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ELISA ALVAREZ, an individual, on behalf of herself, and on behalf of all persons similarly situated,

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SAN LUIS OBISPO SUPERIOR COURT
BY: M. Landrum, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN LUIS OBISPO

ELISA ALVAREZ, an individual, on behalf of
herself, and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

SLO ARCHES, INC., a California Corporation;
IVERNIA, INCORPORATED, a California
Corporation; GOLDEN SENECA, INC., a
California Corporation; and DOES 1 through 50,
Inclusive;

Defendants.

Case No. 21CV-0533

CLASS ACTION COMPLAINT FOR:

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

6. FAILURE TO REIMBURSE PLAINTIFF 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 PAY WAGES WHEN DUE IN VIOLATION OF CAL. LABOR CODE §§ 201, 202 AND 203;

DEMAND FOR JURY TRIAL

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

THE PARTIES

1. Defendant SLO ARCHES, INC. (“Defendant SLO”) is a California Corporation that at all relevant times owns and operates McDonald’s restaurants throughout the County of San Luis Obispo, California.

2. Defendant IVERNIA, INCORPORATED (“Defendant Ivernia”) is a California Corporation that at all relevant times owns and operates McDonald’s restaurants in California.

3. Defendant GOLDEN SENECA, INC. (“Defendant Golden”) is a California Corporation that at all relevant times owns and operates McDonald’s restaurants in California.

4. Defendant SLO, Defendant Ivernia, and Defendant Golden 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. PLAINTIFF further alleges there has existed a unity of interest and ownership between SLO Arches, Inc. and/or Ivernia, Incorporated and/or Golden Seneca, Inc. such that any individuality and separateness between the entities has ceased and all Defendants are collectively referred to herein as “DEFENDANT” and/or “DEFENDANTS.”

5. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to

1 PLAINTIFF who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc.
2 Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and
3 capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and
4 believes, and based upon that information and belief allege, that the Defendants named in this
5 Complaint, including DOES 1 through 50, inclusive (hereinafter collectively “DEFENDANTS” and/or
6 “DEFENDANT”), are responsible in some manner for one or more of the events and happenings that
7 proximately caused the injuries and damages hereinafter alleged.

8 6. PLAINTIFF alleges DOES 1-50 are the partners, agents, owners, or managers of
9 DEFENDANTS at all relevant times. PLAINTIFF alleges there has existed a unity of interest and
10 ownership between DEFENDANTS such that any individuality and separateness between the entities
11 has ceased. SLO Arches, Inc. and/or Ivernia, Incorporated and/or Golden Seneca, Inc. and DOES 1-50
12 are therefore alter egos of each other. Adherence to the fiction of the separate existence of
13 DEFENDANTS would permit an abuse of the corporate privilege, and would promote injustice by
14 protecting DEFENDANTS from liability for the wrongful acts committed by them.

15 7. PLAINTIFF alleges that Defendants SLO Arches, Inc. and/or Ivernia, Incorporated and/or
16 Golden Seneca, Inc. are the alter egos of each other for the following reasons:

- 17 a. On the California Secretary of State’s website (<https://businesssearch.sos.ca.gov/>)
18 SLO Arches, Inc. and/or Ivernia, Incorporated and/or Golden Seneca, Inc. have the
19 same entity address and/or mailing address and/or Agent for Service of Process; and,
- 20 b. On information and belief, SLO Arches, Inc. and/or Ivernia, Incorporated and/or
21 Golden Seneca, Inc. utilize the same standardized employment forms and issue the
22 same employment policies.

23 8. The agents, servants and/or employees of the DEFENDANTS and each of them acting on
24 behalf of the DEFENDANTS acted within the course and scope of his, her or its authority as the agent,
25 servant and/or employee of the DEFENDANTS, and personally participated in the conduct alleged
26 herein on behalf of the DEFENDANTS with respect to the conduct alleged herein. Consequently, the
27 acts of each of the DEFENDANTS are legally attributable to the other and all DEFENDANTS are
28

1 jointly and severally liable to PLAINTIFF and those similarly situated, for the loss sustained as a
2 proximate result of the conduct of the DEFENDANTS' agents, servants and/or employees.

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

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

13 11. PLAINTIFF was employed by DEFENDANTS as a non-exempt employee from March
14 of 2017 to March of 2019 and received her last paycheck from DEFENDANTS on or around March of
15 2021, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment
16 of minimum wages, reporting time pay, and overtime wages due for all time worked.

