawful failure to accurately pay all earned
12 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
13 CLASS for all overtime worked by these employees, PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
15 injury in amounts which are presently unknown to them and which will be ascertained according
16 to proof at trial.

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

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

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

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

16 **FOURTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

18 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

24 82. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all
25 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR
26 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of
27 the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did
28 not prevent these employees from being relieved of all of their duties for the legally required off-

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

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

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

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

21 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

27 86. From time to time, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS
28 Members were required to work in excess of four (4) hours without being provided ten (10) minute

1 rest periods. Further, these employees were denied their first rest periods of at least ten (10)
2 minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period
3 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a
4 first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
5 hours or more. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also
6 not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
7 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied
8 their proper rest periods by DEFENDANT and DEFENDANT's managers. In addition, because
9 of DEFENDANT's pay plan for PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
10 Members (being paid a flat rate only), DEFENDANT failed to compensate PLAINTIFF and
11 CALIFORNIA LABOR SUB- CLASS Members for their rest periods as required by the
12 applicable Wage Order and Labor Code. DEFENDANT did not have a policy or practice which
13 paid for off-duty rest periods to PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS
14 Members when they were paid piece rate pay only. As a result, DEFENDANT's failure to provide
15 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with all the legally required
16 paid rest periods is evidenced by DEFENDANT's business records.

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

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

25 **SIXTH CAUSE OF ACTION**

26 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

27 **(Cal. Lab. Code § 226)**

28

1 98. Cal. Lab. Code § 203 provides:

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

7 99. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS
8 Members terminated and DEFENDANT has not tendered payment of wages to these employees
9 who were underpaid for minimum wage and/or overtime wage, and/or missed meal and rest
10 breaks, as required by law.

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

17 **PRAYER FOR RELIEF**

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

- 20 1. On behalf of the CALIFORNIA CLASS:
- 21 a. That the Court certify the First Cause of Action asserted by the CALIFORNIA
22 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
 - 23 b. An order temporarily, preliminarily and permanently enjoining and restraining
24 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
 - 25 c. An order requiring DEFENDANT to pay all overtime wages and all sums
26 unlawfully withheld from compensation due to PLAINTIFFS and the other
27 members of the CALIFORNIA CLASS; and
 - 28 d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund

1 for restitution of the sums incidental to DEFENDANT's violations due to
2 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

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

7 b. Compensatory damages, according to proof at trial, including compensatory
8 damages for minimum wages, overtime compensation, unreimbursed expenses, and
9 separately owed rest periods, due to PLAINTIFF and the other members of the
10 CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA
11 LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;

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

14 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in
15 which a violation occurs and one hundred dollars (\$100) per each member of the
16 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
17 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
18 an award of costs for violation of Cal. Lab. Code § 226

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

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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.

DATED: September 21, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

DEMAND FOR A JURY TRIAL

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

DATED: September 21, 2022

ZAKAY LAW GROUP, APLC

By:  _____

Shani O. Zakay
Attorney for PLAINTIFF

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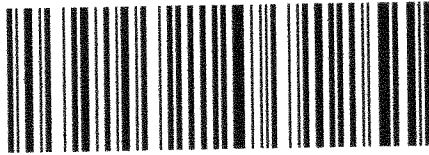
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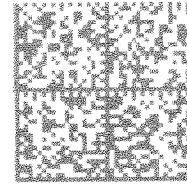
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9590 9402 7020 1225 2860 34

2. Article Number (Transfer from service label)
 7021 1970 0001 8870 1248

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 [Signature] Address

B. Received by (Printed Name) Date of Delivery
Monica *09/30/20*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

9/27/20 Medina
~~*Escandido*~~ *002-3*

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
| <input type="checkbox"/> Restricted Delivery | |