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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
7/16/2021 3:10 PM
By: Miroslava Pena-Bautista, Deputy

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CURATION FOODS, INC, a Delaware Corporation; LANDEC CORPORATION, a Delaware
Corporation; and DOES 1-50, Inclusive
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fl @ C 9 G H a 8 9 A 5 B 8 5 B 8 C 9 @ 8 9 A 5 B 8 5 B H 9 L .
ROBERT BARAY, on behalf of himself and on behalf of all persons similarly situated,

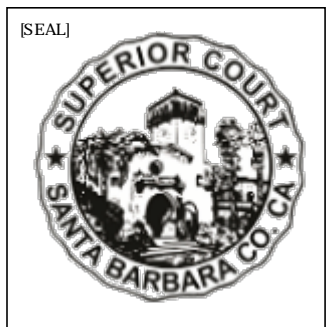
NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.
You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.
There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.
¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.
Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.
Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Santa Barbara Civil Court - Santa Maria Cook
312 East Cook Street, Building E
Santa Maria, CA 93454

CASE NUMBER: (Número del Caso):
21CV02834

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. Zakay Law Group, APLC. 3990 Old Town Avenue, Suite C204, San Diego, CA 92110 T: 619-255-9047
DATE: 7/16/2021 Clerk, by /s/ Miroslava Pena-Bautista, 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).)



- B C H = 7 9 H C H < 9 D 9 F C U L A R S E R V I D 9 8 .
1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of (specify):
3. [ ] on behalf of (specify):
under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
[ ] other (specify):
4. [ ] by personal delivery on (date)

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19 Attorneys for Plaintiff

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

21 **IN AND FOR THE COUNTY OF SANTA BARBARA**

22 ROBERT BARAY, on behalf of himself and  
23 on behalf of all persons similarly situated,

24 Plaintiffs,

25 v.

26 CURATION FOODS, INC, a Delaware  
27 Corporation; LANDEC CORPORATION, a  
28 Delaware Corporation; and DOES 1-50,  
Inclusive,

Defendants.

Case No: 21CV02834

**CLASS ACTION COMPLAINT FOR:**

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

- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§226 and 226.2;
- 7) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203;
- 8) VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698 *et seq.*]

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant CURATION FOODS, INC. (“Defendant Curation”) is Corporation and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. Defendant LANDEC CORPORATION (“Defendant Landec”) is Corporation and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

3. Defendant Curation and Defendant Landec were the joint employers of PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF performed work for respectively, and are therefore jointly responsible as employers for the conduct alleged herein and collectively referred to herein as “DEFENDANTS” and/or “DEFENDANT.”

4. DEFENDANTS operate a business that sells, develops, and commercializes packaged foods, including at the Santa Barbara, California location where PLAINTIFF worked.

5. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from March of 2013 to July 27, 2020.

6. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all individuals who are or previously were employed by Defendant Curation and/or Defendant Landec in California and classified as non-exempt employees (the “CALIFORNIA

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

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

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

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

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

#### 4 **THE CONDUCT**

5 10. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
6 required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time worked,  
7 meaning the time during which an employee is subject to the control of an employer, including  
8 all the time the employee is suffered or permitted to work. From time to time, DEFENDANT  
9 required PLAINTIFF and CALIFORNIA CLASS Members to work without paying them for all  
10 the time they were under DEFENDANT control. Specifically, PLAINTIFF performed work  
11 before and after the beginning of his shift, spending time under the DEFENDANT control for  
12 which he was not compensated. For example, PLAINTIFF and other CALIFORNIA CLASS  
13 Members were required to undergo a security checkpoint before they were allowed to enter  
14 DEFENDANTS' workplace. PLAINTIFF and CALIFORNIA CLASS Members were not  
15 compensated for time spent undergoing DEFENDANTS' security checkpoints. As a result, the  
16 PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and overtime  
17 compensation by regularly working without their time being accurately recorded and without  
18 compensation at the applicable minimum wage and overtime rates. DEFENDANTS' uniform  
19 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all  
20 time worked is evidenced by DEFENDANTS' business records.