17 12. PLAINTIFF brings this Class Action on behalf of herself and on behalf of all individuals
18 who are or previously were employed by Defendant SLO and/or Defendant Ivernia and/or Defendant
19 Golden in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at any
20 time during the period beginning four years from the date of the filing of this Complaint and ending on
21 a date determined by the Court (the "CLASS PERIOD"). The amount in controversy for the aggregate
22 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00). PLAINTIFF
23 reserves the right to amend the following class definitions before the Court determines whether class
24 certification is appropriate, or thereafter upon leave of Court.

25 13. PLAINTIFF brings this Class Action on behalf of herself and on behalf of the
26 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
27 incurred during the CLASS PERIOD caused by DEFENDANTS' uniform policy and practice which
28 (1) failed to provide PLAINTIFF and the CALIFORNIA CLASS with legally compliant meal and rest

1 periods or an additional hour of pay at the regular rate of compensation in *lieu* thereof in violation of
2 California Labor Code Sections 226.7(c) and the applicable Industrial Welfare Commission Wage
3 Order, (2) failed to pay PLAINTIFF and the CALIFORNIA CLASS for all hours worked in violation
4 of, *inter alia*, California Labor Code Sections 510, 1194, 1197, and 1197.1, (3) failed to reimburse
5 PLAINTIFF and the CALIFORNIA CLASS for required expenses in violation of California Labor
6 Code Section 2802, (4) failed to provide accurate itemized wage statements in violation of California
7 Labor Code Sections 226 and 226.3, and (5) failed to pay reporting time wages in violation of the
8 applicable Industrial Welfare Commission Wage Order.

9 14. DEFENDANTS' uniform policies and practices alleged herein were unlawful, unfair, and
10 deceptive business practices whereby DEFENDANTS retained and continues to retain wages due
11 PLAINTIFF and the other members of the CALIFORNIA CLASS.

12 15. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction
13 enjoining such conduct by DEFENDANTS in the future, relief for the named PLAINTIFF and the other
14 members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past
15 and current unlawful conduct, and all other appropriate legal and equitable relief.

16 **JURISDICTION AND VENUE**

17 16. This Court has jurisdiction over this Action pursuant to California Code of Civil
18 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is
19 brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of
20 DEFENDANTS pursuant to Cal. Code of Civ. Proc. § 382.

21 17. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections
22 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANTS, and DEFENDANTS
23 (i) currently maintain and at all relevant times, maintained offices and facilities in this County and/or
24 conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged
25 in this County against members of the CALIFORNIA CLASS.

26 **THE CONDUCT**

27 18. In violation of the applicable sections of the California Labor Code and the requirements
28 of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANTS as a matter of company

1 policy, practice and procedure, intentionally, knowingly and systematically failed to provide legally
2 compliant meal and rest periods, failed to accurately compensate PLAINTIFF and the other members
3 of the CALIFORNIA CLASS for missed meal and rest periods, failed to pay PLAINTIFF and the other
4 members of the CALIFORNIA CLASS for all time worked, failed compensate PLAINTIFF for off-
5 the-clock work, , and failed to issue to PLAINTIFF and the members of the CALIFORNIA CLASS
6 with accurate itemized wage statements showing, among other things, the accurate total hours worked
7 during each pay period and all applicable hourly rates in effect during the pay periods and the
8 corresponding amount of time worked at each hourly rate. DEFENDANTS' uniform policies and
9 practices are intended to purposefully avoid the accurate and full payment for all time worked as
10 required by California law which allows DEFENDANTS to illegally profit and gain an unfair
11 advantage over competitors who comply with the law. To the extent equitable tolling operates to toll
12 claims by the CALIFORNIA CLASS against DEFENDANTS, the CLASS PERIOD should be adjusted
13 accordingly.

