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Deputy Clerk

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**CGC-24-611638**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN FRANCISCO**

KEISHA GARRETT, an individual, on behalf  
of herself, and on behalf of all persons similarly  
situated,

Plaintiffs,

v.

FOREST & EINSTEIN STAFFING, INC., a  
California corporation; and DOES 1-50,  
Inclusive,

Defendants.

Case No:

**CLASS ACTION COMPLAINT FOR:**

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

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- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
  - 7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
  - 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203.

**DEMAND FOR A JURY TRIAL**

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

**PRELIMINARY ALLEGATIONS**

1. Defendant FOREST & EINSTEIN STAFFING, INC., (“DEFENDANT”) is a California corporation that at all relevant times mentioned herein conducted and continues to conduct substantial and regular business throughout California.

2. DEFENDANT operates a staffing company in the state of California, including the county of San Francisco, where PLAINTIFF worked.

3. PLAINTIFF was employed by DEFENDANT in California from October of 2020 to August of 2023 as a non-exempt employee, paid an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked.

4. PLAINTIFF brings this Class Action on behalf of herself and a California class, defined as all persons who are or previously were employed by DEFENDANT 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 this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”). The amount in controversy for the aggregate claim of the CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

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

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

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



**THE CONDUCT**

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2           14. In violation of the applicable sections of the California Labor Code and the  
3 requirements of the Industrial Welfare Commission (“IWC”) Wage Order, DEFENDANT as a  
4 matter of company policy, practice, and procedure, intentionally, knowingly, and systematically  
5 failed to provide legally compliant meal and rest periods, failed to accurately compensate  
6 PLAINTIFF and the other members of the CALIFORNIA CLASS for missed meal and rest  
7 periods, failed to pay PLAINTIFF and the other members of the CALIFORNIA CLASS for all  
8 time worked, failed compensate PLAINTIFF and other members of the CALIFORNIA CLASS  
9 for off-the-clock work, failed to pay PLAINTIFF and the other members of the CALIFORNIA  
10 CLASS overtime at the correct regular rate of pay, failed to compensate PLAINTIFF and other  
11 members of the CALIFORNIA CLASS meal rest premiums at the regular rate, failed to reimburse  
12 PLAINTIFF and other CALIFORNIA CLASS Members for business expenses, and failed to issue  
13 to PLAINTIFF and the members of the CALIFORNIA CLASS with accurate itemized wage  
14 statements showing, among other things, all applicable hourly rates in effect during the pay  
15 periods and the corresponding amount of time worked at each hourly rate. DEFENDANT’s  
16 uniform policies and practices are intended to purposefully avoid the accurate and full payment  
17 for all time worked as required by California law which allows DEFENDANT to illegally profit  
18 and gain an unfair advantage over competitors who comply with the law. To the extent equitable  
19 tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CLASS  
20 PERIOD should be adjusted accordingly.

21       **A. Meal Period Violations**

22           15. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was  
23 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
24 meaning the time during which an employee is subject to the control of an employer, including  
25 all the time the employee is suffered or permitted to work. From time to time during the CLASS  
26 PERIOD, DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work  
27 without paying them for all the time they were under DEFENDANT’s control. Specifically,  
28 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be

1 PLAINTIFF's off-duty meal break. Indeed, there were many days where PLAINTIFF did not  
2 even receive a partial lunch. As a result, the PLAINTIFF and other CALIFORNIA CLASS  
3 Members forfeited minimum wage and overtime compensation by regularly working without their  
4 time being accurately recorded and without compensation at the applicable minimum wage and  
5 overtime rates. DEFENDANT's uniform policy and practice not to pay PLAINTIFF and other  
6 CALIFORNIA CLASS Members for all time worked is evidenced by DEFENDANT's business  
7 records.

8 16. From time to time during the CLASS PERIOD, as a result of their rigorous work  
9 schedules and DEFENDANT's inadequate staffing practices, PLAINTIFF and other  
10 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off duty  
11 meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF and other  
12 CALIFORNIA CLASS Members are required to perform work as ordered by DEFENDANT for  
13 more than five (5) hours during some shifts without receiving a meal break. Further,  
14 DEFENDANT fails to provide PLAINTIFF and CALIFORNIA CLASS Members with a second  
15 off-duty meal period for some workdays in which these employees are required by DEFENDANT  
16 to work ten (10) hours of work. The nature of the work performed by PLAINTIFF and other  
17 CALIFORNIA CLASS Members does not qualify for the limited and narrowly construed "on-  
18 duty" meal period exception. When they were provided with meal periods, PLAINTIFF and other  
19 CALIFORNIA CLASS Members were, from time to time, required to remain on duty and on call.  
20 Further, DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to  
21 maintain cordless communication devices on them during meal periods in order to receive and  
22 respond to work-related communications. DEFENDANT's failure to provide PLAINTIFF and  
23 the CALIFORNIA CLASS Members with legally required meal breaks is evidenced by  
24 DEFENDANT's business records. PLAINTIFF and other members of the CALIFORNIA CLASS  
25 therefore forfeit meal breaks without additional compensation and in accordance with  
26 DEFENDANT's strict corporate policy and practice.

