

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
ALAMEDA COUNTY
SEP 30 2020
CLERK OF THE SUPERIOR COURT
JERRIE MOYER
Deputy

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

JAVELIN LOGISTICS COMPANY, INC., a California Corporation;
CARSON CONSULTING CORP., a California Corporation; and DOES
1-50, Inclusive

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

RODNEY STOVALL, an individual, 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 o 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): Alameda Superior Court
1225 Fallon Street
Oakland, California 94612

CASE NUMBER
(Número del caso)
15709

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., 3990 Old Town Avenue, Ste C204 San Diego, California 92110 Telephone: (619) 255-9047

DATE: **SEP 30 2020** Clerk, by **JERRIE MOYER**, 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)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

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

VIA FAX

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

4 JCL LAW FIRM, APC
5 Jean-Claude Lapuyade (State Bar #248676)
6 3990 Old Town Avenue, Suite C204
7 San Diego, CA 92110
8 Telephone: (619)599-8292; Facsimile: (619) 599-8291

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF ALAMEDA

10
11 RODNEY STOVALL, an individual, on behalf
12 of himself and on behalf of all persons
13 similarly situated,

13 Plaintiff,

14 v.

15 JAVELIN LOGISTICS COMPANY, INC., a
16 California Corporation; CARSON
17 CONSULTING CORP., a California
18 Corporation; and DOES 1-50, Inclusive,

18 Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

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

DEMAND FOR A JURY TRIAL

ENDORSED
FILED
ALAMEDA COUNTY

SEP 30 2020

CLERK OF THE SUPERIOR COURT

By

JERRIE MOYER

VIA FAX

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

6 **PRELIMINARY ALLEGATIONS**

7 1. Defendant JAVELIN LOGISTICS COMPANY, INC (“Defendant Javelin”) is a
8 California Corporation and at all relevant times mentioned herein conducted and continues to
9 conduct substantial and regular business in California.

10 2. Defendant Javelin provides material management, logistics, and transportation
11 services in California.

12 3. Defendant CARSON CONSULTING CORP. (“Defendant Carson”) is a
13 California Corporation and at all relevant times mentioned herein conducted and continues to
14 conduct substantial and regular business in California.

15 4. Defendant Carson is a staffing agency based in Union City, California.

16 5. Defendant Javelin and Defendant Carson were the joint employers of
17 PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF
18 performed work for respectively, and are therefore jointly responsible as employers for the
19 conduct alleged herein and collectively referred to herein as “DEFENDANTS”.

20 6. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt
21 employee entitled to minimum wages, overtime pay and meal and rest periods from August
22 2019 to April 2020 (August 2019 to January 2020 through Defendant Carson, and January 2020
23 to April 2020 directly with Defendant Javelin).

24 7. PLAINTIFF brings this Class Action on behalf of himself and a California class,
25 defined as all individuals who are or previously were employed by Defendant Javelin and/or
26 Defendant Carson in California and classified as non-exempt employees (the “CALIFORNIA
27 CLASS”) at any time during the period beginning April 6, 2016 and ending on the date as
28 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy

1 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
2 (\$5,000,000.00).

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

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

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

1 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
2 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
3 Defendants' agents, servants and/or employees

4 **THE CONDUCT**

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

20 12. As a result of their rigorous work schedules, PLAINTIFF and other
21 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal
22 breaks and were not fully relieved of duty for meal periods. PLAINTIFF and other
23 CALIFORNIA CLASS Members were required to perform work as ordered by DEFENDANTS
24 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
25 DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
26 second off-duty meal period each workday in which these employees were required by
27 DEFENDANTS to work ten (10) hours of work. PLAINTIFF and the other CALIFORNIA
28

1 CLASS Members therefore forfeited meal breaks without additional compensation and in
2 accordance with DEFENDANTS' strict corporate policy and practice

3 13. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and
4 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours
5 without being provided ten (10) minute rest periods. Further, these employees were denied their
6 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
7 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
8 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10)
9 minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other
10 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
11 As a result of their rigorous work schedules, and in compliance with DEFENDANTS' policy,
12 PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper
13 rest periods by DEFENDANTS and DEFENDANTS' managers.

14 14. From time to time, when PLAINTIFF and other CALIFORNIA CLASS
15 Members missed meal and rest breaks, or when they worked during what was supposed to be
16 their meal breaks, DEFENDANTS also failed to provide PLAINTIFF and the other members of
17 the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
18 among other things, the correct time and overtime worked, including, work performed in excess
19 of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the correct penalty
20 payments or missed meal and rest periods. Cal. Lab. Code § 226 provides that every employer
21 shall furnish each of his or her employees with an accurate itemized wage statement in writing
22 showing, among other things, gross wages earned and all applicable hourly rates in effect during
23 the pay period and the corresponding amount of time worked at each hourly rate. Aside from the
24 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an
25 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
26 As a result, from time to time DEFENDANTS provided PLAINTIFF and the other members of
27 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.
28

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

6 **THE CALIFORNIA CLASS**

7 19. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
8 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
9 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
10 individuals who are or previously were employed by Defendant Javelin and/or Defendant
11 Carson in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at
12 any time during the period beginning April 6, 2016 and ending on the date as determined by the
13 Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate
14 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

15 20. To the extent equitable tolling operates to toll claims by the CALIFORNIA
16 CLASS against DEFENDANTS, the CALIFORNIA CLASS PERIOD should be adjusted
17 accordingly.

