

**SUMMONS
(CITACION JUDICIAL)**

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

SOUTHWEST SECURITY PATROL, INC., d.b.a. SOUTHWEST PATROL, a California corporation; and DOES 1 through 50, Inclusive;

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

ALEXANDER CASTELLANOS, an individual, on behalf of himself, and on behalf of all persons similarly situated,

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

FILED
Clerk of the Superior Court

JUL 17 2020

By: L. McAlister, Deputy

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

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

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

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

The name and address of the court is:

(El nombre y dirección de la corte es):
San Diego Superior Court, Hall of Justice
330 W. Broadway
San Diego, CA 92101

CASE NUMBER:

(Número del Caso):
37-2020-00024905-CU-OE-CTL

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: (619) 599-8291
JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

DATE: JUL 20 2020
(Fecha)

Clerk, by L. McAlister, Deputy
(Secretario) L. McALISTER (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

1 JEAN-CLAUDE LAPUYADE (SBN 248676)

2 JLAPUYADE@JCL-LAWFIRM.COM

3 **JCL LAW FIRM, APC**

4 3990 OLD TOWN AVENUE, SUITE C204

5 SAN DIEGO, CA 92110

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8 **ZAKAY LAW GROUP, APLC**

9 Shani O. Zakay (State Bar #277924)

10 3990 Old Town Avenue, Suite C204

11 San Diego, CA 92110

12 Telephone: (619)255-9047

13 Facsimile: (858) 404-9203

14 ATTORNEYS FOR PLAINTIFF

15 **SUPERIOR COURT OF CALIFORNIA**
16 **COUNTY OF SAN DIEGO**

17 ALEXANDER CASTELLANOS, an
18 individual, on behalf of himself, and on behalf
19 of all persons similarly situated,

20 Plaintiff,

21 vs.

22 SOUTHWEST SECURITY PATROL, INC.,
23 d.b.a. SOUTHWEST PATROL, a California
24 corporation; and DOES 1 through 50,
25 Inclusive;

26 Defendants.

Case No. 37-2020-00024905-CU-OE-CTL

CLASS ACTION COMPLAINT

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*
3. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802 and
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203

DEMAND FOR JURY TRIAL

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
07/17/2020 at 03:53:29 PM
Clerk of the Superior Court
By Valeria Contreras, Deputy Clerk

1 Plaintiff Alexander Castellanos (“PLAINTIFF”) an individual, on behalf of himself and all other
2 similarly situated current and former employees alleges on information and belief, except for his own
3 acts and knowledge which are based on personal knowledge, the following:

4 **THE PARTIES**

5 1. Defendant SOUTHWEST SECURITY PATROL, INC., d.b.a. SOUTHWEST PATROL
6 (“DEFENDANT”) is a California corporation. DEFENDANT provides, among other services, patrol
7 services, security guards, executive protection, armed guards, unarmed guards and virtual guards
8 throughout Southern California that all relevant times mentioned herein conducted and continues to
9 conduct substantial business in the state of California, County of San Diego, City of San Diego,
10 operating at 3914 Murphy Canyon Road Suite A234, San Diego, CA 92123.

11 2. PLAINTIFF was employed by DEFENDANT in California between February 2019 and
12 March 2020 at all times classified by DEFENDANT as a non-exempt employee, paid on an hourly
13 basis, and entitled to the legally required meal and rest periods and payment of minimum wages,
14 reporting time pay and overtime wages due for all time worked.

15 3. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined
16 as all individuals who are or previously were employed by DEFENDANT in California and classified
17 as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning on
18 April 6, 2016 and ending on the date as determined by the Court (the “CALIFORNIA CLASS
19 PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is
20 under five million dollars (\$5,000,000.00).

21 4. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS
22 in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the
23 CALIFORNIA CLASS PERIOD caused by DEFENDANT’s uniform policy and practice which failed
24 to lawfully compensate these employees. DEFENDANT’s uniform policy and practice alleged herein
25 was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues
26 to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF
27 and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by
28 DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the



1 CALIFORNIA CLASS who have been economically injured by DEFENDANT’s past and current
2 unlawful conduct, and all other appropriate legal and equitable relief.

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

11 6. The agents, servants and/or employees of the Defendants and each of them acting on
12 behalf of the Defendants acted within the course and scope of his, her or its authority as the agent,
13 servant and/or employee of the Defendants, and personally participated in the conduct alleged herein
14 on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each
15 Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally
16 liable to PLAINTIFF and the other members of the CALIFORNIA CLASS, for the loss sustained as a
17 proximate result of the conduct of the Defendants’ agents, servants and/or employees.