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

25 12. The second component of PLAINTIFF's and other CALIFORNIA CLASS  
26 Members' compensation was DEFENDANT's non-discretionary incentive program that paid  
27 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
28 performance for DEFENDANTS. The non-discretionary incentive program provided all

1 employees paid on an hourly basis with incentive compensation when the employees met the  
2 various performance goals set by DEFENDANTS. However, when calculating the regular rate  
3 of pay in order to pay overtime to PLAINTIFF and other CALIFORNIA CLASS Members,  
4 DEFENDANTS failed to include the incentive compensation as part of the employees' "regular  
5 rate of pay" for purposes of calculating overtime pay. Management and supervisors described the  
6 incentive program to potential and new employees as part of the compensation package. However,  
7 DEFENDANTS failed to include incentive compensation into the "regular rate of pay" for  
8 purposes of calculating overtime pay. As a matter of law, the incentive compensation received by  
9 PLAINTIFF and other CALIFORNIA CLASS Members must be included in the "regular rate of  
10 pay." The failure to do so has resulted in a systematic underpayment of overtime compensation  
11 to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANTS.

12 13. During the CALIFORNIA CLASS PERIOD, DEFENDANTS did not have in  
13 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other  
14 CALIFORNIA CLASS Members for the actual time these employees worked each day, including  
15 overtime hours. Specifically, DEFENDANTS had in place an unlawful rounding policy and  
16 practice that resulted in PLAINTIFF and CALIFORNIA CLASS Members being  
17 undercompensated for all of their time worked. As a result, DEFENDANTS were able to and did  
18 in fact unlawfully, and unilaterally round the time recorded in DEFENDANTS' timekeeping  
19 system for PLAINTIFF and the members of the CALIFORNIA CLASS in order to avoid paying  
20 these employees for all their time worked, including the applicable overtime compensation for  
21 overtime worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from time  
22 to time, forfeited compensation for their time worked by working without their time being  
23 accurately recorded and without compensation at the applicable overtime rates.

24 14. Further, the mutability of DEFENDANTS' timekeeping system and unlawful  
25 rounding policy and practice resulted in PLAINTIFF and CALIFORNIA CLASS Members' time  
26 being inaccurately recorded. As a result, from time to time, DEFENDANTS' unlawful rounding  
27 policy and practice caused PLAINTIFF and CALIFORNIA CLASS Members to perform work  
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1 as ordered by DEFENDANTS for more than five (5) hours during a shift without receiving an  
2 off-duty meal break.

3 15. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA  
4 CLASS Members were also from time to time unable to take off duty meal breaks and were not  
5 fully relieved of duty for meal periods. Specifically, PLAINTIFF and CALIFORNIA CLASS  
6 Members were from time to time interrupted during their off-duty meal breaks to complete tasks  
7 for DEFENDANTS. PLAINTIFF and other CALIFORNIA CLASS Members were required to  
8 perform work as ordered by DEFENDANTS for more than five (5) hours during a shift without  
9 receiving an off-duty meal break. Further, DEFENDANTS failed to provide PLAINTIFF and  
10 CALIFORNIA CLASS Members with a second off-duty meal period each workday in which  
11 these employees were required by DEFENDANTS to work ten (10) hours of work.  
12 DEFENDANTS' policy caused PLAINTIFF and other CALIFORNIA CLASS Members to work  
13 off-the-clock during what was supposed to be their off-duty meal periods. PLAINTIFF and the  
14 other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional  
15 compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

16 16. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and  
17 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
18 without being provided ten (10) minute rest periods. Further, these employees were denied their  
19 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
20 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between  
21 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
22 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
23 rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were often interrupted and  
24 required by DEFENDANTS to work during their rest breaks. When they did have an opportunity  
25 to take their rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to  
26 on-duty, on-call, and subject to DEFENDANTS' control in accordance with DEFENDANTS'  
27 policy. Additionally, DEFENDANTS required PLAINTIFF and the CALIFORNIA CLASS  
28 Members to ask for permission before they were allowed to leave the premises for their rest

1 breaks, further evidencing DEFENDANTS' control in accordance with DEFENDANTS' policy.  
2 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour  
3 wages in lieu thereof. DEFENDANTS' policy caused PLAINTIFF and other CALIFORNIA  
4 CLASS Members to remain on-call and on-duty during what was supposed to be their off-duty  
5 rest periods. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA  
6 CLASS Members were periodically denied their proper rest periods by DEFENDANTS and  
7 DEFENDANTS' managers.