18 21. The California Legislature has commanded that "all wages... ..earned by any
19 person in any employment are due and payable twice during each calendar month, on days
20 designated in advance by the employer as the regular paydays", and further that "[a]ny work in
21 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek .
22 . . shall be compensated at the rate of no less than one and one-half times the regular rate of pay
23 for an employee." (Lab. Code § 204 and § 510(a).) The Industrial Welfare Commission (IWC),
24 however, is statutorily authorized to "establish exemptions from the requirement that an
25 overtime rate of compensation be paid... ..for executive, administrative, and professional
26 employees, provided [inter alia] that the employee is primarily engaged in duties that meet the
27 test of the exemption, [and] customarily and regularly exercises discretion and independent
28 judgment in performing those duties..." (Lab. Code § 510(a).) Neither the PLAINTIFF nor the

1 other members of the CALIFORNIA CLASS and/or the CALIFORNIALABOR SUB-CLASS
2 qualify for exemption from the above requirements.

3 22. DEFENDANTS, as a matter of company policy, practice and procedure, and in
4 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
5 requirements, and the applicable provisions of California law, intentionally, knowingly, and
6 willfully, engaged in a practice whereby DEFENDANTS systematically failed to correctly
7 record the time, including overtime, for time worked by PLAINTIFF and the other members of
8 the CALIFORNIA CLASS, even though DEFENDANTS enjoyed the benefit of this work,
9 required employees to perform this work and permitted or suffered to permit this time work.

10 23. DEFENDANTS have the legal burden to establish that each and every
11 CALIFORNIA CLASS Member is paid for all time worked. DEFENDANTS, however, as a
12 matter of uniform and systematic policy and procedure failed to have in place during the
13 CALIFORNIA CLASS PERIOD and still fail to have in place a policy or practice to ensure that
14 each and every CALIFORNIA CLASS Member is paid the for all time worked, so as to satisfy
15 their burden. This common business practice applicable to each and every CALIFORNIA
16 CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive
17 under Cal. Business & Professions Code §§ 17200, *et seq.* (the “UCL”) as causation, damages,
18 and reliance are not elements of this claim.

19 24. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA
20 CLASS Members is impracticable.

21 25. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS
22 under California law by:

- 23 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
24 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
25 company policies, practices and procedures that failed to pay all wages due the
26 CALIFORNIA CLASS for all minimum wages and overtime worked, and failed
27 to accurately record the applicable rates of all overtime worked by the
28 CALIFORNIA CLASS;

1 b. Committing an act of unfair competition in violation of the California Unfair
2 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to
3 provide mandatory meal and/or rest breaks to PLAINTIFF and the
4 CALIFORNIA CLASS members;

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

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

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

13 c. The claims of the representative PLAINTIFF are typical of the claims of each
14 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members
15 of the CALIFORNIA CLASS, was subjected to the uniform employment
16 practices of DEFENDANTS and was a non-exempt employee paid on an hourly
17 basis and paid additional non-discretionary incentive wages who was subjected
18 to the DEFENDANTS' practice and policy which failed to pay the correct rate of
19 overtime wages due to the CALIFORNIA CLASS for all overtime worked by the
20 CALIFORNIA CLASS and thereby systematically under pays overtime
21 compensation to the CALIFORNIA CLASS. PLAINTIFF sustained economic
22 injury as a result of DEFENDANT's employment practices. PLAINTIFF and the
23 members of the CALIFORNIA CLASS were and are similarly or identically
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
25 misconduct engaged in by DEFENDANTS; and

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

1 conflicts between the claims of the representative PLAINTIFF and the members
2 of the CALIFORNIA CLASS that would make class certification inappropriate.
3 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all
4 CALIFORNIA CLASS Members.

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

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

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

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

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

24 i. With respect to the First Cause of Action, the final relief on behalf of the
25 CALIFORNIA CLASS sought does not relate exclusively to restitution
26 because through this claim PLAINTIFF seek declaratory relief holding
27 that the DEFENDANTS' policy and practices constitute unfair
28 competition, along with declaratory relief, injunctive relief, and incidental

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equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

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

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

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their

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

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

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

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

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

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

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

26 e. There is a community of interest in obtaining appropriate legal and equitable
27 relief for the acts of unfair competition, statutory violations and other
28 improprieties, and in obtaining adequate compensation for the damages and

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

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

20 **THE CALIFORNIA LABOR SUB-CLASS**

21 30. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, and Seventh
22 causes of Action on behalf of a California sub-class, defined as all members of the
23 CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA LABOR
24 SUB-CLASS") at any time during the period beginning April 6, 2017 and ending on the date as
25 determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to
26 Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of
27 CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).
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1 31. DEFENDANTS, as a matter of company policy, practice and procedure, and in
2 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
3 requirements, and the applicable provisions of California law, intentionally, knowingly, and
4 willfully, engaged in a practice whereby DEFENDANTS failed to pay for all time worked by
5 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, even though
6 DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and
7 permitted or suffered to permit this work. DEFENDANTS have uniformly denied these
8 CALIFORNIA LABOR SUB-CLASS Members minimum and overtime wages at the correct
9 amount to which these employees are entitled in order to unfairly cheat the competition and
10 unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA
11 LABOR SUB-CLASS against DEFENDANTS, the CALIFORNIA LABOR SUB-CLASS
12 PERIOD should be adjusted accordingly.

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

19 33. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 23 a. Whether DEFENDANTS unlawfully failed to pay minimum wage and overtime
24 compensation to members of the CALIFORNIA LABOR SUB-CLASS in
25 violation of the California Labor Code and California regulations and the
26 applicable California Wage Order;

- b. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to overtime compensation for overtime worked under the overtime pay requirements of California law;
- c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted thirty (30) minute meal breaks and rest periods;
- d. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- e. Whether DEFENDANTS have engaged in unfair competition by the above-listed conduct;
- f. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- g. Whether DEFENDANTS' conduct was willful.

