

**SUMMONS  
(CITACION JUDICIAL)**

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

PREMIER INTERNATIONAL GROUP, INC dba WYNDHAM  
GARDEN SAN JOSE AIRPORT and WYNDHAM GARDEN HOTEL, a  
California corporation, and DOES 1-50, Inclusive,

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

VERONICA MADRIZ, an individual, on behalf of herself, and on behalf  
of all persons similarly situated,

E-FILED

11/29/2022 9:36 AM

Clerk of Court

Superior Court of CA,

County of Santa Clara

22CV407296

Reviewed By: R. Walker

Envelope: 10573848

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

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

*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/](http://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](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://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):

Santa Clara Superior Court - Downtown Superior Court  
191 N. First Street  
San Jose, CA 95113

CASE NUMBER  
(Número de Caso) **22CV407296**

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

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

Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (858) 599-8291

JCL Law Firm, APC - 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121

R. Walker

DATE: 11/29/2022 9:36 AM Clerk of Court Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (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: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):



E-FILED  
11/29/2022 9:36 AM  
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Superior Court of CA,  
County of Santa Clara  
22CV407296  
Reviewed By: R. Walker

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Attorneys for PLAINTIFF

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF SANTA CLARA**

**22CV407296**

VERONICA MADRIZ, an individual, on  
behalf of herself, and on behalf of all persons  
similarly situated,

Plaintiffs,

v.

PREMIER INTERNATIONAL GROUP,  
INC dba WYNDHAM GARDEN SAN JOSE  
AIRPORT and WYNDHAM GARDEN  
HOTEL, 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

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- THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 9) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 ET SEQ

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant PREMIER INTERNATIONAL GROUP, INC. dba WYNDHAM GARDEN SAN JOSE AIRPORT and WYNDHAM GARDEN HOTEL (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT owns, operates, and/or manages hotels throughout the state of California, including in the county of Santa Clara, where PLAINTIFF worked.

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

4. PLAINTIFF brings this Class Action on behalf of herself and a California class, defined as all persons who are or previously were employed by DEFENDANT in California and

1 classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period  
2 beginning four (4) years prior to the filing of this Complaint and ending on the date as determined  
3 by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the  
4 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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

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

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

11 9. DEFENDANTS were PLAINTIFF'S employers or persons acting on behalf of  
12 PLAINTIFF'S employer either individually or as an officer, agent, or employee of another person,  
13 within the meaning of California Labor Code § 1197.1, who paid or caused to be paid to any  
14 employee a wage less than the minimum fixed by California state law, and as such, are subject to  
15 civil penalties for each underpaid employee.

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

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

24 **JURISDICTION AND VENUE**

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



1 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
2 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
3 without paying them for all the time they were under DEFENDANT's control. Specifically,  
4 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be  
5 PLAINTIFF'S off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
6 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
7 Members forfeited minimum wage and overtime compensation by regularly working without their  
8 time being accurately recorded and without compensation at the applicable minimum wage and  
9 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other  
10 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
11 records.

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

1 therefore forfeit meal breaks without additional compensation and in accordance with  
2 DEFENDANT's strict corporate policy and practice.

3 **B. Rest Period Violations**

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

21 **C. Unreimbursed Business Expenses**

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



1 employee for all necessary expenditures or losses incurred by the employee in direct consequence  
2 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,  
3 even though unlawful, unless the employee, at the time of obeying the directions, believed them  
4 to be unlawful."

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

14 **D. Wage Statement Violations**

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

23 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
24 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
25 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
26 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
27 accurate wage statements which failed to show, among other things, all deductions, the total hours  
28 worked and all applicable hourly rates in effect during the pay period, and the corresponding

1 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed  
2 meal and rest periods. Further, from time to time, DEFENDANT provided wage statements to  
3 PLAINTIFF and other CALIFORNIA CLASS Members that included hours for “Meal Premium”  
4 into the computation of total hours worked. However, “Meal Premium” hours are not considered  
5 hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT issued wage  
6 statements to PLAINTIFF and other CALIFORNIA CLASS Members that failed to comply with  
7 Cal. Lab. Code § 226(a)(2).

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

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

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

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

19         25. During the CLASS PERIOD, from time-to-time DEFENDANT required  
20 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
21 work, including but not limited to, performing work-related tasks such as checking in guests, after  
22 clocking out of their shifts. This resulted in PLAINTIFF and other members of the CALIFORNIA  
23 CLASS to have to work while off-the-clock.

24         26. DEFENDANT directed and directly benefited from the undercompensated off-the-  
25 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

26         27. DEFENDANT controlled the work schedules, duties, and protocols, applications,  
27 assignments, and employment conditions of PLAINTIFF and the other members of the  
28 CALIFORNIA CLASS.

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

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

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

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

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

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

23 33. From time to time during the CLASS PERIOD, DEFENDANT failed and  
24 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
25 Members for their overtime and double time hours worked, meal and rest period premiums, and  
26 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
27 forfeited wages due to them for working overtime without compensation at the correct overtime  
28 and double time rates, meal and rest period premiums, and redeemed sick pay rates.

1 DEFENDANT’s uniform policy and practice not to pay the CALIFORNIA CLASS Members at  
2 the correct rate for all overtime and double time worked, meal and rest period premiums, and  
3 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT’s business  
4 records.