8 17. Under California law, every employer shall pay to each employee, on the  
9 established payday for the period involved, not less than the applicable minimum wage for all  
10 hours worked in the payroll period, whether the remuneration is measured by time, piece,  
11 commission, or otherwise. Hours worked is defined in the applicable Wage Order as "the time  
12 during which an employee is subject to the control of an employer and includes all the time the  
13 employee is suffered or permitted to work, whether or not required to do so." PLAINTIFF and  
14 other CALIFORNIA CLASS Members were from time to time required to perform work for  
15 DEFENDANTS before and after their scheduled shifts, as well as during their off-duty meal  
16 breaks. DEFENDANTS failed to compensate PLAINTIFF and other CALIFORNIA CLASS  
17 Members for any of the time spent under DEFENDANTS' control while working off-the-clock.  
18 As such, DEFENDANTS failed to pay PLAINTIFF and other CALIFORNIA CLASS Members  
19 the applicable minimum wage for all hours worked in a payroll period.

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



1           19. From time to time, when PLAINTIFF and other CALIFORNIA CLASS Members  
2 worked during what was supposed to be their meal breaks or otherwise off the clock,  
3 DEFENDANTS also failed to provide PLAINTIFF and the other members of the CALIFORNIA  
4 CLASS with complete and accurate wage statements which failed to show, among other things,  
5 the correct time worked, including, work performed in excess of eight (8) hours in a workday  
6 and/or forty (40) hours in any workweek, and the gross wages paid for those periods during the  
7 pay period, and the correct penalty payments or missed meal and rest periods in violation of  
8 California Labor Code Sections 226 and 226.2.

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

17           21. Aside from the violations listed herein, DEFENDANTS failed to issue to  
18 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
19 Code 226 *et seq.* Specifically, DEFENDANTS violated Cal. Lab. Code Sections 226(a)(9) by  
20 issuing itemized wage statements with items, including but not limited to, "Retroactive" pay,  
21 without providing the applicable hourly rate and the corresponding number of hours worked for  
22 the item. As a result, from time to time DEFENDANTS provided PLAINTIFF and the other  
23 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code §  
24 226.

25           22. By reason of this uniform conduct applicable to PLAINTIFF and all  
26 CALIFORNIA CLASS Members, DEFENDANTS committed acts of unfair competition in  
27 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
28 "UCL"), by engaging in a company-wide policy and procedure which failed to accurately





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

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

10 31. DEFENDANTS 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 company  
14 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 provide  
18 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
19 members; and,
- 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 wages  
25 owed for work performed by these employees.

26 32. The Class Action meets the statutory prerequisites for the maintenance of a Class  
27 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:  
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- a. The persons who comprise the CALIFORNIA CLASS are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA CLASS will apply uniformly to every member of the CALIFORNIA CLASS;
- c. The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of the CALIFORNIA CLASS, were classified as a non- exempt employee paid on an hourly basis who was subjected to the DEFENDANTS’ deceptive practice and policy which failed to provide the legally required meal and rest periods to the CALIFORNIA CLASS and thereby systematically underpaid compensation to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANTS’ employment practices. PLAINTIFF, like all the other members of the CALIFORNIA CLASS, were subjected to the uniform employment practices of DEFENDANTS and was a non-exempt employee paid on an hourly basis and paid additional non-discretionary incentive wages who was subjected to the DEFENDANTS’ practice and policy which failed to pay the correct rate of overtime wages due to the CALIFORNIA CLASS for all overtime worked by the CALIFORNIA CLASS and thereby systematically under pays overtime compensation to the CALIFORNIA CLASS. PLAINTIFF and the members of the CALIFORNIA CLASS were and are similarly or identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of misconduct engaged in by DEFENDANTS; and
- d. The representative PLAINTIFF will fairly and adequately represent and protect the interest of the CALIFORNIA CLASS, and has retained counsel who are competent and experienced in Class Action litigation. There are no material conflicts between the claims of the representative PLAINTIFF and the members