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1     **B. Rest Period Violations**

2           17. From time to time during the CLASS PERIOD, PLAINTIFF and other  
3 CALIFORNIA CLASS Members were also required to work in excess of four (4) hours without  
4 being provided ten (10) minute rest periods as a result of their rigorous work requirements and  
5 DEFENDANT's inadequate staffing. Further, for the same reasons, these employees were denied  
6 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four  
7 (4) hours from time to time, a first and second rest period of at least ten (10) minutes for some  
8 shifts worked of between six (6) and eight (8) hours from time to time, and a first, second and  
9 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more from  
10 time to time. When they were provided with rest breaks, PLAINTIFF and other CALIFORNIA  
11 CLASS Members were, from time to time, required to remain on premises, on duty and/or on call.  
12 Further, DEFENDANT required PLAINTIFF and the CALIFORNIA CLASS Members to  
13 maintain cordless communication devices on them during rest periods in order to receive and  
14 respond to work-related communications. PLAINTIFF and other CALIFORNIA CLASS  
15 Members were also not provided with one-hour wages *in lieu* thereof. As a result of their rigorous  
16 work schedules and DEFENDANT's inadequate staffing, PLAINTIFF and other CALIFORNIA  
17 CLASS Members were from time to time denied their proper rest periods by DEFENDANT and  
18 DEFENDANT's managers.

19     **C. Unreimbursed Business Expenses**

20           18. DEFENDANT as a matter of corporate policy, practice, and procedure,  
21 intentionally, knowingly, and systematically failed to reimburse and indemnify the PLAINTIFF  
22 and the other CALIFORNIA CLASS Members for required business expenses incurred by the  
23 PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging  
24 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers  
25 are required to indemnify employees for all expenses incurred in the course and scope of their  
26 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her  
27 employee for all necessary expenditures or losses incurred by the employee in direct consequence  
28 of the discharge of his or her duties, or of his or her obedience to the directions of the employer,

1 even though unlawful, unless the employee, at the time of obeying the directions, believed them  
2 to be unlawful."

3 19. In the course of their employment, DEFENDANT required PLAINTIFF and other  
4 CALIFORNIA CLASS Members to incur personal expenses for the use of their personal cell  
5 phones as a result of and in furtherance of their job duties. Specifically, PLAINTIFF and other  
6 CALIFORNIA CLASS Members were required to use their personal cell phones in order to  
7 perform work related tasks. However, DEFENDANT unlawfully failed to reimburse PLAINTIFF  
8 and other CALIFORNIA CLASS Members for the use of their personal cell phones. As a result,  
9 in the course of their employment with DEFENDANT, the PLAINTIFF and other CALIFORNIA  
10 CLASS Members incurred unreimbursed business expenses that included, but were not limited  
11 to, costs related to the use of their personal cell phones all on behalf of and for the benefit of  
12 DEFENDANT.

13 **D. Wage Statement Violations**

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

22 21. From time to time during the CLASS PERIOD, when PLAINTIFF and other  
23 CALIFORNIA CLASS Members missed meal and rest breaks, or were paid inaccurately for  
24 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS  
25 also failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
26 accurate wage statements which failed to show the complete requirements under California Labor  
27 Code sections 226(a)(1)-(9), including but not limited to, all deductions, the total hours worked  
28 and all applicable hourly rates in effect during the pay period and the corresponding amount of



1 time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and rest  
2 periods.

3 22. Further, DEFENDANT from time to time, failed to provide PLAINTIFF and other  
4 CALIFORNIA CLASS Members with itemized wage statements that provided the name and  
5 address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

6 23. In addition to the foregoing, DEFENDANTS, from time to time, failed to provide  
7 PLAINTIFF and the CALIFORNIA CLASS Members with wage statements that comply with  
8 Cal. Lab. Code § 226(a)(1)-(9).

