

**SUMMONS  
(CITACION JUDICIAL)**

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

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

EAH INC., a California Corporation; and DOES 1-50, Inclusive,

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Cruz  
4/5/2021 4:39 PM  
Alex Calvo, Clerk  
By: Helena Hanson, Deputy



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

CRISTAL RODRIGUEZ, on behalf of herself and on behalf of all persons similarly situated,

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, 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](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

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

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

The name and address of the court is:  
(El nombre y dirección de la corte es):

Santa Cruz Superior Court  
701 Ocean Street  
Santa Cruz, CA 95060

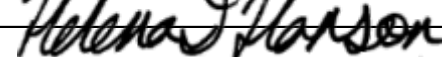
CASE NUMBER: 21CV00884  
(Número del Caso)

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

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Jean-Claude Lapuyade, Esq. SBN:248676 Tel: (619) 599-8292 Fax: (619) 599-8291  
JCL Law Firm, APC - 3990 Old Town Avenue, Suite C204, San Diego, CA 92110

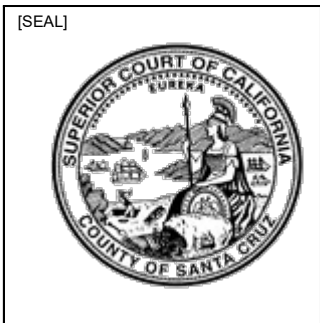
**ALEX CALVO**

DATE:  
(Fecha) 4/6/2021

Clerk, by , Deputy  
(Secretario) (Adjunto)

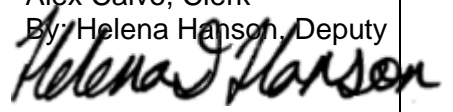
(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

Helena Hanson



**NOTICE TO THE PERSON SERVED:** You are served

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



1 **ZAKAY LAW GROUP, APLC**  
Shani O. Zakay (State Bar #277924)  
2 Jackland K. Hom (State Bar #327243)  
3 3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
Telephone: (619)255-9047  
4 Facsimile: (858) 404-9203  
[shani@zakaylaw.com](mailto:shani@zakaylaw.com)  
5 [jackland@zakaylaw.com](mailto:jackland@zakaylaw.com)

6 **JCL LAW FIRM, APC**  
Jean-Claude Lapuyade (State Bar #248676)  
7 3990 Old Town Avenue, Suite C204  
San Diego, CA 92110  
8 Telephone: (619)599-8292  
9 Facsimile: (619) 599-8291  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)

10 Attorneys for Plaintiffs

11  
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **IN AND FOR THE COUNTY OF SANTA CRUZ**

14 CRISTAL RODRIGUEZ, on behalf of  
herself and on behalf of all persons similarly  
15 situated,

16 Plaintiffs,

17 v.

18 EAH INC., a California Corporation; and  
DOES 1-50, Inclusive,

19 DEFENDANTS.  
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Case No: 21CV00884

**CLASS ACTION COMPLAINT FOR:**

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE §§226 and 226.2;
- 7) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;

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8) FAILURE TO PROVIDE WAGES WHEN  
DUE IN VIOLATION OF CAL. LAB. CODE  
§§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant EAH INC. (“DEFENDANT” and/or “DEFENDANTS”) is Corporation and at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANTS operate a housing and management business that provides affordable rental housing to residents in California, including the Santa Cruz, California location where PLAINTIFF worked.

3. PLAINTIFF was employed by DEFENDANTS in California as a non-exempt employee entitled to minimum wages, overtime pay and meal and rest periods from April 15, 2019 to August of 2020.

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

5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANTS’ uniform policy and practice which failed to lawfully compensate these employees for all their time worked. DEFENDANTS’ uniform policy and practice alleged herein is an unlawful, unfair and deceptive business practice

1 whereby DEFENDANTS retained and continues to retain wages due to PLAINTIFF and the other  
2 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the  
3 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANTS in the  
4 future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS  
5 who have been economically injured by DEFENDANTS' past and current unlawful conduct, and  
6 all other appropriate legal and equitable relief.

