

**SUMMONS  
(CITACION JUDICIAL)**

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Superior Court of California  
County of Los Angeles

**APR 22 2020**

Sherri R. Carter, Executive Officer/Clerk of Court

By Steven Drew, Deputy  
Steven Drew

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

JHK HOSPITALITY, LLC, a Limited Liability Company (dba I.a Quinta Inn & Suites by Wyndham); and DOES 1-50, Inclusive

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

JONATHAN KHODRA on behalf of himself and on behalf of all persons similarly situated

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, 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):

Los Angeles Superior Court, Stanley Mosk Courthouse  
111 North Hill Street  
Los Angeles, CA 90012

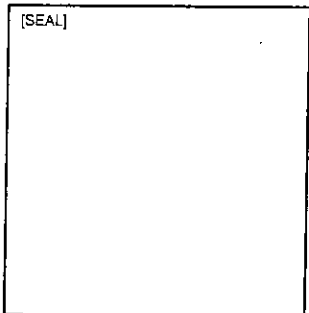
CASE NUMBER  
(Número del Caso): **20STCV15655**

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

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Shani O. Zakay, Esq. SBN:277924 Tel: (619) 255-9047 Fax: (858) 404-9203  
Zakay Law Group, APLC - 5850 Oberlin Drive, Suite 230A, San Diego, CA 92121

DATE: **APR 22 2020** Sherri R. Carter, Clerk Clerk, by **STEVEN DREW**, 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**

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- 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):
- by personal delivery on (date):

VIA FAX

1 **ZAKAY LAW GROUP, APLC**  
Shani O. Zakay (State Bar #277924)  
2 3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
3 Telephone: (619)255-9047; Facsimile: (858) 404-9203

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County of Los Angeles

APR 22 2020

4 **JCL LAW FIRM, APC**  
Jean-Claude Lapuyade (State Bar #248676)  
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San Diego, CA 92110  
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Sherril K. ...  
By Steven Drew, Deputy

7 Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 JONATHAN KHODRA on behalf of himself  
and on behalf of all persons similarly  
11 situated,

Case No: **20STCV15655**

**CLASS ACTION COMPLAINT FOR:**

12 Plaintiff,  
13 v.  
14 JHK HOSPITALITY, LLC, a Limited  
Liability Company (dba La Quinta Inn &  
15 Suites by Wyndham); and DOES 1-50,  
Inclusive,

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and
- 9) VIOLATION OF CALIFORNIA LABOR CODE § 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1070(14) (FAILURE TO PROVIDE SEATING); and
- 10) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq*.

16 Defendants.

**DEMAND FOR A JURY TRIAL**

VIA FAX

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

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant JHK HOSPITALITY, LLC (“DEFENDANT” or “Defendant”) is a  
6 limited liability company and at all relevant times mentioned herein conducted and continues to  
7 conduct substantial and regular business throughout California.

8 2. DEFENDANT, doing business as “La Quinta Inn & Suites by Wyndham,” owns  
9 and operates a La Quinta Inn & Suites hotel in Stevenson Ranch in Los Angeles County.

10 3. PLAINTIFF was employed by DEFENDANT in California as a non-exempt  
11 employee entitled to minimum wages, overtime pay and meal and rest periods from May of  
12 2018 to July of 2019. PLAINTIFF was at all times relevant mentioned herein classified by  
13 DEFENDANT as a non-exempt employee paid on an hourly basis.

14 4. PLAINTIFF bring this Class Action on behalf of himself and a California class,  
15 defined as all individuals who are or previously were employed by DEFENDANT in California  
16 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
17 period beginning four (4) years prior to the filing of the Complaint and ending on the date as  
18 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy  
19 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
20 (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA  
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
23 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy and practice  
24 which failed to lawfully compensate these employees for all their time worked.  
25 DEFENDANT’S uniform policy and practice alleged herein is an unlawful, unfair and  
26 deceptive business practice whereby DEFENDANTS retained and continue to retain wages due  
27 to PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and the other  
28 members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by  
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  
2 current unlawful conduct, and all other appropriate legal and equitable relief.