9 24. As a result, DEFENDANT issued PLAINTIFF and other members of the  
10 CALIFORNIA CLASS with wage statements that violate Cal. Lab. Code § 226. Further,  
11 DEFENDANT's violations are knowing and intentional, were not isolated due to an unintentional  
12 payroll error due to clerical or inadvertent mistake.

13 **E. Off-the-Clock Work Resulting in Minimum Wage and Overtime Violations**

14 25. During the CLASS PERIOD, from time-to-time DEFENDANT failed and  
15 continues to fail to accurately pay PLAINTIFF and other members of the CALIFORNIA CLASS  
16 for all hours worked.

17 26. During the CLASS PERIOD, from time-to-time DEFENDANT required  
18 PLAINTIFF and other members of the CALIFORNIA CLASS to perform pre-shift or post-shift  
19 work. This resulted in PLAINTIFF and other members of the CALIFORNIA CLASS having to  
20 work while off-the-clock.

21 27. DEFENDANT directed and directly benefited from the undercompensated off-the-  
22 clock work performed by PLAINTIFF and the other CALIFORNIA CLASS Members.

23 28. DEFENDANT controlled the work schedules, duties, and protocols, applications,  
24 assignments, and employment conditions of PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS.

26 29. DEFENDANT was able to track the amount of time PLAINTIFF and the other  
27 members of the CALIFORNIA CLASS spent working; however, DEFENDANT failed to  
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1 document, track, or pay PLAINTIFF and the other members of the CALIFORNIA CLASS all  
2 wages earned and owed for all the work they performed.

3 30. PLAINTIFF and the other members of the CALIFORNIA CLASS were non-  
4 exempt employees, subject to the requirements of the California Labor Code.

5 31. DEFENDANT's policies and practices deprived PLAINTIFF and the other  
6 CALIFORNIA CLASS Members of all minimum regular, overtime, and double time wages owed  
7 for the off-the-clock work activities. Because PLAINTIFF and the other members of the  
8 CALIFORNIA CLASS typically worked over forty (40) hours in a workweek, and more than  
9 eight (8) hours per day, DEFENDANT's policies and practices also deprived them of overtime  
10 pay.

11 32. DEFENDANT knew or should have known that PLAINTIFF and the other  
12 members of the CALIFORNIA CLASS off-the-clock work was compensable under the law.

13 33. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
14 forfeited wages due to them for all hours worked at DEFENDANT's direction, control, and  
15 benefit for the time spent working while off-the-clock. DEFENDANT's uniform policy and  
16 practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for all  
17 hours worked in accordance with applicable law is evidenced by DEFENDANT's business  
18 records.

19 **F. Regular Rate Violation – Overtime, Double Time, Meal and Rest Period Premiums,**  
20 **and Redeemed Sick Pay**

21 34. From time to time during the CLASS PERIOD, DEFENDANT failed and  
22 continues to fail to accurately calculate and pay PLAINTIFF and the other CALIFORNIA CLASS  
23 Members for their overtime and double time hours worked, meal and rest period premiums, and  
24 redeemed sick pay. As a result, PLAINTIFF and the other CALIFORNIA CLASS Members  
25 forfeited wages due to them for working overtime without compensation at the correct overtime  
26 and double time rates, meal and rest period premiums, and redeemed sick pay rates.  
27 DEFENDANT's uniform policy and practice not to pay the CALIFORNIA CLASS Members at  
28 the correct rate for all overtime and double time worked, meal and rest period premiums, and

1 redeemed sick pay in accordance with applicable law is evidenced by DEFENDANT’s business  
2 records.

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

7 36. The second component of PLAINTIFF’s and other CALIFORNIA CLASS  
8 Members’ compensation was DEFENDANTS’ non-discretionary incentive program that paid  
9 PLAINTIFF and other CLASS MEMBERS incentive wages based on their performance for  
10 DEFENDANTS. The non-discretionary bonus program provided all employees paid on an hourly  
11 basis with bonus compensation when the employees met the various performance goals set by  
12 DEFENDANTS.