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

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

- a. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions by individual members of the CALIFORNIA CLASS will create the risk of:
  - i. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS which would establish incompatible standards of conduct for the parties opposing the CALIFORNIA CLASS; and/or;
  - ii. Adjudication with respect to individual members of the CALIFORNIA CLASS which would as a practical matter be dispositive of interests of the other members not party to the adjudication or substantially impair or impede their ability to protect their interests.
- b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT uniformly failed to pay all wages due for all time worked by the members of the CALIFORNIA CLASS as required by law;
  - i. With respect to the First Cause of Action, the final relief on behalf of the CALIFORNIA CLASS sought does not relate exclusively to restitution because through this claim PLAINTIFF seek declaratory relief holding that the DEFENDANTS’ policy and practices constitute unfair competition, along with declaratory relief, injunctive relief, and incidental equitable relief as may be necessary to prevent and remedy the conduct 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 available  
5 methods for the fair and efficient adjudication of the controversy, including  
6 consideration of:

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

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

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

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

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

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

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

- 8           a. The questions of law and fact common to the CALIFORNIA CLASS predominate  
9           over any question affecting only individual CALIFORNIA CLASS Members  
10           because the DEFENDANTS' employment practices are uniform and  
11           systematically applied with respect to the CALIFORNIA CLASS.
- 12           b. A Class Action is superior to any other available method for the fair and efficient  
13           adjudication of the claims of the members of the CALIFORNIA CLASS because  
14           in the context of employment litigation a substantial number of individual  
15           CALIFORNIA CLASS Members will avoid asserting their rights individually out  
16           of fear of retaliation or adverse impact on their employment;
- 17           c. The members of the CALIFORNIA CLASS are so numerous that it is impractical  
18           to bring all members of the CALIFORNIA CLASS before the Court;
- 19           d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to  
20           obtain effective and economic legal redress unless the action is maintained as a  
21           Class Action;
- 22           e. There is a community of interest in obtaining appropriate legal and equitable relief  
23           for the acts of unfair competition, statutory violations and other improprieties, and  
24           in obtaining adequate compensation for the damages and injuries which  
25           DEFENDANTS' actions have inflicted upon the CALIFORNIA CLASS;
- 26           f. There is a community of interest in ensuring that the combined assets of  
27           DEFENDANTS are sufficient to adequately compensate the members of the  
28           CALIFORNIA CLASS for the injuries sustained;



- 1 g. DEFENDANTS have acted or refused to act on grounds generally applicable to  
2 the CALIFORNIA CLASS, thereby making final class-wide relief appropriate  
3 with respect to the CALIFORNIA CLASS as a whole;
- 4 h. The members of the CALIFORNIA CLASS are readily ascertainable from the  
5 business records of DEFENDANTS; and
- 6 i. Class treatment provides manageable judicial treatment calculated to bring an  
7 efficient and rapid conclusion to all litigation of all wage and hour related claims  
8 arising out of the conduct of DEFENDANTS as to the members of the  
9 CALIFORNIA CLASS.

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

15 **THE CALIFORNIA LABOR SUB-CLASS**

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

23 37. DEFENDANTS, as a matter of company policy, practice and procedure, and in  
24 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
25 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
26 willfully, engaged in a practice whereby DEFENDANTS failed to correctly pay for the time  
27 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and  
28 other wages and premiums owed to these employees, even though DEFENDANTS enjoyed the

1 benefit of this work, required employees to perform this work and permitted or suffered to permit  
2 this overtime work. DEFENDANTS have uniformly denied these CALIFORNIA LABOR SUB-  
3 CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
4 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
5 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
6 CLASS PERIOD should be adjusted accordingly.

7 38. DEFENDANTS maintain records from which the Court can ascertain and identify  
8 by name and job title, each of DEFENDANTS' employees who have been systematically,  
9 intentionally and uniformly subjected to DEFENDANT'S company policy, practices and  
10 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include any  
11 additional job titles of similarly situated employees when they have been identified.