14 **A. Meal Period Violations**

15 19. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS were
16 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked, meaning
17 the time during which an employee is subject to the control of an employer, including all the time the
18 employee is suffered or permitted to work. From time-to-time during the CLASS PERIOD,
19 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without paying
20 them for all the time they were under DEFENDANTS' control. Specifically, as a result of
21 PLAINTIFF's demanding work requirements and DEFENDANT'S understaffing, DEFENDANTS
22 required PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF's off-
23 duty meal break. PLAINTIFF was from time to time interrupted by work assignments while clocked
24 out for what should have been PLAINTIFF's off-duty meal break. Indeed, there were many days where
25 PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA
26 CLASS Members forfeited minimum wage and overtime wages by regularly working without their
27 time being accurately recorded and without compensation at the applicable minimum wage and
28 overtime rates. DEFENDANTS' uniform policy and practice not to pay PLAINTIFF and other

1 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANTS' business
2 records.

3 20. From time-to-time during the CLASS PERIOD, as a result of their rigorous work
4 schedules, and DEFENDANTS' inadequate staffing practices, PLAINTIFF and other CALIFORNIA
5 CLASS Members were from time to time unable to take thirty (30) minute off-duty meal breaks and
6 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA CLASS
7 Members were required from time to time to perform work as ordered by DEFENDANTS for more
8 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANTS from
9 time to time failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-
10 duty meal period for some workdays in which these employees were required by DEFENDANTS to
11 work ten (10) hours of work from time to time. The nature of the work performed by PLAINTIFF and
12 other CALIFORNIA CLASS Members does not qualify for limited and narrowly construed "on-duty"
13 meal period exception. When they were provided with meal periods, PLAINTIFF and other
14 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.
15 PLAINTIFF and other CALIFORNIA CLASS Members therefore forfeited meal breaks without
16 additional compensation and in accordance with DEFENDANTS' strict corporate policy and practice.

17 **B. Rest Period Violations**

18 21. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
19 CLASS members were also required from time to time to work in excess of four (4) hours without
20 being provided ten (10) minute rest periods as a result of their rigorous work schedule, being required
21 to take orders, receive payments, expedite services, provide janitorial services, and DEFENDANTS'
22 inadequate staffing. Further, for the same reasons these employees were denied their first rest periods
23 of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
24 time, a first and second rest period of at least ten (10) minutes for some shifts worked of between six
25 (6) and eight (8) hours from time to time, and a first, second and third rest period of at least ten (10)
26 minutes for some shifts worked of ten (10) hours or more from time to time. When they were provided
27 with rest breaks, PLAINTIFF and other CALIFORNIA CLASS Members were, from time to time,
28 required to remain on duty and/or on call. PLAINTIFF and other CALIFORNIA CLASS Members

1 were also not provided with one-hour wages in lieu thereof. As a result of their rigorous work schedules
2 and DEFENDANTS' inadequate staffing, PLAINTIFF and other CALIFORNIA CLASS Members
3 were from time to time denied their proper rest periods by DEFENDANTS and DEFENDANTS'
4 managers.

5 **D. Unreimbursed Business Expenses**

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

16 20. From time-to-time during the CLASS PERIOD, PLAINTIFF and other CALIFORNIA
17 CLASS Members were required by DEFENDANTS to use their own personal vehicles as a result of
18 and in furtherance of their job duties as employees for DEFENDANTS. But for the use of their own
19 personal vehicles, PLAINTIFF and the members of the CALIFORNIA CLASS could not complete
20 their essential job duties. Notwithstanding, DEFENDANTS did not reimburse or indemnify
21 PLAINTIFF or other CALIFORNIA CLASS Members for the cost associated with the use of their own
22 personal vehicles for DEFENDANTS' benefit. Specifically, PLAINTIFF and other CALIFORNIA
23 CLASS Members were required by DEFENDANT to use their personal vehicles for work related issues
24 including traveling to other McDonald's restaurants in order to restock food items and making bank
25 deposits. As a result, in the course of their employment with DEFENDANTS, PLAINTIFF and the
26 members of the CALIFORNIA CLASS incurred unreimbursed business expenses which included, but
27 were not limited to, costs related to the use of their personal vehicles, all on behalf of and for the benefit
28 of DEFENDANTS.

1 **E. Wage Statement Violations**

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

10 22. From time to time during the CLASS PERIOD, when PLAINTIFF and other
11 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurate missed meal
12 and rest period premiums, or were not paid for all hours worked, DEFENDANTS also failed to provide
13 PLAINTIFF and other CALIFORNIA CLASS Members with complete and accurate wage statements
14 which failed to show, among other things, the total hours worked and all applicable hourly rates in
15 effect during the pay period and the corresponding amount of time worked at each hourly rate, correct
16 rates of pay for penalty payments or missed meal and rest periods.