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

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

24 **THE CONDUCT**

25 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANTS  
26 were required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time  
27 worked, meaning the time during which an employee is subject to the control of an employer,  
28 including all the time the employee is suffered or permitted to work. From time to time,

1 DEFENDANTS required PLAINTIFF and CALIFORNIA CLASS Members to work without  
2 paying them for all the time they were under DEFENDANTS’ control. Specifically, PLAINTIFF  
3 performed work before and after the beginning of her shift, spending time under DEFENDANTS’  
4 control for which she was not compensated. Further, DEFENDANTS from time to time required  
5 PLAINTIFF and other CALIFORNIA CLASS Members to remain on-call for the entire duration  
6 between her scheduled shifts in order to answer to work-related issues and emergencies. As a  
7 result, the PLAINTIFF and other CALIFORNIA CLASS Members forfeited minimum wage and  
8 overtime compensation by regularly working without their time being accurately recorded and  
9 without compensation at the applicable minimum wage and overtime rates. DEFENDANTS’  
10 uniform policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members  
11 for all time worked is evidenced by DEFENDANTS’ business records.

12 9. State law provides that employees must be paid overtime at one-and-one-half times  
13 their “regular rate of pay.” PLAINTIFF and other CALIFORNIA CLASS Members were  
14 compensated at an hourly rate plus incentive pay that was tied to specific elements of an  
15 employee’s performance.

16 10. The second component of PLAINTIFF’s and other CALIFORNIA CLASS  
17 Members’ compensation was DEFENDANT’s non-discretionary incentive program that paid  
18 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
19 performance for DEFENDANTS. The non-discretionary incentive program provided all  
20 employees paid on an hourly basis with incentive compensation when the employees met the  
21 various performance goals set by DEFENDANTS. However, when calculating the regular rate  
22 of pay in order to pay overtime to PLAINTIFF and other CALIFORNIA CLASS Members,  
23 DEFENDANTS failed to include the incentive compensation as part of the employees’ “regular  
24 rate of pay” for purposes of calculating overtime pay. Specifically, DEFENDANTS paid  
25 PLAINTIFF and other CALIFORNIA CLASS Members a lodging and/or housing stipend.  
26 However, DEFENDANTS failed to correctly calculate the lodging and/or housing stipend into  
27 the regular rate for purposes of calculating overtime pay. Management and supervisors described  
28 the incentive program to potential and new employees as part of the compensation package.

1 However, DEFENDANTS failed to include incentive compensation into the “regular rate of pay”  
2 for purposes of calculating overtime pay. As a matter of law, the incentive compensation received  
3 by PLAINTIFF and other CALIFORNIA CLASS Members must be included in the “regular rate  
4 of pay.” The failure to do so has resulted in a systematic underpayment of overtime compensation  
5 to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANTS.

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

20 12. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and  
21 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours  
22 without being provided ten (10) minute rest periods. Further, these employees were denied their  
23 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)  
24 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between  
25 six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for  
26 some shifts worked of ten (10) hours or more. When they did have an opportunity to take their  
27 rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were often interrupted and  
28 required by DEFENDANTS to work during their rest breaks. When they did have an opportunity

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

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

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

1 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS  
2 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

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

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

19 17. Aside from the violations listed herein, DEFENDANTS failed to issue to  
20 PLAINTIFF an itemized wage statement that lists all the requirements under California Labor  
21 Code 226 *et seq.* From time to time DEFENDANTS violated California Labor Code Section  
22 226(a)(2) by failing to provide an accurate amount of total hours worked by PLAINTIFF and  
23 other members of the CALIFORNIA CLASS. Specifically, DEFENDANTS included items,  
24 including but not limited to "California Meal" to the total hours worked. However, the foregoing  
25 item is not considered total hours worked for purposes of California Labor Code Section  
26 226(a)(2). Further, DEFENDANTS from time to time failed to issue an itemized wage statement  
27 to PLAINTIFF and other members of the CALIFORNIA CLASS that included the total hours  
28 worked at the applicable hourly rate. Finally, DEFENDANTS from time to time failed to issue an



1 itemized wage statement that included the name of the legal entity that is the employer of  
2 PLAINTIFF and other members of the CALIFORNIA CLASS. As a result, from time to time  
3 DEFENDANTS provided PLAINTIFF and the other members of the CALIFORNIA CLASS with  
4 wage statements which violated Cal. Lab. Code § 226.