12 39. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
13 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 16 a. Whether DEFENDANTS unlawfully failed to correctly calculate and pay  
17 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
18 missed meal and rest breaks in violation of the California Labor Code and  
19 California regulations and the applicable California Wage Order;
- 20 b. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
21 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
22 thirty (30) minute meal breaks and rest periods;
- 23 c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
24 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage  
25 statements;
- 26 d. Whether DEFENDANTS unlawfully failed to pay overtime compensation to  
27 members of the CALIFORNIA LABOR SUB-CLASS in violation of the  
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1 California Labor Code and California regulations and the applicable California  
2 Wage Order;

3 e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to  
4 compensation for time worked, including overtime worked, under the overtime  
5 pay requirements of California law;

6 f. Whether DEFENDANTS have engaged in unfair competition by the above-listed  
7 conduct;

8 g. The proper measure of damages and penalties owed to the members of the  
9 CALIFORNIA LABOR SUB-CLASS; and

10 h. Whether DEFENDANTS' conduct was willful.

11 41. DEFENDANTS violated the rights of the CALIFORNIA LABOR SUB-CLASS  
12 under California law by:

13 a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFF  
14 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for  
15 overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code  
16 § 1194;

17 b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately  
18 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS  
19 the correct minimum wage pay for which DEFENDANTS are liable pursuant to  
20 Cal. Lab. Code §§ 1194 and 1197;

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

24 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the  
25 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized  
26 statement in writing showing all accurate rates in effect during the pay period and  
27 the corresponding amount of time worked at each overtime rate by the employee;

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

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

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

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

17 c. The claims of the representative PLAINTIFF are typical of the claims of each  
18 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the  
19 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt  
20 employee paid on an hourly basis and paid additional non-discretionary incentive  
21 wages who was subjected to the DEFENDANTS' practice and policy which failed  
22 to pay the correct rate of overtime wages and total amount of wages due to the  
23 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as  
24 a result of DEFENDANTS' employment practices. PLAINTIFF and the members  
25 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically  
26 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
27 misconduct engaged in by DEFENDANTS; and  
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1 d. The representative PLAINTIFF will fairly and adequately represent and protect  
2 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel  
3 who are competent and experienced in Class Action litigation. There are no  
4 material conflicts between the claims of the representative PLAINTIFF and the  
5 members of the CALIFORNIA LABOR SUB-CLASS that would make class  
6 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS  
7 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS  
8 Members.

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

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

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

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

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

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

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

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

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

19 2. Adjudications with respect to individual members of the  
20 CALIFORNIA LABOR SUB-CLASS would as a practical matter  
21 be dispositive of the interests of the other members not parties to  
22 the 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 individual  
25 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their  
26 legal rights out of fear of retaliation by DEFENDANTS, which may  
27 adversely affect an individual's job with DEFENDANTS or with a  
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subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

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

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

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

1 DEFENDANTS’ actions have inflicted upon the CALIFORNIA LABOR SUB-  
2 CLASS;

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

18 **FIRST CAUSE OF ACTION**

19 **UNLAWFUL BUSINESS PRACTICES**

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

21 **(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all DEFENDANTS)**

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

25 46. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
26 Code § 17021.

27 47. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines  
28 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203



1 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition  
2 as follows:

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

10 48. By the conduct alleged herein, DEFENDANTS have engaged and continues to  
11 engage in a business practice which violates California law, including but not limited to, the  
12 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
13 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, and  
14 1198, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
15 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
16 constitute unfair competition, including restitution of wages wrongfully withheld.

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

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

1 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages  
2 wrongfully withheld.

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

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

10 53. 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 meal  
12 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for  
13 each workday in which a second off-duty meal period was not timely provided for each ten (10)  
14 hours of work.

15 54. 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 was  
17 not timely provided as required by law.

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

24 56. 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 Labor  
26 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and  
27 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business  
28 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

1 57. 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 DEFENDANTS 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 unfair  
5 business practices, including earned but unpaid wages.

6 58. 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 DEFENDANTS from  
9 engaging in any unlawful and unfair business practices in the future.

10 59. 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 of  
12 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a  
13 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
14 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal  
15 and economic harm unless DEFENDANTS are restrained from continuing to engage in these  
16 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 60. 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 of  
24 this Complaint.

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

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

3           63. 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           64. 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           65. DEFENDANTS 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 was  
11 to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other  
12 members of the CALIFORNIA LABOR SUB-CLASS.

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

18           67. In committing these violations of the California Labor Code, DEFENDANTS  
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 DEFENDANTS 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           68. As a direct result of DEFENDANTS’ unlawful wage practices as alleged herein,  
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
26 the correct minimum wage compensation for their time worked for DEFENDANTS.