17 23. In addition to the violations described above, DEFENDANTS, from time to time, failed
18 to provide PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply
19 with Cal. Lab. Code § 226. As a result, DEFENDANTS issued PLAINTIFF and the other members of
20 the CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,
21 DEFENDANTS' violations are knowing and intentional, were not isolated or due to an unintentional
22 payroll error due to clerical or inadvertent mistake.

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

24 24. During the CLASS PERIOD, from time-to-time DEFENDANTS failed and continue to
25 fail to accurately pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all hours
26 worked. Specifically, DEFENDANT from time-to-time required PLAINTIFF and the other members
27 of the CALIFORNIA CLASS to perform off-the-clock work. Notwithstanding, from time-to-time
28 DEFENDANTS failed to pay PLAINTIFF and other members of the CALIFORNIA CLASS necessary

1 wages for attending for performing work at DEFENDANTS' direction, request, and benefit, while off-
2 the clock.

3 25. During the CLASS PERIOD, from time-to-time DEFENDANTS required PLAINTIFF
4 and other members of the CALIFORNIA CLASS to perform pre-shift work, including but not limited
5 to, picking up food supplies from nearby McDonald's locations and making bank deposits. This resulted
6 in PLAINTIFF and other members of the CALIFORNIA CLASS to have to work while off-the-clock.

7 26. DEFENDANTS directed and directly benefited from the uncompensated off-the-clock
8 work performed by PLAINTIFF and the other members of the CALIFORNIA CLASS.

9 27. DEFENDANTS controlled the work schedules, duties, protocols, applications,
10 assignments and employment conditions of PLAINTIFF and the other members of the CALIFORNIA
11 CLASS.

12 28. DEFENDANTS were able to track the amount of time PLAINTIFF and the other members
13 of the CALIFORNIA CLASS spent working; however, DEFENDANTS failed to document, track, or
14 pay PLAINTIFF and the other members of the CALIFORNIA CLASS all wages earned and owed for
15 all the work they performed, including off-the-clock work.

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

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

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

25 32. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS forfeited
26 wages due them for all hours worked at DEFENDANTS' direction, control and benefit for the time spent
27 picking up food supplies and making bank deposits while off-the-clock. DEFENDANTS' uniform policy
28

1 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all hours
2 worked in accordance with applicable law is evidenced by DEFENDANTS' business records.

3 **G. CLASS ACTION ALLEGATIONS**

4 33. PLAINTIFF brings the First through Eighth Causes of Action as a class action pursuant
5 to California Code of Civil Procedure § 382 on behalf of all individuals who are or previously were
6 employed by Defendant SLO and/or Defendant Ivernia and/or Defendant Golden in California and
7 classified as non-exempt employees ("CALIFORNIA CLASS") during the period beginning four years
8 prior to the filing of the Complaint and ending on a date determined by the Court ("CLASS PERIOD").

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

16 35. The members of the class are so numerous that joinder of all class members is impractical.

17 36. Common questions of law and fact regarding DEFENDANTS' conduct, including but not
18 limited to, the off-the-clock work, unpaid meal and rest period premiums, failure to accurately calculate
19 the regular rate of pay for overtime compensation, failure to accurately calculate the regular rate of
20 compensation for missed meal and rest period premiums, failing to provide legally compliant meal and
21 rest periods, failed to reimburse for business expenses, failure to provide accurate itemized wage
22 statements accurate, and failure to ensure they are paid at least minimum wage and overtime, exist as to
23 all members of the class and predominate over any questions affecting solely any individual members
24 of the class. Among the questions of law and fact common to the class are:

25 a. Whether DEFENDANTS maintained legally compliant meal period
26 policies and practices;

27 b. Whether DEFENDANTS maintained legally compliant rest period
28 policies and practices;

1 c. Whether DEFENDANTS failed to pay PLAINTIFF and the
2 CALIFORNIA CLASS Members accurate premium payments for missed
3 meal and rest periods;

4 d. Whether DEFENDANTS failed to pay PLAINTIFF and the
5 CALIFORNIA CLASS Members accurate overtime wages;

6 e. Whether DEFENDANTS failed to pay PLAINTIFF and the
7 CALIFORNIA CLASS Members at least minimum wage for all hours
8 worked;