18 **THE CONDUCT**

19 **A. Meal Period Violations**

20 7. Pursuant to the Industrial Welfare Commission Wage Orders and the California Labor
21 Code, DEFENDANTS are required to pay PLAINTIFF and CALIFORNIA CLASS for all their time
22 worked, meaning the time during which an employee is subject to the control of an employer, including
23 all the time the employee is suffered or permitted to work. DEFENDANTS required PLAINTIFF and,
24 based on information and belief, the CALIFORNIA CLASS to work without paying them for all the
25 time they were under DEFENDANTS’ control.

26 8. Specifically, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
27 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to work while clocked
28 out during what was supposed to be their off-duty meal break as a result of their overburdened work



1 requirements, inadequate staffing and not being relived of cordless communication devices during his
2 work shifts. Further, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS,
3 were from time-to-time interrupted by work assignments while clocked out for what should have been
4 their off-duty meal break as a result of, among other things, not being relieved of their cordless
5 communication devices during what should have been off-the-clock, duty free meal periods.

6 9. As a result, the PLAINTIFF, and based on information and belief the CALIFORNIA
7 CLASS, forfeited minimum wage and overtime compensation by regularly working without their time
8 being accurately recorded and without compensation at the applicable minimum wage and overtime
9 rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF, and based on information
10 and belief the CALIFORNIA CLASS, for all time worked is evidenced by DEFENDANTS' business
11 records.

12 10. Further, during the CALIFORNIA CLASS PERIOD, as a result of their rigorous work
13 schedules, inadequate staffing and not being relived of cordless communication devices during his
14 shifts, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were from time-
15 to-time unable to take thirty (30) minute duty-free meal breaks and were not fully relieved of duty for
16 their meal periods. PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were
17 required from time-to-time to perform work as ordered by DEFENDANTS for more than five (5) hours
18 during some shifts without receiving a meal break. Further, DEFENDANTS from time-to-time failed
19 to provide PLAINTIFF and, based on information and belief the AGRIEVED EMPLOYEES, with a
20 second off-duty meal period for some workdays in which these employees were required by
21 DEFENDANTS to work ten (10) hours of work from time-to-time. PLAINTIFF, and based on
22 information and belief the AGRIEVED EMPLOYEES, therefore forfeited meal breaks without
23 additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

24 11. Finally, In violation of the applicable sections of the California Labor Code and the
25 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter
26 of company policy, practice and procedure, intentionally, knowingly and systematically failed to
27 compensate PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an
28 additional hour of premium pay for missed meal periods. This uniform policy and practice of

1 DEFENDANTS is intended to purposefully avoid the payment for all time worked as required by
2 California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
3 competitors who complied with the law.

4 **B. Rest Period Violations**

5 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF, and based on information and
6 belief the CALIFORNIA CLASS, were required from time-to-time to work in excess of four (4) hours
7 without being provided ten (10) minute rest periods as a result of their overburdened work
8 requirements, inadequate staffing and not being relived of cordless communication devices during their
9 shifts. Further, these employees were denied their first rest periods of at least ten (10) minutes for some
10 shifts worked of at least two (2) to four (4) hours from time to time, a first and second rest period of at
11 least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to time,
12 and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
13 hours or more from time to time. PLAINTIFF, and based on information and belief the CALIFORNIA
14 CLASS, were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work
15 schedules, inadequate staffing and not being relived of cordless communication devices during their
16 shifts, PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were from time
17 to time denied their proper rest periods by DEFENDANTS and their managers.

18 13. Finally, In violation of the applicable sections of the California Labor Code and the
19 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter
20 of company policy, practice and procedure, intentionally, knowingly and systematically failed to
21 compensate PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an
22 additional hour of premium pay for missed rest periods. This uniform policy and practice of
23 DEFENDANTS is intended to purposefully avoid the payment for all time worked as required by
24 California law which allows DEFENDANTS to illegally profit and gain an unfair advantage over
25 competitors who complied with the law.

26 **C. Reporting Time Claim**

27 14. The applicable Wage Order requires that on each workday that an employee reports for
28 work, as scheduled, but is not put to work or is furnished less than half of the employee's usual or



1 scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no
2 event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay,
3 which shall not be less than the minimum wage. The applicable Wage Order denominates this as
4 "Reporting Time Pay."