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

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

15 36. However, from-time-to-time, when calculating the regular rate of pay, in those pay  
16 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double  
17 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-  
18 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus  
19 compensation as part of the employees’ “regular rate of pay” and/or calculated all hours worked  
20 rather than just all non-overtime hours worked. Management and supervisors described the  
21 incentive/bonus program to potential and new employees as part of the compensation package.  
22 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
23 CLASS members must be included in the “regular rate of pay.” The failure to do so has resulted  
24 in a systematic underpayment of overtime and double time compensation, meal and rest period  
25 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by  
26 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time  
27 for non-employees shall be calculated in the same manner as the regular rate of pay for the  
28 workweek in which the non-exempt employee uses paid sick time, whether or not the employee

1 actually works overtime in that workweek. DEFENDANTS' conduct, as articulated herein, by  
2 failing to include the incentive compensation as part of the "regular rate of pay" for purposes of  
3 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is  
4 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

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

16 **G. Suitable Seating Violations**

17 38. PLAINTIFF further alleges that the station counters in DEFENDANT's hotels  
18 provide ample space at work stations to allow for the presence and use of a stool or seat by  
19 DEFENDANT's employees' during the performance of their work duties. DEFENDANT's  
20 employees' working at DEFENDANT's facilities spend a very substantial portion, and, in many  
21 workdays, the vast majority of their working time with hotel guests at desks. The nature of the  
22 position can reasonably be accomplished while using a seat/stool.

23 39. In violation of the applicable sections of the California Labor Code and the  
24 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,  
25 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly  
26 and systematically failed to provide PLAINTIFF and the other Aggrieved Employees suitable  
27 seating when the nature of these employees' work reasonably permitted sitting.

28

1           40.     DEFENDANT knew or should have known that PLAINTIFF and other Aggrieved  
2 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere  
3 with the performance of their duties, and that DEFENDANT did not provide suitable seating  
4 and/or did not allow them to sit when it did not interfere with the performance of their duties. By  
5 reason of this conduct applicable to PLAINTIFF and all Aggrieved Employees, DEFENDANT  
6 violated California Labor Code Section 1198 and Wage Order 4-2001, Section 14 by failing to  
7 provide suitable seats.

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

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

14           **I. Unlawful Deductions**

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

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

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

7 **CLASS ACTION ALLEGATIONS**

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

6 **FIRST CAUSE OF ACTION**

7 **Unlawful Business Practices**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **SECOND CAUSE OF ACTION**

6 **Failure To Pay Minimum Wages**

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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1 **FOURTH CAUSE OF ACTION**

2 **Failure To Provide Required Meal Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

8 103. During the CLASS PERIOD, DEFENDANT failed to provide all the legally  
9 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as  
10 required by the applicable Wage Order and Labor Code. The nature of the work performed by  
11 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being  
12 relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
13 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not  
14 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's  
15 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required  
16 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business  
17 records. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS  
18 Members with a second off-duty meal period in some workdays in which these employees were  
19 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other  
20 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation  
21 and in accordance with DEFENDANT's strict corporate policy and practice.

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



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

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

6 **SIXTH CAUSE OF ACTION**

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

8 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

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

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

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

10 **SEVENTH CAUSE OF ACTION**

11 **Failure To Provide Accurate Itemized Statements**

12 **(Cal. Lab. Code § 226)**

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

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

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

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

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

9 116. When DEFENDANT did not accurately record PLAINTIFF'S and other  
10 CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurate missed  
11 meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal.  
12 Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA  
13 CLASS Members with complete and accurate wage statements which failed to show, among other  
14 things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked  
15 and all applicable hourly rates in effect during the pay period and the corresponding amount of  
16 time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal  
17 and rest periods. Further, from time to time, DEFENDANT provided wage statements to  
18 PLAINTIFF and other CALIFORNIA CLASS Members that included hours for "Meal Premium"  
19 into the computation of total hours worked. However, "Meal Premium" hours are not considered  
20 hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT issued wage  
21 statements to PLAINTIFF and other CALIFORNIA CLASS Members that failed to comply with  
22 Cal. Lab. Code § 226(a)(2).

23 117. In addition to the foregoing, DEFENDANT failed to provide itemized wage  
24 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the  
25 requirements of California Labor Code Section 226.

26 118. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code  
27 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA  
28 CLASS. These damages include, but are not limited to, costs expended calculating the correct

1 wages for all missed meal and rest breaks and the amount of employment taxes which were not  
2 properly paid to state and federal tax authorities. These damages are difficult to estimate.  
3 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover  
4 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation  
5 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period  
6 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no  
7 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member  
8 of the CALIFORNIA CLASS herein).

9 **EIGHTH CAUSE OF ACTION**

10 **Failure To Pay Wages When Due**

11 **(Cal. Lab. Code § 203)**

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

13  
14 119. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
15 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
16 Complaint.

17 120. Cal. Lab. Code § 200 provides that:

18 As used in this article:

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

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

28 122. Cal. Lab. Code § 202 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or her  
employment, his or her wages shall become due and payable not later than 72 hours  
thereafter, unless the employee has given 72 hours previous notice of his or her intention  
to quit, in which case the employee is entitled to his or her wages at the time of quitting.  
Notwithstanding any other provision of law,<sup>31</sup> an employee who quits without providing a



1 72-hour notice shall be entitled to receive payment by mail if he or she so requests and  
2 designates a mailing address. The date of the mailing shall constitute the date of payment  
for purposes of the requirement to provide payment within 72 hours of the notice of  
quitting.

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

5 124. Cal. Lab. Code § 203 provides:

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

9 125. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
10 terminated, and DEFENDANT has not tendered payment of wages to these employees who  
11 missed meal and rest breaks, as required by law.

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

17 **NINTH 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)**

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

23 128. 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.

5 129. 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 23, 2021 until the present (the "AGGRIEVED EMPLOYEES").

10 130. On September 23, 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.