9 f. Whether Defendants failed to compensate PLAINTIFF and the
10 CALIFORNIA CLASS Members for required business expenses;

11 g. Whether DEFENDANTS issued legally compliant wage statements;

12 h. Whether DEFENDANTS committed an act of unfair competition by
13 systematically failing to record and pay PLAINTIFF and the other members
14 of the CALIFORNIA CLASS for all time worked;

15 i. Whether DEFENDANTS committed an act of unfair competition by
16 systematically failing to record all meal and rest breaks missed by
17 PLAINTIFF and other CALIFORNIA CLASS Members, even though
18 DEFENDANTS enjoyed the benefit of this work, required employees to
19 perform this work and permits or suffers to permit this work;

20 j. Whether DEFENDANTS committed an act of unfair competition in
21 violation of the UCL, by failing to provide the PLAINTIFF and the other
22 members of the CALIFORNIA CLASS with the legally required meal and
23 rest periods.

24 37. PLAINTIFF is a member of the CALIFORNIA CLASS and suffered damages as a result
25 of DEFENDANTS' conduct and actions alleged herein.

26 38. PLAINTIFF's claims are typical of the claims of the class, and PLAINTIFF has the same
27 interests as the other members of the class.

28 39. PLAINTIFF will fairly and adequately represent and protect the interests of the

1 CALIFORNIA CLASS Members.

2 40. PLAINTIFF retained able class counsel with extensive experience in class action
3 litigation.

4 41. Further, PLAINTIFF's interests are coincident with, and not antagonistic to, the interests
5 of the other CALIFORNIA CLASS Members.

6 42. There is a strong community of interest among PLAINTIFF and the members of the
7 CALIFORNIA CLASS to, *inter alia*, ensure that the combined assets of DEFENDANTS are sufficient
8 to adequately compensate the members of the CALIFORNIA CLASS for the injuries sustained;

9 43. The questions of law and fact common to the CALIFORNIA CLASS Members
10 predominate over any questions affecting only individual members, including legal and factual issues
11 relating to liability and damages.

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

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

22 b. Adjudication with respect to individual members of the CALIFORNIA CLASS
23 which would as a practical matter be dispositive of the interests of the other members not
24 party to the adjudication or substantially impair or impeded their ability to protect their
25 interests.

26 45. Class treatment provides manageable judicial treatment calculated to bring an efficient
27 and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of
28 DEFENDANTS.

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

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

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

7 47. DEFENDANTS are “person[s]” as that term is defined under Cal. Bus. and Prof. Code §
8 17021.

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

12 Any person who engages, has engaged, or proposes to engage in unfair
13 competition may be enjoined in any court of competent jurisdiction. The
14 court may make such orders or judgments, including the appointment of a
15 receiver, as may be necessary to prevent the use or employment by any
16 person of any practice which constitutes unfair competition, as defined in
17 this chapter, or as may be necessary to restore to any person in interest any
18 money or property, real or personal, which may have been acquired by
19 means of such unfair competition.

20 Cal. Bus. & Prof. Code § 17203.

21 49. By reason of this uniform conduct applicable to PLAINTIFF and all CALIFORNIA
22 CLASS Members, during the CLASS PERIOD, DEFENDANTS commit acts of unfair competition in
23 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the
24 “UCL”), by engaging and continuing to engage in business practices which violates California law,
25 including but not limited to, the applicable Industrial Wage Order(s), the California Code of Regulations
26 and the California Labor Code including Sections 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
27 1197, 1197.1, 1198, & 2802 for which this Court should issue declaratory and other equitable relief
28 pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
held to constitute unfair competition, including restitution of wages wrongfully withheld.

50. By the conduct alleged herein, DEFENDANTS’ practices were unlawful and unfair in that
these practices violated public policy, were immoral, unethical, oppressive, unscrupulous or

1 substantially injurious to employees, and were without valid justification or utility for which this Court
2 should issue equitable and injunctive relief pursuant to Section 17203 of the California Business &
3 Professions Code, including restitution of wages wrongfully withheld.

4 51. By the conduct alleged herein, DEFENDANTS' practices were deceptive and fraudulent
5 in that DEFENDANTS' uniform policy and practice failed to, *inter alia*, provide the legally mandated
6 meal and rest periods, the required accurate amount of compensation for missed meal and rest periods,
7 overtime and minimum wages owed, provide accurate itemized wage statements, due to a systematic
8 business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and Industrial
9 Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this
10 Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
11 restitution of wages wrongfully withheld.