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

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

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1           20. By reason of this uniform conduct applicable to PLAINTIFF and all  
2 CALIFORNIA CLASS Members, DEFENDANTS committed acts of unfair competition in  
3 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the  
4 “UCL”), by engaging in a company-wide policy and procedure which failed to accurately  
5 calculate and record the correct overtime rate for the overtime worked by PLAINTIFF and other  
6 CALIFORNIA CLASS Members. The proper calculation of these employees’ overtime hour  
7 rates is the DEFENDANTS’ burden. As a result of DEFENDANTS’ intentional disregard of the  
8 obligation to meet this burden, DEFENDANTS failed to properly calculate and/or pay all required  
9 overtime compensation for work performed by the members of the CALIFORNIA CLASS and  
10 violated the California Labor Code and regulations promulgated thereunder as herein alleged.

11           21. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
12 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.  
13 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
14 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
15 provide PLAINTIFF with a second off-duty meal period each workday in which she was required  
16 by DEFENDANT to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF  
17 with a rest break, they required PLAINTIFF to remain on the premises, on-duty and on-call, for  
18 the rest break. DEFENDANTS’ policy caused PLAINTIFF to remain on-call and on-duty during  
19 what was supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest  
20 breaks without additional compensation and in accordance with DEFENDANTS’ strict corporate  
21 policy and practice. Further, DEFENDANTS from time to time required PLAINTIFF to remain  
22 on-call for the entire duration between her scheduled shifts in order to answer to work-related  
23 issues and emergencies. However, DEFENDANTS failed to compensate PLAINTIFF for all her  
24 time spent under DEFENDANTS’ control. Moreover, DEFENDANTS also provided  
25 PLAINTIFF with a paystub that failed to accurately display PLAINTIFF’s correct time worked  
26 and wages, as well as payments for missed meal and rest periods for certain pay periods in  
27 violation of Cal. Lab. Code § 226(a). To date, DEFENDANTS have not fully paid PLAINTIFF  
28 the overtime compensation still owed to her or any penalty wages owed to her under Cal. Lab.

1 Code § 203. The amount in controversy for PLAINTIFF individually do not exceed the sum or  
2 value of \$75,000.

3 **JURISDICTION AND VENUE**

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

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

13 **THE CALIFORNIA CLASS**

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

22 25. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
23 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
24 accordingly.

25 26. DEFENDANTS, as a matter of company policy, practice and procedure, and in  
26 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
27 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
28 willfully, engaged in a practice whereby DEFENDANTS systematically failed to record all meal

1 and rest breaks missed by PLAINTIFF and the other members of the CALIFORNIA CLASS,  
2 even though DEFENDANTS enjoyed the benefit of this work, required employees to perform  
3 this work and permitted or suffered to permit this work.

4 27. DEFENDANTS have the legal burden to establish that each and every  
5 CALIFORNIA CLASS Member was paid accurately and was provided all meal and rest breaks  
6 missed as required by California laws. DEFENDANTS, however, as a matter of uniform and  
7 systematic policy and procedure failed to have in place during the CALIFORNIA CLASS  
8 PERIOD and still fails to have in place a policy or practice to ensure that each and every  
9 CALIFORNIA CLASS Member is paid as required by law, so as to satisfy its burden. This  
10 common business practice applicable to each and every CALIFORNIA CLASS Member can be  
11 adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business &  
12 Professions Code §§ 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not  
13 elements of this claim.

14 28. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA  
15 CLASS Members is impracticable.