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

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

20 **THE CONDUCT**

21 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT  
22 was required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time  
23 worked, meaning the time during which an employee is subject to the control of an employer,  
24 including all the time the employee is suffered or permitted to work. From time to time,  
25 DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work without  
26 paying them for all the time they were under DEFENDANT’S control. Specifically,  
27 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be  
28 PLAINTIFF’S off-duty meal break, as well as before his shift started and after his shift ended.

1 PLAINTIFF was often interrupted by work assignments during his breaks. Indeed there were  
2 many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF  
3 and other CALIFORNIA CLASS Members, from time to time, forfeited minimum wage and  
4 overtime compensation by working without their time being accurately recorded and without  
5 compensation at the applicable minimum wage and overtime rates. DEFENDANT’S uniform  
6 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all  
7 time worked is evidenced by DEFENDANT’S business records.

8 9. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in  
9 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
10 CALIFORNIA CLASS Members for the actual time these employees worked each day,  
11 including overtime hours. As a result DEFENDANT was able to and did in fact unlawfully, and  
12 unilaterally alter the time recorded in DEFENDANT’s timekeeping system for PLAINTIFF and  
13 the members of the CALIFORNIA CLASS in order to avoid paying these employees the  
14 applicable overtime compensation for overtime worked and to avoid paying these employees for  
15 missed meal breaks. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from  
16 time to time, forfeited time worked by working without their time being accurately recorded and  
17 without compensation at the applicable overtime rates.

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

25 11. As a result of their rigorous work schedules, and because they often worked  
26 single-staffed shifts, PLAINTIFF and other CALIFORNIA CLASS Members were also from  
27 time to time unable to take off duty meal breaks and were not fully relieved of duty for meal  
28 periods. PLAINTIFF and other CALIFORNIA CLASS Members were required to perform

1 work as ordered by DEFENDANT for more than five (5) hours during a shift without receiving  
2 an off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFF and  
3 CALIFORNIA CLASS Members with a second off-duty meal period each workday in which  
4 these employees were required by DEFENDANT to work ten (10) hours of work. PLAINTIFF  
5 and the other CALIFORNIA CLASS Members therefore forfeited meal breaks without  
6 additional compensation and in accordance with DEFENDANT's strict corporate policy and  
7 practice

8 12. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and  
9 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
10 without being provided ten (10) minute rest periods. Further, these employees were denied their  
11 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
12 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of  
13 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10)  
14 minutes for some shifts worked of ten (10) hours or more. When they did have an opportunity to  
15 take their rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to  
16 remain on the premises and subject to DEFENDANT's control. PLAINTIFF and other  
17 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.  
18 As a result of their rigorous work schedules, and because they often worked single-staffed  
19 shifts, PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their  
20 proper rest periods by DEFENDANT and DEFENDANT'S managers.

21 13. From time to time, when PLAINTIFF and other CALIFORNIA CLASS  
22 Members missed meal and rest breaks, or when they worked during what was supposed to be  
23 their meal breaks, DEFENDANT also failed to provide PLAINTIFF and the other members of  
24 the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,  
25 among other things, the correct time and overtime worked, including, work performed in excess  
26 of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the correct penalty  
27 payments or missed meal and rest periods. Cal. Lab. Code § 226 provides that every employer  
28 shall furnish each of his or her employees with an accurate itemized wage statement in writing

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

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

18 15. In the course of their employment, PLAINTIFF and other CALIFORNIA  
19 CLASS Members as a business expense, were required by DEFENDANT to use their own  
20 personal cellular phones as a result of and in furtherance of their job duties as employees for  
21 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost  
22 associated with the use of their personal cellular phones for DEFENDANT'S benefit.  
23 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by  
24 DEFENDANT to use their personal cell phones to for work related issues. As a result, in the  
25 course of their employment with DEFENDANT the PLAINTIFF and other members of the  
26 CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not  
27 limited to, costs related to the use of their personal cellular phones all on behalf of and for the  
28 benefit of DEFENDANT.

1           16.     In addition, when DEFENDANT required PLAINTIFF and other CALIFORNIA  
2 CLASS Members to engage in additional work, this sometimes resulted in a second reporting  
3 for work in a single workday. In such a circumstance of a second reporting for work in a single  
4 workday, DEFENDANT failed to pay these employees reporting time pay as required by Cal.  
5 Code Regs., tit. 8 § 11040. Subdivision 5(B) states: “If an employee is required to report for  
6 work a second time in any one workday and is furnished less than two (2) hours of work on the  
7 second reporting, said employee shall be paid for two (2) hours at the employee’s regular rate of  
8 pay, which shall be not less than the minimum wage.” Cal. Code Regs., tit. 8 § 11040, subd.  
9 5(B).