12 52. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair, and
13 deceptive in that DEFENDANTS' employment practices caused PLAINTIFF and the other members of
14 the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANTS.

15 53. By the conduct alleged herein, DEFENDANTS' practices were also unlawful, unfair, and
16 deceptive in that DEFENDANTS' uniform policies, practices and procedures failed to, *inter alia*,
17 provide the legally mandated meal and rest periods, the required accurate amount of compensation for
18 missed meal and rest periods, overtime and minimum wages owed, provide accurate itemized wage
19 statements, to PLAINTIFF and the other members of the CALIFORNIA CLASS as required by Cal.
20 Labor Code.

21 54. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
22 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal period
23 was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each workday in
24 which a second off-duty meal period was not timely provided for each ten (10) hours of work.

25 55. PLAINTIFF further demands on behalf of herself and on behalf of each CALIFORNIA
26 CLASS Member, one (1) hour of pay for each workday in which an off duty paid rest period was not
27 timely provided as required by law.

28 56. PLAINTIFF further demands on all wages due to PLAINTIFF and the members of the

1 CALIFORNIA CLASS as a result of working while off the clock on meal periods, inaccurately
2 calculated overtime and missed meal and rest periods premiums.

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

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

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

19 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to,
20 and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and
21 that injunctive relief should be issued restraining DEFENDANTS from engaging in any unlawful and
22 unfair business practices in the future.

23 61. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy
24 and/or adequate remedy at law that will end the unlawful and unfair business practices of
25 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a result
26 of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of
27 the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic
28 harm unless DEFENDANTS is restrained from continuing to engage in these unlawful and unfair

1 business practices.

2 **SECOND CAUSE OF ACTION**

3 **For Failure to Pay Overtime Compensation**

4 **[Cal. Lab. Code §§ 510, *et seq.*]**

5 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

8 63. PLAINTIFF and the other members of the CALIFORNIA CLASS for the period
9 beginning four years prior to the filing of the Complaint and the present (“CLASS PERIOD”) bring a
10 claim for DEFENDANTS’ willful and intentional violations of the California Labor Code and the
11 Industrial Welfare Commission requirements for DEFENDANTS’ failure to pay these employees for
12 all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or twelve
13 (12) hours in a workday, and/or forty (40) hours in any workweek.

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

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

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

23 67. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members were
24 required by DEFENDANTS to work for DEFENDANTS and were not paid for all the time they worked
25 or were not accurately compensated for all overtime hours worked.

26 68. DEFENDANTS’ uniform pattern of unlawful wage and hour practices manifested,
27 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a
28 uniform policy and practice that failed to accurately record overtime worked by PLAINTIFF and other

1 CALIFORNIA CLASS Members and denied accurate compensation to PLAINTIFF and the other
2 members of the CALIFORNIA CLASS for overtime worked, including, the overtime work performed
3 in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours
4 in any workweek.

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

11 70. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
12 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive full compensation for
13 all overtime worked.

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

21 72. During the CLASS PERIOD, PLAINTIFF and the other members of the CALIFORNIA
22 CLASS were paid less for time worked that they were entitled to, constituting a failure to pay all earned
23 wages.

24 73. DEFENDANTS failed to accurately pay PLAINTIFF and the other members of the
25 CALIFORNIA CLASS overtime wages for the time they worked which was in excess of the maximum
26 hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF
27 and the other members of the CALIFORNIA CLASS were required to work, and did in fact work,
28 overtime as to which DEFENDANTS failed to accurately record and pay using the applicable overtime

1 rate as evidenced by DEFENDANTS' business records and witnessed by employees.

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

7 75. DEFENDANTS knew or should have known that PLAINTIFF and the other members of
8 the CALIFORNIA CLASS were under compensated for all overtime worked. DEFENDANTS
9 systematically elected, either through intentional malfeasance or gross nonfeasance, to not pay
10 employees for their labor as a matter of uniform company policy, practice and procedure, and
11 DEFENDANTS perpetrated this systematic scheme by refusing to pay PLAINTIFF and the other
12 members of the CALIFORNIA CLASS for overtime worked.