16 29. DEFENDANTS uniformly violated the rights of the CALIFORNIA CLASS under  
17 California law by:

- 18 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§  
19 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place company  
20 policies, practices and procedures that failed to pay all wages due the  
21 CALIFORNIA CLASS for all time worked;
- 22 b. Committing an act of unfair competition in violation of the California Unfair  
23 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to provide  
24 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS  
25 members;
- 26 c. Committing an act of unfair competition in violation of the California Unfair  
27 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal. Lab.  
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1 Code § 2802 by failing to reimburse PLAINTIFFS and the CALIFORNIA CLASS  
2 members with necessary expenses incurred in the discharge of their job duties; and  
3 d. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code  
4 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place  
5 company policies, practices and procedures that uniformly and systematically  
6 failed to record and pay PLAINTIFF and other members of the CALIFORNIA  
7 CLASS for all time worked, including minimum wages owed and overtime wages  
8 owed for work performed by these employees.

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

- 11 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the  
12 joinder of all such persons is impracticable and the disposition of their claims as a  
13 class will benefit the parties and the Court;
- 14 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are  
15 raised in this Complaint are common to the CALIFORNIA CLASS will apply  
16 uniformly to every member of the CALIFORNIA CLASS;
- 17 c. The claims of the representative PLAINTIFF are typical of the claims of each  
18 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members of  
19 the CALIFORNIA CLASS, were classified as a non- exempt employee paid on an  
20 hourly basis who was subjected to the DEFENDANTS’ deceptive practice and  
21 policy which failed to provide the legally required meal and rest periods to the  
22 CALIFORNIA CLASS and thereby systematically underpaid compensation to  
23 PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic injury  
24 as a result of DEFENDANTS’ employment practices. PLAINTIFF, like all the  
25 other members of the CALIFORNIA CLASS, were subjected to the uniform  
26 employment practices of DEFENDANTS and was a non-exempt employee paid  
27 on an hourly basis and paid additional non-discretionary incentive wages who was  
28 subjected to the DEFENDANTS’ practice and policy which failed to pay the

1 correct rate of overtime wages due to the CALIFORNIA CLASS for all overtime  
2 worked by the CALIFORNIA CLASS and thereby systematically under pays  
3 overtime compensation to the CALIFORNIA CLASS. PLAINTIFF and the  
4 members of the CALIFORNIA CLASS were and are similarly or identically  
5 harmed by the same unlawful, deceptive, unfair and pervasive pattern of  
6 misconduct engaged in by DEFENDANTS; and

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

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

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

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

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

27 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on  
28 grounds generally applicable to the CALIFORNIA CLASS, making appropriate

1 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that  
2 DEFENDANT uniformly failed to pay all wages due for all time worked by the  
3 members of the CALIFORNIA CLASS as required by law;

4 i. With respect to the First Cause of Action, the final relief on behalf of the  
5 CALIFORNIA CLASS sought does not relate exclusively to restitution  
6 because through this claim PLAINTIFF seek declaratory relief holding that  
7 the DEFENDANTS' policy and practices constitute unfair competition,  
8 along with declaratory relief, injunctive relief, and incidental equitable  
9 relief as may be necessary to prevent and remedy the conduct declared to  
10 constitute unfair competition;

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

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

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

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

32. The 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 CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANTS’ employment practices are uniform and systematically applied with respect to the CALIFORNIA CLASS.

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 CLASS because in the context of employment litigation a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their rights individually out of fear of retaliation or adverse impact on their employment;



- 1 c. The members of the CALIFORNIA CLASS are so numerous that it is impractical
- 2 to bring all members of the CALIFORNIA CLASS before the Court;
- 3 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to
- 4 obtain effective and economic legal redress unless the action is maintained as a
- 5 Class Action;
- 6 e. There is a community of interest in obtaining appropriate legal and equitable relief
- 7 for the acts of unfair competition, statutory violations and other improprieties, and
- 8 in obtaining adequate compensation for the damages and injuries which
- 9 DEFENDANTS' actions have inflicted upon the CALIFORNIA CLASS;
- 10 f. There is a community of interest in ensuring that the combined assets of
- 11 DEFENDANTS are sufficient to adequately compensate the members of the
- 12 CALIFORNIA CLASS for the injuries sustained;
- 13 g. DEFENDANTS have acted or refused to act on grounds generally applicable to
- 14 the CALIFORNIA CLASS, thereby making final class-wide relief appropriate
- 15 with respect to the CALIFORNIA CLASS as a whole;
- 16 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
- 17 business records of DEFENDANTS; and
- 18 i. Class treatment provides manageable judicial treatment calculated to bring an
- 19 efficient and rapid conclusion to all litigation of all wage and hour related claims
- 20 arising out of the conduct of DEFENDANTS as to the members of the
- 21 CALIFORNIA CLASS.