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

20           18.     PLAINTIFF further alleges that the station counters in DEFENDANT’S hotel  
21 provides ample space behind each counter area to allow for the presence and use of a stool or  
22 seat by DEFENDANT’S employees’ during the performance of their work duties.  
23 DEFENDANT’S employees’ working at DEFENDANT’S hotel spend a very substantial portion,  
24 and, in many workdays, the vast majority of their working time behind these counters. The  
25 nature of the position can reasonably be accomplished while using a seat/stool.

26           19.     In violation of the applicable sections of the California Labor Code and the  
27 requirements of the applicable Industrial Welfare Commission (“IWC”) Wage Order,  
28 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly



1 and systematically failed to provide PLAINTIFF and the other Aggrieved Employees suitable  
2 seating when the nature of these employees' work reasonably permitted sitting.

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

10 21. Specifically as to PLAINTIFF'S pay, he was from time to time unable to take off  
11 duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.  
12 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)  
13 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to  
14 provide PLAINTIFF with a second off-duty meal period each workday in which he was  
15 required by DEFENDANT to work ten (10) hours of work. PLAINTIFF therefore forfeited meal  
16 and rest breaks without additional compensation and in accordance with DEFENDANT'S strict  
17 corporate policy and practice. DEFENDANT also provided PLAINTIFF with paystubs that  
18 failed to accurately display payments for missed meal and rest periods for certain pay periods in  
19 violation of Cal. Lab. Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFFS  
20 all wages still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203.  
21 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of  
22 \$75,000.

### 23 JURISDICTION AND VENUE

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

1 23. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
2 Sections 395 and 395.5, because DEFENDANT (i) currently maintain and at all relevant times  
3 maintained offices and facilities in this County and/or conducts substantial business in this  
4 County, and (ii) committed the wrongful conduct herein alleged in this County against members  
5 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

6 **THE CALIFORNIA CLASS**

7 24. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive  
8 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class  
9 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all  
10 individuals who are or previously were employed by DEFENDANT in California and classified  
11 as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period  
12 beginning four (4) years prior to the filing of the original complaint and ending on the date as  
13 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy  
14 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
15 (\$5,000,000.00).

16 25. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
17 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
18 accordingly.

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

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

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

8 28. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
9 CLASS Members is impracticable.

10 29. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under  
11 California law by:

- 12 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
13 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
14 company policies, practices and procedures that failed to pay all wages due the  
15 CALIFORNIA CLASS for all time worked;
- 16 b. Committing an act of unfair competition in violation of the California Unfair  
17 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to  
18 provide mandatory meal and/or rest breaks to PLAINTIFFS and the  
19 CALIFORNIA CLASS members;
- 20 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
21 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
22 company policies, practices and procedures that uniformly and systematically  
23 failed to record and pay PLAINTIFF and other members of the CALIFORNIA  
24 CLASS for all time worked, including minimum wages owed and overtime  
25 wages owed for work performed by these employees; and
- 26 d. Violating the UCL by unlawfully, unfairly and/or deceptively having in place  
27 company policies, practices and procedures that failed to pay all reporting time  
28 wages due to PLAINTIFF and the CALIFORNIA CLASS.

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

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

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

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

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

25 d. The representative PLAINTIFF will fairly and adequately represent and protect  
26 the interest of the CALIFORNIA CLASS, and has retained counsel who are  
27 competent and experienced in Class Action litigation. There are no material  
28 conflicts between the claims of the representative PLAINTIFF and the members

1 of the CALIFORNIA CLASS that would make class certification inappropriate.  
2 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all  
3 CALIFORNIA CLASS Members.