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

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

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

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

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

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

7 **THIRD CAUSE OF ACTION**

8 **FAILURE TO PAY OVERTIME COMPENSATION**

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

10 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**  
11 **DEFENDANTS)**

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

15 75. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
16 bring a claim for DEFENDANTS’ willful and intentional violations of the California Labor Code  
17 and the Industrial Welfare Commission requirements for DEFENDANTS’ failure to accurately  
18 calculate the applicable rates for all overtime worked by PLAINTIFF and other members of the  
19 CALIFORNIA LABOR SUB-CLASS and DEFENDANTS’ failure to properly compensate the  
20 members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work  
21 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

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

5           79. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and  
6 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
7 amount of overtime worked and correct applicable overtime rate for the amount of overtime they  
8 worked. As set forth herein, DEFENDANTS’ uniform policy and practice was to unlawfully and  
9 intentionally deny timely payment of wages due for the overtime worked by PLAINTIFF and the  
10 other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANTS in fact failed  
11 to pay these employees the correct applicable overtime wages for all overtime worked.

12           80. DEFENDANTS’ uniform pattern of unlawful wage and hour practices manifested,  
13 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
14 of implementing a uniform policy and practice that denied accurate compensation to PLAINTIFF  
15 and the other members of the CALIFORNIA LABOR SUB-CLASS for all overtime worked,  
16 including, the work performed in excess of eight (8) hours in a workday and/or forty (40) hours  
17 in any workweek.

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

24           82. As a direct result of DEFENDANTS’ unlawful wage practices as alleged herein,  
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
26 full compensation for all overtime worked.

27           83. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from  
28 the overtime requirements of the law. None of these exemptions are applicable to PLAINTIFF

1 and the other members of the CALIFORNIA LABOR SUB-CLASS. Further PLAINTIFF and the  
2 other members of the CALIFORNIA LABOR SUB-CLASS are not subject to a valid collective  
3 bargaining agreement that would preclude the causes of action contained herein this Complaint.  
4 Rather, PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA LABOR  
5 SUB-CLASS based on DEFENDANTS' violations of non-negotiable, non-waivable rights  
6 provided by the State of California.

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

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

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

22 87. DEFENDANTS knew or should have known that PLAINTIFF and the other  
23 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime  
24 worked. DEFENDANTS systematically elected, either through intentional malfeasance or gross  
25 nonfeasance, to not pay employees for their labor as a matter of uniform company policy, practice  
26 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
27 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
28 overtime rate.





1           91. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all  
2 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR  
3 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature of  
4 the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS MEMBERS did  
5 not prevent these employees from being relieved of all of their duties for the legally required off-  
6 duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other  
7 CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty by  
8 DEFENDANTS for their meal periods. Additionally, DEFENDANTS' failure to provide  
9 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal  
10 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANTS' business records.  
11 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS  
12 therefore forfeited meal breaks without additional compensation and in accordance with  
13 DEFENDANTS' strict corporate policy and practice.

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

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

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

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

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

9 95. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were  
10 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
11 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
12 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
13 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
14 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
15 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not provided  
16 with one hour wages in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF  
17 and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper  
18 rest periods by DEFENDANTS and DEFENDANTS' managers. When DEFENDANTS provided  
19 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with rest break, they  
20 required PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members to stay on  
21 DEFENDANTS' premises for those rest breaks.

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



- 1 h. The name and address of the legal entity that is the employer; and
- 2 i. All applicable hourly rates in effect during the pay period and the corresponding
- 3 number of hours worked at each hourly rate by the employee.

4 100. Cal. Labor Code § 226.2 provides that an employer must furnish piece-rate  
5 employees with an “accurate itemized” statement in writing showing:

- 6 a. The total hours of compensable rest and recovery periods, the rate of
- 7 compensation, and the gross wages paid for those periods during the
- 8 pay period; and
- 9 b. The total hours of other nonproductive time, the rate of
- 10 compensation, and the gross wages paid for that time during the pay
- 11 period.