18 131. 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, (e) failed  
23 to provide suitable seating, and (f) failed to timely pay wages, all in violation of the applicable  
24 Labor Code sections listed in Labor Code §2699.5, including but not limited to Labor Code §§  
25 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558,  
26 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804, and the applicable  
27 Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct.  
28 PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the Labor Code Private

1 Attorney General Act of 2004 as the representative of the State of California for the illegal  
2 conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

3 **PRAYER FOR RELIEF**

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

6 1. On behalf of the CALIFORNIA CLASS:

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

17 2. On behalf of the CALIFORNIA CLASS:

- 18 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
19 Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant  
20 to Cal. Code of Civ. Proc. § 382;
- 21 b. Compensatory damages, according to proof at trial, including compensatory  
22 damages for overtime compensation due to PLAINTIFF and the other members of  
23 the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest  
24 thereon at the statutory rate;
- 25 c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
26 the applicable IWC Wage Order;
- 27 d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
28 which a violation occurs and one hundred dollars (\$100) per each member of the

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CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226

- e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

3. On 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 PLAINTIFF’S individual claims:

- a. For all special damages which were sustained as a result of DEFENDANTS’ conduct, including but not limited to, back pay, front pay, lost compensation and job benefits that PLAINTIFF would have received but for the practices of DEFENDANTS.
- b. For all exemplary damages, according to proof, which were sustained as a result of DEFENDANTS’ conduct.
- c. An award of interest, including prejudgment interest at the legal rate.
- d. Such other and further relief as the Court deems just and equitable.
- e. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.

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5. On all claims:

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

DATED: November 29, 2022

**JCL LAW FIRM, APC**


By:   
\_\_\_\_\_  
Jean-Claude Lapuyade  
Attorney for PLAINTIFF

**DEMAND FOR A JURY TRIAL**

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

DATED: November 29, 2022

**JCL LAW FIRM, APC**

By:   
\_\_\_\_\_  
Jean-Claude Lapuyade  
Attorney for PLAINTIFF

# **EXHIBIT 1**



Client #54301

September 23, 2022

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

**PREMIER INTERNATIONAL GROUP, INC.**  
**dba WYNDHAM GARDEN SAN JOSE AIRPORT**  
**and WYNDHAM GARDEN HOTEL**

c/o Ray Bansal  
1355 N 4th St., #245  
San Jose, CA 95112

***Sent via Certified Mail and Return Receipt 7021 1970 0001 8870 1194***

**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 VERONICA MADRIZ (“Plaintiff”), and other aggrieved employees in a proposed lawsuit against Defendant PREMIER INTERNATIONAL GROUP, INC dba WYNDHAM GARDEN SAN JOSE AIRPORT and WYNDHAM GARDEN HOTEL (“Defendant”). Plaintiff was employed by Defendant in California from July of 2021 to October of 2021 as a non-exempt employee, paid on an hourly basis, and entitled to payment of all wages and the legally required meal and rest breaks 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. Further, Defendant failed to timely pay Plaintiff and other aggrieved employees for earned wages.

As a consequence, Plaintiff contends 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 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.

Sincerely,



Shani O. Zakay  
Attorney for Plaintiff



**ZAKAY LAW GROUP, APLC**

Shani O. Zakay (State Bar #277924)  
Jackland K. Hom (State Bar #327243)  
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**JCL LAW FIRM, APC**

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[scastillo@jcl-lawfirm.com](mailto:scastillo@jcl-lawfirm.com)

Attorneys for PLAINTIFF

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SANTA CLARA**

VERONICA MADRIZ, an individual, on behalf of herself, and on behalf of all persons similarly situated,

Plaintiffs,

v.

PREMIER INTERNATIONAL GROUP, INC dba WYNDHAM GARDEN SAN JOSE AIRPORT and WYNDHAM GARDEN HOTEL, 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

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- THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
  - 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
  - 8) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
  - 9) RETALIATION IN VIOLATION OF CAL. LAB. CODE § 1102.5.;
  - 10) VIOLATION OF GOVT. CODE § 12940 – DISABILITY AND AGE DISCRIMINATION;
  - 11) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

- 1. Defendant PREMIER INTERNATIONAL GROUP, INC. dba WYNDHAM GARDEN SAN JOSE AIRPORT and WYNDHAM GARDEN HOTEL (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.
- 2. DEFENDANT owns, operates, and/or manages hotels throughout the state of California, including in the county of Santa Clara, where PLAINTIFF worked.
- 3. PLAINTIFF was employed by DEFENDANT in California from July of 2021 to October of 2021 as a non-exempt employee, paid an hourly basis and entitled to the legally

1 required meal and rest periods and payment of minimum and overtime wages due for all time  
2 worked.

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

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

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

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

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

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

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

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

28 ///

1 **JURISDICTION AND VENUE**

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

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

10 **THE CONDUCT**

11 14. In violation of the applicable sections of the California Labor Code and the  
12 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a  
13 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
14 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
15 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
16 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
17 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS  
18 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA  
19 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other  
20 members of the CALIFORNIA CLASS meal and rest premiums at the regular rate, failed to  
21 reimburse PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and  
22 failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate  
23 itemized wage statements showing, among other things, all applicable hourly rates in effect during  
24 the pay periods and the corresponding amount of time worked at each hourly rate.  
25 DEFENDANT’s uniform policies and practices are intended to purposefully avoid the accurate  
26 and full payment for all time worked as required by California law which allows DEFENDANT  
27 to illegally profit and gain an unfair advantage over competitors who comply with the law. To  
28

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

3 **A. Meal Period Violations**

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

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

1 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.  
2 Further, DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to  
3 maintain cordless communication devices on them during meal periods in order to receive and  
4 respond to work-related communications. DEFENDANT's failure to provide PLAINTIFF and  
5 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by  
6 DEFENDANT's business records. PLAINTIFF and other members of the CALIFORNIA CLASS  
7 therefore forfeit meal breaks without additional compensation and in accordance with  
8 DEFENDANT's strict corporate policy and practice.