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

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

9 i. Inconsistent or varying adjudications with respect to individual members  
10 of the CALIFORNIA CLASS which would establish incompatible  
11 standards of conduct for the parties opposing the CALIFORNIA CLASS;  
12 and/or;

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

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

22 i. With respect to the First Cause of Action, the final relief on behalf of the  
23 CALIFORNIA CLASS sought does not relate exclusively to restitution  
24 because through this claim PLAINTIFF seeks declaratory relief holding  
25 that the DEFENDANT's policy and practices constitute unfair  
26 competition, along with declaratory relief, injunctive relief, and incidental  
27 equitable relief as may be necessary to prevent and remedy the conduct  
28 declared to constitute unfair competition;

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

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

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

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

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

24 iii. In the context of wage litigation, because a substantial number of  
25 individual CALIFORNIA CLASS Members will avoid asserting their  
26 legal rights out of fear of retaliation by DEFENDANT, which may  
27 adversely affect an individual's job with DEFENDANT or with a  
28

1 subsequent employer, the Class Action is the only means to assert their  
2 claims through a representative; and

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

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

10 a. The questions of law and fact common to the CALIFORNIA CLASS  
11 predominate over any question affecting only individual CALIFORNIA CLASS  
12 Members because the DEFENDANT's employment practices are uniform and  
13 systematically applied with respect to the CALIFORNIA CLASS.

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

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

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

24 e. There is a community of interest in obtaining appropriate legal and equitable  
25 relief for the acts of unfair competition, statutory violations and other  
26 improprieties, and in obtaining adequate compensation for the damages and  
27 injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA  
28 CLASS;

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

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

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 34. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,  
20 Eighth, and Ninth causes of Action on behalf of a California sub-class, defined as all members  
21 of the CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA  
22 LABOR SUB-CLASS") at any time during the period three (3) years prior to the filing of the  
23 original complaint and ending on the date as determined by the Court (the "CALIFORNIA  
24 LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in  
25 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under  
26 five million dollars (\$5,000,000.00).

27 35. DEFENDANT, as a matter of company policy, practice and procedure, and in  
28 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order



1 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly calculate  
3 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA  
4 LABOR SUB-CLASS, and other wages and premiums owed to these employees, even though  
5 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and  
6 permitted or suffered to permit this overtime work. DEFENDANT has uniformly denied these  
7 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in  
8 order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling  
9 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the  
10 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

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

17 37. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
18 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 21 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay  
22 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
23 missed meal and rest breaks in violation of the California Labor Code and  
24 California regulations and the applicable California Wage Order;
- 25 b. Whether DEFENDANT failed to provide PLAINTIFF and the other members of  
26 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
27 thirty (30) minute meal breaks and rest periods;

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

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

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

- 1 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the  
2 CALIFORNIA CLASS members with necessary expenses incurred in the  
3 discharge of their job duties; and
- 4 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an  
5 employee is discharged or quits from employment, the employer must pay the  
6 employee all wages due without abatement, by failing to tender full payment  
7 and/or restitution of wages owed or in the manner required by California law to  
8 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated  
9 their employment.

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

- 12 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so  
13 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members  
14 is impracticable and the disposition of their claims as a class will benefit the  
15 parties and the Court;
- 16 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
17 raised in this Complaint are common to the CALIFORNIA LABOR SUB-  
18 CLASS and will apply uniformly to every member of the CALIFORNIA  
19 LABOR SUB-CLASS;
- 20 c. The claims of the representative PLAINTIFF are typical of the claims of each  
21 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the  
22 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
23 employee paid on an hourly basis who was subjected to the DEFENDANT’S  
24 practice and policy which failed to pay the correct amount of wages due to the  
25 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
26 a result of DEFENDANT’s employment practices. PLAINTIFF and the members  
27 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
28

1 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
2 misconduct engaged in by DEFENDANT; and

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

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

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

17 i. Inconsistent or varying adjudications with respect to individual members  
18 of the CALIFORNIA LABOR SUB-CLASS which would establish  
19 incompatible standards of conduct for the parties opposing the  
20 CALIFORNIA LABOR SUB-CLASS; or

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

25 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or  
26 refused to act on grounds generally applicable to the CALIFORNIA LABOR  
27 SUB-CLASS, making appropriate class-wide relief with respect to the  
28 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS

1 uniformly failed to pay all wages due for all time worked by the members of the  
2 CALIFORNIA LABOR SUB-CLASS as required by law;

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

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

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

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

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

27 iii. In the context of wage litigation because a substantial number of  
28 individual CALIFORNIA LABOR SUB-CLASS Members will avoid