5 15. Specifically, during the CALIFORNIA CLASS PERIOD, DEFENDANTS required
6 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, to report to work when
7 assigned to their various shifts. From time-to-time, over the course of their employment, PLAINTIFF,
8 and based on information and belief the CALIFORNIA CLASS, reported to work as required by
9 DEFENDANTS. On these days, PLAINTIFF, and based on information and belief the CALIFORNIA
10 CLASS, were not put to work and/or were not furnished with work for less than half of their scheduled
11 shift. When PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, report to
12 work, as scheduled, but are furnished less than half of their scheduled day's work, PLAINTIFF, and
13 based on information and belief the CALIFORNIA CLASS, are not compensated with Reporting Time
14 pay, as required by the applicable Wage Order, in that they are not paid a minimum of two hours or for
15 half of their scheduled day's work, not to exceed four hours.

16 **D. Unreimbursed Expenses**

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

28 17. During the CALIFORNIA CLASS PERIOD, in the course of their employment

1 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, as a business expense,
2 were required by DEFENDANTS to use their own personal cellular phones for work related issues as
3 a result of and in furtherance of their job duties as employees for DEFENDANTS. Notwithstanding,
4 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, were never reimbursed
5 or indemnified by DEFENDANTS for the cost associated with the use of their personal cellular phones
6 for DEFENDANTS' benefit. As a result, in the course of their employment with DEFENDANTS,
7 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, incurred unreimbursed
8 business expenses which included, but were not limited to, costs related to the use of their personal
9 cellular phones all on behalf of and for the benefit of DEFENDANTS.

10 **E. Wage Statement Claim**

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

19 19. From time-to-time during the CLASS PERIOD, when PLAINTIFF, and based on
20 information and belief the CALIFORNIA CLASS, missed meal and rest breaks, or were paid inaccurate
21 missed meal and rest period premiums, or were paid remuneration entitled "Retro Pay",
22 DEFENDANTS also failed to provide PLAINTIFF, and based on information and belief the
23 CALIFORNIA CLASS, with complete and accurate wage statements which failed to show, among
24 other things, all applicable hourly rates in effect during the pay period and the corresponding amount
25 of time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest
26 periods.

27 20. For example, from time-to-time throughout the CALIFORNIA CLASS PERIOD,
28 PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, received remuneration



1 from DEFENDANTS described as “Retro Active”. DEFENDANTS violated California Labor Code
2 Section 226 by failing to list the applicable hourly rate and the corresponding number of hours worked
3 at the applicable hourly rate for this line item of remuneration described as “Retro Active”.
4 PLAINTIFF, and all those similarly situated members of the CALIFORNIA CLASS, suffered damage
5 as a result of DEFENDANTS’ aforementioned violation because he could not promptly and easily
6 determine from the wage statement alone the applicable hourly rate and the corresponding number of
7 hours worked at the applicable hourly rate for this line item of remuneration described as “Retro
8 Active”.

9 21. Further, during the CALIFORNIA CLASS PERIOD, DEFENDANTS also failed to
10 provide PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, with complete
11 and accurate wage statements which failed to show, among other things, the correct net and gross wages
12 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees
13 with an accurate itemized wage statement in writing showing, among other things, gross wages earned,
14 total hours worked, net wages earned, all applicable hourly rates in effect during the pay period and the
15 corresponding amount of time worked at each hourly rate, and the name and address of the legal entity
16 that is the employer. Aside, from the violations listed above in this paragraph, DEFENDANTS also
17 failed to issue to PLAINTIFF, and based on information and belief the CALIFORNIA CLASS, an
18 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a
19 result, DEFENDANTS provided PLAINTIFF, and based on information and belief the CALIFORNIA
20 CLASS, with wage statements which violated Cal. Lab. Code § 226.

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

25 23. To date, DEFENDANT has not fully paid PLAINTIFF the overtime compensation, and
26 the meal and rest break premiums still owed to him or any penalty wages owed to him under Cal. Lab.
27 Code § 203.

28 24. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA



1 CLASS Members, DEFENDANT committed acts of unfair competition in violation of the California
2 Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the “UCL”), by engaging in a
3 company-wide policy and procedure which failed to accurately calculate and record all missed meal
4 and rest periods by PLAINTIFF and other CALIFORNIA CLASS Members. The proper recording of
5 these employees’ missed meal and rest breaks is the DEFENDANT’s burden. As a result of
6 DEFENDANT’s intentional disregard of the obligation to meet this burden, DEFENDANT failed to
7 properly calculate and/or pay all required compensation for work performed by the members of the
8 CALIFORNIA CLASS and violated the California Labor Code and regulations promulgated
9 thereunder as herein alleged.