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

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**THE CALIFORNIA LABOR SUB-CLASS**

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2           34.    PLAINTIFF further bring the Second, Third, Fourth, Fifth, Sixth, Seventh, and  
3 Eighth causes of Action on behalf of a California sub-class, defined as all members of the  
4 CALIFORNIA CLASS classified as non-exempt employees (the “CALIFORNIA LABOR SUB-  
5 CLASS”) at any time during the period three (3) years prior to the filing of the original complaint  
6 and ending on the date as determined by the Court (the “CALIFORNIA LABOR SUB-CLASS  
7 PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the  
8 aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars  
9 (\$5,000,000.00).

10           35.    DEFENDANTS, as a matter of company policy, practice and procedure, and in  
11 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order  
12 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
13 willfully, engaged in a practice whereby DEFENDANTS failed to correctly pay for the time  
14 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, and  
15 other wages and premiums owed to these employees, even though DEFENDANTS enjoyed the  
16 benefit of this work, required employees to perform this work and permitted or suffered to permit  
17 this overtime work. DEFENDANTS have uniformly denied these CALIFORNIA LABOR SUB-  
18 CLASS Members wages to which these employees are entitled in order to unfairly cheat the  
19 competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the  
20 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-  
21 CLASS PERIOD should be adjusted accordingly.

22           36.    DEFENDANTS maintain records from which the Court can ascertain and identify  
23 by name and job title, each of DEFENDANTS’ employees who have been systematically,  
24 intentionally and uniformly subjected to DEFENDANT’S company policy, practices and  
25 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include any  
26 additional job titles of similarly situated employees when they have been identified.

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

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

- 3           a. Whether DEFENDANTS unlawfully failed to correctly calculate and pay  
4           compensation due to members of the CALIFORNIA LABOR SUB- CLASS for  
5           missed meal and rest breaks in violation of the California Labor Code and  
6           California regulations and the applicable California Wage Order;
- 7           b. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
8           the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted  
9           thirty (30) minute meal breaks and rest periods;
- 10          c. Whether DEFENDANTS failed to provide PLAINTIFF and the other members of  
11          the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage  
12          statements;
- 13          d. Whether DEFENDANTS unlawfully failed to pay overtime compensation to  
14          members of the CALIFORNIA LABOR SUB-CLASS in violation of the  
15          California Labor Code and California regulations and the applicable California  
16          Wage Order;
- 17          e. Whether the members of the CALIFORNIA LABOR SUB-CLASS are entitled to  
18          compensation for time worked, including overtime worked, under the overtime  
19          pay requirements of California law;
- 20          f. Whether DEFENDANTS have engaged in unfair competition by the above-listed  
21          conduct;
- 22          g. The proper measure of damages and penalties owed to the members of the  
23          CALIFORNIA LABOR SUB-CLASS; and
- 24          h. Whether DEFENDANTS' conduct was willful.