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

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

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

- 12                  a. The questions of law and fact common to the CALIFORNIA LABOR SUB-  
13                  CLASS predominate over any question affecting only individual CALIFORNIA  
14                  LABOR SUB-CLASS Members;
- 15                  b. A Class Action is superior to any other available method for the fair and efficient  
16                  adjudication of the claims of the members of the CALIFORNIA LABOR SUB-  
17                  CLASS because in the context of employment litigation a substantial number of  
18                  individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting  
19                  their rights individually out of fear of retaliation or adverse impact on their  
20                  employment;
- 21                  c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that  
22                  it is impractical to bring all members of the CALIFORNIA LABOR SUB-  
23                  CLASS before the Court;
- 24                  d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will  
25                  not be able to obtain effective and economic legal redress unless the action is  
26                  maintained as a Class Action;
- 27                  e. There is a community of interest in obtaining appropriate legal and equitable  
28                  relief for the acts of unfair competition, statutory violations and other

1                   improprieties, and in obtaining adequate compensation for the damages and  
2                   injuries which DEFENDANT’s actions have inflicted upon the CALIFORNIA  
3                   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  
6                   CALIFORNIA LABOR 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  
9                   appropriate with respect 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  
12                  LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified  
13                  as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS  
14                  PERIOD; and
- 15                  i. Class treatment provides manageable judicial treatment calculated to bring an  
16                  efficient and rapid conclusion to all litigation of all wage and hour related claims  
17                  arising out of the conduct of DEFENDANT as to the members of the  
18                  CALIFORNIA LABOR SUB-CLASS.

19   **FIRST CAUSE OF ACTION**

20   **UNLAWFUL BUSINESS PRACTICES**

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

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

23                  43.   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                  44.   DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
27                  Code § 17021.

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

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

9           46. By the conduct alleged herein, DEFENDANT has engaged and continues to  
10 engage in a business practice which violates California law, including but not limited to, the  
11 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
12 including Sections 204, 206.5, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802 for  
13 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &  
14 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute  
15 unfair competition, including restitution of wages wrongfully withheld.

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

22           48. By the conduct alleged herein, DEFENDANT’S practices were deceptive and  
23 fraudulent in that DEFENDANT’S uniform policy and practice failed to pay PLAINTIFF, and  
24 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time  
25 worked, failed to pay reporting time pay, and failed to reimburse for expenses due to a  
26 systematic practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and  
27 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*,  
28



1 and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. &  
2 Prof. Code § 17203, including restitution of wages wrongfully withheld.

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

7 50. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
8 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
9 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

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

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

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

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

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

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

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

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO PAY MINIMUM WAGES**  
19 **(Cal. Lab. Code §§ 1194, 1197 and 1197.1)**

20 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
21 **Defendants)**

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

25 59. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
26 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
27 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
28 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
Members.

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

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

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

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

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

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

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

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

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

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

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

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

1 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-  
2 CLASS Members are entitled to seek and recover statutory costs.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME COMPENSATION**  
5 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

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

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

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

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

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

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

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

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

8           79.    In committing these violations of the California Labor Code, DEFENDANT acted  
9 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of  
10 the California Labor Code, the Industrial Welfare Commission requirements and other  
11 applicable laws and regulations.

12           80.    As a direct result of DEFENDANT’s unlawful wage practices as alleged herein,  
13 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
14 receive full compensation for all overtime worked.

15           81.    Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
16 from the overtime requirements of the law. None of these exemptions are applicable to  
17 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further  
18 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS are not subject  
19 to a valid collective bargaining agreement that would preclude the causes of action contained  
20 herein this Complaint. Rather, PLAINTIFF bring this Action on behalf of themselves and the  
21 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT’s violations of non-negotiable,  
22 non-waivable rights provided by the State of California.

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

26           83.    DEFENDANT failed to accurately pay PLAINTIFF and the other members of the  
27 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in  
28 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &  
29 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed

1 to accurately record and pay using the applicable overtime rate as evidenced by  
2 DEFENDANT's business records and witnessed by employees.

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

9 85. DEFENDANT knew or should have known that PLAINTIFF and the other  
10 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
11 worked. 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,  
13 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to  
14 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the  
15 applicable overtime rate.