10 25. Specifically, as to PLAINTIFF, DEFENDANT failed to provide all the legally required
11 off-duty meal and rest breaks to him as required by the applicable Wage Order and Labor Code and
12 failed to pay him all minimum and overtime wages due to him. DEFENDANT did not have a policy
13 or practice which provided timely off-duty meal and rest breaks to PLAINTIFF and also failed to
14 compensate PLAINTIFF for his missed meal and rest breaks. The nature of the work performed by the
15 PLAINTIFF did not prevent him from being relieved of all of his duties for the legally required off-
16 duty meal periods. As a result, DEFENDANT’s failure to provide PLAINTIFF with the legally
17 required meal periods is evidenced by DEFENDANT’s business records. As a result of DEFENDANT
18 not accurately recording all missed meal and rest periods and/or minimum and overtime wages due, the
19 wage statements issued to PLAINTIFF by DEFENDANT violated California law, and in particular,
20 Labor Code Section 226(a). The amount in controversy for PLAINTIFF individually does not exceed
21 the sum or value of \$75,000.

22 **JURISDICTION AND VENUE**

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

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

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

4 **THE CALIFORNIA CLASS**

5 28. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
6 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action,
7 pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who
8 are or previously were employed by DEFENDANT in California and classified as non-exempt
9 employees (the "CALIFORNIA CLASS") at any time during the period beginning APRIL 6, 2020 and
10 ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount
11 in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
12 (\$5,000,000.00).

13 29. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
14 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

15 30. To the extent that it applies, PLAINTIFF invokes the tolling permitted pursuant to the
16 California State Judicial Counsel amended Rule of Court, Emergency Rule Number 9, tolled the statute
17 of limitation and statutes of repose from April 6, 2020 to either (a) August 3, 2020 for statutes of
18 limitation and repose for civil causes of action that are 180 days or less, of (b) October 1, 2020 for
19 statutes of limitation and repose for civil causes of action that exceed 180 days.

20 31. DEFENDANT, as a matter of company policy, practice and procedure, and in violation
21 of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and
22 the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice
23 whereby DEFENDANT systematically failed to record all meal and rest breaks missed by PLAINTIFF
24 and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this
25 work, required employees to perform this work and permits or suffers to permit this work.

26 32. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
27 CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws.
28 The DEFENDANT, however, as a matter of uniform and systematic policy and procedure failed to have

1 in place during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice
2 to ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This common
3 business practice is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on
4 a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§
5 17200, *et seq.* (the "UCL") as causation, damages, and reliance are not elements of this claim.

6 33. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA CLASS
7 Members is impracticable.

8 34. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
9 California law by:

10 a. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
11 §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or deceptively having in place company
12 policies, practices and procedures that uniformly and systematically failed to record and pay
13 PLAINTIFF and the other members of the CALIFORNIA CLASS for all time worked, including
14 minimum wages owed, overtime wages owed and reporting time pay for work performed by these
15 employees;

16 b. Committing an act of unfair competition in violation of the UCL, by failing to
17 provide the PLAINTIFF and the other members of the CALIFORNIA CLASS with the legally required
18 meal and rest periods; and,

19 c. Committing an act of unfair competition in violation of the California Unfair
20 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab. Code § 2802 by
21 failing to reimburse PLAINTIFF and the CALIFORNIA CLASS members with necessary expenses
22 incurred in the discharge of their job duties.

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

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

28 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are

1 raised in this Complaint are common to the CALIFORNIA CLASS and will apply uniformly to every
2 CALIFORNIA CLASS Member;

3 c. The claims of the representative PLAINTIFF are typical of the claims of each
4 member of the CALIFORNIA CLASS. PLAINTIFF, like all the CALIFORNIA CLASS Members, was
5 classified as an independent contractor upon hiring based on the defined corporate policies and practices
6 and labors under DEFENDANT's systematic procedure that failed to properly classify the PLAINTIFF
7 and the CALIFORNIA CLASS Members. PLAINTIFF sustained economic injury as a result of
8 DEFENDANT's employment practices. PLAINTIFF and the CALIFORNIA CLASS Members were
9 and are similarly or identically harmed by the same unlawful, unfair, deceptive and persuasive pattern
10 of misconduct engaged in by DEFENDANT by deceptively telling all the CALIFORNIA CLASS
11 Members that they were not entitled to minimum wages, the employer's share of payment of payroll
12 taxes and mandatory insurance, and reimbursement for business expenses based on the defined corporate
13 policies and practices, and unfairly failed to pay these employees who were improperly classified as
14 independent contractors; and,

15 d. The representative PLAINTIFF will fairly and adequately represent and protect
16 the interest of the CALIFORNIA CLASS, and has retained counsel who is competent and experienced
17 in Class Action litigation. There are no material conflicts between the claims of the representative
18 PLAINTIFF and the CALIFORNIA CLASS Members that would make class certification inappropriate.
19 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all employees in the
20 CALIFORNIA CLASS.