35. All of the CALIFORNIA LABOR SUB-CLASS Members, including PLAINTIFF, were non-exempt employees who were paid on an hourly basis by DEFENDANTS according to uniform and systematic company procedures as alleged herein above. This business practice was uniformly applied to each and every member of the CALIFORNIA LABOR SUB-CLASS, and therefore, the propriety of this conduct can be adjudicated on a class-wide basis.

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

- a. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- b. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the

1 correct overtime pay for which DEFENDANTS are liable pursuant to Cal. Lab.
2 Code § 1194 & § 1198;

- 3 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
4 and the other members of the CALIFORNIA CLASS with all legally required
5 off-duty, uninterrupted thirty (30) minute meal breaks and the legally required
6 rest breaks;
- 7 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
9 statement in writing showing the name and address of PLAINTIFF's employer,
10 and all accurate and applicable overtime rates in effect during the pay period and
11 the corresponding amount of time worked at each overtime rate by the employee;
- 12 e. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
13 employee is discharged or quits from employment, the employer must pay the
14 employee all wages due without abatement, by failing to tender full payment
15 and/or restitution of wages owed or in the manner required by California law to
16 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
17 their employment.

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

- 20 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
21 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
22 is impracticable and the disposition of their claims as a class will benefit the
23 parties and the Court;
- 24 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
25 raised in this Complaint are common to the CALIFORNIA LABOR SUB-
26 CLASS and will apply uniformly to every member of the CALIFORNIA
27 LABOR SUB-CLASS;

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

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

- 22 a. Without class certification and determination of declaratory, injunctive, statutory
23 and other legal questions within the class format, prosecution of separate actions
24 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
25 the risk of:
- 26 i. Inconsistent or varying adjudications with respect to individual members
27 of the CALIFORNIA LABOR SUB-CLASS which would establish
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incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or

ii. Adjudication with respect to individual members of the CALIFORNIA LABOR SUB-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 LABOR SUB-CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS uniformly failed to pay all wages due, including the correct overtime rate, for all overtime worked by the members of the CALIFORNIA LABOR SUB-CLASS as required by law;

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

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

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

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

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

iii. In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANTS, which may adversely affect an individual’s job with DEFENDANTS or with a 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.

39. 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

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- 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 DEFENDANTS' actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
 - f. There is a community of interest in ensuring that the combined assets of DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
 - g. DEFENDANTS have acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
 - h. The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANTS. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
 - i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims

1 arising out of the conduct of DEFENDANTS as to the members of the
2 CALIFORNIA LABOR SUB-CLASS.

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4 **FIRST CAUSE OF ACTION**

5 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

11 41. DEFENDANTS are a “person” as that term is defined under Cal. Bus. And Prof.
12 Code § 17021.

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

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

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

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

7 45. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and
8 fraudulent in that DEFENDANT’s uniform policy and practice failed to pay PLAINTIFF, and
9 other members of the CALIFORNIA CLASS, minimum wages, wages due for overtime
10 worked, failed to accurately to record all overtime worked, failed to provide the required
11 amount of overtime compensation, and failed to provide legally compliant meal and rest breaks,
12 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
13 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive
14 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
15 wrongfully withheld.

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

20 47. By the conduct alleged herein, DEFENDANTS’ practices were also unfair and
21 deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to provide
22 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

23 48. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
24 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty
25 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
26 for each workday in which a second off-duty meal period was not timely provided for each ten
27 (10) hours of work.
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1 49. PLAINTIFF further demands on behalf of herself and on behalf of each
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period
3 was not timely provided as required by law.

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

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

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

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

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

1 irreparable legal and economic harm unless DEFENDANTS are restrained from continuing to
2 engage in these unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

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

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

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

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

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

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

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

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

28 61. DEFENDANTS' uniform pattern of unlawful wage and hour practices
manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a

1 whole, as a result of implementing a uniform policy and practice that denies accurate
2 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
3 CLASS in regards to minimum wage pay.

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

10 63. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
11 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
12 receive the correct minimum wage compensation for their time worked for DEFENDANTS.

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

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

22 66. DEFENDANTS knew or should have known that PLAINTIFFS and the other
23 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
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,
26 practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to
27 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
28 correct minimum wages for their time worked.

67. In performing the acts and practices herein alleged in violation of California labor
laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all

1 time worked and provide them with requisite compensation, DEFENDANTS acted and continue
2 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of
3 the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal
4 rights, or the consequences to them, and with the despicable intent of depriving them of their
5 property and legal rights, and otherwise causing them injury in order to increase company
6 profits at the expense of these employees.

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

18 **THIRD CAUSE OF ACTION**

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

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

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

26 70. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
27 bring a claim for DEFENDANTS's willful and intentional violations of the California Labor
28 Code and the Industrial Welfare Commission requirements for DEFENDANTS' failure to
properly compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime

1 worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40)
2 hours in any workweek.

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

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

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

13 74. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
14 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANTS to work for
15 DEFENDANTS and were not paid for all the time they worked, including overtime work.

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

23 76. In committing these violations of the California Labor Code, DEFENDANTS
24 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
25 violation of the California Labor Code, the Industrial Welfare Commission requirements and
26 other applicable laws and regulations.

27 77. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
28 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
receive full compensation for all overtime worked.

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

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

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

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

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

1 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
2 applicable overtime rate.