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

24 87. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
25 therefore request recovery of all unpaid wages, including overtime wages, according to proof,  
26 interest, statutory costs, as well as the assessment of any statutory penalties against  
27 DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable  
28 statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA  
LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's  
conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be

1 entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein  
2 on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as  
3 alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other  
4 CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

7 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

25 90. DEFENDANT further violated California Labor Code §§ 226.7 and the  
26 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR  
27 SUB-CLASS Members who were not provided a meal period, in accordance with the applicable  
28



1 Wage Order, one additional hour of compensation at each employee's regular rate of pay for  
2 each workday that a meal period was not provided.

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

6  
7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

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

12 92. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
14 paragraphs of this Complaint.

15 93. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were  
16 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
17 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
18 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten  
19 (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second  
20 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or  
21 more. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not  
22 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,  
23 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically  
24 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

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

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

4  
5 **SIXTH CAUSE OF ACTION**

6 **FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES**

7 **(Cal. Lab. Code §§ 2802)**

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

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

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

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

19           98. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by  
20 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-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 LABOR SUB-  
23 CLASS members for expenses which included, but were not limited to, costs related to using  
24 their personal cellular phones all on behalf of and for the benefit of DEFENDANTS.  
25 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by  
26 DEFENDANT to use their personal cell phones to respond to work related issues.  
27 DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and  
28 the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their  
personal cellular phones for DEFENDANT within the course and scope of their employment for  
DEFENDANT. These expenses were necessary to complete their principal job duties.

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

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

10  
11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

13 **(Cal. Lab. Code § 226)**

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

16 100. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-  
17 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
18 paragraphs of this Complaint.

19 101. Cal. Labor Code § 226 provides that an employer must furnish employees with  
20 an “accurate itemized” statement in writing showing:

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

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

10 102. When DEFENDANT did not accurately record PLAINTIFF's and other  
11 CALIFORNIA CLASS Members' missed meal and rest breaks and wages owed, DEFENDANT  
12 also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with  
13 complete and accurate wage statements which failed to show, among other things, missed meal  
14 and rest periods and reporting time wages owed to PLAINTIFF and other CALIFORNIA  
15 CLASS Members. Cal. Lab. Code § 226 provides that every employer shall furnish each of his  
16 or her employees with an accurate itemized wage statement in writing showing, among other  
17 things, gross wages earned and all applicable hourly rates in effect during the pay period and the  
18 corresponding amount of time worked at each hourly rate. Aside from the violations listed  
19 above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage  
20 statement that lists all the requirements under California Labor Code 226 *et seq.* As a result,  
21 from time to time DEFENDANT provided PLAINTIFF and the other members of the  
22 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

23 103. DEFENDANT knowingly and intentionally failed to comply with Cal. Labor  
24 Code § 226, causing injury and damages to the PLAINTIFF and the other members of the  
25 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
26 expended calculating the correct rates for the overtime worked and the amount of employment  
27 taxes which were not properly paid to state and federal tax authorities. These damages are  
28 difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA

1 LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the  
2 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each  
3 violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according  
4 to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for  
5 PLAINTIFF and each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

6  
7 **EIGHTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES WHEN DUE**

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

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

12 104. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
14 paragraphs of this Complaint.

15 105. Cal. Lab. Code § 200 provides that:

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

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

23 107. Cal. Lab. Code § 202 provides, in relevant part, that:

24 If an employee not having a written contract for a definite period quits his or her  
25 employment, his or her wages shall become due and payable not later than 72  
26 hours thereafter, unless the employee has given 72 hours previous notice of his or  
27 her intention to quit, in which case the employee is entitled to his or her wages at  
28 the time of quitting. 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

1 mailing shall constitute the date of payment for purposes of the requirement to  
2 provide payment within 72 hours of the notice of quitting.

3 108. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR  
4 SUB-CLASS Members' employment contract.

5 109. 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  
8 who is discharged or who quits, the wages of the employee shall continue as a  
9 penalty from the due date thereof at the same rate until paid or until an action  
10 therefor is commenced; but the wages shall not continue for more than 30 days.

11 110. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-  
12 CLASS Members terminated and DEFENDANT has not tendered payment of wages, to these  
13 employees who missed meal and rest breaks, as required by law.