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

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

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

1 ii. Adjudication with respect to individual members of the CALIFORNIA
2 CLASS which would as a practical matter be dispositive of the interests of the other members not party
3 to the adjudication or substantially impair or impeded their ability to protect their interests.

4 b. The parties opposing the CALIFORNIA CLASS have acted on grounds generally
5 applicable to the CALIFORNIA CLASS making appropriate class-wide relief with respect to the
6 CALIFORNIA CLASS as a whole in that DEFENDANT uniformly classified and treated the
7 CALIFORNIA CLASS Members as independent contractors and, thereafter, uniformly failed to take
8 proper steps to determine whether the CALIFORNIA CLASS Members were properly classified as
9 independent contractors, and thereby denied these employees' wages and payments for business
10 expenses and the employer's share of payroll taxes and mandatory insurance as required by law.

11 i. With respect to the First Cause of Action, the final relief on behalf of the
12 CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim the
13 PLAINTIFF seeks declaratory relief holding that DEFENDANT's policies and practices constitute
14 unfair competition, along with incidental equitable relief as may be necessary to remedy the conduct
15 declared to constitute unfair competition.

16 c. Common questions of law and fact exist as to members of the
17 CALIFORNIA CLASS with respect to the practices and violations of California and federal law as listed
18 above, and predominate over any question affecting only individual members, and a Class Action is
19 superior to other available methods for the fair and efficient adjudication of the controversy, including
20 consideration of:

21 i. The interests of the members of the CALIFORNIA CLASS in individually
22 controlling the prosecution or defense of separate actions in that the substantial expense of individual
23 actions will be avoided to recover the relatively small amount of economic losses sustained by the
24 individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of
25 individual prosecution of this litigation;

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

28 A. Inconsistent or varying adjudications with respect to individual

1 members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for
2 the DEFENDANT; and/or,

3 B. Adjudications with respect to individual members of the
4 CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members
5 not parties to the adjudication or substantially impair or impede their ability to protect their interests;

6 iii. In the context of wage litigation because a substantial number of individual
7 CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by
8 DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent
9 employer, the Class Action is the only means to assert their claims through a representative; and

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

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

16 a. The questions of law and fact common to the CALIFORNIA CLASS predominate
17 over any question affecting only individual CALIFORNIA CLASS Members because the
18 DEFENDANT's employment practices are uniform and systematically applied with respect to the
19 CALIFORNIA CLASS;

20 b. A Class Action is superior to any other available method for the fair and efficient
21 adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of
22 employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid
23 asserting their rights individually out of fear of retaliation or adverse impact on their employment;

24 c. The members of the CALIFORNIA CLASS are so numerous that it is impractical
25 to bring all members of the CALIFORNIA CLASS before the Court;

26 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to
27 obtain effective and economic legal redress unless the action is maintained as a Class Action;

28 e. There is a community of interest in obtaining appropriate legal and equitable relief

1 for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate
2 compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the
3 CALIFORNIA CLASS;

4 f. There is a community of interest in ensuring that the combined assets of
5 DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA CLASS for
6 the injuries sustained;

7 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
8 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect to the
9 CALIFORNIA CLASS as a whole;

10 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
11 business records of DEFENDANT; and,

12 i. Class treatment provides manageable judicial treatment calculated to bring an
13 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the
14 conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.

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

20 **THE CALIFORNIA LABOR SUB-CLASS**

21 39. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth and Seventh Causes of
22 Action on behalf of a California sub-class, defined as all members of the CALIFORNIA CLASS who
23 are or previously were employed by DEFENDANT in California as Drivers and who were classified as
24 Independent Contractors (the "CALIFORNIA LABOR SUB-CLASS") at any time during the period
25 beginning on April 6, 2017 and ending on the date as determined by the Court (the "CALIFORNIA
26 LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy
27 for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars
28 (\$5,000,000.00).