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

20 77. PLAINTIFF and the other members of the CALIFORNIA CLASS therefore request
21 recovery of all unpaid wages, including overtime wages, according to proof, interest, statutory costs, as
22 well as the assessment of any statutory penalties against DEFENDANTS, in a sum as provided by the
23 California Labor Code and/or other applicable statutes. To the extent overtime compensation is
24 determined to be owed to the CALIFORNIA CLASS Members who have terminated their employment,
25 DEFENDANTS' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals
26 are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought
27 herein on behalf of these CALIFORNIA CLASS Members. DEFENDANTS' conduct as alleged herein
28 was willful, intentional, and not in good faith. Further, PLAINTIFF and other CALIFORNIA CLASS

1 Members are entitled to seek and recover statutory costs.

2 **THIRD CAUSE OF ACTION**

3 **For Failure to Pay Minimum Wages**

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

5 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

8 79. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for
9 DEFENDANTS' willful and intentional violations of the California Labor Code and the Industrial
10 Welfare Commission requirements for DEFENDANTS' failure to accurately record, calculate and pay
11 minimum and reporting time wages to PLAINTIFF and CALIFORNIA CLASS Members during the
12 CLASS PERIOD.

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

15 81. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
16 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
17 minimum so fixed is unlawful.

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

20 83. DEFENDANTS maintain a uniform wage practice of paying PLAINTIFF and the other
21 members of the CALIFORNIA CLASS without regard to the correct amount of time they work. For
22 instance, as set forth herein, DEFENDANTS maintained a uniform policy that required PLAINTIFF to
23 work while clocked out during what was supposed to be PLAINTIFF's off-duty meal break without
24 compensation. Further, as set forth herein, DEFENDANTS' uniform policy and practice was to
25 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the other members
26 of the CALIFORNIA CLASS.

27 84. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,
28 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of implementing a

1 uniform policy and practice that denies accurate compensation to PLAINTIFF and the other members
2 of the CALIFORNIA CLASS in regard to minimum wage pay.

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

8 86. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
9 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct minimum
10 wage compensation for their time worked for DEFENDANTS.

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

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

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

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

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

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

14 **FOURTH CAUSE OF ACTION**

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

16 **[Cal. Lab. Code §§ 226.7 & 512]**

17 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

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

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

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

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

14 **FIFTH CAUSE OF ACTION**

15 **For Failure to Provide Required Rest Periods**

16 **[Cal. Lab. Code §§ 226.7 & 512]**

17 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

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

1 and DEFENDANTS' managers.

2 98. DEFENDANTS further violated California Labor Code §§ 226.7 and the applicable IWC
3 Wage Order by failing to compensate PLAINTIFF and CALIFORNIA CLASS Members who were not
4 provided a rest period, in accordance with the applicable Wage Order, one additional hour of
5 compensation at each employee's regular rate of compensation for each workday that rest period was
6 not provided.

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

10 **SIXTH CAUSE OF ACTION**

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

12 **[Cal. Lab. Code § 2802]**

13 **(By PLAINTIFF Against All Defendants)**

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

16 101. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

20 102. From time-to-time during the CLASS PERIOD, DEFENDANTS violated Cal. Lab. Code
21 § 2802, by failing to indemnify and reimburse PLAINTIFF and the members of the CALIFORNIA
22 CLASS for required expenses incurred in the discharge of their job duties for DEFENDANTS' benefit.
23 DEFENDANTS failed to reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for
24 expenses which included, but were not limited to, costs related to using their personal vehicles all on
25 behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and the members of the
26 CALIFORNIA CLASS were required by DEFENDANTS to use their personal vehicles to execute their
27 essential job duties on behalf of DEFENDANTS. DEFENDANTS' uniform policy, practice and
28 procedure was to not reimburse PLAINTIFF and the members of the CALIFORNIA CLASS for

1 expenses resulting from using their personal vehicles for DEFENDANTS within the course and scope
2 of their employment for DEFENDANTS. These expenses were necessary to complete their principal
3 job duties. DEFENDANTS are estopped by DEFENDANTS' conduct to assert any waiver of their
4 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
5 members of the CALIFORNIA CLASS, DEFENDANTS failed to indemnify and reimburse
6 PLAINTIFF and the members of the CALIFORNIA CLASS for these expenses as an employer is
7 required to do under the laws and regulations of California.