9 **B. Rest Period Violations**

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

27 **C. Unreimbursed Business Expenses**

28

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

12           19.     In the course of their employment, DEFENDANT required PLAINTIFF and other  
13 CALIFORNIA CLASS Members to use their personal cell phones as a result of and in furtherance  
14 of their job duties. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were  
15 required to use their personal cell phones in order to perform work related tasks. However,  
16 DEFENDANT unlawfully failed to reimburse PLAINTIFF and other CALIFORNIA CLASS  
17 Members for the use of their personal cell phones. As a result, in the course of their employment  
18 with DEFENDANT, the PLAINTIFF and other CALIFORNIA CLASS Members incurred  
19 unreimbursed business expenses that included, but were not limited to, costs related to the use of  
20 their personal cell phones, all on behalf of and for the benefit of DEFENDANT.

21     **D. Wage Statement Violations**

22           20.     California Labor Code Section 226 required an employer to furnish its employees  
23 and accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours  
24 worked, (3) the number of piece-rate units earned and any applicable piece-rate, (4) all deductions,  
25 (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the  
26 name of the employee and only the last four digits of the employee's social security number or an  
27 employee identification number other than a social security number, (8) the name and address of  
28



1 the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay  
2 period and the corresponding number of hours worked at each hourly rate by the employee.

3 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
4 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
5 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANT also  
6 failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
7 accurate wage statements which failed to show, among other things, all deductions, the total hours  
8 worked and all applicable hourly rates in effect during the pay period, and the corresponding  
9 amount of time worked at each hourly rate, correct rates of pay for penalty payments or missed  
10 meal and rest periods. Further, from time to time, DEFENDANT provided wage statements to  
11 PLAINTIFF and other CALIFORNIA CLASS Members that included hours for “Meal Premium”  
12 into the computation of total hours worked. However, “Meal Premium” hours are not considered  
13 hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT issued wage  
14 statements to PLAINTIFF and other CALIFORNIA CLASS Members that failed to comply with  
15 Cal. Lab. Code § 226(a)(2).

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

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

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

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

27 25. During the CLASS PERIOD, from time-to-time DEFENDANT required  
28 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift

1 work, including but not limited to, performing work-related tasks such as checking in guests, after  
2 clocking out of their shifts. This resulted in PLAINTIFF and other members of the CALIFORNIA  
3 CLASS to have to work while off-the-clock.

4 26. DEFENDANT directed and directly benefited from the undercompensated off-the-  
5 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

6 27. DEFENDANT controlled the work schedules, duties, and protocols, applications,  
7 assignments, and employment conditions of PLAINTIFF and the other members of the  
8 CALIFORNIA CLASS.

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

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

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

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

23 32. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
24 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and  
25 benefit for the time spent working while off-the-clock, including but not limited to, time spent  
26 submitting to Covid-19 health screenings. DEFENDANT's uniform policy and practice to not  
27 pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours worked in  
28 accordance with applicable law is evidenced by DEFENDANT's business records.

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

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

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

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

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

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

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

24           **G. Suitable Seating Violations**

25           38. PLAINTIFF further alleges that the station counters in DEFENDANT’s hotels  
26 provide ample space at work stations to allow for the presence and use of a stool or seat by  
27 DEFENDANT’s employees’ during the performance of their work duties. DEFENDANT’s  
28 employees’ working at DEFENDANT’s facilities spend a very substantial portion, and, in many

1 workdays, the vast majority of their working time with hotel guests at desks. The nature of the  
2 position can reasonably be accomplished while using a seat/stool.

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

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

#### 15 **H. Violations for Untimely Payment of Wages**

16 41. Pursuant to California Labor Code section 204, PLAINTIFF and the  
17 CALIFORNIA CLASS members were entitled to timely payment of wages during their  
18 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not  
19 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,  
20 meal period premium wages, and rest period premium wages within permissible time period.

#### 21 **I. Unlawful Deductions**

22 42. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF  
23 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do  
24 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,  
25 DEFENDANTS violated Labor Code § 221.

26 43. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
27 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.  
28 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)

1 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
2 provide PLAINTIFF with a second off-duty meal period each workday in which she was required  
3 by DEFENDANT to work ten (10) hours of work. When DEFENDANT provided PLAINTIFF  
4 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.  
5 DEFENDANT policy caused PLAINTIFF to remain on-call and on-duty during what was  
6 supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks  
7 without additional compensation and in accordance with DEFENDANT’S strict corporate policy  
8 and practice. Moreover, DEFENDANT also provided PLAINTIFF with paystubs that failed to  
9 comply with Cal. Lab. Code § 226. Further, DEFENDANT also failed to reimburse PLAINTIFF  
10 for required business expenses related to the personal expenses incurred for the use of her personal  
11 cell phone, on behalf of and in furtherance of her employment with DEFENDANT. To date,  
12 DEFENDANT has not fully paid PLAINTIFF the minimum, overtime and double time  
13 compensation still owed to her or any penalty wages owed to her under Cal. Lab. Code § 203.

14 **J. Plaintiff’s Individual Claims**

15 44. Plaintiff was employed by DEFENDANT in California from July of 2021 to  
16 October of 2021. On October 9, 2021, PLAINTIFF was wrongfully terminated from her  
17 employment with DEFENDANT.