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

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

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

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

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

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

1 86. During the CALIFORNIA CLASS PERIOD, DEFENDANTS failed to provide
2 all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA
3 LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code.
4 The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
5 MEMBERS did not prevent these employees from being relieved of all of their duties for the
6 legally required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF
7 and other CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty
8 by 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 87. DEFENDANTS further violated California Labor Code §§ 226.7 and the
15 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR
16 SUB-CLASS Members who were not provided a meal period, in accordance with the applicable
17 Wage Order, one additional hour of compensation at each employee’s regular rate of pay for
18 each workday that a meal period was not provided.

19 88. 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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FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE REQUIRED REST PERIODS

(Cal. Lab. Code §§ 226.7 & 512)

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

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

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

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

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

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**
3 **(Cal. Lab. Code § 226)**

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

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

9 94. Cal. Labor Code § 226 provides that an employer must furnish employees withan
10 “accurate itemized” statement in writing showing:

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

1 95. When PLAINTIFF and other CALIFORNIA CLASS Members worked off the
2 clock, and/or missed meal and rest breaks, DEFENDANTS also failed to provide PLAINTIFF
3 and the other members of the CALIFORNIA CLASS with complete and accurate wage
4 statements which failed to show, among other things, the correct number of hours worked, work
5 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek,
6 and the correct penalty payments or missed meal and rest periods. Cal. Lab. Code § 226
7 provides that every employer shall furnish each of his or her employees with an accurate
8 itemized wage statement in writing showing, among other things, gross wages earned and all
9 applicable hourly rates in effect during the pay period and the corresponding amount of time
10 worked at each hourly rate. Aside from the violations listed above in this paragraph,
11 DEFENDANTS failed to issue to PLAINTIFF an itemized wage statement that lists all the
12 requirements under California Labor Code 226 *et seq.* As a result, from time to time
13 DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA CLASS
14 with wage statements which violated Cal. Lab. Code § 226.

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

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

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

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

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

19 100. Cal. Lab. Code § 202 provides, in relevant part, that:

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

101. There was no definite term in PLAINTIFF'S or any CALIFORNIA LABOR
SUB-CLASS Members' employment contract.

102. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in
accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee
who is discharged or who quits, the wages of the employee shall continue as a

1 penalty from the due date thereof at the same rate until paid or until an action
2 therefor is commenced; but the wages shall not continue for more than 30 days.

3 103. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-
4 CLASS Members terminated and DEFENDANTS have not tendered payment of overtime
5 wages, to these employees who actually worked overtime, as required by law.

6 104. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
7 members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFF
8 demands up to thirty days of pay as penalty for not paying all wages due at time of termination
9 for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS
10 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory
11 costs as allowed by law.

12 **SIXTH CAUSE OF ACTION**

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

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

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

16 105. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
17 herein, the prior paragraphs of this Complaint.

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

28 107. PLAINTIFF, and such persons that may be added from time to time who satisfy
the requirements and exhaust the administrative procedures under the Private Attorney General

1 Act, bring this Representative Action on behalf of the State of California with respect to
2 themselves and all individuals who are or previously were employed by DEFENDANT and
3 classified as non-exempt employees in California during the time period of April 6, 2019 until
4 the present (the "AGGRIEVED EMPLOYEES").

5 108. On July 24, 2020 PLAINTIFF gave written notice by certified mail to the Labor
6 and Workforce Development Agency (the "Agency") and the employer of the specific
7 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. See
8 Exhibit #1, attached hereto and incorporated by this reference herein. The statutory waiting
9 period for PLAINTIFF to add these allegations to the Complaint has expired. As a result,
10 pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under
11 PAGA pursuant to Section 2699 as the proxy of the State of California with respect to all
12 AGGRIEVED EMPLOYEES as herein defined.

13 109. The policies, acts and practices heretofore described were and are an unlawful
14 business act or practice because Defendant (a) failed to properly record and pay PLAINTIFF
15 and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including
16 minimum wage and overtime wages in violation of the Wage Order, (b) failed to provide meal
17 and rest breaks, (c) failed to provide accurate itemized wage statements, and (d) failed to timely
18 pay wages, all in violation of the applicable Labor Code sections listed in Labor Code §2699.5,
19 including but not limited to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558,
20 1194, 1197, 1197.1, 1198, 1199, and the applicable Industrial Wage Order(s), and thereby gives
21 rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
22 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
23 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
24 the other AGGRIEVED EMPLOYEES.

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PRAYER FOR RELIEF

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

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4 1. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

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 §2802.

DATED: September 27, 2020

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for Plaintiff

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DEMAND FOR A JURY TRIAL

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

DATED: September 27, 2020

ZAKAY LAW GROUP, APLC

By: 
Shani O. Zakay
Attorney for Plaintiff

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EXHIBIT 1



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

shani@zakaylaw.com

July 24, 2020

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

Via Online Submission

JAVELIN LOGISTICS COMPANY, INC
c/o MICHAEL ANTHONY BONINO
42505 CHRISTY ST.
FREMONT CA 94538

CARSON CONSULTING CORP
c/o TRACY CARSON
151 REVERE AVE
HAYWARD CA 94544

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

Dear Sir/ Madam:

This office represents RODNEY STOVALL (“Plaintiff”) and other aggrieved employees in an action against JAVELIN LOGISTICS COMPANY, INC. and CARSON CONSULTING CORP (“Defendant”). This office intends to file the enclosed Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendants in California from August 2019 to April 2020. Plaintiff was paid on an hourly basis and entitled to minimum wages, overtime wages, and legally required meal and rest periods. At all times during his employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods, with minimum and overtime wages for all time worked, and, overtime compensation at one-and-one-half times the regular rate of pay.