13 37. However, from-time-to-time, when calculating the regular rate of pay, in those pay  
14 periods where PLAINTIFF and other CALIFORNIA CLASS members worked overtime, double  
15 time, paid meal and rest period premium payments, and/or redeemed sick pay, and earned non-  
16 discretionary bonus, DEFENDANTS failed to accurately include the non-discretionary bonus  
17 compensation as part of the employees’ “regular rate of pay” and/or calculated all hours worked  
18 rather than just all non-overtime hours worked. Management and supervisors described the  
19 incentive/bonus program to potential and new employees as part of the compensation package.  
20 As a matter of law, the incentive compensation received by PLAINTIFF and other CALIFORNIA  
21 CLASS members must be included in the “regular rate of pay.” The failure to do so has resulted  
22 in a systematic underpayment of overtime and double time compensation, meal and rest period  
23 premiums, and redeemed sick pay to PLAINTIFF and other CALIFORNIA CLASS members by  
24 DEFENDANTS. Specifically, California Labor Code Section 246 mandates that paid sick time  
25 for non-employees shall be calculated in the same manner as the regular rate of pay for the  
26 workweek in which the non-exempt employee uses paid sick time, whether or not the employee  
27 actually works overtime in that workweek. DEFENDANTS’ conduct, as articulated herein, by  
28 failing to include the incentive compensation as part of the “regular rate of pay” for purposes of

1 sick pay compensation was in violation of Cal. Lab. Code § 246 the underpayment of which is  
2 recoverable under Cal. Labor Code Sections 201, 202, 203 and/or 204.

3         38. In violation of the applicable sections of the California Labor Code and the  
4 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as a  
5 matter of company policy, practice, and procedure, intentionally and knowingly failed to  
6 compensate PLAINTIFF and the other members of the CALIFORNIA CLASS at the correct rate  
7 of pay for all overtime and double time worked, meal and rest period premiums, and sick pay.  
8 This uniform policy and practice of DEFENDANT is intended to purposefully avoid the payment  
9 of the correct overtime and double time compensation, meal and rest period premiums, and sick  
10 pay as required by California law which allowed DEFENDANT to illegally profit and gain an  
11 unfair advantage over competitors who complied with the law. To the extent equitable tolling  
12 operates to toll claims by the CALIFORNIA CLASS members against DEFENDANT, the  
13 CLASS PERIOD should be adjusted accordingly.

14         **G. Violations for Untimely Payment of Wages**

15         39. Pursuant to California Labor Code section 204, PLAINTIFF and the  
16 CALIFORNIA CLASS members were entitled to timely payment of wages during their  
17 employment. PLAINTIFF and the CALIFORNIA CLASS members, from time to time, did not  
18 receive payment of all wages, including, but not limited to, overtime wages, minimum wages,  
19 meal period premium wages, and rest period premium wages within permissible time period.

20         40. Pursuant to Cal. Lab. Code § 201, "If an employer discharges an employee, the  
21 wages earned and unpaid at the time of discharge are due and payable immediately." Pursuant  
22 to Cal. Lab. Code § 202, if an employee quits his or her employment, "his or her wages shall  
23 become due and payable not later than 72 hours thereafter, unless the employee has given 72  
24 hours previous notice of his or her intention to quit, in which case the employee is entitled to his  
25 or her wages at the time of quitting." PLAINTIFF and the CALIFORNIA CLASS Members  
26 were, from time to time, not timely provided the wages earned and unpaid at the time of their  
27 discharge and/or at the time of quitting, in violation of Cal. Lab. Code §§ 201 and 202.

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1           41. As such, PLAINTIFF demands up to thirty days of pay as penalty for not timely  
2 paying all wages due at time of termination for all CALIFORNIA CLASS Members whose  
3 employment ended during the CLASS PERIOD.

4           **H. Unlawful Deductions**

5           42. DEFENDANTS, from time-to-time unlawfully deducted wages from PLAINTIFF  
6 and CALIFORNIA CLASS Members' pay without explanations and without authorization to do  
7 so or notice to PLAINTIFF and the CALIFORNIA CLASS Members. As a result,  
8 DEFENDANTS violated Labor Code § 221.

9           **I. Timekeeping Manipulation**

10           43. During the CLASS PERIOD, DEFENDANT, from time-to-time, did not have an  
11 immutable timekeeping system to accurately record and pay PLAINTIFF and other members of  
12 the CALIFORNIA CLASS for the actual time PLAINTIFF and other members of the  
13 CALIFORNIA CLASS worked each day, including regular time, overtime hours, sick pay, meal  
14 and rest breaks. As a result, DEFENDANT was able to and did in fact, unlawfully, and  
15 unilaterally alter the time recorded in DEFENDANT'S timekeeping system for PLAINTIFF and  
16 other members of the CALIFORNIA CLASS in order to avoid paying these employees for all  
17 hours worked, applicable overtime compensation, applicable sick pay, missed meal breaks and  
18 missed rest breaks.

19           44. As a result, PLAINTIFF and other members of the CALIFORNIA CLASS, from  
20 time-to-time, forfeited time worked by working without their time being accurately recorded and  
21 without compensation at the applicable pay rates.