18 45. Throughout her employment with DEFENDANT, PLAINTIFF was treated  
19 differently and unfairly by DEFENDANT and its agents, all in discrimination against PLAINTIFF  
20 based on her disability and age, and in retaliation against PLAINTIFF for various protected  
21 activities.

22 46. Throughout her employment, PLAINTIFF complained to DEFENDANT about  
23 DEFENDANT’S unlawful practices. Specifically, PLAINTIFF complained to DEFENDANT  
24 about DEFENDANT’S failure to provide her with sick pay while she was in the hospital and  
25 subsequently to reschedule her after she finished her quarantine period after being exposed to  
26 Covid. PLAINTIFF reported the unlawful conduct to DEFENDANT, but PLAINTIFF’S reports  
27 fell on deaf ears.  
28

1           47. In or around August of 2021, PLAINTIFF became sick and was hospitalized.  
2 Subsequently, in or around September of 2021, PLAINTIFF discharged herself from the hospital  
3 and returned to work because DEFENDANT refused to provide her with sick pay.

4           48. When PLAINTIFF returned to work, she again requested sick pay for the time she  
5 was in the hospital, but DEFENDANT refused to provide PLAINTIFF with sick pay. Eventually,  
6 after PLAINTIFF showed DEFENDANT the statute which stated that she was entitled to sick  
7 pay, DEFENDANT agreed to pay PLAINTIFF for only 40 hours of sick pay.

8           49. Shortly thereafter, PLAINTIFF was exposed to Covid and had to quarantine. After  
9 PLAINTIFF'S quarantine period ended, DEFENDANT refused to put her back on the schedule  
10 and stated that this was because they were fully staffed and did not need PLAINTIFF to work.  
11 However, during this time, DEFENDANT hired new employees. PLAINTIFF continuously tried  
12 to get into contact with DEFENDANT to be scheduled for work, but DEFENDANT would not  
13 respond. PLAINTIFF is informed and believes, and upon such information and belief alleges that,  
14 during PLAINTIFF'S employment with DEFENDANT and at the time of her termination,  
15 DEFENDANT refused to provide PLAINTIFF with sick pay because she could not work due to  
16 her hospitalization.

17           50. Thereafter, in or around October of 2021, PLAINTIFF was wrongfully terminated  
18 from her employment with DEFENDANT.

19           51. Additionally, PLAINTIFF is informed and believes, and upon such information  
20 and belief alleges, that, during PLAINTIFF's employment with DEFENDANT and at the time of  
21 her termination, DEFENDANT'S business in particular is comprised of employees who are  
22 young. PLAINTIFF is forty-five (45) years old. PLAINTIFF never felt that she was accepted by  
23 DEFENDANT and some of her fellow employees because of her age.

24           52. PLAINTIFF is informed and believes, and upon such information and belief  
25 alleges, that, during PLAINTIFF's employment with DEFENDANT and at the time of her  
26 termination, DEFENDANT hired and treated its young employees far better than DEFENDANT  
27 treated PLAINTIFF, and solely on the basis of PLAINTIFF'S age.  
28





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

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

9           62. Common questions of law and fact regarding DEFENDANT's conduct, including  
10 but not limited to, off-the-clock work, unpaid meal and rest period premiums, failure to accurately  
11 calculate the regular rate of pay for overtime compensation, failure to accurately calculate the  
12 regular rate of compensation for missed meal and rest period premiums, failing to provide legally  
13 compliant meal and rest periods, failed to reimburse for business expenses, failure to provide  
14 accurate itemized wage statements accurate, and failure to ensure they are paid at least minimum  
15 wage and overtime, exist as to all members of the class and predominate over any questions  
16 affecting solely any individual members of the class. Among the questions of law and fact  
17 common to the class are:

- 18           a. Whether DEFENDANT maintained legally compliant meal period policies and  
19 practices;
- 20           b. Whether DEFENDANT maintained legally compliant rest period policies and  
21 practices;
- 22           c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
23 Members accurate premium payments for missed meal and rest periods;
- 24           d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
25 Members accurate overtime wages;
- 26           e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS  
27 Members at least minimum wage for all hours worked;

- 1 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
- 2 CLASS Members for required business expenses;
- 3 g. Whether DEFENDANT issued legally compliant wage statements;
- 4 h. Whether DEFENDANT committed an act of unfair competition by systematically
- 5 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
- 6 CLASS for all time worked;
- 7 i. Whether DEFENDANT committed an act of unfair competition by systematically
- 8 failing to record all meal and rest breaks missed by PLAINTIFF and other
- 9 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
- 10 of this work, required employees to perform this work and permits or suffers to
- 11 permit this work;
- 12 j. Whether DEFENDANT committed an act of unfair competition in violation of the
- 13 UCL, by failing to provide the PLAINTIFF and the other members of the
- 14 CALIFORNIA CLASS with the legally required meal and rest periods.

15 63. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as  
16 a result of DEFENDANT’s conduct and actions alleged herein.

17 64. PLAINTIFF’S claims are typical of the claims of the CALIFORNIA CLASS, and  
18 PLAINTIFF have the same interests as the other members of the class.

19 65. PLAINTIFF will fairly and adequately represent and protect the interests of the  
20 CALIFORNIA CLASS Members.

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

23 67. Further, PLAINTIFF’S interests are coincident with, and not antagonistic to, the  
24 interest of the other CALIFORNIA CLASS Members.

25 68. There is a strong community of interest among PLAINTIFF and the members of  
26 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
27 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
28 sustained.



1           73.     DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
2 Code § 17021.