As a consequence, Plaintiff contends that Defendant failed to fully compensate them, and other similarly situated and aggrieved employees, for all earned wages and failed to provide accurate wage statements. Defendant also failed to provide Plaintiff and similarly situated aggrieved employees with complete wage statements that included the address of Defendant. Accordingly, Plaintiff contends that Defendant’s conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and applicable wage orders, Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3 and is therefore actionable pursuant to section 2698 *et seq.*

A copy of the proposed Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached proposed Complaint into this letter as if fully set forth herein.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiffs and all aggrieved California employees and Class Members

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,



Shani O. Zakay
Attorney at Law

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

4 **JCL LAW FIRM, APC**
Jean-Claude Lapuyade (State Bar #248676)
5 3990 Old Town Avenue, Suite C204
San Diego, CA 92110
6 Telephone: (619)599-8292; Facsimile: (619) 599-8291

7 Attorneys for Plaintiff

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

10
11 RODNEY STOVALL, an individual, on behalf
of himself and on behalf of all persons
12 similarly situated,

13 Plaintiff,

14 v.

15 JAVELIN LOGISTICS COMPANY, INC., a
California Corporation; CARSON
16 CONSULTING CORP., a California
Corporation; and DOES 1-50, Inclusive,

17 Defendants.
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Case No:

CLASS ACTION COMPLAINT FOR:

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

DEMAND FOR A JURY TRIAL

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

6 **PRELIMINARY ALLEGATIONS**

7 1. Defendant JAVELIN LOGISTICS COMPANY, INC (“Defendant Javelin”) is a
8 California Corporation and at all relevant times mentioned herein conducted and continues to
9 conduct substantial and regular business in California.

10 2. Defendant Javelin provides material management, logistics, and transportation
11 services in California.

12 3. Defendant CARSON CONSULTING CORP. (“Defendant Carson”) is a
13 California Corporation and at all relevant times mentioned herein conducted and continues to
14 conduct substantial and regular business in California.

15 4. Defendant Carson is a staffing agency based in Union City, California.

16 5. Defendant Javelin and Defendant Carson were the joint employers of
17 PLAINTIFF as evidenced by the contracts signed and by the company the PLAINTIFF
18 performed work for respectively, and are therefore jointly responsible as employers for the
19 conduct alleged herein and collectively referred to herein as “DEFENDANTS”.

20 6. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt
21 employee entitled to minimum wages, overtime pay and meal and rest periods from August
22 2019 to April 2020 (August 2019 to January 2020 through Defendant Carson, and January 2020
23 to April 2020 directly with Defendant Javelin).

24 7. PLAINTIFF brings this Class Action on behalf of himself and a California class,
25 defined as all individuals who are or previously were employed by Defendant Javelin and/or
26 Defendant Carson in California and classified as non-exempt employees (the “CALIFORNIA
27 CLASS”) at any time during the period beginning April 6, 2016 and ending on the date as
28 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy

1 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
2 (\$5,000,000.00).

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

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

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

1 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
2 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
3 Defendants' agents, servants and/or employees

4 **THE CONDUCT**

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

20 12. As a result of their rigorous work schedules, PLAINTIFF and other
21 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal
22 breaks and were not fully relieved of duty for meal periods. PLAINTIFF and other
23 CALIFORNIA CLASS Members were required to perform work as ordered by DEFENDANTS
24 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
25 DEFENDANTS failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
26 second off-duty meal period each workday in which these employees were required by
27 DEFENDANTS to work ten (10) hours of work. PLAINTIFF and the other CALIFORNIA
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1 CLASS Members therefore forfeited meal breaks without additional compensation and in
2 accordance with DEFENDANTS' strict corporate policy and practice

3 13. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and
4 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours
5 without being provided ten (10) minute rest periods. Further, these employees were denied their
6 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
7 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
8 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10)
9 minutes for some shifts worked of ten (10) hours or more. PLAINTIFF and other
10 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
11 As a result of their rigorous work schedules, and in compliance with DEFENDANTS' policy,
12 PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their proper
13 rest periods by DEFENDANTS and DEFENDANTS' managers.

14 14. From time to time, when PLAINTIFF and other CALIFORNIA CLASS
15 Members missed meal and rest breaks, or when they worked during what was supposed to be
16 their meal breaks, DEFENDANTS also failed to provide PLAINTIFF and the other members of
17 the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
18 among other things, the correct time and overtime worked, including, work performed in excess
19 of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the correct penalty
20 payments or missed meal and rest periods. Cal. Lab. Code § 226 provides that every employer
21 shall furnish each of his or her employees with an accurate itemized wage statement in writing
22 showing, among other things, gross wages earned and all applicable hourly rates in effect during
23 the pay period and the corresponding amount of time worked at each hourly rate. Aside from the
24 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an
25 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
26 As a result, from time to time DEFENDANTS provided PLAINTIFF and the other members of
27 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.
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1 18. Venue is proper in this Court pursuant to California Code of Civil Procedure,
2 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times
3 maintained offices and facilities in this County and/or conducts substantial business in this
4 County, and (ii) committed the wrongful conduct herein alleged in this County against members
5 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

6 **THE CALIFORNIA CLASS**

7 19. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
8 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
9 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
10 individuals who are or previously were employed by Defendant Javelin and/or Defendant
11 Carson in California and classified as non-exempt employees (the "CALIFORNIA CLASS") at
12 any time during the period beginning April 6, 2016 and ending on the date as determined by the
13 Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate
14 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

15 20. To the extent equitable tolling operates to toll claims by the CALIFORNIA
16 CLASS against DEFENDANTS, the CALIFORNIA CLASS PERIOD should be adjusted
17 accordingly.