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

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE SUITABLE SEATING**

22 **(Cal. Lab. Code §§1198 et seq. & California Code of Regulations, Title 8, Section**

23 **11070(14))**

24 **(Alleged by PLAINTIFF against all Defendants)**

25 112. PLAINTIFF, and the other members of the AGGRIEVED EMPLOYEES,  
26 reallege and incorporate by this reference, as though fully set forth herein, all paragraphs of this  
27 Complaint.

28 113. California Labor Code section 1198 makes it illegal to employ an employee  
under conditions of labor that are prohibited by the applicable wage order.

1 114. California Labor Code section 1198 requires that “. . . the standard conditions of  
2 labor fixed by the commission shall be the . . . standard conditions of labor for employees. The  
3 employment of any employee . . . under conditions of labor prohibited by the order is unlawful.  
4 California Code of Regulations, Title 8, section 11070(14)(A) provides that “[a]ll working  
5 employees shall be provided with suitable seats when the nature of the work reasonably permits  
6 the use of seats.”

7 115. California Code of Regulations, Title 8, section 11070(14)(B) provides that  
8 “[w]hen employees are not engaged in the active duties of their employment and the nature of the  
9 work requires standing, an adequate number of suitable seats shall be placed in reasonable  
10 proximity to the work area and employees shall be permitted to use such seats when it does not  
11 interfere with the performance of their duties.”

12 116. DEFENDANT violated California Labor Code section 1198 and California Code  
13 of Regulations, Title 8, section 11070(14) because PLAINTIFF and AGGRIEVED EMPLOYEES  
14 members were not permitted to sit, even if they were not engaged in active duties. They were not  
15 permitted to sit, even when it would not interfere with the performance of their duties, nor were  
16 they provided with suitable seats.

17 117. PLAINTIFF and AGGRIEVED EMPLOYEES members are entitled to recover all  
18 remedies available for violations of California Labor Code section 1198 and California Code of  
19 Regulations, Title 8, section 11070(14)

20 118. Pursuant to the civil penalties provided for in California Labor Code sections  
21 2699 (f) and (g), the State of California, PLAINTIFF and other aggrieved employees are entitled  
22 to recover civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay  
23 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per  
24 pay period for each subsequent violation, plus costs and attorneys' fees for violation of  
25 California Labor Code section 1198.

26 //

27 //

28

1 **TENTH CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

3 **[Cal. Lab. Code §§ 2698 et seq.]**

4 **(Alleged by PLAINTIFF against all Defendants)**

5 119. PLAINTIFF realleges and incorporate by this reference, as though fully set forth  
6 herein, the prior paragraphs of this Complaint.

7 120. PAGA is a mechanism by which the State of California itself can enforce state  
8 labor laws through the employee suing under the PAGA who does so as the proxy or agent of  
9 the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is  
10 fundamentally a law enforcement action designed to protect the public and not to benefit private  
11 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a  
12 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In  
13 enacting PAGA, the California Legislature specified that "it was ... in the public interest to  
14 allow aggrieved employees, acting as private attorneys general to recover civil penalties for  
15 Labor Code violations ..." (Stats. 2003, ch. 906, § 1). Accordingly, PAGA claims cannot be  
16 subject to arbitration.

17 121. PLAINTIFF, and such persons that may be added from time to time who satisfy  
18 the requirements and exhaust the administrative procedures under the Private Attorney General  
19 Act, bring this Representative Action on behalf of the State of California with respect to herself  
20 and all individuals who are or previously were employed by DEFENDANT BBSI and/or  
21 DEFENDANT ISLAND PIZZA and classified as non-exempt employees in California during  
22 the time period of February 12, 2019 until the present (the "AGGRIEVED EMPLOYEES").

23 122. On February 12, 2020, PLAINTIFF gave written notice by certified mail to the  
24 Labor and Workforce Development Agency (the "Agency") and the employer of the  
25 specific provisions of this code alleged to have been violated as required by Labor Code §  
26 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein. The  
27 statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired.  
28 As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil



1 action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect  
2 to all AGGRIEVED EMPLOYEES as herein defined.