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

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

14           75.     By the conduct alleged herein, DEFENDANT has engaged and continues to  
15 engage in a business practice which violates California law, including but not limited to, the  
16 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
17 including Sections 201, 202, 203, 204, 210, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and  
18 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
19 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
20 constitute unfair competition, including restitution of wages wrongfully withheld.

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

26           77.     By the conduct alleged herein, DEFENDANT’s practices were deceptive and  
27 fraudulent in that DEFENDANT’s uniform policy and practice failed to provide the legally  
28 mandated meal and rest periods and the required amount of compensation for missed meal and  
rest periods, failed to pay minimum and overtime wages owed, and failed to reimburse all  
necessary business expenses incurred, due to a systematic business practice that cannot be  
justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission

1 requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should  
2 issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including  
3 restitution of wages wrongfully withheld.

4 78. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
5 unfair, and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
6 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
7 DEFENDANT.

8 79. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
9 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
10 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
11 required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

26 83. All the acts described herein as violations of, among other things, the Industrial  
27 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor  
28 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive, and

1 unscrupulous, were deceptive, and thereby constitute unlawful, unfair, and deceptive business  
2 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

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

8 85. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
9 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair,  
10 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
11 engaging in any unlawful and unfair business practices in the future.

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

19 ///

20 **SECOND CAUSE OF ACTION**

21 **Failure To Pay Minimum Wages**

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

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

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

27 88. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
28 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial

1 Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay  
2 minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

5 90. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
6 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
7 the minimum so fixed is unlawful.

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

10 92. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the  
11 other members of the CALIFORNIA CLASS without regard to the correct amount of time they  
12 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and  
13 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
14 CALIFORNIA CLASS.

15 93. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,  
16 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
17 implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF  
18 and the other members of the CALIFORNIA CLASS in regard to minimum wage pay.

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

25 95. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
26 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
27 minimum wage compensation for their time worked for DEFENDANT.  
28

1           96. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS were paid less for time worked that they were entitled to, constituting a  
3 failure to pay all earned wages.

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

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

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

24           100. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request  
25 recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the  
26 assessment of any statutory penalties against DEFENDANT, in a sum as provided by the  
27 California Labor Code and/or other applicable statutes. To the extent minimum wage  
28 compensation is determined to be owed to the CALIFORNIA CLASS Members who have



1 terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or  
2 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.  
3 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA CLASS  
4 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good  
5 faith. Further, PLAINTIFF and other CALIFORNIA CLASS Members are entitled to seek and  
6 recover statutory costs.

7 **THIRD CAUSE OF ACTION**

8 **Failure To Pay Overtime Compensation**

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

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

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

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

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

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

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

28

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

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

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

17           109. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
18 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
19 overtime compensation for their time worked for DEFENDANT.

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

28

1           111. During the CLASS PERIOD, PLAINTIFF and the other members of the  
2 CALIFORNIA CLASS were paid less for overtime worked that they were entitled to, constituting  
3 a failure to pay all earned wages.

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

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

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

23           115. In performing the acts and practices herein alleged in violation of California labor  
24 laws, and refusing to compensate the members of the CALIFORNIA CLASS for all time worked  
25 and provide them with the requisite compensation, DEFENDANT acted and continues to act  
26 intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS with a conscious of and utter disregard for their legal rights, or the  
28 consequences to them, and with the despicable intent of depriving them of their property and legal

1 rights, and otherwise causing them injury in order to increase company profits at the expense of  
2 these employees.

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

13 **FOURTH CAUSE OF ACTION**

14 **Failure To Provide Required Meal Periods**

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

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

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

20 118. During the CLASS PERIOD, DEFENDANT failed to provide all the legally  
21 required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA CLASS Members as  
22 required by the applicable Wage Order and Labor Code. The nature of the work performed by  
23 PLAINTIFF and CALIFORNIA CLASS Members did not prevent these employees from being  
24 relieved of all of their duties for the legally required off-duty meal periods. As a result of their  
25 rigorous work schedules, PLAINTIFF and other CALIFORNIA CLASS Members were often not  
26 fully relieved of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT’s  
27 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with legally required  
28 meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT’s business

1 records. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS  
2 Members with a second off-duty meal period in some workdays in which these employees were  
3 required by DEFENDANT to work ten (10) hours of work. As a result, PLAINTIFF and other  
4 members of the CALIFORNIA CLASS forfeited meal breaks without additional compensation  
5 and in accordance with DEFENDANT's strict corporate policy and practice.

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

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

14 **FIFTH CAUSE OF ACTION**

15 **Failure To Provide Required Rest Periods**

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

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

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

21 122. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were  
22 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
23 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
24 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
25 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
26 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
27 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour  
28 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other

1 CALIFORNIA CLASS Members were periodically denied their proper rest periods by  
2 DEFENDANT and DEFENDANT's managers. In addition, DEFENDANT failed to compensate  
3 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the  
4 applicable Wage Order and Labor Code. As a result, DEFENDANT's failure to provide  
5 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest  
6 periods is evidenced by DEFENDANT's business records.

7 123. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
8 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members  
9 who were not provided a rest period, in accordance with the applicable Wage Order, one  
10 additional hour of compensation at each employee's regular rate of pay for each workday that rest  
11 period was not provided.