12 101. When DEFENDANTS did not accurately record PLAINTIFF’S and other  
13 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANTS also  
14 failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete  
15 and accurate wage statements which failed to show, among other things, the correct overtime rate,  
16 the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other  
17 CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall  
18 furnish each of his or her employees with an accurate itemized wage statement in writing showing,  
19 among other things, gross wages earned and all applicable hourly rates in effect during the pay  
20 period and the corresponding amount of time worked at each hourly rate. Aside from the  
21 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an  
22 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*  
23 Specifically, DEFENDANTS violated Cal. Lab. Code Sections 226(a)(9) by issuing itemized  
24 wage statements with items, including but not limited to, “Retroactive” pay, without providing  
25 the applicable hourly rate and the corresponding number of hours worked for the item. As a result,  
26 from time to time DEFENDANTS provided PLAINTIFF and the other members of the  
27 CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.



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2 If an employee not having a written contract for a definite period quits his or her  
3 employment, his or her wages shall become due and payable not later than 72 hours  
4 thereafter, unless the employee has given 72 hours previous notice of his or her  
5 intention to quit, in which case the employee is entitled to his or her wages at the  
6 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  
mailing shall constitute the date of payment for purposes of the requirement to  
provide payment within 72 hours of the notice of quitting.

7 107. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-  
8 CLASS Members' employment contract.

9 108. Cal. Lab. Code § 203 provides:

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

14 109. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS  
15 Members terminated and DEFENDANTS have not tendered payment of wages, to these  
16 employees who missed meal and rest breaks, as required by law.

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

23 **EIGHTH CAUSE OF ACTION**

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

25 **(Cal. Lab. Code §§2698 et seq.)**

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

27 111. PLAINTIFF reallege and incorporates by this reference, as though fully set forth  
28 herein, the prior paragraphs of this Complaint.

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

10           113. PLAINTIFF, and such persons that may be added from time to time who satisfy  
11 the requirements and exhaust the administrative procedures under the Private Attorney General  
12 Act, bring this Representative Action on behalf of the State of California with respect to  
13 themselves and all individuals who are or previously were employed by Defendant Curation  
14 and/or Defendant Landec and classified as non-exempt employees in California during the time  
15 period of May 12, 2020 until the present (the "AGGRIEVED EMPLOYEES").

16           114. On May 12, 2021, PLAINTIFF gave written notice by certified mail to the Labor  
17 and Workforce Development Agency (the "Agency") and the employer of the specific  
18 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See  
19 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting  
20 period for Plaintiff to add these allegations to the Complaint has expired. As a result, pursuant  
21 to Section 2699.3, Plaintiff may now commence a representative civil action under PAGA  
22 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED  
23 EMPLOYEES as herein defined.

24           115. The policies, acts and practices heretofore described were and are an unlawful  
25 business act or practice because DEFENDANTS (a) failed to properly record and pay  
26 PLAINTIFF and the other AGGRIEVED EMPLOYEES for all of the hours they worked,  
27 including overtime hours in violation of the Wage Order, (b) failed to provide accurate itemized  
28 wage statements, (c) failed to provide mandatory meal breaks and rest breaks, and (d) failed to



1 timely pay wages, all in violation of the applicable Labor Code sections listed in Labor Code  
2 §2699.5, including but not limited to Labor Code §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6,  
3 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1197, 1197.1, 1197.14, 1198, 1199, 2802, and 2804,  
4 and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a  
5 result of such conduct. PLAINTIFF hereby seeks recovery of civil penalties as prescribed by the  
6 Labor Code Private Attorney General Act of 2004 as the representative of the State of California  
7 for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED EMPLOYEES.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, PLAINTIFF pray for a judgment against each DEFENDANTS, jointly  
10 and severally, as follows:

11 1. On behalf of the CALIFORNIA CLASS:

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

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

- 23 a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, and Seventh Causes  
24 of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action  
25 pursuant to Cal. Code of Civ. Proc. § 382;
- 26 b. Compensatory damages, according to proof at trial, including compensatory  
27 damages for minimum wages, overtime wages, and other compensation due to  
28 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS,

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during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;

- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226; 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:

- a. 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: July 16, 2021

**ZAKAY LAW GROUP, APLC**

By:   
Shani O. Zakay  
Attorney for Plaintiffs

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**DEMAND FOR A JURY TRIAL**

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

DATED: July 16, 2021

**ZAKAY LAW GROUP, APLC**

By:  \_\_\_\_\_

Shani O. Zakay  
Attorney for Plaintiffs