18 21. The California Legislature has commanded that "all wages... ..earned by any
19 person in any employment are due and payable twice during each calendar month, on days
20 designated in advance by the employer as the regular paydays", and further that "[a]ny work in
21 excess of eight hours in one workday and any work in excess of 40 hours in any one workweek .
22 . . shall be compensated at the rate of no less than one and one-half times the regular rate of pay
23 for an employee." (Lab. Code § 204 and § 510(a).) The Industrial Welfare Commission (IWC),
24 however, is statutorily authorized to "establish exemptions from the requirement that an
25 overtime rate of compensation be paid... ..for executive, administrative, and professional
26 employees, provided [inter alia] that the employee is primarily engaged in duties that meet the
27 test of the exemption, [and] customarily and regularly exercises discretion and independent
28 judgment in performing those duties..." (Lab. Code § 510(a).) Neither the PLAINTIFF nor the

1 other members of the CALIFORNIA CLASS and/or the CALIFORNIALABOR SUB-CLASS
2 qualify for exemption from the above requirements.

3 22. DEFENDANTS, as a matter of company policy, practice and procedure, and in
4 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
5 requirements, and the applicable provisions of California law, intentionally, knowingly, and
6 willfully, engaged in a practice whereby DEFENDANTS systematically failed to correctly
7 record the time, including overtime, for time worked by PLAINTIFF and the other members of
8 the CALIFORNIA CLASS, even though DEFENDANTS enjoyed the benefit of this work,
9 required employees to perform this work and permitted or suffered to permit this time work.

10 23. DEFENDANTS have the legal burden to establish that each and every
11 CALIFORNIA CLASS Member is paid for all time worked. DEFENDANTS, however, as a
12 matter of uniform and systematic policy and procedure failed to have in place during the
13 CALIFORNIA CLASS PERIOD and still fail to have in place a policy or practice to ensure that
14 each and every CALIFORNIA CLASS Member is paid the for all time worked, so as to satisfy
15 their burden. This common business practice applicable to each and every CALIFORNIA
16 CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive
17 under Cal. Business & Professions Code §§ 17200, *et seq.* (the “UCL”) as causation, damages,
18 and reliance are not elements of this claim.

19 24. The CALIFONRIA CLASS is so numerous that joinder of all CALIFORNIA
20 CLASS Members is impracticable.

21 25. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS
22 under California law by:

- 23 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
24 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
25 company policies, practices and procedures that failed to pay all wages due the
26 CALIFORNIA CLASS for all minimum wages and overtime worked, and failed
27 to accurately record the applicable rates of all overtime worked by the
28 CALIFORNIA CLASS;

1 b. Committing an act of unfair competition in violation of the California Unfair
2 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to
3 provide mandatory meal and/or rest breaks to PLAINTIFF and the
4 CALIFORNIA CLASS members;

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

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

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

13 c. The claims of the representative PLAINTIFF are typical of the claims of each
14 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members
15 of the CALIFORNIA CLASS, was subjected to the uniform employment
16 practices of DEFENDANTS and was a non-exempt employee paid on an hourly
17 basis and paid additional non-discretionary incentive wages who was subjected
18 to the DEFENDANTS' practice and policy which failed to pay the correct rate of
19 overtime wages due to the CALIFORNIA CLASS for all overtime worked by the
20 CALIFORNIA CLASS and thereby systematically under pays overtime
21 compensation to the CALIFORNIA CLASS. PLAINTIFF sustained economic
22 injury as a result of DEFENDANT's employment practices. PLAINTIFF and the
23 members of the CALIFORNIA CLASS were and are similarly or identically
24 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
25 misconduct engaged in by DEFENDANTS; and

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

1 conflicts between the claims of the representative PLAINTIFF and the members
2 of the CALIFORNIA CLASS that would make class certification inappropriate.
3 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all
4 CALIFORNIA CLASS Members.

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

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

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

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

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

24 i. With respect to the First Cause of Action, the final relief on behalf of the
25 CALIFORNIA CLASS sought does not relate exclusively to restitution
26 because through this claim PLAINTIFF seek declaratory relief holding
27 that the DEFENDANTS' policy and practices constitute unfair
28 competition, along with declaratory relief, injunctive relief, and incidental

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equitable relief as may be necessary to prevent and remedy the conduct declared to constitute unfair competition;

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

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

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

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

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

iii. In the context of wage litigation, because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their

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

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

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

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

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

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

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

26 e. There is a community of interest in obtaining appropriate legal and equitable
27 relief for the acts of unfair competition, statutory violations and other
28 improprieties, and in obtaining adequate compensation for the damages and

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

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

20 **THE CALIFORNIA LABOR SUB-CLASS**

21 30. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, and Seventh
22 causes of Action on behalf of a California sub-class, defined as all members of the
23 CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA LABOR
24 SUB-CLASS") at any time during the period beginning April 6, 2017 and ending on the date as
25 determined by the Court (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to
26 Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of
27 CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).
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1 31. DEFENDANTS, as a matter of company policy, practice and procedure, and in
2 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
3 requirements, and the applicable provisions of California law, intentionally, knowingly, and
4 willfully, engaged in a practice whereby DEFENDANTS failed to pay for all time worked by
5 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, even though
6 DEFENDANTS enjoyed the benefit of this work, required employees to perform this work and
7 permitted or suffered to permit this work. DEFENDANTS have uniformly denied these
8 CALIFORNIA LABOR SUB-CLASS Members minimum and overtime wages at the correct
9 amount to which these employees are entitled in order to unfairly cheat the competition and
10 unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA
11 LABOR SUB-CLASS against DEFENDANTS, the CALIFORNIA LABOR SUB-CLASS
12 PERIOD should be adjusted accordingly.