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

### 15 **SIXTH CAUSE OF ACTION**

#### 16 **Failure To Reimburse Employees for Required Expenses**

17 **(Cal. Lab. Code §§ 2802)**

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

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

22 126. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

26 127. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.  
27 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
28 members for required expenses incurred in the discharge of their job duties for DEFENDANT's

1 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members  
2 for expenses which included, but were not limited to, personal expenses incurred for the use of  
3 personal cell phones all on behalf of and for the benefit of DEFENDANT. Specifically,  
4 PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use  
5 their own cell phones to execute their essential job duties on behalf of DEFENDANT.  
6 DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and  
7 the CALIFORNIA CLASS members for expenses resulting from the use of personal cell phones  
8 for DEFENDANT within the course and scope of their employment for DEFENDANT. These  
9 expenses were necessary to complete their principal job duties. DEFENDANT is estopped by  
10 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses were  
11 necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,  
12 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
13 members for these expenses as an employer is required to do under the laws and regulations of  
14 California.

15 128. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred  
16 by her and the CALIFORNIA CLASS members in the discharge of their job duties for  
17 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory  
18 rate and costs under Cal. Lab. Code § 2802.

### 19 **SEVENTH CAUSE OF ACTION**

#### 20 **Failure To Provide Accurate Itemized Statements**

21 **(Cal. Lab. Code § 226)**

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

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

26 130. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
27 "accurate itemized" statement in writing showing:

28 a. Gross wages earned,

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

131. When DEFENDANT did not accurately record PLAINTIFF’S and other CALIFORNIA CLASS Members’ missed meal and rest breaks, or were paid inaccurate missed meal and rest break premiums, or were not paid for all hours worked, DEFENDANT violated Cal. Lab. Code § 226 in that DEFENDANT failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements which failed to show, among other things, all deductions, the accurate gross wages earned, net wages earned, the total hours worked and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate, and correct rates of pay for penalty payments or missed meal and rest periods. Further, from time to time, DEFENDANT provided wage statements to PLAINTIFF and other CALIFORNIA CLASS Members that included hours for “Meal Premium” into the computation of total hours worked. However, “Meal Premium” hours are not considered



1 hours worked for purposes of Cal. Lab. Code § 226(a)(2). Therefore, DEFENDANT issued wage  
2 statements to PLAINTIFF and other CALIFORNIA CLASS Members that failed to comply with  
3 Cal. Lab. Code § 226(a)(2).

4 132. In addition to the foregoing, DEFENDANT failed to provide itemized wage  
5 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the  
6 requirements of California Labor Code Section 226.

7 133. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code  
8 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA  
9 CLASS. These damages include, but are not limited to, costs expended calculating the correct  
10 wages for all missed meal and rest breaks and the amount of employment taxes which were not  
11 properly paid to state and federal tax authorities. These damages are difficult to estimate.  
12 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover  
13 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation  
14 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period  
15 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no  
16 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member  
17 of the CALIFORNIA CLASS herein).

18 **EIGHTH CAUSE OF ACTION**

19 **Failure To Pay Wages When Due**

20 **(Cal. Lab. Code § 203)**

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

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

26 135. Cal. Lab. Code § 200 provides that:

27 As used in this article:  
28

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

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

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

8 137. Cal. Lab. Code § 202 provides, in relevant part, that:

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

14 138. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS  
15 Members' employment contract.

16 139. Cal. Lab. Code § 203 provides:

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

20 140. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
21 terminated, and DEFENDANT has not tendered payment of wages to these employees who  
22 missed meal and rest breaks, as required by law.

23 141. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the  
24 members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty  
25 (30) days of pay as penalty for not paying all wages due at time of termination for all employees  
26 who terminated employment during the CLASS PERIOD and demand an accounting and payment  
27 of all wages due, plus interest and statutory costs as allowed by law.  
28

1 **NINTH CAUSE OF ACTION**

2 **RETALIATION - Cal. Lab. Code §§1102.5 and 6310, and Government Code § 12900, et seq.**

3 **(Alleged by PLAINTIFF and against all DEFENDANTS)**

4 142. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
5 herein, the prior paragraphs of this Complaint.

6 143. At all relevant times, California Labor Code section 1102.5 was in effect and was  
7 binding on DEFENDANT. This statute prohibits DEFENDANT from retaliating against any  
8 employee, including PLAINTIFF, for raising complaints of illegality and/or belief that the  
9 employee may disclose illegality.

10 144. At all relevant times, Government Code section 12900 was in effect and was  
11 binding on DEFENDANT. This statute prohibits DEFENDANT from committing unlawful  
12 employment practices, including retaliating against PLAINTIFF for seeking to exercise rights  
13 guaranteed under FEHA, participating in protected activities, and/or opposing DEFENDANT's  
14 failure to provide such rights.

15 145. PLAINTIFF raised complaints of illegality while she worked for DEFENDANT,  
16 and DEFENDANT retaliated against her by taking adverse employment actions including refusal  
17 to provide PLAINTIFF with sick pay, refusal to schedule PLAINTIFF for work and employment  
18 termination against her.

19 146. As a proximate result of DEFENDANT's willful, knowing, and intentional  
20 violation(s) of Labor Code section 1102.5 and Government Code section 12900, PLAINTIFF has  
21 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and  
22 anguish, all to her damage in a sum according to proof.

23 147. As a result of DEFENDANT's adverse employment actions against PLAINTIFF,  
24 PLAINTIFF has suffered general and special damages in sums according to proof.

25 148. DEFENDANT's misconduct was committed intentionally, in a malicious,  
26 oppressive manner, and fraudulent manner, entitling PLAINTIFF to punitive damages against  
27 DEFENDANT.  
28

1 **TENTH CAUSE OF ACTION**

2 **VIOLATION OF GOVERNMENT CODE §12940 et seq. – DISABILITY AND AGE**  
3 **DISCRIMINATION**

4 149. PLAINTIFF realleges and incorporates by this reference, as though fully set forth  
5 herein, the prior paragraphs of this Complaint.

6 150. PLAINTIFF was employed by DEFENDANT

7 151. DEFENDANT is an employer covered by Government Code §12940 et seq.