8 103. PLAINTIFF therefore demands reimbursement on behalf of the members of the
9 CALIFORNIA CLASS for expenditures or losses incurred in the discharge their job duties and on behalf
10 of DEFENDANTS, or his/her obedience to the directions of DEFENDANT, with interest at the statutory
11 rate and costs under Cal. Lab. Code § 2802.

12 **SEVENTH CAUSE OF ACTION**

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

14 **[Cal. Lab. Code §§ 226 and 226.2]**

15 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS)**

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

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

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

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

10 106. During the CLASS PERIOD, DEFENDANTS also failed to provide PLAINTIFF and the
11 other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed
12 to accurately show, among other things, (1) total number of hours worked, (2) net wages earned, (3)
13 gross wages earned; (4) the correct name and address of the legal entity that is the employer; and (5) the
14 last four (4) digits of employee's social security number or an employee identification number all
15 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
16 at each hourly rate by the employee in violation of California Labor Code Section 226(a).

17 107. Further, DEFENDANTS violated California Labor Code Section 226(a)(2) by failig to
18 provide the accurate total hours worked on wage statements issued to PLAINTIFF and members of the
19 CALIFORNIA CLASS. Specifically, DEFENDANTS included meal period premiums into the
20 computation of total hours worked, notwithstanding that meal period premiums are not considered total
21 hours worked for purposes of Cal. Lab. Code § 226(a)(2). In addition to the foregoing, DEFENDANTS
22 failed to provide itemized wage statements to PLAINTIFF and members of the CALIFORNIA CLASS
23 that complied with the requirements of California Labor Code Section 226.

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

1 members of the CALIFORNIA CLASS may elect to recover liquidated damages of fifty dollars (\$50.00)
2 for the 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, and all other damages and
4 penalties available pursuant to Labor Code § 226.2(a)(6), all in an amount according to proof at the time
5 of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective
6 member of the CALIFORNIA CLASS herein.

7 **EIGHTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES WHEN DUE**

9 **(Cal Lab. Code §§201, 202, 203)**

10 **((By PLAINTIFF and the CALIFORNIA CLASS and Against All DEFENDANTS))**

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

13 110. Cal. Lab. Code § 200 provides that:

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

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

21 112. Cal. Lab. Code § 202 provides, in relevant part, that:

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

1 113. There was no definite term in PLAINTIFF's or any CALIFORNIA CLASS Members'
2 employment contract.

3 114. Cal. Lab. Code § 203 provides:

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

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

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

18 **PRAYER FOR RELIEF**

19 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

20 1. On behalf of the CALIFORNIA CLASS:

- 21 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a
22 class action pursuant to Cal. Code of Civ. Proc. § 382;
- 23 B) An order temporarily, preliminarily and permanently enjoining and restraining
24 DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
- 25 C) An order requiring DEFENDANTS to pay all wages and all sums unlawfully withheld from
26 compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and,
- 27 D) Restitutionary disgorgement of DEFENDANTS's ill-gotten gains into a fluid fund for
28 restitution of the sums incidental to DEFENDANTS's violations due to PLAINTIFF and to
the other members of the CALIFORNIA CLASS.

1 E) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth Causes of
2 Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ.
3 Proc. § 382;

4 1. Compensatory damages, according to proof at trial, including compensatory
5 damages for minimum wage compensation, overtime compensation, and unreimbursed
6 business expenses due PLAINTIFF and the other members of the CALIFORNIA CLASS,
7 during the applicable CALIFORNIA CLASS PERIOD plus interest thereon at the statutory
8 rate;

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

14 3. Meal and rest period compensation pursuant to California Labor Code Section
15 226.7, 512 and the applicable IWC Wage Order;

16 4. For liquidated damages pursuant to California Labor Code Sections 1194.2 and
17 1197; and

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

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1 2. On all claims:


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

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

4 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
5 including, but not limited to, pursuant to Labor Code §226, §1194, §2699 *et seq.*, and/or §2802.

6
7 Dated: September 16, 2021

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


8
9 By: 
10 Jean-Claude Lapuyade
11 Attorneys for PLAINTIFF

12
13 **DEMAND FOR JURY TRIAL**

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

15
16 Dated: September 16, 2021

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

17
18 By: 
19 Jean-Claude Lapuyade
20 Attorneys for PLAINTIFF