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

19 33. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable

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

- 23 a. Whether DEFENDANTS unlawfully failed to pay minimum wage and overtime
24 compensation to members of the CALIFORNIA LABOR SUB-CLASS in
25 violation of the California Labor Code and California regulations and the
26 applicable California Wage Order;

- b. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to overtime compensation for overtime worked under the overtime pay requirements of California law;
- c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted thirty (30) minute meal breaks and rest periods;
- d. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- e. Whether DEFENDANTS have engaged in unfair competition by the above-listed conduct;
- f. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- g. Whether DEFENDANTS' conduct was willful.

35. All of the CALIFORNIA LABOR SUB-CLASS Members, including PLAINTIFF, were non-exempt employees who were paid on an hourly basis by DEFENDANTS according to uniform and systematic company procedures as alleged herein above. This business practice was uniformly applied to each and every member of the CALIFORNIA LABOR SUB-CLASS, and therefore, the propriety of this conduct can be adjudicated on a class-wide basis.

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

- a. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- b. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the

1 correct overtime pay for which DEFENDANTS are liable pursuant to Cal. Lab.
2 Code § 1194 & § 1198;

- 3 c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
4 and the other members of the CALIFORNIA CLASS with all legally required
5 off-duty, uninterrupted thirty (30) minute meal breaks and the legally required
6 rest breaks;
- 7 d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
8 members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized
9 statement in writing showing the name and address of PLAINTIFF's employer,
10 and all accurate and applicable overtime rates in effect during the pay period and
11 the corresponding amount of time worked at each overtime rate by the employee;
- 12 e. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
13 employee is discharged or quits from employment, the employer must pay the
14 employee all wages due without abatement, by failing to tender full payment
15 and/or restitution of wages owed or in the manner required by California law to
16 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
17 their employment.

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

- 20 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
21 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
22 is impracticable and the disposition of their claims as a class will benefit the
23 parties and the Court;
- 24 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
25 raised in this Complaint are common to the CALIFORNIA LABOR SUB-
26 CLASS and will apply uniformly to every member of the CALIFORNIA
27 LABOR SUB-CLASS;

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

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

- 22 a. Without class certification and determination of declaratory, injunctive, statutory
23 and other legal questions within the class format, prosecution of separate actions
24 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
25 the risk of:
- 26 i. Inconsistent or varying adjudications with respect to individual members
27 of the CALIFORNIA LABOR SUB-CLASS which would establish
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incompatible standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-CLASS; or

ii. Adjudication with respect to individual members of the CALIFORNIA LABOR SUB-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 LABOR SUB-CLASS have acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS uniformly failed to pay all wages due, including the correct overtime rate, for all overtime worked by the members of the CALIFORNIA LABOR SUB-CLASS as required by law;

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

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

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

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

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

iii. In the context of wage litigation because a substantial number of individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANTS, which may adversely affect an individual’s job with DEFENDANTS or with a 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.

39. 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

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- 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 DEFENDANTS' actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;
 - f. There is a community of interest in ensuring that the combined assets of DEFENDANTS are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
 - g. DEFENDANTS have acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
 - h. The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANTS. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
 - i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims

1 arising out of the conduct of DEFENDANTS as to the members of the
2 CALIFORNIA LABOR SUB-CLASS.

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4 **FIRST CAUSE OF ACTION**

5 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

11 41. DEFENDANTS are a “person” as that term is defined under Cal. Bus. And Prof.
12 Code § 17021.

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

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

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

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

7 45. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and
8 fraudulent in that DEFENDANT’s uniform policy and practice failed to pay PLAINTIFF, and
9 other members of the CALIFORNIA CLASS, minimum wages, wages due for overtime
10 worked, failed to accurately to record all overtime worked, failed to provide the required
11 amount of overtime compensation, and failed to provide legally compliant meal and rest breaks,
12 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in
13 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive
14 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages
15 wrongfully withheld.

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

20 47. By the conduct alleged herein, DEFENDANTS’ practices were also unfair and
21 deceptive in that DEFENDANTS’ uniform policies, practices and procedures failed to provide
22 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

23 48. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
24 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty
25 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
26 for each workday in which a second off-duty meal period was not timely provided for each ten
27 (10) hours of work.
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1 49. PLAINTIFF further demands on behalf of herself and on behalf of each
2 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period
3 was not timely provided as required by law.

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

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

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

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

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

1 irreparable legal and economic harm unless DEFENDANTS are restrained from continuing to
2 engage in these unlawful and unfair business practices.

3 **SECOND CAUSE OF ACTION**

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

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

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

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

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

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

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

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

28 61. DEFENDANTS' uniform pattern of unlawful wage and hour practices
manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a

1 whole, as a result of implementing a uniform policy and practice that denies accurate
2 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
3 CLASS in regards to minimum wage pay.

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

10 63. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
11 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
12 receive the correct minimum wage compensation for their time worked for DEFENDANTS.

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

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

22 66. DEFENDANTS knew or should have known that PLAINTIFFS and the other
23 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
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,
26 practice and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to
27 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
28 correct minimum wages for their time worked.

67. In performing the acts and practices herein alleged in violation of California labor
laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all

1 time worked and provide them with requisite compensation, DEFENDANTS acted and continue
2 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of
3 the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal
4 rights, or the consequences to them, and with the despicable intent of depriving them of their
5 property and legal rights, and otherwise causing them injury in order to increase company
6 profits at the expense of these employees.

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

18 **THIRD CAUSE OF ACTION**

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

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

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

26 70. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
27 bring a claim for DEFENDANTS's willful and intentional violations of the California Labor
28 Code and the Industrial Welfare Commission requirements for DEFENDANTS' failure to
properly compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime

1 worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40)
2 hours in any workweek.