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

- 27          a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFF  
28          and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for

1 overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code  
2 § 1194;

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

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

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

14 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the  
15 CALIFORNIA CLASS members with necessary expenses incurred in the  
16 discharge of their job duties;

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

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

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

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- b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will apply uniformly to every member of the CALIFORNIA LABOR SUB-CLASS;
- c. The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt employee paid on an hourly basis and paid additional non-discretionary incentive wages who was subjected to the DEFENDANTS’ practice and policy which failed to pay the correct rate of overtime wages and total amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANTS’ employment practices. PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, unfair and pervasive pattern of misconduct engaged in by DEFENDANTS; and
- d. The representative PLAINTIFF will fairly and adequately represent and protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel who are competent and experienced in Class Action litigation. There are no material conflicts between the claims of the representative PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS that would make class certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

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

- a. Without class certification and determination of declaratory, injunctive, statutory and other legal questions within the class format, prosecution of separate actions

1 by individual members of the CALIFORNIA LABOR SUB-CLASS will create  
2 the risk of:

- 3 i. Inconsistent or varying adjudications with respect to individual members  
4 of the CALIFORNIA LABOR SUB-CLASS which would establish  
5 incompatible standards of conduct for the parties opposing the  
6 CALIFORNIA LABOR SUB-CLASS; or
- 7 ii. Adjudication with respect to individual members of the CALIFORNIA  
8 LABOR SUB-CLASS which would as a practical matter be dispositive of  
9 interests of the other members not party to the adjudication or substantially  
10 impair or impede their ability to protect their interests.
- 11 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or  
12 refused to act on grounds generally applicable to the CALIFORNIA LABOR  
13 SUB-CLASS, making appropriate class-wide relief with respect to the  
14 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT uniformly  
15 failed to pay all wages due for all time worked by the members of the  
16 CALIFORNIA LABOR SUB-CLASS as required by law;
- 17 c. Common questions of law and fact predominate as to the members of the  
18 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations  
19 of California Law as listed above, and predominate over any question affecting  
20 only individual CALIFORNIA LABOR SUB-CLASS Members, and a Class  
21 Action is superior to other available methods for the fair and efficient adjudication  
22 of the controversy, including consideration of:
- 23 i. The interests of the members of the CALIFORNIA LABOR SUB-CLASS  
24 in individually controlling the prosecution or defense of separate actions in  
25 that the substantial expense of individual actions will be avoided to recover  
26 the relatively small amount of economic losses sustained by the individual  
27 CALIFORNIA LABOR SUB-CLASS Members when compared to the  
28 substantial expense and burden of individual prosecution of this litigation;

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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 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.

42. 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;

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



1 i. Class treatment provides manageable judicial treatment calculated to bring an  
2 efficient and rapid conclusion to all litigation of all wage and hour related claims  
3 arising out of the conduct of DEFENDANTS as to the members of the  
4 CALIFORNIA LABOR SUB-CLASS.

5 **FIRST CAUSE OF ACTION**

6 **UNLAWFUL BUSINESS PRACTICES**

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

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

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

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

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

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

22 46. By the conduct alleged herein, DEFENDANTS have engaged and continues to  
23 engage in a business practice which violates California law, including but not limited to, the  
24 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
25 including Sections 201, 202, 203, 204, 206.5, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1,  
26 1198, and 2802 for which this Court should issue declaratory and other equitable relief pursuant  
27 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held  
28 to constitute unfair competition, including restitution of wages wrongfully withheld.

1           47. 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 17203  
5 of the California Business & Professions Code, including restitution of wages wrongfully  
6 withheld.

7           48. By the conduct alleged herein, DEFENDANTS’ practices were deceptive and  
8 fraudulent in that DEFENDANTS’ uniform policy and practice failed to pay PLAINTIFF, and  
9 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time  
10 worked, and failed to reimburse for expenses due to a systematic practice that cannot be justified,  
11 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in  
12 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive  
13 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages  
14 wrongfully withheld.

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

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

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

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1           52.     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 was  
3 not timely provided as required by law.

4           53.     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, and has deprived them of  
7 valuable rights and benefits guaranteed by law and contract, all to the detriment of these  
8 employees and to the benefit of DEFENDANTS so as to allow DEFENDANT to unfairly compete  
9 against competitors who comply with the law.

10          54.     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 Labor  
12 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and  
13 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business  
14 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

15          55.     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 unfair  
19 business practices, including earned but unpaid wages.

20          56.     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          57.     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 of  
26 DEFENDANTS. Further, the practices herein alleged presently continue to occur unabated. As a  
27 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other  
28 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal

1 and economic harm unless DEFENDANTS are restrained from continuing to engage in these  
2 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 58. 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 of  
10 this Complaint.