1 40. DEFENDANT, as a matter of company policy, practice and procedure, and in violation
2 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements, and
3 the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice
4 whereby DEFENDANT failed to correctly calculate compensation for the time worked by PLAINTIFF
5 and the other members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to
6 these employees, even though DEFENDANT enjoyed the benefit of this work, required employees to
7 perform this work and permitted or suffered to permit this work. DEFENDANT has uniformly denied
8 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in
9 order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling operates to
10 toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA
11 LABOR SUB-CLASS PERIOD should be adjusted accordingly. To the extent that it applies,
12 PLAINTIFF invokes, on behalf of the CALIFORNIA LABOR SUB-CLASS, the tolling permitted
13 pursuant to the California State Judicial Counsel amended Rule of Court, Emergency Rule Number 9,
14 tolled the statute of limitation and statutes of repose from April 6, 2020 to either (a) August 3, 2020 for
15 statutes of limitation and repose for civil causes of action that are 180 days or less, of (b) October 1,
16 2020 for statutes of limitation and repose for civil causes of action that exceed 180 days.

17 41. DEFENDANT maintains records from which the Court can ascertain and identify by job
18 title each of DEFENDANT’s employees who as CALIFORNIA LABOR SUB-CLASS Members have
19 been systematically, intentionally and uniformly misclassified as independent contractors as a matter of
20 DEFENDANT’s corporate policy, practices and procedures. PLAINTIFF will seek leave to amend the
21 complaint to include these additional job titles when they have been identified.

22 42. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
23 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

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

26 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
27 compensation due to members of the CALIFORNIA LABOR SUB-CLASS for missed meal and rest
28 breaks in violation of the California Labor Code and California regulations and the applicable California



1 Wage Order;

2 b. Whether DEFENDANT failed to provide the PLAINTIFF and the other members
3 of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;

4 c. Whether DEFENDANT has engaged in unfair competition by the above-listed
5 conduct;

6 d. The proper measure of damages and penalties owed to the members of the
7 CALIFORNIA LABOR SUB-CLASS; and,

8 e. Whether DEFENDANT's conduct was willful.

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

11 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay PLAINTIFF
12 and the members of the CALIFORNIA LABOR SUB-CLASS the correct overtime pay for which
13 DEFENDANT is liable pursuant to Cal. Lab. Code § 1194 & § 1198 Violating Cal. Lab. Code §§ 226.7
14 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with
15 all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest
16 breaks;

17 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately
18 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum
19 wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197; Violating
20 Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA CLASS members
21 with necessary expenses incurred in the discharge of their job duties; and,

22 c. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
23 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing
24 showing the corresponding correct amount of wages earned by the employee;

25 d. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and
26 the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty
27 (30) minute meal breaks and the legally required off-duty rest breaks; and,

28 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the

1 CALIFORNIA CLASS members with necessary expenses incurred in the discharge of their job duties.

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

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

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

10 c. The claims of the representative PLAINTIFF are typical of the claims of each
11 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all other members of the
12 CALIFORNIA LABOR SUB-CLASS was improperly classified as an independent contractor and was
13 thus denied minimum wage pay and meal and rest breaks, among other things, as a result of
14 DEFENDANT's systematic classification practices. PLAINTIFF and all other members of the
15 CALIFORNIA LABOR SUB-CLASS sustained economic injuries arising from DEFENDANT's
16 violations of the laws of California; and,

17 d. The representative PLAINTIFF will fairly and adequately represent and protect
18 the interest of the CALIFORNIA LABOR SUB-CLASS and has retained counsel who are competent
19 and experienced in Class Action litigation. There are no material conflicts between the claims of the
20 representative PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS that would
21 make class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will
22 vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

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

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

28 i. Inconsistent or varying adjudications with respect to individual members

1 of the CALIFORNIA LABOR SUB-CLASS which would establish incompatible standards of conduct
2 for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or,

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

6 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
7 refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making
8 appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a whole in that
9 the DEFENDANT uniformly classified and treated the members of the CALIFORNIA LABOR SUB-
10 CLASS as independent contractors and, thereafter, uniformly failed to take proper steps to determine
11 whether the CALIFORNIA LABOR SUB-CLASS Members were properly classified as independent
12 contractors, and thereby denied these employees the protections afforded to them under the California
13 Labor Code;

14 c. Common questions of law and fact predominate as to the members of the
15 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations of California law as
16 listed above, and predominate over any question affecting only individual CALIFORNIA LABOR SUB-
17 CLASS Members, and a Class Action is superior to other available methods for the fair and efficient
18 adjudication of the controversy, including consideration of:

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

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

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



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

4 iii. In the context of wage litigation because a substantial number of individual
5 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of
6 retaliation by DEFENDANT, which may adversely affect an individual’s job with DEFENDANT or
7 with a subsequent employer, the Class Action is the only means to assert their claims through a
8 representative; and,