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

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

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

13 74. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
14 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANTS to work for
15 DEFENDANTS and were not paid for all the time they worked, including overtime work.

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

23 76. In committing these violations of the California Labor Code, DEFENDANTS
24 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
25 violation of the California Labor Code, the Industrial Welfare Commission requirements and
26 other applicable laws and regulations.

27 77. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,
28 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
receive full compensation for all overtime worked.

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

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

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

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

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

1 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
2 applicable overtime rate.

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

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

22 **FOURTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

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

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

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

1 86. During the CALIFORNIA CLASS PERIOD, DEFENDANTS failed to provide
2 all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA
3 LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code.
4 The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
5 MEMBERS did not prevent these employees from being relieved of all of their duties for the
6 legally required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF
7 and other CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty
8 by 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 87. DEFENDANTS further violated California Labor Code §§ 226.7 and the
15 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR
16 SUB-CLASS Members who were not provided a meal period, in accordance with the applicable
17 Wage Order, one additional hour of compensation at each employee’s regular rate of pay for
18 each workday that a meal period was not provided.

19 88. 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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FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE REQUIRED REST PERIODS

(Cal. Lab. Code §§ 226.7 & 512)

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

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

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

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

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

1 95. When PLAINTIFF and other CALIFORNIA CLASS Members worked off the
2 clock, and/or missed meal and rest breaks, DEFENDANTS also failed to provide PLAINTIFF
3 and the other members of the CALIFORNIA CLASS with complete and accurate wage
4 statements which failed to show, among other things, the correct number of hours worked, work
5 performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek,
6 and the correct penalty payments or missed meal and rest periods. Cal. Lab. Code § 226
7 provides that every employer shall furnish each of his or her employees with an accurate
8 itemized wage statement in writing showing, among other things, gross wages earned and all
9 applicable hourly rates in effect during the pay period and the corresponding amount of time
10 worked at each hourly rate. Aside from the violations listed above in this paragraph,
11 DEFENDANTS failed to issue to PLAINTIFF an itemized wage statement that lists all the
12 requirements under California Labor Code 226 *et seq.* As a result, from time to time
13 DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA CLASS
14 with wage statements which violated Cal. Lab. Code § 226.

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

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

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

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

16 99. Cal. Lab. Code § 201 provides, in relevant part, that “If an employer discharges
17 an employee, the wages earned and unpaid at the time of discharge are due and payable
18 immediately.”

19 100. Cal. Lab. Code § 202 provides, in relevant part, that:

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

101. There was no definite term in PLAINTIFF’S or any CALIFORNIA LABOR
SUB-CLASS Members’ employment contract.

102. Cal. Lab. Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in
accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee
who is discharged or who quits, the wages of the employee shall continue as a

1 penalty from the due date thereof at the same rate until paid or until an action
2 therefor is commenced; but the wages shall not continue for more than 30 days.

3 103. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-
4 CLASS Members terminated and DEFENDANTS have not tendered payment of overtime
5 wages, to these employees who actually worked overtime, as required by law.

6 104. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the
7 members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFF
8 demands up to thirty days of pay as penalty for not paying all wages due at time of termination
9 for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS
10 PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory
11 costs as allowed by law.

12 **SIXTH CAUSE OF ACTION**

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

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

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

16 105. PLAINTIFF realleges and incorporates by this reference, as though fully set forth
17 herein, the prior paragraphs of this Complaint.

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

28 107. PLAINTIFF, and such persons that may be added from time to time who satisfy
the requirements and exhaust the administrative procedures under the Private Attorney General

1 Act, bring this Representative Action on behalf of the State of California with respect to
2 themselves and all individuals who are or previously were employed by DEFENDANT and
3 classified as non-exempt employees in California during the time period of April 6, 2019 until
4 the present (the "AGGRIEVED EMPLOYEES").

5 108. On _____, PLAINTIFF gave written notice by certified mail to the
6 Labor and Workforce Development Agency (the "Agency") and the employer of the
7 specific provisions of this code alleged to have been violated as required by Labor Code §
8 2699.3. See Exhibit #1, attached hereto and incorporated by this reference herein. The
9 statutory waiting period for PLAINTIFF to add these allegations to the Complaint has expired.
10 As a result, pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil
11 action under PAGA pursuant to Section 2699 as the proxy of the State of California with respect
12 to all AGGRIEVED EMPLOYEES as herein defined.

13 109. The policies, acts and practices heretofore described were and are an unlawful
14 business act or practice because Defendant (a) failed to properly record and pay PLAINTIFF
15 and the other AGGRIEVED EMPLOYEES for all of the hours they worked, including
16 minimum wage and overtime wages in violation of the Wage Order, (b) failed to provide meal
17 and rest breaks, (c) failed to provide accurate itemized wage statements, and (d) failed to timely
18 pay wages, all in violation of the applicable Labor Code sections listed in Labor Code §2699.5,
19 including but not limited to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558,
20 1194, 1197, 1197.1, 1198, 1199, and the applicable Industrial Wage Order(s), and thereby gives
21 rise to statutory penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of civil
22 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
23 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and
24 the other AGGRIEVED EMPLOYEES.

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PRAYER FOR RELIEF

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

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4 1. On behalf of the CALIFORNIA CLASS:

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

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

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

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

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

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

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 §2802.

DATED: July ___ 2020

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay
Attorney for Plaintiff

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DEMAND FOR A JURY TRIAL

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

DATED: July ____, 2020

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay
Attorney for Plaintiff

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EXHIBIT 1