11 59. 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 Code  
13 and the Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately  
14 calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

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

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

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

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

27 64. DEFENDANTS' uniform pattern of unlawful wage and hour practices manifested,  
28 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result  
of implementing a uniform policy and practice that denies accurate compensation to PLAINTIFF

1 and the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage  
2 pay.

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

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

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

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

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

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

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

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

16 **THIRD CAUSE OF ACTION**

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

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

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

24 73. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
25 bring a claim for DEFENDANTS' willful and intentional violations of the California Labor Code  
26 and the Industrial Welfare Commission requirements for DEFENDANTS' failure to accurately  
27 calculate the applicable rates for all overtime worked by PLAINTIFF and other members of the  
28 CALIFORNIA LABOR SUB-CLASS and DEFENDANTS' failure to properly compensate the  
members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including, work  
performed in excess of eight (8) hours in a workday and/or forty (40) hours in any workweek.

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

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

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

11           77. DEFENDANTS maintained a uniform wage practice of paying PLAINTIFF and  
12 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct  
13 amount of overtime worked and correct applicable overtime rate for the amount of overtime they  
14 worked. As set forth herein, DEFENDANTS' uniform policy and practice was to unlawfully and  
15 intentionally deny timely payment of wages due for the overtime worked by PLAINTIFF and the  
16 other members of the CALIFORNIA LABOR SUB-CLASS, and DEFENDANTS in fact failed  
17 to pay these employees the correct applicable overtime wages for all overtime worked.

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

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

1           80. As a direct result of DEFENDANTS' unlawful wage practices as alleged herein,  
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive  
3 full compensation for all overtime worked.

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

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

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

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

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



1 and procedure, and DEFENDANTS perpetrated this systematic scheme by refusing to pay  
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the applicable  
3 overtime rate.

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

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

#### **FOURTH CAUSE OF ACTION**

##### **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

**(Cal. Lab. Code §§ 226.7 & 512)**

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

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

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

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

19 91. 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.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

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

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

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

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

14 94. 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 rest period, in accordance with the applicable  
17 Wage Order, one additional hour of compensation at each employee's regular rate of pay for each  
18 workday that rest period was not provided.

19 95. 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.

22 **SIXTH CAUSE OF ACTION**

23 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**

24 **(Cal. Lab. Code §§ 226 and 226.2)**

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

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

1           97. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
2 “accurate itemized” statement in writing showing:

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

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

- 23           a. The total hours of compensable rest and recovery periods, the rate of  
24           compensation, and the gross wages paid for those periods during the  
25           pay period; and
- 26           b. The total hours of other nonproductive time, the rate of  
27           compensation, and the gross wages paid for that time during the pay  
28           period.

1           99.     When DEFENDANTS did not accurately record PLAINTIFF’S and other  
2 CALIFORNIA CLASS Members’ wages, including overtime wages, owed, DEFENDANTS also  
3 failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete  
4 and accurate wage statements which failed to show, among other things, the correct overtime rate,  
5 the correct number of hours worked, missed meal and rest periods, owed to PLAINTIFF and other  
6 CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall  
7 furnish each of his or her employees with an accurate itemized wage statement in writing showing,  
8 among other things, gross wages earned and all applicable hourly rates in effect during the pay  
9 period and the corresponding amount of time worked at each hourly rate. Aside from the  
10 violations listed above in this paragraph, DEFENDANTS failed to issue to PLAINTIFF an  
11 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*  
12 From time to time DEFENDANTS violated California Labor Code Section 226(a)(2) by failing  
13 to provide an accurate amount of total hours worked by PLAINTIFF and other members of the  
14 CALIFORNIA CLASS. Specifically, DEFENDANTS included items, including but not limited  
15 to “California Meal” to the total hours worked. However, the foregoing item is not considered  
16 total hours worked for purposes of California Labor Code Section 226(a)(2). Further,  
17 DEFENDANTS from time to time failed to issue an itemized wage statement to PLAINTIFF and  
18 other members of the CALIFORNIA CLASS that included the total hours worked at the  
19 applicable hourly rate. Finally, DEFENDANTS from time to time failed to issue an itemized wage  
20 statement that included the name of the legal entity that is the employer of PLAINTIFF and other  
21 members of the CALIFORNIA CLASS. As a result, from time to time DEFENDANTS provided  
22 PLAINTIFF and the other members of the CALIFORNIA CLASS with wage statements which  
23 violated Cal. Lab. Code § 226.