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

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

15 a. The questions of law and fact common to the CALIFORNIA LABOR SUB-
16 CLASS predominate over any question affecting only individual CALIFORNIA LABOR SUB-CLASS
17 Members;

18 b. A Class Action is superior to any other available method for the fair and efficient
19 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS because in the
20 context of employment litigation a substantial number of individual CALIFORNIA LABOR SUB-
21 CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse
22 impact on their employment;

23 c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
24 it is impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before the Court;

25 d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will
26 not be able to obtain effective and economic legal redress unless the action is maintained as a Class
27 Action;

28 e. There is a community of interest in obtaining appropriate legal and equitable relief

1 for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate
2 compensation for the damages and injuries which DEFENDANT’s actions have inflicted upon the
3 CALIFORNIA LABOR SUB-CLASS;

4 f. There is a community of interest in ensuring that the combined assets of
5 DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR
6 SUB-CLASS for the injuries sustained;

7 g. DEFENDANT has acted or refused to act on grounds generally applicable to the
8 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect
9 to the CALIFORNIA LABOR SUB-CLASS as a whole;

10 h. The members of the CALIFORNIA LABOR SUB-CLASS are readily
11 ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS
12 consists of all CALIFORNIA CLASS Members who are or previously were employed by
13 DEFENDANT in California as Drivers and classified as independent contractors during the
14 CALIFORNIA LABOR SUB-CLASS PERIOD; and,

15 i. Class treatment provides manageable judicial treatment calculated to bring a
16 efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the
17 conduct of DEFENDANT.

18 **FIRST CAUSE OF ACTION**

19 **For Unlawful Business Practices**

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

21 **(By PLAINTIFF and the CALIFORNIA CLASS Against All DEFENDANT and DOES 1 -50)**

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

24 49. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
25 17021.

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



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

9 Cal. Bus. & Prof. Code § 17203.

10 51. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in a
11 business practice which violates California law, including but not limited to, the applicable Industrial
12 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections
13 204, 210, 226.7, 510, 512, 1194, 1197, 1197.1, 1198 & 2802, for which this Court should issue
14 declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary
15 to prevent and remedy the conduct held to constitute unfair competition, including restitution of wages
16 wrongfully withheld.

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

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

54. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the other members of

1 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

2 55. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair and
3 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide all legally
4 required meal breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as required
5 by Cal. Lab. Code §§ 226.7 and 512.

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

10 57. PLAINTIFF further demands on behalf of himself and on behalf of each CALIFORNIA
11 CLASS member, one (1) hour of pay for each workday in which an off duty paid rest period was not
12 timely provided as required by law.

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

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

24 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do,
25 seek such relief as may be necessary to restore to them the money and property which DEFENDANT
26 has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been
27 deprived, by means of the above described unlawful and unfair business practices, including earned but
28 unpaid wages for all overtime worked.

1 receive additional compensation beyond their regular wages in amounts specified by law.

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

6 68. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
7 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
8 DEFENDANT and were not paid for all the time they worked, including overtime work.

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

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

22 71. As a direct result of DEFENDANT’s unlawful wage practices as alleged herein,
23 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive full
24 compensation for all overtime worked.

25 72. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from the
26 overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF and the other
27 members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFF and the other members of
28 the CALIFORNIA LABOR SUB-CLASS are not subject to a valid collective bargaining agreement that

1 would preclude the causes of action contained herein this Complaint. Rather, the PLAINTIFF brings
2 this Action on behalf of himself and the CALIFORNIA LABOR SUB-CLASS based on
3 DEFENDANT's violations of non-negotiable, non-waivable rights provided by the State of California.

4 73. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other
5 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were
6 entitled to, constituting a failure to pay all earned wages.

7 74. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
8 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in excess of
9 the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though
10 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were required to work,
11 and did in fact work, overtime as to which DEFENDANT failed to accurately record and pay using the
12 applicable overtime rate as evidenced by DEFENDANT's business records and witnessed by
13 employees.

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

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

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



1 CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or
 2 the consequences to them, and with the despicable intent of depriving them of their property and legal
 3 rights, and otherwise causing them injury in order to increase company profits at the expense of these
 4 employees

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

16 **THIRD CAUSE OF ACTION**

17 **For Failure to Pay Minimum Wages**

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

19 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against DEFENDANT and**
 20 **DOES 1 - 50)**

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

24 80. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a
 25 claim for DEFENDANT’S willful and intentional violations of the California Labor Code and the
 26 Industrial Welfare Commission requirements for DEFENDANT’S failure to accurately calculate and
 27 pay minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS Members.