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

1           46. As a result, PLAINTIFF and the other members of the CALIFORNIA CLASS  
2 forfeited wages due to them for all hours worked at DEFENDANT’S direction, control and  
3 benefit for the time the timekeeping system was inoperable. DEFENDANT’S uniform policy  
4 and practice to not pay PLAINTIFF and the members of the CALIFORNIA CLASS wages for  
5 all hours worked in accordance with applicable law is evidenced by DEFENDANT’S business  
6 records.

7           **J. Unlawful Rounding Practices**

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

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

26           **K. Sick Pay Violations**

27           49. Cal. Labor Code Section 246 (a)(1) mandates that “An employee who, on or after  
28 July 1, 2015, works in California for the same employer for 30 or more days within a year from

1 the commencement of employment is entitled to paid sick days as specified in this section.”  
2 Further, Cal. Labor Code Sections 246(b)-(d) provide for the sick day accrual requirements. From  
3 time to time, DEFENDANT failed to have a policy or practice in place that provided PLAINTIFF  
4 and other members of the CALIFORNIA CLASS with sick days and/or paid sick leave.

5 50. California Labor Code Section 246(i) requires an employer to furnish its  
6 employees with written wage statements setting forth the amount of paid sick leave available.  
7 From time to time, DEFENDANT violated Cal. Lab. Code § 246 by failing to furnish PLAINTIFF  
8 and other members of the CALIFORNIA CLASS with wage statements setting forth the amount  
9 of paid sick leave available.

10 51. Specifically, as to PLAINTIFF, PLAINTIFF was from time to time unable to take  
11 off duty meal and rest breaks and was not fully relieved of duty for her rest and meal periods.  
12 PLAINTIFF was required to perform work as ordered by DEFENDANTS for more than five (5)  
13 hours during a shift without receiving an off-duty meal break. Further, DEFENDANTS failed to  
14 provide PLAINTIFF with a second off-duty meal period each workday in which she was required  
15 by DEFENDANTS to work ten (10) hours of work. When DEFENDANTS provided PLAINTIFF  
16 with a rest break, they required PLAINTIFF to remain on-duty and on-call for the rest break.  
17 DEFENDANTS policy caused PLAINTIFF to remain on-call and on-duty during what was  
18 supposed to be her off-duty meal periods. PLAINTIFF therefore forfeited meal and rest breaks  
19 without additional compensation and in accordance with DEFENDANTS’ strict corporate policy  
20 and practice. Moreover, DEFENDANTS also provided PLAINTIFF with paystubs that failed to  
21 comply with Cal. Lab. Code § 226. Further, DEFENDANTS also failed to reimburse PLAINTIFF  
22 for required business expenses related to the personal expenses incurred for the use of her personal  
23 cell phone, on behalf of and in furtherance of her employment with DEFENDANTS. To date,  
24 DEFENDANTS have not fully paid PLAINTIFF the minimum, overtime and double time  
25 compensation still owed to her, or any penalty wages owed to her under Cal. Lab. Code § 203.  
26 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of  
27 \$75,000.

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**CLASS ACTION ALLEGATIONS**

52. PLAINTIFF bring this Class Action on behalf of herself, and a California class defined as all persons who are or previously were employed by DEFENDANT 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 this Complaint and ending on the date as determined by the Court (the “CLASS PERIOD”).

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

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

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

- a. Whether DEFENDANT maintained legally compliant meal period policies and practices;
- b. Whether DEFENDANT maintained legally compliant rest period policies and practices;

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- 1 c. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
- 2 Members accurate premium payments for missed meal and rest periods;
- 3 d. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
- 4 Members accurate overtime wages;
- 5 e. Whether DEFENDANT failed to pay PLAINTIFF and the CALIFORNIA CLASS
- 6 Members at least minimum wage for all hours worked;
- 7 f. Whether DEFENDANT failed to compensate PLAINTIFF and the CALIFORNIA
- 8 CLASS Members for required business expenses;
- 9 g. Whether DEFENDANT issued legally compliant wage statements;
- 10 h. Whether DEFENDANT committed an act of unfair competition by systematically
- 11 failing to record and pay PLAINTIFF and the other members of the CALIFORNIA
- 12 CLASS for all time worked;
- 13 i. Whether DEFENDANT committed an act of unfair competition by systematically
- 14 failing to record all meal and rest breaks missed by PLAINTIFF and other
- 15 CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit
- 16 of this work, required employees to perform this work and permits or suffers to
- 17 permit this work;
- 18 j. Whether DEFENDANT committed an act of unfair competition in violation of the
- 19 UCL, by failing to provide the PLAINTIFF and the other members of the
- 20 CALIFORNIA CLASS with the legally required meal and rest periods.