3 123. The policies, acts and practices heretofore described were and are an unlawful  
4 business act or practice because Defendant (a) failed to pay PLAINTIFF and other  
5 AGGRIEVED EMPLOYEES minimum wages and overtime wages, (b) failed to provide  
6 PLAINTIFF and other AGGRIEVED EMPLOYEES legally required meal and rest breaks, (c)  
7 failed to provide accurate itemized wage statements, (d) failed to reimburse PLAINTIFF and  
8 other AGGRIEVED EMPLOYEES for required business expenses, (d) failed to timely pay  
9 wages, and (e) failed to provide suitable seating, all in violation of the applicable Labor Code  
10 sections listed in Labor Code §2699.5, including but not limited to Labor Code §§ §§ 201,  
11 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5,  
12 1194, 1197, 1197.14, 1198, 1199, and applicable wage orders, California Code of Regulations,  
13 Title 8, Section 1 1070(14) (Failure to Provide Seating), and thereby gives rise to statutory  
14 penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as  
15 prescribed by the Labor Code Private Attorney General Act of 2004 as the representative of the  
16 State of California for the illegal conduct perpetrated on PLAINTIFF and the other  
17 AGGRIEVED EMPLOYEES.

18 124. Some or all of the conduct and violations alleged herein occurred during the  
19 PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not  
20 affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations  
21 that affected other AGGRIEVED EMPLOYEES. (Carrington v. Starbucks Corp. (2018) 30  
22 Cal.App.5th 504, 519; See also Huff v. Securitas Security Services USA, Inc. (2018) 23 Cal.  
23 App. 5th 745, 751 [“PAGA allows an “aggrieved employee”—a person affected by at least one  
24 Labor Code violation committed by an employer—to pursue penalties for all the Labor Code  
25 violations committed by that employer.”], Emphasis added, reh'g denied (June 13, 2018).)

26 //

27 //

28

**PRAYER FOR RELIEF**

1                   WHEREFORE, PLAINTIFFS pray for a judgment against each Defendants, jointly and  
2 severally, as follows:

3  
4           1. On behalf of the CALIFORNIA CLASS:

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

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

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

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period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226; and

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

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

4. On all claims:
- a. An award of interest, including prejudgment interest at the legal rate;
  - b. Such other and further relief as the Court deems just and equitable; and
  - c. An award of penalties, attorneys' fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194 and/or §1197.

DATED: April 19, 2020

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for Plaintiffs

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**DEMAND FOR A JURY TRIAL**

PLAINTIFFS demand a jury trial on issues triable to a jury.

DATED: April 19, 2020

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for Plaintiff

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# **EXHIBIT 1**



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

[shani@zakaylaw.com](mailto:shani@zakaylaw.com)

February 12, 2020

Labor & Workforce Development Agency  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612  
PAGA@dir.ca.gov  
**Via Online Submission**

**JHK HOSPITALITY, LLC**  
c/o James H. Kwon  
25201 The Old Road  
Stevenson Ranch, CA 91381  
**Certified Mail No. 7019 2280 0002 0097 8029**

Re: Notice of Violations of California Labor Code Sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and Applicable Industrial Welfare Commission Wage Orders, California Code of Regulations, Title 8 Section 1 1070(14) (Failure to Provide Seating) and Pursuant to California Labor Code Section 2699.3.

Dear Sir/ Madam:

This office represents JONATHAN KHODRA (“Plaintiff”) and other aggrieved employees in an action against JHK HOSPITALITY, LLC, (“Defendant”). This office intends to file the enclosed Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendant in California from May 2018 to July 2019. Plaintiff was paid on an hourly basis and entitled to minimum wages, overtime wages, and legally required meal and rest periods. At all times during his employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods, with minimum and overtime wages for all time worked, and, overtime compensation at one-and-one-half times the regular rate of pay. Plaintiff performed tasks which reasonably permitted sitting, and a seat would not have interfered with Plaintiff’s performance of any of his tasks that may have required him to stand. Defendant failed to provide Plaintiff and other aggrieved employees with a suitable seat. Said conduct, in addition to the foregoing, violates Labor Code § 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3.

As a consequence, Plaintiff contends that Defendant failed to fully compensate them, and other similarly situated and aggrieved employees, for all earned wages and failed to provide accurate wage statements. Accordingly, Plaintiff contends that Defendants’ conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and applicable wage orders, California

Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3 and is therefore actionable pursuant to section 2698 *et seq.*

A copy of the 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. 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. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiffs and all aggrieved California employees and Class Members

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.

Respectfully,



Shani O. Zakay  
Attorney at Law