8 152. PLAINTIFF was terminated from her employment and/or suffered other adverse  
9 employment actions.

10 153. PLAINTIFF's disability and age were substantial motivating reason(s) for her  
11 termination and other adverse employment actions.

12 154. As a result of DEFENDANT'S conduct, PLAINTIFF has suffered substantial  
13 losses in earnings and employment benefits and emotional distress in an amount to be determined  
14 according to proof at trial.

15 155. In doing the acts herein alleged, DEFENDANT acted with malice and oppression,  
16 and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary  
17 and punitive damages from DEFENDANT in an amount to be punish DEFENDANT and to deter  
18 such wrongful conduct in the future.

19 **ELEVENTH CAUSE OF ACTION**

20 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

21 **(Alleged by PLAINTIFF and against all Defendants)**

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

24 157. PLAINTIFF's wrongful termination on or about October 9, 2022 was for a  
25 pretextual reason(s) to disguise DEFENDANT's unlawful employment practices directed at  
26 PLAINTIFF.

27 158. Within the State of California there exists a substantial and fundamental public  
28 policy, set forth in the California Government Code §12900 et seq., which forbids  
harassment/discrimination, retaliation, and wrongful termination. Unlawful harassment includes

1 the right to be free from unwanted, offensive harassment, and the right to protest such conduct  
2 without fear of retaliation or further harm. This public policy of the state is one that benefits the  
3 public at large and guarantees the rights of an employee to perform their work free from disability  
4 harassment/discrimination/retaliation.

5 159. The motivating reason(s) for PLAINTIFF's termination was disability and age  
6 discrimination and PLAINTIFF's protests and/or resistance thereof, and PLAINTIFF's  
7 complaints to DEFENDANT that DEFENDANT's refusal to provide her with sick pay was  
8 unlawful. PLAINTIFF's discharge from her position of employment was in violation of the public  
9 policies of the State of California.

10 160. As a result of DEFENDANT's actions, PLAINTIFF has suffered substantial losses  
11 in earnings and employment benefits and emotional distress in an amount to be determined  
12 according to proof at trial.

13 161. In doing the acts herein alleged, DEFENDANT acted with malice and oppression,  
14 and with a conscious disregard of PLAINTIFF's rights, and PLAINTIFF is entitled to exemplary  
15 and punitive damages from DEFENDANT in an amount to be determined to punish  
16 DEFENDANT and to deter such wrongful conduct in the future.

17 162. PLAINTIFF was harmed by DEFENDANT's wrongful and illegal termination of  
18 her employment.

19 163. The wrongful termination of the employment of PLAINTIFF was and is a  
20 substantial factor causing harm to PLAINTIFF.

21 164. On January 27, 2022, PLAINTIFF filed a complaint with the Department of Fair  
22 Employment & Housing ("DFEH"), and received an immediate Right to Sue that same day. (See  
23 Exhibit #\_).

### 24 **PRAYER FOR RELIEF**

25 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and  
26 severally, as follows:

27 1. On behalf of the CALIFORNIA CLASS:

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

- 1           b. An order temporarily, preliminarily and permanently enjoining and restraining  
2           DEFENDANT from engaging in similar unlawful conduct as set forth herein;  
3           c. An order requiring DEFENDANT to pay all overtime wages and all sums  
4           unlawfully withheld from compensation due to PLAINTIFF and the other members  
5           of the CALIFORNIA CLASS; and  
6           d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund  
7           for restitution of the sums incidental to DEFENDANT's violations due to  
8           PLAINTIFF and to the other members of the CALIFORNIA CLASS.

9           2. On behalf of the CALIFORNIA CLASS:


- 10           a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
11           Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant  
12           to Cal. Code of Civ. Proc. § 382;  
13           b. Compensatory damages, according to proof at trial, including compensatory  
14           damages for overtime compensation due to PLAINTIFF and the other members of  
15           the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest  
16           thereon at the statutory rate;  
17           c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
18           the applicable IWC Wage Order;  
19           d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
20           which a violation occurs and one hundred dollars (\$100) per each member of the  
21           CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding  
22           an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for  
23           violation of Cal. Lab. Code § 226  
24           e. The wages of all terminated employees from the CALIFORNIA CLASS as a  
25           penalty from the due date thereof at the same rate until paid or until an action  
26           therefore is commenced, in accordance with Cal. Lab. Code § 203.  
27           f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA  
28           CLASS incurred in the course of their job duties, plus interest, and costs of suit.

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- 3. On PLAINTIFF’S individual claims:
  - a. For all special damages which were sustained as a result of DEFENDANTS’ conduct, including but not limited to, back pay, front pay, lost compensation and job benefits that PLAINTIFF would have received but for the practices of DEFENDANTS.
  - b. For all exemplary damages, according to proof, which were sustained as a result of DEFENDANTS’ conduct.
  - c. An award of interest, including prejudgment interest at the legal rate.
  - d. Such other and further relief as the Court deems just and equitable.
  - e. An award of penalties, attorneys’ fees and costs of suit, as allowable under the law.
- 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, including, but not limited to, pursuant to Labor Code § 218.5, § 226, and/or § 1194.

DATED: September 23, 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 23, 2022

**ZAKAY LAW GROUP, APLC**

By:   
 \_\_\_\_\_  
 Shani O. Zakay  
 Attorney for PLAINTIFF

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

Premier International Group, Inc.  
 dba Wyndham Gardens San Jose Airport  
 dba Wyndham Garden Hotel  
 c/o Rain Bansa  
 1355 North St # 245  
 San Jose, CA 95112

9/23 Madrid 2 002-401



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