21 56. PLAINTIFF are members of the CALIFORNIA CLASS and suffered damages as  
22 a result of DEFENDANT’s conduct and actions alleged herein.

23 57. PLAINTIFF’S claims are typical of the claims of the CALIFORNIA CLASS, and  
24 PLAINTIFF have the same interests as the other members of the class.

25 58. PLAINTIFF will fairly and adequately represent and protect the interests of the  
26 CALIFORNIA CLASS Members.

27 59. PLAINTIFF retained able class counsel with extensive experience in class action  
28 litigation.

1           60. Further, PLAINTIFF'S interests are coincident with, and not antagonistic to, the  
2 interest of the other CALIFORNIA CLASS Members.

3           61. There is a strong community of interest among PLAINTIFF and the members of  
4 the CALIFORNIA CLASS to, inter alia, ensure that the combined assets of DEFENDANT are  
5 sufficient to adequately compensate the members of the CALIFORNIA CLASS for the injuries  
6 sustained.

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

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

- 18           a. Inconsistent or varying adjudications with respect to individual members of the  
19 CALIFORNIA CLASS which would establish incompatible standards of conduct  
20 for the parties opposing the CALIFORNIA CLASS; and/or,  
21           b. Adjudication with respect to individual members of the CALIFORNIA CLASS  
22 which would as a practical matter be dispositive of the interests of the other  
23 members not party to the adjudication or substantially impair or impeded their  
24 ability to protect their interests.

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

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1 **FIRST CAUSE OF ACTION**

2 **Unlawful Business Practices**

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

4 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

8 66. DEFENDANT is a “person” as that term is defined under Cal. Bus. And Prof.  
9 Code § 17021.

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

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

21 68. By the conduct alleged herein, DEFENDANT has engaged and continues to  
22 engage in a business practice which violates California law, including but not limited to, the  
23 applicable Wage Order(s), the California Code of Regulations and the California Labor Code  
24 including Sections 201, 202, 203, 204, 210, 226, 226.7, 246, 510, 512, 558, 1194, 1197, 1197.1,  
25 1198, and 2802, for which this Court should issue declaratory and other equitable relief pursuant  
26 to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held  
27 to constitute unfair competition, including restitution of wages wrongfully withheld.

28 69. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair  
in that these practices violated public policy, were immoral, unethical, oppressive unscrupulous  
or substantially injurious to employees, and were without valid justification or utility for which

1 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the California  
2 Business & Professions Code, including restitution of wages wrongfully withheld.

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

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

16 72. By the conduct alleged herein, DEFENDANT's practices were also unfair and  
17 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide  
18 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members as  
19 required by Cal. Lab. Code §§ 226.7 and 512.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 95. PLAINTIFF and the other members of the CALIFORNIA CLASS bring a claim for  
24 DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial  
25 Welfare Commission requirements for DEFENDANT's failure to pay these employees for all  
26 overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or  
27 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

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1           96. 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           97. Cal. Lab. Code § 510 provides that employees in California shall not be employed  
4 more than eight (8) hours per workday and/or more than forty (40) hours per workweek unless  
5 they receive additional compensation beyond their regular wages in amounts specified by law.

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

10          99. During the CLASS PERIOD, PLAINTIFF and CALIFORNIA CLASS Members  
11 were required by DEFENDANT to work for DEFENDANT and were not paid for all the time  
12 they worked, including overtime work.

13          100. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,  
14 without limitation, applicable to the CALIFORNIA CLASS as a whole, as a result of  
15 implementing a uniform policy and practice that failed to accurately record overtime worked by  
16 PLAINTIFF and other CALIFORNIA CLASS Members and denied accurate compensation to  
17 PLAINTIFF and the other members of the CALIFORNIA CLASS for overtime worked,  
18 including, the overtime work performed in excess of eight (8) hours in a workday, and/or twelve  
19 (12) hours in a workday, and/or forty (40) hours in any workweek.

20          101. In committing these violations of the California Labor Code, DEFENDANT  
21 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
22 PLAINTIFF and other CALIFORNIA CLASS Members. DEFENDANT acted in an illegal  
23 attempt to avoid the payment of all earned wages, and other benefits in violation of the California  
24 Labor Code, the Industrial Welfare Commission requirements and other applicable laws and  
25 regulations.