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

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

7 **SEVENTH CAUSE OF ACTION**

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

9 **(Cal. Lab. Code §§ 2802)**

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

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

15 102. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

21 103. At all relevant times herein, DEFENDANTS violated Cal. Lab. Code § 2802, by  
22 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
23 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
24 benefit. DEFENDANTS failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-  
25 CLASS members for expenses which included, but were not limited to, costs related to using their  
26 personal cellular phones all on behalf of and for the benefit of DEFENDANTS. . Specifically,  
27 PLAINTIFFS and other CALIFORNIA CLASS Members were required by DEFENDANTS to  
28 use their personal cell phones for work related issues, including but not limited to, work related  
communications and using the phone application "Kronos" to clock in and out for work.  
DEFENDANTS' uniform policy, practice and procedure was to not reimburse PLAINTIFF and

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

9 104. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred  
10 by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job  
11 duties for DEFENDANTS, or their obedience to the directions of DEFENDANTS, with interest  
12 at the statutory rate and costs under Cal. Lab. Code § 2802.

13 **EIGHTH CAUSE OF ACTION**

14 **FAILURE TO PAY WAGES WHEN DUE**

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

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

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

21 106. Cal. Lab. Code § 200 provides that:

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

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

1 108. Cal. Lab. Code § 202 provides, in relevant part, that:

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

11 109. There was no definite term in PLAINTIFF’s or any CALIFORNIA LABOR SUB-  
12 CLASS Members’ employment contract.

13 110. Cal. Lab. Code § 203 provides:

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

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

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

28 **PRAYER FOR RELIEF**

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

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;



- 1           b. An order temporarily, preliminarily and permanently enjoining and restraining  
2           DEFENDANTS from engaging in similar unlawful conduct as set forth herein;  
3           c. An order requiring DEFENDANTS to pay all wages and all sums unlawfully  
4           withheld from compensation due to PLAINTIFF and the other members of the  
5           CALIFORNIA CLASS; and  
6           d. Restitutionary disgorgement of DEFENDANT’S’ ill-gotten gains into a fluid fund  
7           for restitution of the sums incidental to DEFENDANTS’ violations due to  
8           PLAINTIFF and to the other members of the CALIFORNIA CLASS.

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

- 10           a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
11           Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class  
12           action pursuant to Cal. Code of Civ. Proc. § 382;  
13           b. Compensatory damages, according to proof at trial, including compensatory  
14           damages for minimum wages, overtime wages, unreimbursed expenses, and other  
15           compensation due to PLAINTIFF and the other members of the CALIFORNIA  
16           LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-  
17           CLASS PERIOD plus interest thereon at the statutory rate;  
18           c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and  
19           the applicable IWC Wage Order;  
20           d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
21           which a violation occurs and one hundred dollars (\$100) per member of the  
22           CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay  
23           period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and  
24           an award of costs for violation of Cal. Lab. Code § 226; and,  
25           e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-  
26           CLASS as a penalty from the due date thereof at the same rate until paid or until an  
27           action therefore is commenced, in accordance with Cal. Lab. Code § 203.


28           3. On all claims:

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- 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, §1197 and/or §2802.

DATED: April 5, 2021

JCL LAW FIRM, APC


By:   
\_\_\_\_\_  
Jean-Claude Lapuyade  
Attorney for Plaintiffs

**DEMAND FOR A JURY TRIAL**

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

DATED: April 5, 2021

JCL LAW FIRM, APC

By:   
\_\_\_\_\_  
Jean-Claude Lapuyade  
Attorney for Plaintiffs