28 81. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy,

1 an employer must timely pay its employees for all hours worked.

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

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

7 84. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and the other
8 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time they
9 work. As set forth herein, DEFENDANT's uniform policy and practice was to unlawfully and
10 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the
11 CALIFORNIA LABOR SUB-CLASS.

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

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

21 87. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
22 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the
23 correct minimum wage compensation for their time worked for DEFENDANT.

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

27 89. By virtue of DEFENDANT's unlawful failure to accurately pay all earned compensation
28 to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS for the true time



1 they worked, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS have
2 suffered and will continue to suffer an economic injury in amounts which are presently unknown to
3 them and which will be ascertained according to proof at trial.

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

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

19 92. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
20 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as
21 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided
22 by the California Labor Code and/or other applicable statutes. DEFENDANT's conduct as
23 alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other
24 CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

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1 **FOURTH CAUSE OF ACTION**

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

3 **[Cal. Lab. Code §§ 226.7 & 512]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Against DEFENDANT and DOES**
5 **1 – 50)**

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

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

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

1 all wages earned and due, interest, penalties, expenses and costs of suit.

2 **SIXTH CAUSE OF ACTION**

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

4 **[Cal. Lab. Code § 226]**

5 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Against DEFENDANTS and**
6 **DOES 1 - 50)**

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

10 102. Cal. Labor Code § 226 provides that an employer must furnish employees with an
11 “accurate itemized” statement in writing showing:

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

28 103. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other



1 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
 2 show, among other things, the correct gross and net wages earned, all applicable hourly rates in effect
 3 during the pay period and the corresponding number of hours worked at each hourly rate by the
 4 employee and correct amount of time worked in violation of Cal. Lab. Code § 226 . Aside, from the
 5 violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized
 6 wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,
 7 DEFENDANT from time to time provided PLAINTIFF and the other members of the CALIFORNIA
 8 CLASS with wage statements which violated Cal. Lab. Code § 226.

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

20 **SEVENTH CAUSE OF ACTION**

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

22 **[Cal. Lab. Code § 2802]**

23 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Against DEFENDANTS and**
 24 **DOES 1 – 50)**

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

28 106. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

6 107. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to
7 indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
8 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.
9 DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members
10 for expenses which included, but were not limited to, costs related to using their personal cellular phones
11 all on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFF and other
12 CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell phones to
13 respond to work related issues. DEFENDANT's uniform policy, practice and procedure was to not
14 reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting
15 from using their personal cellular phones for DEFENDANT within the course and scope of their
16 employment for DEFENDANT. These expenses were necessary to complete their principal job duties.
17 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.
18 Although these expenses were necessary expenses incurred by PLAINTIFF and the CALIFORNIA
19 LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse PLAINTIFF and the
20 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is required to do
21 under the laws and regulations of California

22 108. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by
23 them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties for
24 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory rate
25 and costs under Cal. Lab. Code § 2802. There was no definite term in PLAINTIFF's or any
26 CALIFORNIA LABOR SUB-CLASS Members' employment contract.

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1 **EIGHTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

3 **(Cal. Lab. Code §§201, 202, 203)**

4 **(Alleged by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and against all**
5 **Defendants)**

6 1. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
7 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
8 Complaint.

9 2. Cal. Lab. Code § 200 provides that:

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

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

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

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

26 5. There was no definite term in Plaintiff Lane or any CALIFORNIA LABOR SUB-CLASS
27 Members' employment contract.

28 6. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections
201, 201.5, 202, and 205.5, any wages of an employee who is 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.

1 overtime compensation due PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
2 CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at
3 the statutory rate;

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

8 D) Meal and rest period compensation pursuant to California Labor Code Section 226.7 and
9 the applicable IWC Wage Order;

10 E) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
11 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit; and,

12 F) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;
13 and,

14 G) The wages of all terminated employees from the CALIFORNIA LABOR SUB-CLASS
15 as a penalty from the due date thereof at the same rate until paid or until an action therefore is
16 commenced, in accordance with Cal. Lab. Code § 203; and

17 3. On all claims:

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

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

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

22
23 Dated: July 17, 2020

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

24
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26 By: 
Jean-Claude Lapuyade
Attorneys for PLAINTIFFS

DEMAND FOR JURY TRIAL

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

Dated: July 17, 2020

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

By: 

Jean-Claude Lapuyade
Attorneys for PLAINTIFF



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