26          102. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
27 PLAINTIFF and the other members of the CALIFORNIA CLASS did not receive the correct  
28 overtime compensation for their time worked for DEFENDANT.

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

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

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

19           106. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
20 compensation to PLAINTIFF and the other members of the CALIFORNIA CLASS for the true  
21 amount of overtime they worked, PLAINTIFF and the other members of the CALIFORNIA  
22 CLASS have suffered and will continue to suffer an economic injury in amounts which are  
23 presently unknown to them, and which will be ascertained according to proof at trial.

24           107. DEFENDANT knew or should have known that PLAINTIFF and the other  
25 members of the CALIFORNIA CLASS were undercompensated for their time worked.  
26 DEFENDANT systematically elected, either through intentional malfeasance or gross  
27 nonfeasance, to not pay them for their labor as a matter of uniform company policy, practice and  
28 procedure, and DEFENDANT perpetrated this systematic scheme by refusing to pay PLAINTIFF

1 and the other members of the CALIFORNIA CLASS the correct overtime wages for their  
2 overtime worked.

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

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

21 **FOURTH CAUSE OF ACTION**

22 **Failure To Provide Required Meal Periods**

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

24 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

25 110. PLAINTIFF and the other members of the CALIFORNIA CLASS, reallege and  
26 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
27 Complaint.

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

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

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

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1 **FIFTH CAUSE OF ACTION**

2 **Failure To Provide Required Rest Periods**

3 **(Cal. Lab. Code §§ 226.7 & 512)**

4 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

8 115. From time to time, PLAINTIFF and other CALIFORNIA CLASS Members were  
9 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.  
10 Further, these employees were denied their first rest periods of at least ten (10) minutes for some  
11 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10)  
12 minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and  
13 third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.  
14 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one-hour  
15 wages *in lieu* thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
16 CALIFORNIA CLASS Members were periodically denied their proper rest periods by  
17 DEFENDANT and DEFENDANT’s managers. In addition, DEFENDANT failed to compensate  
18 PLAINTIFF and other CALIFORNIA CLASS Members for their rest periods as required by the  
19 applicable Wage Order and Labor Code. As a result, DEFENDANT’s failure to provide  
20 PLAINTIFF and the CALIFORNIA CLASS Members with all the legally required paid rest  
21 periods is evidenced by DEFENDANT’s business records.

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

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

4 **SIXTH CAUSE OF ACTION**

5 **Failure To Reimburse Employees for Required Expenses**

6 **(Cal. Lab. Code §§ 2802)**

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

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

11 119. Cal. Lab. Code § 2802 provides, in relevant part, that:

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

15 120. From time to time during the CLASS PERIOD, DEFENDANT violated Cal. Lab.  
16 Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
17 members for required expenses incurred in the discharge of their job duties for DEFENDANT's  
18 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA CLASS members  
19 for expenses which included, but were not limited to, personal expenses incurred for the use of  
20 their personal cell phones, all on behalf of and for the benefit of DEFENDANT. Specifically,  
21 DEFENDANT required PLAINTIFF and other CALIFORNIA CLASS Members to use their  
22 personal cell phones to execute their essential job duties on behalf of DEFENDANT.  
23 DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and  
24 the CALIFORNIA CLASS members for expenses resulting from the use of their personal cell  
25 phones for DEFENDANT within the course and scope of their employment for DEFENDANT.  
26 These expenses were necessary to complete their principal job duties. DEFENDANT is estopped  
27 by DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses  
28 were necessary expenses incurred by PLAINTIFF and the CALIFORNIA CLASS members,

1 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA CLASS  
2 members for these expenses as an employer is required to do under the laws and regulations of  
3 California.

4 121. PLAINTIFF therefore demand reimbursement for expenditures or losses incurred  
5 by her and the CALIFORNIA CLASS members in the discharge of their job duties for  
6 DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory  
7 rate and costs under Cal. Lab. Code § 2802.

8 **SEVENTH CAUSE OF ACTION**

9 **Failure To Provide Accurate Itemized Statements**

10 **(Cal. Lab. Code § 226)**

11 **(Alleged by PLAINTIFF and the CALIFORNIA CLASS against all Defendants)**

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

14 123. Cal. Labor Code § 226 provides that an employer must furnish employees with an  
15 “accurate itemized” statement in writing showing:

- 16 a. Gross wages earned,
- 17 b. (2) total hours worked by the employee, except for any employee whose  
18 compensation is solely based on a salary and who is exempt from payment of  
19 overtime under subdivision (a) of Section 515 or any applicable order of the  
20 Industrial Welfare Commission,
- 21 c. the number of piece-rate units earned and any applicable piece rate if the employee  
22 is paid on a piece-rate basis,
- 23 d. all deductions, provided that all deductions made on written orders of the employee  
24 may be aggregated and shown as one item,
- 25 e. net wages earned,
- 26 f. the inclusive dates of the period for which the employee is paid,
- 27 g. the name of the employee and his or her social security number, except that by  
28 January 1, 2008, only the last four digits of his or her social security number of an

1 employee identification number other than social security number may be shown  
2 on the itemized statement,

- 3 h. the name and address of the legal entity that is the employer, and
- 4 i. all applicable hourly rates in effect during the pay period and the corresponding  
5 number of hours worked at each hourly rate by the employee.

6 124. When DEFENDANT did not accurately record PLAINTIFF'S and other  
7 CALIFORNIA CLASS Members' missed meal and rest breaks, or were paid inaccurately for  
8 missed meal and rest period premiums, or were not paid for all hours worked, DEFENDANTS  
9 also failed to provide PLAINTIFF and other CALIFORNIA CLASS Members with complete and  
10 accurate wage statements which failed to show the complete requirements under California Labor  
11 Code sections 226(a)(1)-(9), including but not limited to, all deductions, the total hours worked  
12 and all applicable hourly rates in effect during the pay period and the corresponding amount of  
13 time worked at each hourly rate, correct rates of pay for penalty payments or missed meal and  
14 rest periods.

15 125. Further, DEFENDANT from time to time, failed to provide PLAINTIFF and other  
16 CALIFORNIA CLASS Members with itemized wage statements that provided the name and  
17 address of the legal entity that is the employer, in violation of Cal. Lab. Code § 226(a)(8).

18 126. In addition to the foregoing, DEFENDANTS failed to provide itemized wage  
19 statements to PLAINTIFF and members of the CALIFORNIA CLASS that complied with the  
20 requirements of California Labor Code Section 226(a)(1)-(9).

21 127. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code  
22 § 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA  
23 CLASS. These damages include, but are not limited to, costs expended calculating the correct  
24 wages for all missed meal and rest breaks and the amount of employment taxes which were not  
25 properly paid to state and federal tax authorities. These damages are difficult to estimate.  
26 Therefore, PLAINTIFF and the other members of the CALIFORNIA CLASS may elect to recover  
27 liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation  
28 occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period



1 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no  
2 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member  
3 of the CALIFORNIA CLASS herein).

4 **EIGHTH CAUSE OF ACTION**

5 **Failure To Pay Wages When Due**

6 **(Cal. Lab. Code § 203)**

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

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

11 129. Cal. Lab. Code § 200 provides that:

12 As used in this article:

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

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

22 131. Cal. Lab. Code § 202 provides, in relevant part, that:

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

132. There was no definite term in PLAINTIFF'S or any CALIFORNIA CLASS  
Members' employment contract.

133. Cal. Lab. Code § 203 provides:

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

6 134. The employment of PLAINTIFF and many CALIFORNIA CLASS Members  
7 terminated, and DEFENDANT has not tendered payment of wages to these employees who  
8 missed meal and rest breaks, as required by law.

9 135. Therefore, as provided by Cal Lab. Code § 203, on behalf of herself and the  
10 members of the CALIFORNIA CLASS whose employment has, PLAINTIFF demand up to thirty  
11 (30) days of pay as penalty for not paying all wages due at time of termination for all employees  
12 who terminated employment during the CLASS PERIOD and demand an accounting and payment  
13 of all wages due, plus interest and statutory costs as allowed by law.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, PLAINTIFF pray for a judgment against each Defendant, jointly and  
16 severally, as follows:

17 1. On behalf of the CALIFORNIA CLASS:

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

28 2. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, and Eighth  
Causes of Action asserted by the CALIFORNIA CLASS as a class action pursuant

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to Cal. Code of Civ. Proc. § 382;


- b. Compensatory damages, according to proof at trial, including compensatory damages for overtime compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS, during the applicable CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
- e. The wages of all terminated employees from the CALIFORNIA CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.
- f. The amount of the expenses PLAINTIFF and each member of the CALIFORNIA CLASS incurred in the course of their job duties, plus interest, and costs of suit.

3. On all claims:

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

DATED: January 12, 2024

**JCL LAW FIRM, APC**

By:   
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Jean-Claude Lapuyade  
Attorney for PLAINTIFF

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**DEMAND FOR A JURY TRIAL**

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

DATED: January 12, 2024

**JCL LAW FIRM, APC**



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